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8 and JAHAD MUHAMMAD, individually and on behalf
of others similarly situation, and on behalf of the general public

9 *[Additional counsel listed on following page]*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES

12
13 HENDERSON DONIS as an individual and
on behalf of others similarly situated,

14 Plaintiffs,

15 v.

16 BATTLE-TESTED STRATEGIES, LLC, a
17 California Limited Liability Company, and
Does 1 through 50, Inclusive,

18 Defendants.
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Case No.: 21STCV21052

*Assigned for all purposes to the
Hon. Elihu M. Berle, Dept. SS6*

**PLAINTIFFS' SUPPLEMENTAL BRIEF
IN SUPPORT OF PLAINTIFFS' MOTION
FOR AN ORDER: (1) CONDITIONALLY
CERTIFYING A SETTLEMENT CLASS;
(2) PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT; (3)
APPROVING NOTICE OF CLASS
ACTION SETTLEMENT; (4)
APPOINTING CLASS COUNSEL AND
CLASS REPRESENTATIVES; AND (5)
SETTING HEARING FOR FINAL
APPROVAL; SUPPLEMENTAL
DECLARATION OF KRISTOPHER N.
TAYYEB**

*[Stipulation And [Proposed] Order To File
Second Amended Complaint filed concurrently
herewith]*

Date: May 1, 2023
Time: 8:30 a.m.
Dept.: SS9
Action Filed: June 4, 2021

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20 and JAHAD MUHAMMAD, individually and on behalf
21 of others similarly situation, and on behalf of the general public
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1 **I. INTRODUCTION**

2 On February 28, 2023, Plaintiffs HENDERSON DONIS (“Plaintiff Donis”) and JAHAD
3 MUHAMMAD (“Plaintiff Muhammad; Plaintiff Donis and Plaintiff Muhammad collectively,
4 “Plaintiffs”) filed their Unopposed Motion For An Order: (1) Conditionally Certifying A
5 Settlement Class; (2) Preliminarily Approving Class Action Settlement; (3) Approving Notice
6 Of Class Action Settlement; (4) Appointing Class Counsel And Class Representatives; And (5)
7 Setting Hearing For Final Approval (“Motion”). Plaintiffs filed their Motion based on the
8 detailed Memorandum of Understanding (“MOU”) negotiated between them and Defendants
9 BATTLE-TESTED STRATEGIES, LLC, AMAZON.COM SERVICES, INC.,
10 AMAZON.COM SERVICES LLC, and AMAZON LOGISTICS, INC. (collectively,
11 “Defendants;” Plaintiffs and Defendants collectively, the “Parties”). Plaintiffs did so because the
12 Parties had not yet finalized and executed their long-form Class Action and PAGA Settlement
13 Agreement and Class Notice (hereinafter incorporated by reference as “Settlement Agreement”).

14 The Parties have now finalized and executed the Settlement Agreement, and Plaintiffs
15 respectfully submit it to the Court here to supplement their Motion. See Supplemental
16 Declaration of Kristopher N. Tayyeb (“Supp. Tayyeb Decl.”), ¶ 2, Ex. A.¹

17 **II. LONG FORM SETTLEMENT AGREEMENT**

18 Along with providing the Parties’ executed long-form Settlement Agreement, Plaintiffs
19 provide the following supplemental information to the Court to update that which Plaintiffs
20 provided in their Motion.

21 First, the Class Notice attached as Exhibit A to the Settlement Agreement, and to which
22 the Parties have agreed, replaces for the Court’s consideration the version that Plaintiffs proposed
23 and submitted in their Motion.

24 Second, with the execution of the Settlement Agreement, Defendants have now agreed to
25 the settlement administrator whom Plaintiffs proposed in their Motion: ILYM Group. See Supp.

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28 ¹ See Exhibit B to the Supplemental Tayyeb Declaration for a redlined version of the Settlement Agreement that shows the changes made from the Los Angeles Superior Court’s [Model] Class Action and PAGA Settlement Agreement and Class Notice.

1 Tayyeb Decl., Ex. A, ¶ 8.1. The Parties and their counsel do not have a conflict of interest or
2 any ownership interest in ILYM Group. *Ibid.*

3 Third, in Plaintiffs’ Motion, they stated that they planned to file the Parties’ stipulation
4 to consolidate the claims and parties in the three actions subject to this Settlement Agreement
5 into this action and proposed order granting Plaintiffs leave to file their “consolidated” Second
6 Amended Class Action Complaint for Damages in this action. Motion, pp. 5:19-6:2. Plaintiffs
7 have filed that stipulation and proposed order yesterday, April 27, 2023.

8 **III. CONCLUSION**

9 For the foregoing reasons, and those laid out in Plaintiffs’ Motion, Plaintiffs’ Counsel
10 respectfully requests that this Court issue an order: certifying the Settlement Class for settlement
11 purposes only; preliminarily approving the class action settlement; approving the Notice of the
12 class action settlement; appointing class counsel and the class representatives; and setting a date
13 for the final approval hearing.

14
15 DATE: April 28, 2023

BERENJI LAW FIRM, APC

16
17
18 By:



19 SHADIE L. BERENJI
20 KRISTOPHER N. TAYYEB
21 Attorneys for Plaintiffs HENDERSON DONIS
22 and JAHAD MUHAMMAD, individually and on
23 behalf of others similarly situation, and on behalf
24 of the general public
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EXHIBIT A

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Jahad Muhammad (“Plaintiff Muhammad”) and Henderson Donis (“Plaintiff Donis”) (Plaintiff Muhammad and Plaintiff Donis are collectively referred to as “Plaintiffs” or “Class Representatives”), on the one hand, and defendants Battle-Tested Strategies, LLC (“BTS”), Amazon.com Services, Inc., Amazon.com Services LLC, and Amazon Logistics, Inc. (the Amazon defendants are collectively referred to as “Amazon”) (BTS and Amazon are collectively referred to as “Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

This Agreement encompasses three (3) separately filed actions: (i) Plaintiff Muhammad’s lawsuit alleging wage and hour violations against Defendants captioned *Jahad Muhammad v. Battle-Tested Strategies et al.*, initiated on July 14, 2021 and pending in the United States District Court for the Central District of California (U.S. District Court, Central District of California, Case No. 2:21-cv-07225-VAP-JPR; Los Angeles County Superior Court, Case No. 21STCV26093) (the “*Muhammad* Labor Code Action”); (ii) Plaintiff Muhammad’s lawsuit against Defendants under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), captioned *Jahad Muhammad v. Battle-Tested Strategies, LLC et al.*, initiated on September 21, 2021 and pending in Superior Court of the State of California, County of Los Angeles (Los Angeles County Superior Court, Case No. 21STCV34869) (the “*Muhammad* PAGA Action”); and (iii) Plaintiff Donis’s lawsuit alleging wage and hour violations against BTS captioned *Henderson Donis v. Battle-Tested Strategies, LLC*, initiated on June 4, 2021 and pending in Superior Court of the State of California, County of Los Angeles (Los Angeles County Superior Court, Case No. 21STCV21052) (the “*Donis* Action”) (collectively, the lawsuits are referred to as the “Actions”).

This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and settle the “Released Claims” (as defined below) on a class and representative action basis pertaining to the “Released Parties” (as defined below) upon and subject to the terms and conditions contained herein. This Agreement, which is contingent upon Final Court approval, contains the essential terms of the Parties’ agreement. The Class Representatives and Class Counsel believe, and the Parties have agreed, that the settlement set forth in this Agreement confers substantial benefits upon the Class Members.

1. DEFINITIONS.

- 1.1. “**Actions**” means collectively: (i) Plaintiff Muhammad’s lawsuit against Defendants captioned *Jahad Muhammad v. Battle-Tested Strategies et al.*, initiated on July 14, 2021 and pending in the United States District Court for the Central District of California (U.S. District Court, Central District of California, Case No. 2:21-cv-07225-VAP-JPR; Los Angeles County Superior Court, Case No. 21STCV26093); (ii) Plaintiff Muhammad’s lawsuit against Defendants, captioned *Jahad Muhammad v. Battle-Tested Strategies, LLC et al.*, initiated on September 21, 2021 and pending in Superior Court of the State of California, County of Los Angeles (Los Angeles County Superior Court, Case No. 21STCV34869); and (iii) Plaintiff Donis’s lawsuit

alleging wage and hour violations against BTS, captioned *Henderson Donis v. Battle-Tested Strategies, LLC*, initiated on June 4, 2021 and pending in Superior Court of the State of California, County of Los Angeles (Los Angeles County Superior Court, Case No. 21STCV21052).

- 1.2. **“Administrator” or “Settlement Administrator”** means the neutral entity the Parties have agreed to appoint to administer the Settlement pursuant to paragraph 8.1.
- 1.3. **“Administration Expenses Payment”** means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement. References herein to actions and responsibilities of the Administrator shall be to those actions and responsibilities it shall take as set forth in the Agreement.
- 1.4. **“Aggrieved Employee”** means individuals who are currently or were employed by BTS as drivers performing Amazon-related delivery services at any time during the PAGA Period.
- 1.5. **“Class”** means all individuals who are or previously were employed by BTS in California as drivers performing Amazon-related delivery services at any time during the Class Period and who have not previously released their claims against Defendants.
- 1.6. **“Class Counsel”** means Jennifer Kramer and Ashley Cruz of Hennig Kramer Ruiz & Singh, LLP; Shadie L. Berenji and Kristopher N. Tayyeb of Berenji Law Firm, APC; and Robert Ackermann of the Law Office of Robert Ackermann.
- 1.7. **“Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”** mean the amounts, as approved by the Court, allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. **“Class Data”** means Class Member identifying information in BTS’s possession including the Class Member’s full name, social security number, last-known mailing address, dates of employment, and the total number of Eligible Workweeks during which Class Members made deliveries as a Class Member during the Class Period.
- 1.9. **“Class Member” or “Settlement Class Member”** means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. **“Class Member Address Search”** means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class

Members.

- 1.11. **“Class Notice”** means the NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, approved by the Parties and subject to Court approval, to be mailed to Class Members in English substantially in the form of Exhibit A hereto, which is incorporated by reference into this Agreement.
- 1.12. **“Class Period”** means the period from October 3, 2019 to the date on which the Court grants preliminary approval of this settlement.
- 1.13. **“Class Representatives”** means Plaintiff Muhammad and Plaintiff Donis.
- 1.14. **“Class Representative Service Payments”** means the amount that the Court authorizes be paid to the Class Representatives for initiating the Actions and providing services in support of the Actions, in addition to Plaintiffs’ Individual Class Payments, in recognition of Plaintiffs’ efforts and risks in assisting with the prosecution of the Actions.
- 1.15. **“Court”** means the Superior Court of California, County of Los Angeles.
- 1.16. **“Defendants”** means named Defendants Battle-Tested Strategies, LLC (“BTS”); and Amazon.com Services, Inc., Amazon.com Services LLC, and Amazon Logistics, Inc. (the Amazon defendants are collectively referred to as “Amazon”).
- 1.17. **“Defense Counsel”** collectively refers to (i) Tim L. Johnson, Nikolas T. Djordjeovski, and Yousaf M. Jafri of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Counsel for BTS; and (ii) Albert Giang, Kelly Perigoe, Matthew Dawson, and Ramon A. Miyar of King & Spalding LLP, Counsel for Amazon.
- 1.18. **“Effective Date”** means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (i) if no objections to the settlement are filed, the day the Court enters Judgment; (ii) if any objection to the Settlement is filed but no appeal of the Judgment is filed, the day after the deadline for filing a notice of appeal from the Judgment; (iii) if there is an appeal of the Court’s Judgment, the latest of the date the Judgment is affirmed on appeal and a remittitur is issued, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court; or (iv) if a petition for writ of certiorari to the California Supreme Court is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed in the event the petition is granted.
- 1.19. **“Final Approval Order”** means the Court’s order granting final approval of the Settlement following the Final Approval Hearing.
- 1.20. **“Final Approval Hearing”** means the Court’s hearing on the Motion for Final

Approval of the Settlement at which the Court decides whether the terms of the Agreement are fair, reasonable, and adequate for the Class Members and meet all requirements for final approval.

- 1.21. **“Final Judgment”** means the Judgment entered by the Court on its Order Granting Final Approval of the Settlement that has become final according to Paragraph 1.18.
- 1.22. **“Gross Settlement Amount”** refers to the total monetary amount that Defendants are obligated to make in connection with this Agreement: \$1,000,000. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments and the Administrator’s Expenses. Except as expressly set forth in Paragraphs 3.1 and 9, in no event shall Defendants be obligated to pay more than the Gross Settlement Amount in connection with this Agreement.
- 1.23. **“Individual Class Payment”** means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Eligible Workweeks worked during the Class Period.
- 1.24. **“Individual PAGA Payment”** means the Aggrieved Employee’s pro rata share of 25% of the PAGA Payment calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.25. **“Judgment”** means the judgment entered by the Court upon the Final Approval Order. The Final Judgment shall constitute a judgment respecting the Parties within the meaning and for purposes of California Code of Civil Procedure sections 577, and 904.1(a), and on the PAGA claims for purposes of enforcing the rule announced in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009).
- 1.26. **“LWDA”** means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. **“LWDA PAGA Payment”** means the 75% of the PAGA Payment paid to the LWDA under Labor Code section 2699(i).
- 1.28. **“Net Settlement Amount”** means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. **“Non-Participating Class Member”** means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. **“Objection”** refers to a written statement submitted timely by a Participating Class

Member to the Settlement Administrator that contains (1) the name and case number of the *Donis* Action (or reasonable portion thereof), (2) the full name, last four digits of their social security number, and current address of the Participating Class Member making the Objection, (3) the specific reason(s) for the Objection, and (4) any evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) that an Objector may submit for the Court to consider.

- 1.31. **“Objector”** refers to a Participating Class Member who has submitted an Objection
- 1.32. **“PAGA”** means the California Labor Code Private Attorneys General Act of 2004, as amended (Labor Code §§ 2698. *et seq.*).
- 1.33. **“PAGA Pay Period”** means any Pay Period during which an Aggrieved Employee worked for BTS for at least one day during the PAGA Period.
- 1.34. **“PAGA Period”** means the period from May 31, 2020 to the date on which the Court grants preliminary approval of this settlement.
- 1.35. **“PAGA Notices”** means Plaintiff Muhammad’s July 14, 2021 letter to Defendants and the LWDA, and Plaintiff Donis’s May 31, 2021 letter to BTS and the LWDA, providing notice pursuant to Labor Code section 2699.3(a).
- 1.36. **“PAGA Payment ”** refers to the One Hundred Thousand Dollar (\$100,000) PAGA allocation payment in settlement of Plaintiffs’ claim for civil penalties under PAGA. Seventy-five percent (75%) of the PAGA Payment (\$75,000) shall be payable to the LWDA and twenty-five percent (25%) (\$25,000) shall payable and distributed to Aggrieved Employees.
- 1.37. **“Participating Class Member”** means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.38. **“Plaintiffs”** means Plaintiff Muhammad and Plaintiff Donis, the named plaintiffs in the Actions.
- 1.39. **“Preliminary Approval Order”** means the order entered by the Court granting a Motion for Preliminary Approval of the Settlement.
- 1.40. **“Released Class Claims”** means the claims being released as described in Paragraph 6.1 below.
- 1.41. **“Released PAGA Claims”** means the claims being released as described in Paragraph 6.2 below.
- 1.42. **“Released Parties”** means: Defendants and each of their former and present directors, officers, shareholders, owners, members, employees, agents, servants, attorneys, insurers, predecessors, successors, assigns, parents, subsidiaries, and affiliates.

- 1.43. **“Request for Exclusion”** refers to a timely, written, opt-out request signed by a Class Member or his/her representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and meets the requirements set forth in Section 8.5.1.
- 1.44. **“Response Deadline”** means 45 days after the Settlement Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, (b) fax, email, or mail his or her Objection to the Settlement, or (c) dispute the information contained in the Class Notice. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.45. **“Settlement”** means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46. **“Eligible Workweek”** means any week during which a Class Member worked for BTS for at least one day, during the Class Period.

2. **RECITALS AND PROCEDURAL HISTORY.**

- 2.1 **The PAGA Letters.** Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs contend they gave timely written notice to Defendants and the LWDA by sending the PAGA Notices. On or about May 31, 2021, Hennig Kramer Ruiz & Singh, LLP, on behalf of Plaintiff Donis, submitted Donis’s PAGA Notice to the LWDA. Berenji Law Firm, APC, on behalf of Plaintiff Muhammad submitted his own PAGA Notice to the LWDA on July 14, 2021.
- 2.2 **The *Donis* Action.** On June 4, 2021, Plaintiff Donis filed a Class Action Complaint for Damages and Equitable Relief alleging causes of action against BTS for (1) Failure to Pay Wages; (2) Failure to Reimburse Expenses; (3) Failure to Provide Lawful Meal Periods; (4) Failure to Provide Lawful Rest Periods; (5) Unfair Competition; and (6) Failure to Furnish Accurate Itemized Wage Statements (the “*Donis* Action”). On October 21, 2021, Plaintiff Donis filed a First Amended Class Action Complaint for Damages, Penalties, and Equitable Relief alleging causes of action against BTS for (1) Failure to Pay Wages; (2) Failure to Reimburse Expenses; (3) Failure to Provide Lawful Meal Periods; (4) Failure to Provide Lawful Rest Periods; (5) Unfair Competition; (6) Failure to Furnish Accurate Itemized Wage Statements; and (7) civil penalties under PAGA. As of the execution of this Agreement, Plaintiff Donis’s First Amended Class Action Complaint for Damages, Penalties, and Equitable Relief is the operative complaint in the *Donis* Action (the “*Donis* Operative Complaint.”).
- 2.3 **The *Muhammad* Labor Code Action.** On July 14, 2021, Plaintiff Muhammad filed a Class Action Complaint for Damages alleging causes of action against

Defendants for (1) Failure to Pay Overtime Wages; (2) Failure to Timely Pay Wages; (3) Failure to Provide Accurate Itemized Wage Statements; (4) Failure to Reimburse Business Expenses; (5) Failure to Make Proper Disclosure in Violation of Fair Credit Reporting Act; (6) Failure to Obtain Proper Authorization in Violation of Fair Credit Reporting Act; (7) Violation of California's Investigative Consumer Reporting Agencies Act; and, (8) Violation of California Unfair Competition Law (the "*Muhammad* Labor Code Action"). The Class Action Complaint for Damages is the operative complaint in the *Muhammad* Labor Code Action (the "*Muhammad* Labor Code Complaint"). On September 8, 2021, Defendant Amazon Services, Inc. removed the *Muhammad* Labor Code Action to the United States District Court for the Central District of California (the "Central District of California"). On October 14, 2021, Defendants moved to compel Plaintiff Muhammad's individual claims to arbitration, dismiss his class claims, and dismiss or alternatively stay the action. On December 21, 2021, the Central District of California (Hon. Virginia A. Phillips presiding) compelled Plaintiff Muhammad's individual claims to arbitration and dismissed his class claims.

- 2.4 **The *Muhammad* PAGA Action.** On September 21, 2021, Plaintiff Muhammad filed a Representative Complaint for Damages seeking civil penalties under PAGA for the following alleged violations: (1) Failure to Pay Overtime Wages; (2) Failure to Reimburse Business Expenses; (3) Failure to Provide Itemized Wage Statements; (4) Failure to Provide Paid Sick Leave; and 5) Failure to Timely Pay Wages (the "*Muhammad* PAGA Action"). The Representative Complaint for Damages is the operative complaint in the *Muhammad* PAGA Action (the "*Muhammad* PAGA Complaint").
- 2.5 **Defendants' Denials.** Defendants deny: (1) all the material allegations in the action; (2) that they violated any laws; (3) that they are liable for damages, penalties, interest, restitution, attorneys' fees or costs, or for any other compensation or remedy with respect to anyone on account of the claims asserted in the Action; and (4) that class certification, collective action certification, or representative treatment is appropriate as to any claim in the Actions for purposes other than settlement. Defendants contend that their policies, procedures, and practices comply with all applicable laws asserted in the Actions. Nonetheless, without admitting any liability or wrongdoing whatsoever and without admitting that class certification, collective action certification, or representative treatment is appropriate for any purpose other than for settlement purposes alone, Defendants have agreed to settle the Actions on the terms set forth in this Agreement, to avoid the burden, expense, and uncertainty of litigation. Any statements by Defendants in this Agreement are made for settlement purposes only and shall under no circumstances be construed as an admission of fault or liability by Defendants.
- 2.6 **Class Counsel's Investigation.** Prior to mediation, Plaintiffs obtained, through informal discovery, the time punch records and pay summaries of a randomly selected group making up 20% of Class Members and Aggrieved Employees; Plaintiffs' personnel files, time punch records, and pay summaries; and BTS's employee handbook and employment policies. Plaintiffs represent and warrant that

their investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

- 2.7. **Negotiation of Settlement.** Class Counsel engaged in intensive, arms-length negotiations with Defendants at mediation with experienced mediator Francis J. (“Tripper”) Ortman III, Esq., with a view toward achieving substantial benefits for the Class Members, while avoiding the cost, delay, and uncertainty of further litigation. Plaintiffs and Class Counsel urge approval by the Court of this Agreement after considering (1) the factual and legal defenses to the claims asserted, which render uncertain the ultimate outcome of the Actions and class certification, (2) the potential difficulties Plaintiffs and Class Members would encounter in establishing their claims and maintaining class treatment, (3) the substantial benefits that Class Members would receive under this Agreement, and (4) that this Agreement provides Class Members relief in an expeditious and efficient manner, compared to any manner of recovery possible after litigation and potential appeal. The mediation led to this Agreement to settle the Actions.
- 2.8. No Court has granted class certification in the Actions.
- 2.9. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.
- 2.10 **Stipulation to Class Certification and Representative Treatment.** For settlement purposes only, the Parties stipulate that the Participating Class Members described herein who do not submit a timely Request for Exclusion from the Settlement Class may be conditionally certified as a settlement class and that the Aggrieved Employees are appropriate for representative treatment for purposes of settlement. This stipulation to certification and representative treatment is in no way an admission that class action certification and/or representative treatment is proper and shall not be admissible in this or in any other action except for the sole purpose of enforcing this Agreement. Nor should Defendants’ stipulation to conditional class certification and representative treatment be deemed as a waiver to any additional defenses against class or representative action treatment, including but not limited to Defendants’ right to exclude Settlement Class Members who signed binding arbitration agreements from participating in this Action. Should, for whatever reason, the Court fail to issue a Final Approval Order, the Parties’ stipulation to class certification and representative treatment as part of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not certification and/or representative treatment would be appropriate in a non-settlement context. Defendants expressly reserve their rights and declare that they would continue to oppose class certification, representative treatment, and the substantive merits of the Action should the Court decline to issue a Final Approval Order. Plaintiffs expressly reserve their rights and declare that they will continue to pursue class certification, representative treatment, and a trial in the Actions should the Court

decline to issue a Final Approval Order.

3. **MONETARY TERMS.**

- 3.1. **Gross Settlement Amount.** Except as otherwise provided by Paragraph 9 below, Defendants promise to pay One Million U.S. dollars (\$1,000,000) as the Gross Settlement Amount to fully settle, resolve, and extinguish the claims in the Actions. BTS shall separately pay the employer's share of payroll taxes on the Wage Portions of the Individual Class Payments, which shall be paid in addition to, and not be drawn from, the Gross Settlement Amount. Except as set forth in this Paragraph and Paragraph 9, the Gross Settlement Amount shall be all-in with no reversion to Defendants, meaning Defendants will pay no more and no less than the Gross Settlement Amount. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Settlement Administrator shall not condition the distribution of funds to Participating Class Members or Aggrieved Employees on the submission of a claim.
- 3.2. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval Order:
 - 3.2.1. **Class Representative Service Payments.** Class Representative Service Payments to the Class Representatives of not more than \$10,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiffs' request for Class Representative Service Payments that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will include the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs each assume full responsibility and liability for employee taxes owed on their respective Class Representative Service Payment. The Court's approval of the Class Representative Service Award in the amounts requested is not a material term of this Agreement. In exchange for the Class Representative Service Award, Plaintiffs shall execute the limited general release of claims, as set forth in Section 6.3.
 - 3.2.2. **Class Counsel Fees Payment.** Class Counsel shall request that the Court award Class Counsel (a) a Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be Three Hundred Thirty-Three Thousand Three Hundred Thirty-three

and 33/100 U.S. dollars (\$333,333.33), and (b) a Class Counsel Litigation Expense Payment of not more than thirty thousand (\$30,000) for litigation costs actually incurred by Class Counsel in representing the interests of the Class in the Actions. Both the Class Counsel Fees Payment and the Class Counsel Litigation Expense Payment shall be deducted from the Gross Settlement Amount in the amount approved by the Court. Defendants shall have no liability for any attorneys' fees or costs other than those approved by the Court. Defendants will not oppose or otherwise object to Plaintiffs' application for the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment provided that they do not exceed the aforementioned amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment in an amount less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount, which shall be paid to Class Members on a proportional basis relative to the size of their claims as set forth in Paragraph 3.2.4 below. The Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Settlement Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and shall indemnify and hold Defendants harmless from any dispute or controversy regarding any division or sharing of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment among Class Counsel.

3.2.3. Settlement Administration Costs. The Parties agree to obtain a reasonable estimate of Administrative Costs of up to Fifteen Thousand U.S. dollars (\$15,000) and seek approval of Administrative Costs to be drawn from the Gross Settlement Amount. If the Court approves an amount less than \$15,000, then the other terms of this Agreement shall still remain in effect. The amount of Administrative Costs is not a material term of this Agreement.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Eligible Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Eligible Workweeks.

3.2.4.1. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Settlement Administrator will retain amounts equal to their Individual Class Payments in the Net

Settlement Amount for distribution to Participating Class Members on a pro rata basis. However, if a Non-Participating Class Member is also an Aggrieved Employee, the Individual PAGA Payment shall constitute the sole compensation to that Non-Participating Class Member under this Agreement, as set forth in Paragraph 3.2.5.

3.2.4.2. Tax Allocation of Individual Class Payments. One-third (1/3) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Two-thirds (2/3) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.3. No opinion regarding the tax consequences of this Settlement. No opinion regarding the tax consequences of this Settlement to any individual Participating Class Member is being given, or will be given, by Defendants, counsel for Defendants, any other Released Party, or Class Counsel. Participating Class Members must consult their own tax advisors regarding the tax consequences of this Settlement, including but not limited to any payments provided or tax reporting obligations. Participating Class Members shall be solely responsible for paying all other applicable taxes on their respective Individual Class Payments and shall indemnify and hold harmless Defendants and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of Individual Class Payments.

3.2.5. To the LWDA and Aggrieved Employees: A PAGA Payment in the amount of \$100,000 to be paid from the Gross Settlement Amount, with 75% (\$75,000) allocated to the LWDA PAGA Payment and 25% (\$25,000) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (i.e., \$25,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves a PAGA Payment of less than the amount

requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

3.2.5.3. No payroll taxes shall be withheld or deducted from each Aggrieved Employee's Individual PAGA Payment, and the Settlement Administrator shall issue to Aggrieved Employees an IRS Form 1099 for each such payment. Aggrieved Employees assume sole responsibility and liability for any taxes owed on their Individual PAGA Payment and shall indemnify and hold harmless Defendants and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of any Individual PAGA Payment.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. **Class Workweeks and Aggrieved Employee Pay Periods.** Based on a review of its records to date, BTS estimates that as of August 24, 2022, there were approximately 500 Class Members who collectively worked a total of 14,193 Eligible Workweeks, and 448 Aggrieved Employees who worked a total of 12,671 PAGA Pay Periods.
- 4.2. **Class Data.** Not later than 15 days after the Court issues its Preliminary Approval Order, BTS will simultaneously deliver the Class Data to the Settlement Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Settlement Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Settlement Administrator employees who need access to the Class Data to effect and perform under this Agreement. BTS has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which BTS must send the Class Data to the Settlement Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. **Funding of Gross Settlement Amount.** Within 15 days after the Effective Date, (i) Defendants shall fully fund the Gross Settlement Amount into the Qualified Settlement Fund ("QSF") established by the Settlement Administrator, as set forth in Section 8.3, and (ii) BTS shall also fund all amounts necessary to fully pay Defendants' share of payroll taxes, by transmitting those funds to the QSF.
- 4.4. **Payments from the Gross Settlement Amount.** Within 14 days after Defendants fund the Gross Settlement Amount, the Settlement Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees

Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Settlement Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. Any checks that are not cashed within one hundred eighty (180) calendar days from the date of the mailing of the checks shall be cancelled and said cancellation shall not affect the validity of the releases provided for herein and the Participating Class Member or Aggrieved Employee shall be deemed to, nevertheless, be bound by the releases provided herein. The face of each check shall prominently state the date when the check will be voided. The Settlement Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Settlement Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Settlement Administrator may send Participating Class Members who are also Aggrieved Employees a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

4.4.3. For any Participating Class Member or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Settlement Administrator shall transmit the funds represented by such checks either to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384(b), or to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section

384(b) (“Cy Pres Recipient”). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

5. [INTENTIONALLY LEFT BLANK]

6. RELEASES OF CLAIMS. Upon the Effective Date, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

- 6.1 **Release by Participating Class Members.** By operation of the entry of the Final Approval Order and Judgment, and except as to rights this Agreement creates, Class Representatives and each Participating Class Member, for themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Second Amended Complaint in the *Donis* Action and the Operative Complaints in the Actions arising during the Class Period, including but not limited to, any claim for: (1) violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 et seq.; (2) violation of California’s Investigative Consumer Reporting Agencies Act (“ICRAA”), Cal. Civil Code section § 1786.10 – § 1786.40; (3) Failure To Pay Regular Pay/Min. Wages in Violation of Labor Code §§ 223, 510, 558.1, 1194, 1194.2, 1197 & IWC Wage Order 9-2001, § 4; (4) Failure To Pay Overtime Premium Pay in Violation of Labor Code §§ 510, 558, 558.1, 1194, 1194.2 & IWC Wage Order 9-2001, § 3; (5) Failure To Provide Meal Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 11; (6) Failure to Provide Rest Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 12; (7) Failure To Reimburse For Necessary Expenditures in Violation of Labor Code §§ 510, 558.1, 2802 and IWC Wage Order 9-2001, §§ 8-9; (8) Failure to Provide Accurate Itemized Wage Statements and Failure to Maintain Records in Violation of Labor Code §§ 226(a), 226.3, 558.1, 1174; (9) Failure to Timely Pay Wages in Violation of Labor Code §§ 201-204, 210, 2926, 2927; (10) Failure to Comply with Client Employer Obligations for Subcontractors in Violation of Labor Code §§ 2810 and 2810.3, et seq.; (11) Unlawful, Unfair, and Deceptive Business Practices in Violation of Business & Professions Code §§ 17200, et seq.; claims for PAGA penalties (Cal. Labor Code §§ 2698 et seq.) based on such alleged violations, any derivative claims under the Fair Labor Standards Act (“FLSA”) or any applicable California Industrial Welfare Commission Wage Order; related common law claims for conversion, other alleged tortious conduct, breach of contract, and misrepresentation; and any other derivative claims under California law including claims for statutory or civil penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation

and other costs, expenses, restitution, and equitable and declaratory relief (“Released Claims”). Except as set forth in Paragraphs 6.2 and 6.3 of this Agreement, Participating Class Members do not release any other claims.

6.2 Release by Aggrieved Employees. All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims under PAGA that were alleged, or reasonably could have been alleged, based on the facts stated in the PAGA Notices and any of the complaints filed in the Actions arising during the period from October 3, 2019 to the date on which the Court grants final approval of the Settlement. The PAGA Released Claims include, without limitation, any PAGA claim alleging that: (1) Defendants did not properly calculate Aggrieved Employees’ overtime wages and pay all overtime wages due in violation of California Labor Code sections 510, 1194, and 1198; (2) Defendants failed to compensate Aggrieved Employees for all hours worked in violation of California Labor Code section 1194; (3) Defendants violated California Labor Code section 2802 in failing to indemnify Aggrieved Employees for business expenses; (4) Defendants failed to provide Aggrieved Employees with lawful meal and rest periods, and failed to pay required meal and rest period premiums, in violation of California Labor Code section 226.7; (5) Defendants failed to provide accurate and compliant wage statements to Aggrieved Employees in violation of California Labor Code section 226; (6) Defendants failed to timely pay Aggrieved Employees all wages due within the time periods required by California Labor Code sections 201-204, and then to pay waiting time penalties pursuant to section 203 of the California Labor Code; (7) Defendants failed to provide Aggrieved Employees with paid sick days in violation of California Labor Code section 246 and 246.5; (8) Defendants violated California Labor Code section 2810.5(a) by failing to provide Aggrieved Employees with written notice of employment -related information at their time of hiring; (9) Defendants owe penalties pursuant to the PAGA, premised on the alleged violations articulated above; and (10) the Defendants owe penalties, interest, attorney fees, or other damages arising out of the Defendants’ alleged California Labor Code violations released herein.

6.3 Additional Release by Class Representatives. In addition to the releases given by each Participating Class Member and Aggrieved Employee in Paragraphs 6.1 and 6.2 above, Class Representatives, for themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge Released Parties from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under any body of law, from the beginning of time through the date on which the Court grants Final Approval of this Settlement. This general release by Class Representatives also includes a waiver of rights under California Civil Code Section 1542, which states:

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

Class Representatives acknowledge that Class Representatives may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Class Representatives' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Class Representatives' discovery of them. This general release from Class Representatives is only effective upon the Court granting final approval of the Settlement and only applies to claims that may be released as a matter of law. This release also does not include future claims that arise after final approval. Class Representatives' Release does not extend to any claims or actions to enforce this Agreement. Notwithstanding the foregoing, Class Representatives' general release does not cover or include Plaintiff Muhammad's individual claims that relate to the termination of his employment and were alleged in *Jahad Muhammad v. Battle Tested Strategies, LLC* (LASC Case No. 21STCV22603/AAA Case No. 01-22-0000-2531).

7. **SECOND AMENDED COMPLAINT & MOTION FOR PRELIMINARY APPROVAL.**

7.1 **Second Amended Complaint.** In order to effectuate the settlement of these Actions and for purposes of this Settlement only, the Parties will stipulate to have the *Muhammad* PAGA Action and *Muhammad* Labor Code Action stayed or take such other mutually agreed actions appropriate to achieve the functional equivalent of a stay in those cases. In addition, and for purposes of this Settlement only, the Parties will submit a stipulation and proposed order to the court in the *Donis* Action for Plaintiffs to file a Second Amended Complaint in the *Donis* Action in the form attached hereto as Exhibit B, which will add Plaintiff Muhammad as a named Plaintiff and will combine the class and representative claims from the *Donis* Action, *Muhammad* Labor Code Action, and *Muhammad* PAGA Action. If the Settlement is approved, Plaintiffs' Counsel will promptly dismiss the *Muhammad* Labor Code Action and *Muhammad* PAGA Action with prejudice. Defendants will not be required to respond to the Second Amended Complaint in the *Donis* Action. If the Court does not approve this Settlement or there is no Final Judgment, the Parties will return to the status quo by stipulating to the filing of a Third Amended Complaint in *Donis* in the identical form as the First Amended Complaint, and the request that the stay in the *Muhammad* PAGA Action and *Muhammad* Labor Code Action be lifted.

7.2 **Motion for Preliminary Approval.** Plaintiff shall submit to the Court a Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Motion")

that complies with the Court's current checklist for Preliminary Approvals.

7.2.1 Defendants' Counsel's Declaration in Support of Preliminary Approval.

Within 10 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Settlement Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.2.2 Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel, all documents necessary for obtaining Preliminary Approval including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699(f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Settlement Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) signed declarations from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, the Administrator, and/or the proposed Cy Pres; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3(a)), Operative Complaint (Labor Code section 2699(1)(1)), this Agreement (Labor Code section 2699(1)(2)); (vii) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.2.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. All Parties agree

to work diligently and cooperatively to have this Settlement presented to the Court for preliminary approval. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Settlement Administrator.

- 7.2.4 **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns. If, following good-faith meet-and-confer efforts, the Parties are unable to resolve any disagreement as to (a) any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations or documents, and/or (b) any modifications to the Agreement or other actions necessary to address the Court's concerns in connection with the Court's denial of Preliminary Approval or placement of conditions on Preliminary Approval, the Parties agree to enlist the assistance of the mediator, and, if necessary, the Court pursuant to the procedures set forth in paragraph 13.5.

8. **SETTLEMENT ADMINISTRATION.**

- 8.1 **Selection of Administrator.** After obtaining "not to exceed" bids from mutually acceptable and qualified settlement administrators, the Parties have mutually agreed to ask the Court to appoint ILYM Group as the qualified administrator, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements. Defendants hereby represent and warrant that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by this Settlement.
- 8.2 **Employer Identification Number.** The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 8.3 **Qualified Settlement Fund.** The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 8.4 **Notice to Class Members.**

- 8.4.1 No later than three (3) business days after receipt of the Class Data, the Settlement Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Eligible Workweeks, and Pay Periods in the Class Data.
- 8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Settlement Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Eligible Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Settlement Administrator shall update Class Member addresses using the National Change of Address database.
- 8.4.3 Not later than 3 business days after the Settlement Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Settlement Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Settlement Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Settlement Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 8.4.4 The Response Deadline for Class Members’ written objections, Challenges to Eligible Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Settlement Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 8.4.5 If the Administrator, Defendants, or Class Counsel are contacted by or otherwise discover any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Settlement Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5 Requests for Exclusion (Opt-Outs).

- 8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Settlement Administrator a Request for Exclusion by the Response Deadline not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed after having been returned undeliverable to the Administrator). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. The Request for Exclusion must also: (1) contain the name and address of the Class Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Except as otherwise set forth in Paragraph 8.5.4, any Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under the Settlement and will not be bound by the terms of the Settlement or have any right to object to or appeal the Settlement. Settlement Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Judgment entered in this Action.
- 8.5.2 The Settlement Administrator may not reject a timely Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Settlement Administrator shall accept any timely Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Settlement Administrator has reason to question the authenticity of a Request for Exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity. The Settlement Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.1 and 6.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

- 8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.2 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Eligible Workweeks. Each Class Member and Aggrieved Employee shall have 45 days after the Settlement Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Eligible Workweeks and PAGA Pay Periods (if any) allocated to the Class Member and/or Aggrieved Employee in the Class Notice. The Class Member or Aggrieved Employee may challenge the allocation by communicating with the Settlement Administrator via fax, email or mail. The Settlement Administrator must encourage the challenging Class Member or Aggrieved Employee to submit supporting documentation. In the absence of any contrary documentation, the Settlement Administrator is entitled to presume that the Eligible Workweeks or Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Settlement Administrator's determination of each Class Member's or Aggrieved Employee's allocation of Eligible Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Settlement Administrator shall promptly provide copies of all challenges to calculation of Eligible Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

- 8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payments.
- 8.7.2 Participating Class Members may send written objections to the Settlement Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Settlement Administrator must do so not later than 45 days after the Settlement Administrator's mailing of the Class Notice (plus an additional 14 days for Participating Class Members whose Class Notice was re-mailed).
- 8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.
- 8.7.4 If a Class Member submits both a Request for Exclusion and an Objection, then the Request for Exclusion will be valid and will invalidate the

Objection.

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

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

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

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

8.8.4 Eligible Workweek and/or Pay Period Challenges. The Settlement Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Eligible Workweeks and/or Pay Periods. The Settlement Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

8.8.5 Settlement Administrator's Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Settlement Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

9. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE. Based on its records, BTS estimates that, as of August 24, 2022, (1) there were 500 Class Members and 14,1933 Total Eligible Workweeks during the Class period and (2) there were 448 Aggrieved Employees who worked 12,671 Pay Periods during the PAGA Period. In the event that the Total Eligible Workweeks in the Class Period increases by more than 15% (i.e., if there are 16,322 or more Total Eligible Workweeks in the Class Period) then the Gross Settlement Amount shall be increased by the percentage in excess of 15% (i.e., if the Total Eligible Workweeks increase by 16% then the Gross Settlement Amount shall be increased by 1%). In the event that the Gross Settlement Amount increases under this escalator clause, then any consideration paid pursuant to this term shall entirely become part of the Net Settlement Amount and will not increase the attorneys' fees sought by Plaintiffs' Counsel.

10. DEFENDANTS' RIGHT TO WITHDRAW. If the number of Class Members submitting timely and valid Requests for Exclusion identified in the Exclusion List exceeds fifty (50), Defendants may, but are not obligated to, elect to withdraw from the Settlement, provided that they withdraw within the time period set forth in this paragraph. Defendants also may withdraw from the Settlement if: (a) the Settlement is construed in such a fashion that Defendants are required to pay more than the Gross Settlement Amount and employer-side taxes on amounts from the Gross Settlement Amount that are classified as wages; or (b) the Court does not approve the Settlement releasing the claims set forth in the Parties' Memorandum of Understanding ("MOU") and/or the Settlement Agreement, or otherwise makes an order inconsistent with any of the terms of the MOU and/or Settlement Agreement. The Parties agree that, if Defendants withdraw, the Settlement shall

be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than five (5) business days after the Administrator sends the final Exclusion List to Defense Counsel or ten (10) business days after the Response Deadline, whichever is later; late elections will have no effect.

11. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs will request that the Final Approval Order certify the Settlement Class; find that this Agreement is fair, just, adequate, and in the best interests of the Class; and require the Parties to carry out the provisions of this Agreement. Plaintiffs shall make diligent and reasonable efforts to provide drafts of these documents to Defense Counsel not later than ten (10) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 11.3 Continuing Jurisdiction of the Court. Pursuant to California Code of Civil Procedure section 664.6, the Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) interpreting, implementing, and enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate

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

- 11.5 Nullification of Agreement. In the event: (i) the Court denies preliminary approval of the Settlement, with prejudice; (ii) the Court denies final approval of the Settlement, with prejudice; (iii) the Court refuses to enter a Final Judgment as provided herein; (iv) Defendants exercise their right to withdraw under Section 10 of the Agreement; or (v) the Settlement does not become final for any other reason, this Agreement shall be null and void and any order or judgement entered by the Court in furtherance of this Settlement shall be treated as void from the beginning. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

13. ADDITIONAL PROVISIONS.

- 13.1 Confidentiality. Plaintiffs, Class Counsel, Defendants, and Defense Counsel separately agree to keep the Settlement confidential up to and until the Court grants preliminary approval of the Settlement, except as required to seek preliminary approval from the Court, including filing the Agreement with the Court. Thereafter, the Parties will agree to make no comments to the media or otherwise publicize the terms of the settlement, except that in response to media inquiries the Parties may refer the inquirer to the Settlement documents filed in Court. Plaintiffs, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 13.2 No Solicitation. The Parties agree to use their best efforts to carry out the terms of this Settlement. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.3 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire Agreement among the Parties relating to the Settlement, and no oral or written representations, warranties, or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties, and covenants contained and memorialized in the Agreement and its Exhibits. The Parties are entering into this Agreement based solely on the representations and warranties herein and not based on any promises, representation, and/or warranties not found herein.
- 13.4 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.5 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties shall submit the matter to mediation with mediator Francis J. "Tripper" Ortman III, Esq.; provided, however, that if he is unavailable within seven (7) days of initially being contacted by the Parties, either Party may elect to submit the matter to the Court for resolution in lieu of mediation. Any fees and costs for the mediator's services shall be split evenly between the Parties. If the Parties submit the matter to mediation and are unable to resolve the disagreement at mediation, the Parties shall seek the assistance of the Court in resolving the dispute.
- 13.6 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.7 Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,

the “acknowledging party” and each Party to this Agreement other than the acknowledging party, an “other party”) acknowledges and agrees that (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any other party has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

- 13.8 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.9 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors or assigns of each of the Parties.
- 13.10 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.11 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.12 Confidentiality Agreements and Orders. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.13 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Settlement Administrator’s obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from

Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

- 13.14 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.15 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.16 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Shadie L. Berenji (berenji@employeejustice.law)
Berenji Law Firm, APC
8383 Wilshire Boulevard, Suite 708
Beverly Hills, California 90211

Jennifer Kramer (jennifer@employmentattorneyla.com)
Hennig Kramer Ruiz & Singh, LLP
3600 Wilshire Blvd., Suite 1908
Los Angeles, CA 90010

Robert Ackermann (videolaw@aol.com)
Law Office Of Robert Ackermann
11040 Santa Monica Blvd., Ste. 320
West Los Angeles, CA 90025

To Defendants:

Tim L. Johnson (tim.johnson@ogletree.com)
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4370 La Jolla Village Drive, Suite 990
San Diego, CA 92122

Kelly Perigoe (kperigoe@kslaw.com)
King & Spalding LLP
633 West Fifth Street, Suite 1600
Los Angeles, CA 90071

- 13.17 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile or electronically (i.e. DocuSign), which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 13.18 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.
- 13.19 Representation. Plaintiffs' Counsel represent that other than Plaintiffs themselves and other than Heriberto Morales's wage and hour claims arising out of his employment with Activ Enterprises, they do not currently represent any other current or former employees of BTS in connection with any actual or planned claims, charges, complaints or other matters against Amazon or BTS, and Plaintiffs' Counsel are not aware of any current or former employees of BTS who are planning to bring any claims, charges, complaints or other matters against Amazon or BTS.
- 13.20 Arbitration. This Agreement shall not affect the validity of any arbitration agreements and/or release agreements applicable to a Class Member. Amazon and BTS reserve the ability to enforce arbitration agreements in this action as to any arbitrable claims of Class Members subject to an enforceable arbitration agreement should settlement not be finally approved.
- 13.21 Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

WHEREFORE, Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendants have executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

For Plaintiff Donis

Date

DocuSigned by:

Jahad Muhammad

4/18/2023

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For Plaintiff Muhammad

Date

For Defendant BTS

Date

For Defendant Amazon

Date

APPROVED AS TO FORM AND CONTENT:



April 25, 2023

Counsel for Plaintiff Donis Date

Counsel for Plaintiff Muhammad Date

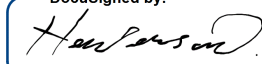
Counsel for Defendant BTS Date

Counsel for Defendant Amazon Date

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- 13.19 Representation. Plaintiffs' Counsel represent that other than Plaintiffs themselves and other than Heriberto Morales's wage and hour claims arising out of his employment with Activ Enterprises, they do not currently represent any other current or former employees of BTS in connection with any actual or planned claims, charges, complaints or other matters against Amazon or BTS, and Plaintiffs' Counsel are not aware of any current or former employees of BTS who are planning to bring any claims, charges, complaints or other matters against Amazon or BTS.
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WHEREFORE, Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendants have executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

DocuSigned by:

 8B439562F36B432...
 For Plaintiff Donis _____ Date _____

 For Plaintiff Muhammad _____ Date _____

 For Defendant BTS _____ Date _____

 For Defendant Amazon _____ Date _____

APPROVED AS TO FORM AND CONTENT:

DocuSigned by:
 4/16/2023
F632064F262B4A9
Counsel for Plaintiff Donis Date

Counsel for Plaintiff Muhammad Date

Counsel for Defendant BTS Date

Counsel for Defendant Amazon Date

- 13.17 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile or electronically (i.e. DocuSign), which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
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- 13.19 Representation. Plaintiffs' Counsel represent that other than Plaintiffs themselves and other than Heriberto Morales's wage and hour claims arising out of his employment with Activ Enterprises, they do not currently represent any other current or former employees of BTS in connection with any actual or planned claims, charges, complaints or other matters against Amazon or BTS, and Plaintiffs' Counsel are not aware of any current or former employees of BTS who are planning to bring any claims, charges, complaints or other matters against Amazon or BTS.
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WHEREFORE, Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendants have executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

For Plaintiff Donis Date

For Plaintiff Muhammad Date

For Defendant BTS Date

DocuSigned by:
Eane Brown April 24, 2023
DDF214F9DB377404...

For Defendant Amazon Date

APPROVED AS TO FORM AND CONTENT:

Counsel for Plaintiff Donis Date

Counsel for Plaintiff Muhammad Date



4/24/2023

Counsel for Defendant BTS Date

Counsel for Defendant Amazon Date

- 13.17 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile or electronically (i.e. DocuSign), which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
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- 13.21 Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

WHEREFORE, Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendants have executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

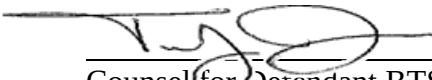
_____ For Plaintiff Donis	_____ Date
DocuSigned by:	
	4/28/2023
_____ For Defendant BTS	_____ Date

_____ For Plaintiff Muhammad	_____ Date
_____ For Defendant Amazon	_____ Date

APPROVED AS TO FORM AND CONTENT:

Counsel for Plaintiff Donis Date

Counsel for Plaintiff Muhammad Date

 4/28/2023
Counsel for Defendant BTS Date

Counsel for Defendant Amazon Date

EXHIBIT A

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

Henderson Donis v. Battle-Tested Strategies, LLC
(Los Angeles County Superior Court, Case No. 21STCV21052)

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

You may be eligible to receive money from a class action lawsuit (“Action”) against Battle-Tested Strategies, LLC (“BTS”); Amazon.com Services, Inc.; Amazon.com Services LLC; and Amazon Logistics, Inc. (collectively “Defendants”) for alleged wage and hour violations. The Action was filed by former BTS employees Jahad Muhammad and Henderson Donis (“Plaintiffs”) and seeks payment of (1) back wages and other relief for a class of current and former employees (“Class Members”) who worked for BTS as drivers performing Amazon-related delivery services during the Class Period (October 3, 2019 to **[DATE OF PRELIMINARY APPROVAL]**); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all current and former employees who worked for BTS as drivers performing Amazon-related delivery services during the PAGA Period (May 31, 2020 to **[DATE OF PRELIMINARY APPROVAL]**) (“Aggrieved Employees”).

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

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

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

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

If you worked for BTS during the Class Period and/or the PAGA Period, you have two

basic options under the Settlement:

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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

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

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former BTS employees. The Second Amended Complaint asserts claims against BTS, as well as Amazon.com Services, Inc., Amazon.com Services LLC, and Amazon Logistics, Inc. (Amazon entities collectively, "Amazon") for violating California labor laws by (1) failing to pay regular/minimum wages; (2) failing to pay overtime wages; (3) failing to timely pay wages due; (4) failing to reimburse necessary business expenses; (5) failing to provide lawful meal periods; (6) failing to provide lawful rest periods; (7) failing to furnish accurate itemized wage statements; (8) failing to make proper disclosure in violation of the federal Fair Credit Reporting Act (15 U.S.C. § 1681b(2)(A)(i), et seq.) ("FCRA"); (9) failing to obtain proper authorization in violation of the FCRA (15 U.S.C. § 1681b(2)(A)(ii)); (10) failing to provide compliant background check disclosures and background report copies upon request in violation of the California Investigative Consumer Reporting Agencies Act ("ICRAA"); and (11) unlawful, deceptive and unfair business practices in violation of the California Unfair Competition Law ("UCL") (California Business & Profession Code § 17200, et seq.). Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiffs are represented by attorneys in the Action: Jennifer Kramer and Ashley Cruz of Hennig Kramer Ruiz & Singh, LLP; Shadie L. Berenji and Kristopher N. Tayyeb of Berenji Law Firm, APC; and Robert Ackermann of the Law Office of Robert Ackermann (collectively, "Class Counsel.")

Defendants deny all of the claims in the Second Amended Complaint, and deny any and all liability or wrongdoing with respect to the allegations made in the Second Amended Complaint. Defendants additionally contend that, for any purpose other than this Settlement, none of the claims in the Second Amended Complaint are appropriate for class, collective action, and/or representative treatment. Amazon further specifically denies that it was an employer or joint employer of any

Settlement Class Member, each of whom was employed by BTS. However, Defendants have agreed to the Settlement to avoid continued litigation.

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

So far, the Court has made no determination whether Defendants or Plaintiffs are correct on the merits.

In the meantime, Plaintiffs and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

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

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

1. Defendants Will Pay \$1,000,000 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 15 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$333,333 (one-third of the Gross Settlement) to Class Counsel for

attorneys' fees and up to \$30,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

- B. Up to \$10,000 as a Class Representative Award to each Plaintiff for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payments and any Individual PAGA Payment.
- C. Up to \$15,000 to the Administrator for services administering the Settlement.
- D. Up to \$100,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

- 3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
- 4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendants are asking the Court to approve an allocation of one-third (1/3) of each Individual Class Payment to taxable wages ("Wage Portion") and two-thirds (2/3) to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

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

or foundation (“Cy Pres”).

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

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

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

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

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

By operation of the entry of the Final Approval Order and Judgment, and except as to rights this Agreement creates, Class Representatives and each Participating Class Member, for themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Second Amended Complaint in the Donis Action and the Operative Complaints in the Actions arising during the Class Period, including but not limited to, any claim for: (1) violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 et seq.; (2) violation of California’s Investigative Consumer Reporting Agencies Act (“ICRAA”), Cal. Civil Code section § 1786.10 – § 1786.40; (3) Failure To Pay Regular Pay/Min. Wages in Violation of Labor Code §§ 223, 510, 558.1, 1194, 1194.2, 1197 & IWC Wage Order 9-2001, § 4; (4) Failure To Pay Overtime Premium Pay in Violation of Labor Code §§ 510, 558, 558.1, 1194, 1194.2 & IWC Wage Order 9-2001, § 3; (5) Failure To Provide Meal Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 11; (6) Failure to Provide Rest Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 12; (7) Failure To Reimburse For Necessary Expenditures in Violation of Labor Code §§ 510, 558.1, 2802 and IWC Wage Order 9-2001, §§ 8-9; (8) Failure to Provide Accurate Itemized Wage Statements and Failure to Maintain Records in Violation of Labor Code §§ 226(a), 226.3, 558.1, 1174; (9) Failure to Timely Pay Wages in Violation of Labor Code §§ 201-204, 210, 2926, 2927; (10) Failure to Comply with Client Employer Obligations for Subcontractors in Violation of Labor Code §§ 2810 and 2810.3, et seq.; (11) Unlawful, Unfair, and Deceptive Business Practices in Violation of Business & Professions Code §§ 17200, et seq.; claims for PAGA penalties (Cal. Labor Code §§ 2698 et seq.) based on such alleged violations, any derivative claims under the Fair Labor Standards Act (“FLSA”) or any applicable California Industrial Welfare Commission Wage Order; related common law claims for conversion, other alleged tortious conduct, breach of contract, and misrepresentation; and any other derivative claims under California law including claims for statutory or civil penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief (“Released Claims”). Except as set forth in Paragraphs 6.2 and 6.3 of this Agreement, Participating Class Members do not release any other claims. .

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Defendants have paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether or not they exclude themselves from the Settlement.

This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or their related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

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

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims under PAGA that were alleged, or reasonably could have been alleged, based on the facts stated in the PAGA Notices and any of the complaints filed in the Actions arising during the period from October 3, 2019 to the date on which the Court grants final approval of the Settlement. The PAGA Released Claims include, without limitation, any PAGA claim alleging that: (1) Defendants did not properly calculate Aggrieved Employees' overtime wages and pay all overtime wages due in violation of California Labor Code sections 510, 1194, and 1198; (2) Defendants failed to compensate Aggrieved Employees for all hours worked in violation of California Labor Code section 1194; (3) Defendants violated California Labor Code section 2802 in failing to indemnify Aggrieved Employees for business expenses; (4) Defendants failed to provide Aggrieved Employees with lawful meal and rest periods, and failed to pay required meal and rest period premiums, in violation of California Labor Code section 226.7; (5) Defendants failed to provide accurate and compliant wage statements to Aggrieved Employees in violation of California Labor Code section 226; (6) Defendants failed to timely pay Aggrieved Employees all wages due within the time periods required by California Labor Code sections 201-204, and then to pay waiting time penalties pursuant to section 203 of the California Labor Code; (7) Defendants failed to provide Aggrieved Employees with paid sick days in violation of California Labor Code section 246 and 246.5; (8) Defendants violated California Labor Code section 2810.5(a) by failing to provide Aggrieved Employees with written notice of employment-related information at their time of hiring; (9) Defendants owe penalties pursuant to the PAGA, premised on the alleged violations articulated above; and (10) the Defendants owe penalties, interest, attorney fees, or other damages arising out of the Defendants' alleged California Labor Code violations released herein. .

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

Payments by (a) dividing \$25,000 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until **[INSERT DEADLINE]** to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Henderson Donis v. Battle-Tested Strategies, LLC* (Los Angeles

County Superior Court, Case No. 21STCV21052), and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [INSERT DEADLINE FOR REQUEST FOR EXCLUSION], or it will be invalid.**

Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is [INSERT OBJECTION DEADLINE].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the *Action Henderson Donis v. Battle-Tested Strategies, LLC* (Los Angeles County Superior Court, Case No. 21STCV21052) and include your name, current address, telephone number, and approximate dates of employment for BTS and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [INSERT DATE] at [INSERT TIME] in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at [INSERT URL]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV21052. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Name of Attorney: Shadie L. Berenji
Email Address: berenji@employeejustice.law
Name of Firm: Berenji Law Firm, APC
Mailing Address: 8383 Wilshire Boulevard, Suite 708, Beverly Hills, California 90211
Telephone: (310) 855-3270

Name of Attorney: Jennifer Kramer
Email Address: jennifer@employmentattorneyla.com
Name of Firm: Hennig Kramer Ruiz & Singh, LLP
Mailing Address: 3600 Wilshire Blvd., Suite 1908, Los Angeles, CA 90010
Telephone: (213) 310-8301

Name of Attorney: Robert Ackermann
Email Address: videolaw@aol.com
Name of Firm: Law Office Of Robert Ackermann
Mailing Address: 11040 Santa Monica Blvd., Ste. 320, West Los Angeles, CA 90025
Telephone: (310) 479-2441

Settlement Administrator:

Name of Company: ILYM Group
Email Address: _____
Mailing Address: _____
Telephone: _____
Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT A

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

Henderson Donis v. Battle-Tested Strategies, LLC
(Los Angeles County Superior Court, Case No. 21STCV21052)

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

You may be eligible to receive money from a class action lawsuit (“Action”) against Battle-Tested Strategies, LLC (“BTS”); Amazon.com Services, Inc.; Amazon.com Services LLC; and Amazon Logistics, Inc. (collectively “Defendants”) for alleged wage and hour violations. The Action was filed by former BTS employees Jahad Muhammad and Henderson Donis (“Plaintiffs”) and seeks payment of (1) back wages and other relief for a class of current and former employees (“Class Members”) who worked for BTS as drivers performing Amazon-related delivery services during the Class Period (October 3, 2019 to **[DATE OF PRELIMINARY APPROVAL]**); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all current and former employees who worked for BTS as drivers performing Amazon-related delivery services during the PAGA Period (May 31, 2020 to **[DATE OF PRELIMINARY APPROVAL]**) (“Aggrieved Employees”).

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

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

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

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

If you worked for BTS during the Class Period and/or the PAGA Period, you have two

basic options under the Settlement:

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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

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

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former BTS employees. The Second Amended Complaint asserts claims against BTS, as well as Amazon.com Services, Inc., Amazon.com Services LLC, and Amazon Logistics, Inc. (Amazon entities collectively, "Amazon") for violating California labor laws by (1) failing to pay regular/minimum wages; (2) failing to pay overtime wages; (3) failing to timely pay wages due; (4) failing to reimburse necessary business expenses; (5) failing to provide lawful meal periods; (6) failing to provide lawful rest periods; (7) failing to furnish accurate itemized wage statements; (8) failing to make proper disclosure in violation of the federal Fair Credit Reporting Act (15 U.S.C. § 1681b(2)(A)(i), et seq.) ("FCRA"); (9) failing to obtain proper authorization in violation of the FCRA (15 U.S.C. § 1681b(2)(A)(ii)); (10) failing to provide compliant background check disclosures and background report copies upon request in violation of the California Investigative Consumer Reporting Agencies Act ("ICRAA"); and (11) unlawful, deceptive and unfair business practices in violation of the California Unfair Competition Law ("UCL") (California Business & Profession Code § 17200, et seq.). Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiffs are represented by attorneys in the Action: Jennifer Kramer and Ashley Cruz of Hennig Kramer Ruiz & Singh, LLP; Shadie L. Berenji and Kristopher N. Tayyeb of Berenji Law Firm, APC; and Robert Ackermann of the Law Office of Robert Ackermann (collectively, "Class Counsel.")

Defendants deny all of the claims in the Second Amended Complaint, and deny any and all liability or wrongdoing with respect to the allegations made in the Second Amended Complaint. Defendants additionally contend that, for any purpose other than this Settlement, none of the claims in the Second Amended Complaint are appropriate for class, collective action, and/or representative treatment. Amazon further specifically denies that it was an employer or joint employer of any

Settlement Class Member, each of whom was employed by BTS. However, Defendants have agreed to the Settlement to avoid continued litigation.

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

So far, the Court has made no determination whether Defendants or Plaintiffs are correct on the merits.

In the meantime, Plaintiffs and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

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

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

1. Defendants Will Pay \$1,000,000 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 15 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$333,333 (one-third of the Gross Settlement) to Class Counsel for

attorneys' fees and up to \$30,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

- B. Up to \$10,000 as a Class Representative Award to each Plaintiff for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payments and any Individual PAGA Payment.
- C. Up to \$15,000 to the Administrator for services administering the Settlement.
- D. Up to \$100,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

- 3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
- 4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendants are asking the Court to approve an allocation of one-third (1/3) of each Individual Class Payment to taxable wages ("Wage Portion") and two-thirds (2/3) to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

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

or foundation (“Cy Pres”).

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

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

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

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

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

By operation of the entry of the Final Approval Order and Judgment, and except as to rights this Agreement creates, Class Representatives and each Participating Class Member, for themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Second Amended Complaint in the Donis Action and the Operative Complaints in the Actions arising during the Class Period, including but not limited to, any claim for: (1) violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 et seq.; (2) violation of California’s Investigative Consumer Reporting Agencies Act (“ICRAA”), Cal. Civil Code section § 1786.10 – § 1786.40; (3) Failure To Pay Regular Pay/Min. Wages in Violation of Labor Code §§ 223, 510, 558.1, 1194, 1194.2, 1197 & IWC Wage Order 9-2001, § 4; (4) Failure To Pay Overtime Premium Pay in Violation of Labor Code §§ 510, 558, 558.1, 1194, 1194.2 & IWC Wage Order 9-2001, § 3; (5) Failure To Provide Meal Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 11; (6) Failure to Provide Rest Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 12; (7) Failure To Reimburse For Necessary Expenditures in Violation of Labor Code §§ 510, 558.1, 2802 and IWC Wage Order 9-2001, §§ 8-9; (8) Failure to Provide Accurate Itemized Wage Statements and Failure to Maintain Records in Violation of Labor Code §§ 226(a), 226.3, 558.1, 1174; (9) Failure to Timely Pay Wages in Violation of Labor Code §§ 201-204, 210, 2926, 2927; (10) Failure to Comply with Client Employer Obligations for Subcontractors in Violation of Labor Code §§ 2810 and 2810.3, et seq.; (11) Unlawful, Unfair, and Deceptive Business Practices in Violation of Business & Professions Code §§ 17200, et seq.; claims for PAGA penalties (Cal. Labor Code §§ 2698 et seq.) based on such alleged violations, any derivative claims under the Fair Labor Standards Act (“FLSA”) or any applicable California Industrial Welfare Commission Wage Order; related common law claims for conversion, other alleged tortious conduct, breach of contract, and misrepresentation; and any other derivative claims under California law including claims for statutory or civil penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief (“Released Claims”). Except as set forth in Paragraphs 6.2 and 6.3 of this Agreement, Participating Class Members do not release any other claims. .

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Defendants have paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether or not they exclude themselves from the Settlement.

This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or their related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

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

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims under PAGA that were alleged, or reasonably could have been alleged, based on the facts stated in the PAGA Notices and any of the complaints filed in the Actions arising during the period from October 3, 2019 to the date on which the Court grants final approval of the Settlement. The PAGA Released Claims include, without limitation, any PAGA claim alleging that: (1) Defendants did not properly calculate Aggrieved Employees' overtime wages and pay all overtime wages due in violation of California Labor Code sections 510, 1194, and 1198; (2) Defendants failed to compensate Aggrieved Employees for all hours worked in violation of California Labor Code section 1194; (3) Defendants violated California Labor Code section 2802 in failing to indemnify Aggrieved Employees for business expenses; (4) Defendants failed to provide Aggrieved Employees with lawful meal and rest periods, and failed to pay required meal and rest period premiums, in violation of California Labor Code section 226.7; (5) Defendants failed to provide accurate and compliant wage statements to Aggrieved Employees in violation of California Labor Code section 226; (6) Defendants failed to timely pay Aggrieved Employees all wages due within the time periods required by California Labor Code sections 201-204, and then to pay waiting time penalties pursuant to section 203 of the California Labor Code; (7) Defendants failed to provide Aggrieved Employees with paid sick days in violation of California Labor Code section 246 and 246.5; (8) Defendants violated California Labor Code section 2810.5(a) by failing to provide Aggrieved Employees with written notice of employment-related information at their time of hiring; (9) Defendants owe penalties pursuant to the PAGA, premised on the alleged violations articulated above; and (10) the Defendants owe penalties, interest, attorney fees, or other damages arising out of the Defendants' alleged California Labor Code violations released herein. .

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

Payments by (a) dividing \$25,000 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until **[INSERT DEADLINE]** to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Henderson Donis v. Battle-Tested Strategies, LLC* (Los Angeles

County Superior Court, Case No. 21STCV21052), and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [INSERT DEADLINE FOR REQUEST FOR EXCLUSION], or it will be invalid.**

Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is [INSERT OBJECTION DEADLINE].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the *Action Henderson Donis v. Battle-Tested Strategies, LLC* (Los Angeles County Superior Court, Case No. 21STCV21052) and include your name, current address, telephone number, and approximate dates of employment for BTS and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [INSERT DATE] at [INSERT TIME] in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at [INSERT URL]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV21052. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Name of Attorney: Shadie L. Berenji
Email Address: berenji@employeejustice.law
Name of Firm: Berenji Law Firm, APC
Mailing Address: 8383 Wilshire Boulevard, Suite 708, Beverly Hills, California 90211
Telephone: (310) 855-3270

Name of Attorney: Jennifer Kramer
Email Address: jennifer@employmentattorneyla.com
Name of Firm: Hennig Kramer Ruiz & Singh, LLP
Mailing Address: 3600 Wilshire Blvd., Suite 1908, Los Angeles, CA 90010
Telephone: (213) 310-8301

Name of Attorney: Robert Ackermann
Email Address: videolaw@aol.com
Name of Firm: Law Office Of Robert Ackermann
Mailing Address: 11040 Santa Monica Blvd., Ste. 320, West Los Angeles, CA 90025
Telephone: (310) 479-2441

Settlement Administrator:

Name of Company: ILYM Group
Email Address: _____
Mailing Address: _____
Telephone: _____
Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT B

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Jahad Muhammad (“Plaintiff Muhammad”) and Henderson Donis (“Plaintiff Donis”) (Plaintiff Muhammad and Plaintiff Donis are collectively referred to as “Plaintiffs” or “Class Representatives”), on the one hand, and defendants Battle-Tested Strategies, LLC (“BTS”), Amazon.com Services, Inc., Amazon.com Services LLC, and Amazon Logistics, Inc. (the Amazon defendants are collectively referred to as “Amazon”) (BTS and Amazon are collectively referred to as “Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

This Agreement encompasses three (3) separately filed actions: (i) Plaintiff Muhammad’s lawsuit alleging wage and hour violations against Defendants captioned *Jahad Muhammad v. Battle-Tested Strategies et al.*, initiated on July 14, 2021 and pending in the United States District Court for the Central District of California (U.S. District Court, Central District of California, Case No. 2:21-cv-07225-VAP-JPR; Los Angeles County Superior Court, Case No. 21STCV26093) (the “Muhammad Labor Code Action”); (ii) Plaintiff Muhammad’s lawsuit against Defendants under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), captioned *Jahad Muhammad v. Battle-Tested Strategies, LLC et al.*, initiated on September 21, 2021 and pending in Superior Court of the State of California, County of Los Angeles (Los Angeles County Superior Court, Case No. 21STCV34869) (the “Muhammad PAGA Action”); and (iii) Plaintiff Donis’s lawsuit alleging wage and hour violations against BTS captioned *Henderson Donis v. Battle-Tested Strategies, LLC*, initiated on June 4, 2021 and pending in Superior Court of the State of California, County of Los Angeles (Los Angeles County Superior Court, Case No. 21STCV21052) (the “Donis Action”) (collectively, the lawsuits are referred to as the “Actions”).

This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and settle the “Released Claims” (as defined below) on a class and representative action basis pertaining to the “Released Parties” (as defined below) upon and subject to the terms and conditions contained herein. This Agreement, which is contingent upon Final Court approval, contains the essential terms of the Parties’ agreement. The Class Representatives and Class Counsel believe, and the Parties have agreed, that the settlement set forth in this Agreement confers substantial benefits upon the Class Members.

1. DEFINITIONS.

- 1.1. “Actions” means collectively: (i) Plaintiff Muhammad’s lawsuit against Defendants captioned *Jahad Muhammad v. Battle-Tested Strategies et al.*, initiated on July 14, 2021 and pending in the United States District Court for the Central District of California (U.S. District Court, Central District of California, Case No. 2:21-cv-07225-VAP-JPR; Los Angeles County Superior Court, Case No. 21STCV26093); (ii) Plaintiff Muhammad’s lawsuit against Defendants, captioned *Jahad Muhammad v. Battle-Tested Strategies, LLC et al.*, initiated on September 21, 2021 and pending in Superior Court of the State of California, County of Los Angeles (Los Angeles County Superior Court, Case No. 21STCV34869); and (iii) Plaintiff Donis’s lawsuit

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→ (“XYZ”).

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<#>“Action” means the Plaintiff’s lawsuit alleging wage and hour violations against XYZ captioned → initiated on → and pending in Superior Court of the State of California, County of Los Angeles.

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alleging wage and hour violations against BTS, captioned *Henderson Donis v. Battle-Tested Strategies, LLC*, initiated on June 4, 2021 and pending in Superior Court of the State of California, County of Los Angeles (Los Angeles County Superior Court, Case No. 21STCV21052).

1.2. **“Administrator” or “Settlement Administrator”** means the neutral entity the Parties have agreed to appoint to administer the Settlement pursuant to paragraph 8.1.

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1.3. **“Administration Expenses Payment”** means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement. References herein to actions and responsibilities of the Administrator shall be to those actions and responsibilities it shall take as set forth in the Agreement.

1.4. **“Aggrieved Employee”** means individuals who are currently or were employed by BTS as drivers performing Amazon-related delivery services at any time during the PAGA Period.

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1.5. **“Class”** means all individuals who are or previously were employed by BTS in California as drivers performing Amazon-related delivery services at any time during the Class Period and who have not previously released their claims against Defendants.

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1.6. **“Class Counsel”** means Jennifer Kramer and Ashley Cruz of Hennig Kramer Ruiz & Singh, LLP; Shadie L. Berenji and Kristopher N. Tayyeb of Berenji Law Firm, APC; and Robert Ackermann of the Law Office of Robert Ackermann.

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1.7. **“Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”** mean the amounts, as approved by the Court, allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.8. **“Class Data”** means Class Member identifying information in BTS’s possession including the Class Member’s full name, social security number, last-known mailing address, dates of employment, and the total number of Eligible Workweeks during which Class Members made deliveries as a Class Member during the Class Period.

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

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

Members.

1.11. “Class Notice” means the NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, approved by the Parties and subject to Court approval, to be mailed to Class Members in English substantially in the form of Exhibit A hereto, which is incorporated by reference into this Agreement.

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1.12. “Class Period” means the period from October 3, 2019 to the date on which the Court grants preliminary approval of this settlement.

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1.13. “Class Representatives” means Plaintiff Muhammad and Plaintiff Donis.

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1.14. “Class Representative Service Payments” means the amount that the Court authorizes be paid to the Class Representatives for initiating the Actions and providing services in support of the Actions, in addition to Plaintiffs’ Individual Class Payments, in recognition of Plaintiffs’ efforts and risks in assisting with the prosecution of the Actions.

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

1.16. “Defendants” means named Defendants Battle-Tested Strategies, LLC (“BTS”); and Amazon.com Services, Inc., Amazon.com Services LLC, and Amazon Logistics, Inc. (the Amazon defendants are collectively referred to as “Amazon”).

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<#>“Defense Counsel” means XYZ
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1.17. “Defense Counsel” collectively refers to (i) Tim L. Johnson, Nikolas T. Djordjeviski, and Yousaf M. Jafri of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Counsel for BTS; and (ii) Albert Giang, Kelly Perigoe, Matthew Dawson, and Ramon A. Miyar of King & Spalding LLP, Counsel for Amazon.

1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (i) if no objections to the settlement are filed, the day the Court enters Judgment; (ii) if any objection to the Settlement is filed but no appeal of the Judgment is filed, the day after the deadline for filing a notice of appeal from the Judgment; (iii) if there is an appeal of the Court’s Judgment, the latest of the date the Judgment is affirmed on appeal and a remittitur is issued, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court; or (iv) if a petition for writ of certiorari to the California Supreme Court is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed in the event the petition is granted.

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1.19. “Final Approval Order” means the Court’s order granting final approval of the Settlement following the Final Approval Hearing.

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

Approval of the Settlement at which the Court decides whether the terms of the Agreement are fair, reasonable, and adequate for the Class Members and meet all requirements for final approval.

1.21. **“Final Judgment”** means the Judgment entered by the Court on its Order Granting Final Approval of the Settlement that has become final according to Paragraph 1.18.

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1.22. **“Gross Settlement Amount”** refers to the total monetary amount that Defendants are obligated to make in connection with this Agreement: \$1,000,000. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments and the Administrator’s Expenses. Except as expressly set forth in Paragraphs 3.1 and 9, in no event shall Defendants be obligated to pay more than the Gross Settlement Amount in connection with this Agreement.

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

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

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1.25. **“Judgment”** means the judgment entered by the Court upon the Final Approval Order. The Final Judgment shall constitute a judgment respecting the Parties within the meaning and for purposes of California Code of Civil Procedure sections 577, and 904.1(a), and on the PAGA claims for purposes of enforcing the rule announced in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009).

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

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

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

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

1.30. **“Objection”** refers to a written statement submitted timely by a Participating Class

Member to the Settlement Administrator that contains (1) the name and case number of the *Donis* Action (or reasonable portion thereof), (2) the full name, last four digits of their social security number, and current address of the Participating Class Member making the Objection, (3) the specific reason(s) for the Objection, and (4) any evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) that an Objector may submit for the Court to consider.

1.31. **“Objector”** refers to a Participating Class Member who has submitted an Objection

1.32. **“PAGA”** means the California Labor Code Private Attorneys General Act of 2004, as amended (Labor Code §§ 2698. ~~et seq.~~).

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

1.34. **“PAGA Period”** means the period from ~~May 31, 2020~~ to the date on which the Court grants preliminary approval of this settlement.

1.35. **“PAGA Notices”** means Plaintiff Muhammad’s July 14, 2021 letter to Defendants and the LWDA, and Plaintiff Donis’s May 31, 2021 letter to ~~BTS~~ and the LWDA, providing notice pursuant to Labor Code section 2699.3(a).

1.36. **“PAGA Payment”** refers to the ~~One Hundred Thousand Dollar (\$100,000) PAGA allocation payment in settlement of Plaintiffs’ claim for civil penalties under PAGA. Seventy-five percent (75%) of the PAGA Payment (\$75,000) shall be payable to the LWDA and twenty-five percent (25%) (\$25,000) shall payable and distributed to~~ Aggrieved Employees.

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

1.38. **“Plaintiffs”** means Plaintiff Muhammad and Plaintiff Donis, the named plaintiffs in the ~~Actions~~.

1.39. **“Preliminary Approval Order”** means the ~~order entered by the Court granting a Motion for~~ Preliminary Approval of the Settlement.

1.40. **“Released Class Claims”** means the claims being released as described in Paragraph 6.1 below.

1.41. **“Released PAGA Claims”** means the claims being released as described in Paragraph 6.2 below.

1.42. **“Released Parties”** means: ~~Defendants~~ and each of ~~their~~ former and present directors, officers, shareholders, owners, ~~members~~, ~~employees~~, ~~agents~~, ~~servants~~, attorneys, insurers, predecessors, successors, assigns, ~~parents~~, subsidiaries, and affiliates.

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1.43. **“Request for Exclusion”** refers to a timely, written, opt-out request signed by a Class Member or his/her representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and meets the requirements set forth in Section 8.5.1.

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1.44. **“Response Deadline”** means 45 days after the Settlement Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, (b) fax, email, or mail his or her Objection to the Settlement, or (c) dispute the information contained in the Class Notice. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

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

1.46. **“Eligible Workweek”** means any week during which a Class Member worked for BTS for at least one day, during the Class Period.

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2. **RECITALS AND PROCEDURAL HISTORY.**

2.1 **The PAGA Letters.** Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs contend they gave timely written notice to Defendants and the LWDA by sending the PAGA Notices. On or about May 31, 2021, Hennig Kramer Ruiz & Singh, LLP, on behalf of Plaintiff Donis, submitted Donis’s PAGA Notice to the LWDA. Berenji Law Firm, APC, on behalf of Plaintiff Muhammad submitted his own PAGA Notice to the LWDA on July 14, 2021.

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2.2 **The Donis Action.** On June 4, 2021, Plaintiff Donis filed a Class Action Complaint for Damages and Equitable Relief alleging causes of action against BTS for (1) Failure to Pay Wages; (2) Failure to Reimburse Expenses; (3) Failure to Provide Lawful Meal Periods; (4) Failure to Provide Lawful Rest Periods; (5) Unfair Competition; and (6) Failure to Furnish Accurate Itemized Wage Statements (the “Donis Action”). On October 21, 2021, Plaintiff Donis filed a First Amended Class Action Complaint for Damages, Penalties, and Equitable Relief alleging causes of action against BTS for (1) Failure to Pay Wages; (2) Failure to Reimburse Expenses; (3) Failure to Provide Lawful Meal Periods; (4) Failure to Provide Lawful Rest Periods; (5) Unfair Competition; (6) Failure to Furnish Accurate Itemized Wage Statements; and (7) civil penalties under PAGA. As of the execution of this Agreement, Plaintiff Donis’s First Amended Class Action Complaint for Damages, Penalties, and Equitable Relief is the operative complaint in the Donis Action (the “Donis Operative Complaint”).

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2.3 **The Muhammad Labor Code Action.** On July 14, 2021, Plaintiff Muhammad filed a Class Action Complaint for Damages alleging causes of action against

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Defendants for (1) Failure to Pay Overtime Wages; (2) Failure to Timely Pay Wages; (3) Failure to Provide Accurate Itemized Wage Statements; (4) Failure to Reimburse Business Expenses; (5) Failure to Make Proper Disclosure in Violation of Fair Credit Reporting Act; (6) Failure to Obtain Proper Authorization in Violation of Fair Credit Reporting Act; (7) Violation of California's Investigative Consumer Reporting Agencies Act; and, (8) Violation of California Unfair Competition Law (the "*Muhammad* Labor Code Action"). The Class Action Complaint for Damages is the operative complaint in the *Muhammad* Labor Code Action (the "*Muhammad* Labor Code Complaint"). On September 8, 2021, Defendant Amazon Services, Inc. removed the *Muhammad* Labor Code Action to the United States District Court for the Central District of California (the "Central District of California"). On October 14, 2021, Defendants moved to compel Plaintiff Muhammad's individual claims to arbitration, dismiss his class claims, and dismiss or alternatively stay the action. On December 21, 2021, the Central District of California (Hon. Virginia A. Phillips presiding) compelled Plaintiff Muhammad's individual claims to arbitration and dismissed his class claims.

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2.4 The *Muhammad* PAGA Action. On September 21, 2021, Plaintiff Muhammad filed a Representative Complaint for Damages seeking civil penalties under PAGA for the following alleged violations: (1) Failure to Pay Overtime Wages; (2) Failure to Reimburse Business Expenses; (3) Failure to Provide Itemized Wage Statements; (4) Failure to Provide Paid Sick Leave; and 5) Failure to Timely Pay Wages (the "*Muhammad* PAGA Action"). The Representative Complaint for Damages is the operative complaint in the *Muhammad* PAGA Action (the "*Muhammad* PAGA Complaint").

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Complaint.") XYZ denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.¶
Complaint.") XYZ denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.¶

2.5 Defendants' Denials. Defendants deny: (1) all the material allegations in the action; (2) that they violated any laws; (3) that they are liable for damages, penalties, interest, restitution, attorneys' fees or costs, or for any other compensation or remedy with respect to anyone on account of the claims asserted in the Action; and (4) that class certification, collective action certification, or representative treatment is appropriate as to any claim in the Actions for purposes other than settlement. Defendants contend that their policies, procedures, and practices comply with all applicable laws asserted in the Actions. Nonetheless, without admitting any liability or wrongdoing whatsoever and without admitting that class certification, collective action certification, or representative treatment is appropriate for any purpose other than for settlement purposes alone, Defendants have agreed to settle the Actions on the terms set forth in this Agreement, to avoid the burden, expense, and uncertainty of litigation. Any statements by Defendants in this Agreement are made for settlement purposes only and shall under no circumstances be construed as an admission of fault or liability by Defendants.

2.6 Class Counsel's Investigation. Prior to mediation, Plaintiffs obtained, through informal discovery, the time punch records and pay summaries of a randomly selected group making up 20% of Class Members and Aggrieved Employees; Plaintiffs' personnel files, time punch records, and pay summaries; and BTS's employee handbook and employment policies. Plaintiffs represent and warrant that

their investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.7. Negotiation of Settlement. Class Counsel engaged in intensive, arms-length negotiations with Defendants at mediation with experienced mediator Francis J. (“Tripper”) Ortman III, Esq., with a view toward achieving substantial benefits for the Class Members, while avoiding the cost, delay, and uncertainty of further litigation. Plaintiffs and Class Counsel urge approval by the Court of this Agreement after considering (1) the factual and legal defenses to the claims asserted, which render uncertain the ultimate outcome of the Actions and class certification, (2) the potential difficulties Plaintiffs and Class Members would encounter in establishing their claims and maintaining class treatment, (3) the substantial benefits that Class Members would receive under this Agreement, and (4) that this Agreement provides Class Members relief in an expeditious and efficient manner, compared to any manner of recovery possible after litigation and potential appeal. The mediation led to this Agreement to settle the Actions.

2.8. No Court has granted class certification in the Actions.

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

2.10 Stipulation to Class Certification and Representative Treatment. For settlement purposes only, the Parties stipulate that the Participating Class Members described herein who do not submit a timely Request for Exclusion from the Settlement Class may be conditionally certified as a settlement class and that the Aggrieved Employees are appropriate for representative treatment for purposes of settlement. This stipulation to certification and representative treatment is in no way an admission that class action certification and/or representative treatment is proper and shall not be admissible in this or in any other action except for the sole purpose of enforcing this Agreement. Nor should Defendants’ stipulation to conditional class certification and representative treatment be deemed as a waiver to any additional defenses against class or representative action treatment, including but not limited to Defendants’ right to exclude Settlement Class Members who signed binding arbitration agreements from participating in this Action. Should, for whatever reason, the Court fail to issue a Final Approval Order, the Parties’ stipulation to class certification and representative treatment as part of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not certification and/or representative treatment would be appropriate in a non-settlement context. Defendants expressly reserve their rights and declare that they would continue to oppose class certification, representative treatment, and the substantive merits of the Action should the Court decline to issue a Final Approval Order. Plaintiffs expressly reserve their rights and declare that they will continue to pursue class certification, representative treatment, and a trial in the Actions should the Court

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On → →(type in additional dates)→, [the Parties] participated in an all-day mediation presided over by → which led to this Agreement to settle the Action (describe alternative means of negotiation).
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Prior to ☐ mediation ☐ negotiating the Settlement, Plaintiff obtained, through
☐ formal ☐ informal discovery, (documents, testimony and information obtained). Plaintiff’s

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decline to issue a Final Approval Order.

3. MONETARY TERMS.

3.1. **Gross Settlement Amount.** Except as otherwise provided by Paragraph 9 below, Defendants promise to pay One Million U.S. dollars (\$1,000,000) as the Gross Settlement Amount to fully settle, resolve, and extinguish the claims in the Actions. BTS shall separately pay the employer's share of payroll taxes on the Wage Portions of the Individual Class Payments, which shall be paid in addition to, and not be drawn from, the Gross Settlement Amount. Except as set forth in this Paragraph and Paragraph 9, the Gross Settlement Amount shall be all-in with no reversion to Defendants, meaning Defendants will pay no more and no less than the Gross Settlement Amount. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Settlement Administrator shall not condition the distribution of funds to Participating Class Members or Aggrieved Employees on the submission of a claim.

3.2. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval Order:

3.2.1. **Class Representative Service Payments.** Class Representative Service Payments to the Class Representatives of not more than \$10,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment, the Class Representatives are entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiffs' request for Class Representative Service Payments that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will include the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs each assume full responsibility and liability for employee taxes owed on their respective Class Representative Service Payment. The Court's approval of the Class Representative Service Award in the amounts requested is not a material term of this Agreement. In exchange for the Class Representative Service Award, Plaintiffs shall execute the limited general release of claims, as set forth in Section 6.3.

3.2.2. **Class Counsel Fees Payment.** Class Counsel shall request that the Court award Class Counsel (a) a Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be Three Hundred Thirty-Three Thousand Three Hundred Thirty-three

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and 33/100 U.S. dollars (\$333,333.33), and (b) a Class Counsel Litigation Expense Payment of not more than thirty thousand (\$30,000) for litigation costs actually incurred by Class Counsel in representing the interests of the Class in the Actions. Both the Class Counsel Fees Payment and the Class Counsel Litigation Expense Payment shall be deducted from the Gross Settlement Amount in the amount approved by the Court. Defendants shall have no liability for any attorneys' fees or costs other than those approved by the Court. Defendants will not oppose or otherwise object to Plaintiffs' application for the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment provided that they do not exceed the aforementioned amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment in an amount less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount, which shall be paid to Class Members on a proportional basis relative to the size of their claims as set forth in Paragraph 3.2.4 below. The Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Settlement Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and shall indemnify and hold Defendants harmless from any dispute or controversy regarding any division or sharing of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment among Class Counsel.

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3.2.3. Settlement Administration Costs. The Parties agree to obtain a reasonable estimate of Administrative Costs of up to Fifteen Thousand U.S. dollars (\$15,000) and seek approval of Administrative Costs to be drawn from the Gross Settlement Amount. If the Court approves an amount less than \$15,000, then the other terms of this Agreement shall still remain in effect. The amount of Administrative Costs is not a material term of this Agreement.

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3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Eligible Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Eligible Workweeks.

3.2.4.1. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Settlement Administrator will retain amounts equal to their Individual Class Payments in the Net

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Settlement Amount for distribution to Participating Class Members on a pro rata basis. However, if a Non-Participating Class Member is also an Aggrieved Employee, the Individual PAGA Payment shall constitute the sole compensation to that Non-Participating Class Member under this Agreement, as set forth in Paragraph 3.2.5.

3.2.4.2. Tax Allocation of Individual Class Payments. One-third (1/3) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Two-thirds (2/3) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.3. No opinion regarding the tax consequences of this Settlement. No opinion regarding the tax consequences of this Settlement to any individual Participating Class Member is being given, or will be given, by Defendants, counsel for Defendants, any other Released Party, or Class Counsel. Participating Class Members must consult their own tax advisors regarding the tax consequences of this Settlement, including but not limited to any payments provided or tax reporting obligations. Participating Class Members shall be solely responsible for paying all other applicable taxes on their respective Individual Class Payments and shall indemnify and hold harmless Defendants and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of Individual Class Payments.

3.2.5. To the LWDA and Aggrieved Employees: A PAGA Payment in the amount of \$100,000 to be paid from the Gross Settlement Amount, with 75% (\$75,000) allocated to the LWDA PAGA Payment and 25% (\$25,000) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (i.e., \$25,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves a PAGA Payment of less than the amount

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requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

3.2.5.3. No payroll taxes shall be withheld or deducted from each Aggrieved Employee's Individual PAGA Payment, and the Settlement Administrator shall issue to Aggrieved Employees an IRS Form 1099 for each such payment. Aggrieved Employees assume sole responsibility and liability for any taxes owed on their Individual PAGA Payment and shall indemnify and hold harmless Defendants and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of any Individual PAGA Payment.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, BTS estimates that as of August 24, 2022, there were approximately 500 Class Members who collectively worked a total of 14,193 Eligible Workweeks, and 448 Aggrieved Employees who worked a total of 12,671 PAGA Pay Periods.

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4.2. Class Data. Not later than 15 days after the Court issues its Preliminary Approval Order, BTS will simultaneously deliver the Class Data to the Settlement Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Settlement Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Settlement Administrator employees who need access to the Class Data to effect and perform under this Agreement. BTS has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which BTS must send the Class Data to the Settlement Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

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4.3. Funding of Gross Settlement Amount. Within 15 days after the Effective Date, (i) Defendants shall fully fund the Gross Settlement Amount into the Qualified Settlement Fund ("QSF") established by the Settlement Administrator, as set forth in Section 8.3, and (ii) BTS shall also fund all amounts necessary to fully pay Defendants' share of payroll taxes, by transmitting those funds to the QSF.

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4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants fund the Gross Settlement Amount, the Settlement Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees

Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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4.4.1. The Settlement Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. Any checks that are not cashed within one hundred eighty (180) calendar days from the date of the mailing of the checks shall be cancelled and said cancellation shall not affect the validity of the releases provided for herein and the Participating Class Member or Aggrieved Employee shall be deemed to, nevertheless, be bound by the releases provided herein. The face of each check shall prominently state the date when the check will be voided. The Settlement Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Settlement Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Settlement Administrator may send Participating Class Members who are also Aggrieved Employees a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

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4.4.3. For any Participating Class Member or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Settlement Administrator shall transmit the funds represented by such checks either to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384(b), or to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section

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384(b) (“Cy Pres Recipient”). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

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6. **RELEASES OF CLAIMS.** Upon the Effective Date, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

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6.1 **Release by Participating Class Members.** By operation of the entry of the Final Approval Order and Judgment, and except as to rights this Agreement creates, Class Representatives and each Participating Class Member, for themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Second Amended Complaint in the *Donis* Action and the Operative Complaints in the Actions arising during the Class Period, including but not limited to, any claim for: (1) violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 et seq.; (2) violation of California’s Investigative Consumer Reporting Agencies Act (“ICRAA”), Cal. Civil Code section § 1786.10 – § 1786.40; (3) Failure To Pay Regular Pay/Min. Wages in Violation of Labor Code §§ 223, 510, 558.1, 1194, 1194.2, 1197 & IWC Wage Order 9-2001, § 4; (4) Failure To Pay Overtime Premium Pay in Violation of Labor Code §§ 510, 558, 558.1, 1194, 1194.2 & IWC Wage Order 9-2001, § 3; (5) Failure To Provide Meal Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 11; (6) Failure to Provide Rest Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 12; (7) Failure To Reimburse For Necessary Expenditures in Violation of Labor Code §§ 510, 558.1, 2802 and IWC Wage Order 9-2001, §§ 8-9; (8) Failure to Provide Accurate Itemized Wage Statements and Failure to Maintain Records in Violation of Labor Code §§ 226(a), 226.3, 558.1, 1174; (9) Failure to Timely Pay Wages in Violation of Labor Code §§ 201-204, 210, 2926, 2927; (10) Failure to Comply with Client Employer Obligations for Subcontractors in Violation of Labor Code §§ 2810 and 2810.3, et seq.; (11) Unlawful, Unfair, and Deceptive Business Practices in Violation of Business & Professions Code §§ 17200, et seq.; claims for PAGA penalties (Cal. Labor Code §§ 2698 et seq.) based on such alleged violations, any derivative claims under the Fair Labor Standards Act (“FLSA”) or any applicable California Industrial Welfare Commission Wage Order; related common law claims for conversion, other alleged tortious conduct, breach of contract, and misrepresentation; and any other derivative claims under California law including claims for statutory or civil penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation

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and other costs, expenses, restitution, and equitable and declaratory relief (“Released Claims”). Except as set forth in Paragraphs 6.2 and 6.3 of this Agreement, Participating Class Members do not release any other claims.

6.2 Release by Aggrieved Employees. All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims under PAGA that were alleged, or reasonably could have been alleged, based on the facts stated in the PAGA Notices and any of the complaints filed in the Actions arising during the period from October 3, 2019 to the date on which the Court grants final approval of the Settlement. The PAGA Released Claims include, without limitation, any PAGA claim alleging that: (1) Defendants did not properly calculate Aggrieved Employees’ overtime wages and pay all overtime wages due in violation of California Labor Code sections 510, 1194, and 1198; (2) Defendants failed to compensate Aggrieved Employees for all hours worked in violation of California Labor Code section 1194; (3) Defendants violated California Labor Code section 2802 in failing to indemnify Aggrieved Employees for business expenses; (4) Defendants failed to provide Aggrieved Employees with lawful meal and rest periods, and failed to pay required meal and rest period premiums, in violation of California Labor Code section 226.7; (5) Defendants failed to provide accurate and compliant wage statements to Aggrieved Employees in violation of California Labor Code section 226; (6) Defendants failed to timely pay Aggrieved Employees all wages due within the time periods required by California Labor Code sections 201-204, and then to pay waiting time penalties pursuant to section 203 of the California Labor Code; (7) Defendants failed to provide Aggrieved Employees with paid sick days in violation of California Labor Code section 246 and 246.5; (8) Defendants violated California Labor Code section 2810.5(a) by failing to provide Aggrieved Employees with written notice of employment -related information at their time of hiring; (9) Defendants owe penalties pursuant to the PAGA, premised on the alleged violations articulated above; and (10) the Defendants owe penalties, interest, attorney fees, or other damages arising out of the Defendants’ alleged California Labor Code violations released herein.

6.3 Additional Release by Class Representatives. In addition to the releases given by each Participating Class Member and Aggrieved Employee in Paragraphs 6.1 and 6.2 above, Class Representatives, for themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge Released Parties from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under any body of law, from the beginning of time through the date on which the Court grants Final Approval of this Settlement. This general release by Class Representatives also includes a waiver of rights under California Civil Code Section 1542, which states:

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

Class Representatives acknowledge that Class Representatives may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Class Representatives' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Class Representatives' discovery of them. This general release from Class Representatives is only effective upon the Court granting final approval of the Settlement and only applies to claims that may be released as a matter of law. This release also does not include future claims that arise after final approval. Class Representatives' Release does not extend to any claims or actions to enforce this Agreement. Notwithstanding the foregoing, Class Representatives' general release does not cover or include Plaintiff Muhammad's individual claims that relate to the termination of his employment and were alleged in *Jahad Muhammad v. Battle Tested Strategies, LLC* (LASC Case No. 21STCV22603/AAA Case No. 01-22-0000-2531).

7. SECOND AMENDED COMPLAINT & MOTION FOR PRELIMINARY APPROVAL.

7.1 Second Amended Complaint. In order to effectuate the settlement of these Actions and for purposes of this Settlement only, the Parties will stipulate to have the *Muhammad* PAGA Action and *Muhammad* Labor Code Action stayed or take such other mutually agreed actions appropriate to achieve the functional equivalent of a stay in those cases. In addition, and for purposes of this Settlement only, the Parties will submit a stipulation and proposed order to the court in the *Donis* Action for Plaintiffs to file a Second Amended Complaint in the *Donis* Action in the form attached hereto as Exhibit B, which will add Plaintiff Muhammad as a named Plaintiff and will combine the class and representative claims from the *Donis* Action, *Muhammad* Labor Code Action, and *Muhammad* PAGA Action. If the Settlement is approved, Plaintiffs' Counsel will promptly dismiss the *Muhammad* Labor Code Action and *Muhammad* PAGA Action with prejudice. Defendants will not be required to respond to the Second Amended Complaint in the *Donis* Action. If the Court does not approve this Settlement or there is no Final Judgment, the Parties will return to the status quo by stipulating to the filing of a Third Amended Complaint in *Donis* in the identical form as the First Amended Complaint, and the request that the stay in the *Muhammad* PAGA Action and *Muhammad* Labor Code Action be lifted.

7.2 Motion for Preliminary Approval. Plaintiff shall submit to the Court a Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Motion")

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Deleted: <#>Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:¶

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

<#>Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.]. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.¶

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<#>Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint[.] [and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.].¶

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<#>MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval ("

that complies with the Court’s current checklist for Preliminary Approvals.

7.2.1 Defendants’ Counsel’s Declaration in Support of Preliminary Approval.

Within 10 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Settlement Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

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7.2.2 Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense

Counsel, all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699(f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Settlement Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) signed declarations from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, the Administrator, and/or the proposed Cy Pres; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3(a)), Operative Complaint (Labor Code section 2699(1)(1)), this Agreement (Labor Code section 2699(1)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

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7.2.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. All Parties agree

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to work diligently and cooperatively to have this Settlement presented to the Court for preliminary approval. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Settlement Administrator.

7.2.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns. ~~If, following good-faith meet-and-confer efforts, the Parties are unable to resolve any disagreement as to (a) any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations or documents, and/or (b) any modifications to the Agreement or other actions necessary to address the Court's concerns in connection with the Court's denial of Preliminary Approval or placement of conditions on Preliminary Approval, the Parties agree to enlist the assistance of the mediator, and, if necessary, the Court pursuant to the procedures set forth in paragraph 13.5.~~

8. SETTLEMENT ADMINISTRATION.

8.1 Selection of Administrator. After obtaining "not to exceed" bids from mutually acceptable and qualified settlement administrators, the Parties have ~~mutually agreed to ask the Court to appoint ILYM Group as the qualified administrator, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation.~~ The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements. ~~Defendants hereby represent and warrant that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by this Settlement.~~

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

8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

8.4 Notice to Class Members.

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

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

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

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8.4.4 The Response Deadline for Class Members’ written objections, Challenges to Eligible Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Settlement Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

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

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8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Settlement Administrator a Request for Exclusion by the Response Deadline not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed after having been returned undeliverable to the Administrator). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. The Request for Exclusion must also: (1) contain the name and address of the Class Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Except as otherwise set forth in Paragraph 8.5.4, any Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under the Settlement and will not be bound by the terms of the Settlement or have any right to object to or appeal the Settlement. Settlement Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Judgment entered in this Action.

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8.5.2 The Settlement Administrator may not reject a timely Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Settlement Administrator shall accept any timely Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Settlement Administrator has reason to question the authenticity of a Request for Exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity. The Settlement Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.1 and 6.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

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8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.2 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Eligible Workweeks. Each Class Member and Aggrieved Employee shall have 45 days after the Settlement Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Eligible Workweeks and PAGA Pay Periods (if any) allocated to the Class Member and/or Aggrieved Employee in the Class Notice. The Class Member or Aggrieved Employee may challenge the allocation by communicating with the Settlement Administrator via fax, email or mail. The Settlement Administrator must encourage the challenging Class Member or Aggrieved Employee to submit supporting documentation. In the absence of any contrary documentation, the Settlement Administrator is entitled to presume that the Eligible Workweeks or Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Settlement Administrator's determination of each Class Member's or Aggrieved Employee's allocation of Eligible Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Settlement Administrator shall promptly provide copies of all challenges to calculation of Eligible Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

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8.7 Objections to Settlement.

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

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8.7.2 Participating Class Members may send written objections to the Settlement Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Settlement Administrator must do so not later than 45 days after the Settlement Administrator's mailing of the Class Notice (plus an additional 14 days for Participating Class Members whose Class Notice was re-mailed).

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

8.7.4 If a Class Member submits both a Request for Exclusion and an Objection, then the Request for Exclusion will be valid and will invalidate the

Objection.

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

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

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

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

8.8.4 Eligible Workweek and/or Pay Period Challenges. The Settlement Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Eligible Workweeks and/or Pay Periods. The Settlement Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

8.8.5 Settlement Administrator's Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Settlement Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

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9. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE. Based on its records, BTS estimates that, as of August 24, 2022, (1) there were 500 Class Members and 14,193 Total Eligible Workweeks during the Class period and (2) there were 448 Aggrieved Employees who worked 12,671 Pay Periods during the PAGA Period. In the event that the Total Eligible Workweeks in the Class Period increases by more than 15% (i.e., if there are 16,322 or more Total Eligible Workweeks in the Class Period) then the Gross Settlement Amount shall be increased by the percentage in excess of 15% (i.e., if the Total Eligible Workweeks increase by 16% then the Gross Settlement Amount shall be increased by 1%). In the event that the Gross Settlement Amount increases under this escalator clause, then any consideration paid pursuant to this term shall entirely become part of the Net Settlement Amount and will not increase the attorneys' fees sought by Plaintiffs' Counsel.

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10. DEFENDANTS' RIGHT TO WITHDRAW. If the number of Class Members submitting timely and valid Requests for Exclusion identified in the Exclusion List exceeds fifty (50), Defendants may, but are not obligated to, elect to withdraw from the Settlement, provided that they withdraw within the time period set forth in this paragraph. Defendants also may withdraw from the Settlement if: (a) the Settlement is construed in such a fashion that Defendants are required to pay more than the Gross Settlement Amount and employer-side taxes on amounts from the Gross Settlement Amount that are classified as wages; or (b) the Court does not approve the Settlement releasing the claims set forth in the Parties' Memorandum of Understanding ("MOU") and/or the Settlement Agreement, or otherwise makes an order inconsistent with any of the terms of the MOU and/or Settlement Agreement. The Parties agree that, if Defendants withdraw, the Settlement shall

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be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than five (5) business days after the Administrator sends the final Exclusion List to Defense Counsel or ten (10) business days after the Response Deadline, whichever is later; late elections will have no effect.

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11. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(I), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs will request that the Final Approval Order certify the Settlement Class; find that this Agreement is fair, just, adequate, and in the best interests of the Class; and require the Parties to carry out the provisions of this Agreement. Plaintiffs shall make diligent and reasonable efforts to provide drafts of these documents to Defense Counsel not later than ten (10) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

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11.3 Continuing Jurisdiction of the Court. Pursuant to California Code of Civil Procedure section 664.6, the Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) interpreting, implementing, and enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

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

11.5 Nullification of Agreement. In the event: (i) the Court denies preliminary approval of the Settlement, with prejudice; (ii) the Court denies final approval of the Settlement, with prejudice; (iii) the Court refuses to enter a Final Judgment as provided herein; (iv) Defendants exercise their right to withdraw under Section 10 of the Agreement; or (v) the Settlement does not become final for any other reason, this Agreement shall be null and void and any order or judgement entered by the Court in furtherance of this Settlement shall be treated as void from the beginning. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

13. ADDITIONAL PROVISIONS.

13.1 Confidentiality. Plaintiffs, Class Counsel, Defendants, and Defense Counsel separately agree to keep the Settlement confidential up to and until the Court grants preliminary approval of the Settlement, except as required to seek preliminary approval from the Court, including filing the Agreement with the Court. Thereafter, the Parties will agree to make no comments to the media or otherwise publicize the terms of the settlement, except that in response to media inquiries the Parties may refer the inquirer to the Settlement documents filed in Court. Plaintiffs, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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Deleted: ~~<#>No Admission of Liability, Class Certification or Representative Manageability for Other Purposes.~~ This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by XYZ that any of the allegations in the Operative Complaint have merit or that XYZ has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that XYZ's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, XYZ reserves the right to contest certification of any class for any reasons, and XYZ reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest XYZ's defenses. The Settlement, this Agreement and Parties' willingness to ~~<#>settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).~~

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~~<#>Confidentiality Prior to Preliminary Approval.~~ Plaintiff, Class Counsel, XYZ and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency.

~~<#>~~ Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, XYZ

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

13.3 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire Agreement ~~among~~ the Parties relating to the Settlement, and ~~no oral or written~~ representations, warranties, ~~or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties, and covenants contained and memorialized in the Agreement and its Exhibits.~~ The Parties are entering into this Agreement based solely on the representations and warranties herein and not based on any ~~promises, representation, and/or warranties not found herein.~~

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

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13.5 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties ~~shall submit the matter to mediation with mediator Francis J. "Tripper" Ortman III, Esq.; provided, however, that if he is unavailable within seven (7) days of initially being contacted by the Parties, either Party may elect to submit the matter to the Court for resolution in lieu of mediation. Any fees and costs for the mediator's services shall be split evenly between the Parties. If the Parties submit the matter to mediation and are unable to resolve the disagreement at mediation, the Parties shall seek the assistance of the Court in resolving the dispute.~~

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

13.7 Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,

Deleted: <#>No Tax Advice. Neither Plaintiff, Class Counsel, XYZ nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.¶
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the “acknowledging party” and each Party to this Agreement other than the acknowledging party, an “other party”) acknowledges and agrees that (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

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

13.9 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors or assigns of each of the Parties.

13.10 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

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

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

13.13 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Settlement Administrator’s obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from

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Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

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

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

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

To Plaintiffs:

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Shadie L. Berenji (berenji@employeejustice.law)
Berenji Law Firm, APC
8383 Wilshire Boulevard, Suite 708
Beverly Hills, California 90211

Jennifer Kramer (jennifer@employmentattorneyla.com)
Hennig Kramer Ruiz & Singh, LLP
3600 Wilshire Blvd., Suite 1908
Los Angeles, CA 90010

Robert Ackermann (videolaw@aol.com)
Law Office Of Robert Ackermann
11040 Santa Monica Blvd., Ste. 320
West Los Angeles, CA 90025

To Defendants:

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Tim L. Johnson (tim.johnson@ogletree.com)
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4370 La Jolla Village Drive, Suite 990
San Diego, CA 92122

Kelly Perigoe (kperigoe@kslaw.com)
King & Spalding LLP
633 West Fifth Street, Suite 1600
Los Angeles, CA 90071

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

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

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13.19 Representation. Plaintiffs' Counsel represent that other than Plaintiffs themselves and other than Heriberto Morales's wage and hour claims arising out of his employment with Activ Enterprises, they do not currently represent any other current or former employees of BTS in connection with any actual or planned claims, charges, complaints or other matters against Amazon or BTS, and Plaintiffs' Counsel are not aware of any current or former employees of BTS who are planning to bring any claims, charges, complaints or other matters against Amazon or BTS.

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13.20 Arbitration. This Agreement shall not affect the validity of any arbitration agreements and/or release agreements applicable to a Class Member. Amazon and BTS reserve the ability to enforce arbitration agreements in this action as to any arbitrable claims of Class Members subject to an enforceable arbitration agreement should settlement not be finally approved.

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

WHEREFORE, Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendants have executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

For Plaintiff Donis Date For Plaintiff Muhammad Date

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→ Counsel

For Defendant BTS Date For Defendant Amazon Date

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APPROVED AS TO FORM AND CONTENT:

Counsel for Plaintiff Donis	Date	Counsel for Plaintiff Muhammad	Date
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Counsel for Defendant BTS	Date	Counsel for Defendant Amazon	Date
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COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING
DATE FOR FINAL COURT APPROVAL

Henderson Donis v. Battle-Tested Strategies, LLC
(Los Angeles County Superior Court, Case No. 21STCV21052)

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

You may be eligible to receive money from a class action lawsuit ("Action") against Battle-Tested Strategies, LLC ("BTS"); Amazon.com Services, Inc.; Amazon.com Services LLC; and Amazon Logistics, Inc. (collectively "Defendants") for alleged wage and hour violations. The Action was filed by former BTS employees Jahad Muhammad and Henderson Donis ("Plaintiffs") and seeks payment of (1) back wages and other relief for a class of current and former employees ("Class Members") who worked for BTS as drivers performing Amazon-related delivery services during the Class Period (October 3, 2019 to [DATE OF PRELIMINARY APPROVAL]); and (2) penalties under the California Private Attorney General Act ("PAGA") for all current and former employees who worked for BTS as drivers performing Amazon-related delivery services during the PAGA Period (May 31, 2020 to [DATE OF PRELIMINARY APPROVAL]) ("Aggrieved Employees").

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

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

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

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

If you worked for BTS during the Class Period and/or the PAGA Period, you have two

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→ ("Plaintiff")

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basic options under the Settlement:

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

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

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

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SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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

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

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You Can Participate in the Final Approval Hearing. [4]

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former BTS employees. The Second Amended Complaint asserts claims against BTS, as well as Amazon.com Services, Inc., Amazon.com Services LLC, and Amazon Logistics, Inc. (Amazon entities collectively, "Amazon") for violating California labor laws by (1) failing to pay regular/minimum wages; (2) failing to pay overtime wages; (3) failing to timely pay wages due; (4) failing to reimburse necessary business expenses; (5) failing to provide lawful meal periods; (6) failing to provide lawful rest periods; (7) failing to furnish accurate itemized wage statements; (8) failing to make proper disclosure in violation of the federal Fair Credit Reporting Act (15 U.S.C. § 1681b(b)(2)(A)(i), et seq.) ("FCRA"); (9) failing to obtain proper authorization in violation of the FCRA (15 U.S.C. § 1681b(b)(2)(A)(ii)); (10) failing to provide compliant background check disclosures and background report copies upon request in violation of the California Investigative Consumer Reporting Agencies Act ("ICRAA"); and (11) unlawful, deceptive and unfair business practices in violation of the California Unfair Competition Law ("UCL") (California Business & Profession Code § 17200, et seq.). Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiffs are represented by attorneys in the Action: Jennifer Kramer and Ashley Cruz of Hennig Kramer Ruiz & Singh, LLP; Shadie L. Berenji and Kristopher N. Tayyeb of Berenji Law Firm, APC; and Robert Ackermann of the Law Office of Robert Ackermann (collectively, "Class Counsel.")

Defendants deny all of the claims in the Second Amended Complaint, and deny any and all liability or wrongdoing with respect to the allegations made in the Second Amended Complaint. Defendants additionally contend that, for any purpose other than this Settlement, none of the claims in the Second Amended Complaint are appropriate for class, collective action, and/or representative treatment. Amazon further specifically denies that it was an employer or joint employer of any

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Settlement Class Member, each of whom was employed by BTS. However, Defendants have agreed to the Settlement to avoid continued litigation.

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

So far, the Court has made no determination whether Defendants or Plaintiffs are correct on the merits.

In the meantime, Plaintiffs and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

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

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

1. Defendants Will Pay \$1,000,000 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 15 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to \$333,333 (one-third of the Gross Settlement) to Class Counsel for

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attorneys' fees and up to \$30,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$10,000 as a Class Representative Award to each Plaintiff for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payments and any Individual PAGA Payment.

C. Up to \$15,000 to the Administrator for services administering the Settlement.

D. Up to \$100,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendants are asking the Court to approve an allocation of one-third (1/3) of each Individual Class Payment to taxable wages ("Wage Portion") and two-thirds (2/3) to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies: [SELECT ONE]

☒ will be deposited with the California Controller's Unclaimed Property Fund in your name.

☐ will irrevocably lost to you because they will be paid to a non-profit organization

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Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

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or foundation (“Cy Pres”).

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

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

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

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7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not pay any money and Class Members will not release any claims against Defendants.

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8. Administrator. The Court has appointed a neutral company, ILYM Group (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members’ Release. After the Judgment is final and Defendants have fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

By operation of the entry of the Final Approval Order and Judgment, and except as to rights this Agreement creates, Class Representatives and each Participating Class Member, for themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Second Amended Complaint in the Donis Action and the Operative Complaints in the Actions arising during the Class Period, including but not limited to, any claim for: (1) violation of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681 et seq.; (2) violation of California's Investigative Consumer Reporting Agencies Act ("ICRAA"), Cal. Civil Code section § 1786.10 – § 1786.40; (3) Failure To Pay Regular Pay/Min. Wages in Violation of Labor Code §§ 223, 510, 558.1, 1194, 1194.2, 1197 & IWC Wage Order 9-2001, § 4; (4) Failure To Pay Overtime Premium Pay in Violation of Labor Code §§ 510, 558, 558.1, 1194, 1194.2 & IWC Wage Order 9-2001, § 3; (5) Failure To Provide Meal Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 11; (6) Failure to Provide Rest Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 204, 223, 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 12; (7) Failure To Reimburse For Necessary Expenditures in Violation of Labor Code §§ 510, 558.1, 2802 and IWC Wage Order 9-2001, §§ 8-9; (8) Failure to Provide Accurate Itemized Wage Statements and Failure to Maintain Records in Violation of Labor Code §§ 226(a), 226.3, 558.1, 1174; (9) Failure to Timely Pay Wages in Violation of Labor Code §§ 201-204, 210, 2926, 2927; (10) Failure to Comply with Client Employer Obligations for Subcontractors in Violation of Labor Code §§ 2810 and 2810.3, et seq.; (11) Unlawful, Unfair, and Deceptive Business Practices in Violation of Business & Professions Code §§ 17200, et seq.; claims for PAGA penalties (Cal. Labor Code §§ 2698 et seq.) based on such alleged violations, any derivative claims under the Fair Labor Standards Act ("FLSA") or any applicable California Industrial Welfare Commission Wage Order; related common law claims for conversion, other alleged tortious conduct, breach of contract, and misrepresentation; and any other derivative claims under California law including claims for statutory or civil penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief ("Released Claims"). Except as set forth in Paragraphs 6.2 and 6.3 of this Agreement, Participating Class Members do not release any other claims. .

Deleted: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.]. Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.^{viii} ¶

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendants have paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether or not they exclude themselves from the Settlement.

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This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or their related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

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

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims under PAGA that were alleged, or reasonably could have been alleged, based on the facts stated in the PAGA Notices and any of the complaints filed in the Actions arising during the period from October 3, 2019 to the date on which the Court grants final approval of the Settlement. The PAGA Released Claims include, without limitation, any PAGA claim alleging that: (1) Defendants did not properly calculate Aggrieved Employees' overtime wages and pay all overtime wages due in violation of California Labor Code sections 510, 1194, and 1198; (2) Defendants failed to compensate Aggrieved Employees for all hours worked in violation of California Labor Code section 1194; (3) Defendants violated California Labor Code section 2802 in failing to indemnify Aggrieved Employees for business expenses; (4) Defendants failed to provide Aggrieved Employees with lawful meal and rest periods, and failed to pay required meal and rest period premiums, in violation of California Labor Code section 226.7; (5) Defendants failed to provide accurate and compliant wage statements to Aggrieved Employees in violation of California Labor Code section 226; (6) Defendants failed to timely pay Aggrieved Employees all wages due within the time periods required by California Labor Code sections 201-204, and then to pay waiting time penalties pursuant to section 203 of the California Labor Code; (7) Defendants failed to provide Aggrieved Employees with paid sick days in violation of California Labor Code section 246 and 246.5; (8) Defendants violated California Labor Code section 2810.5(a) by failing to provide Aggrieved Employees with written notice of employment -related information at their time of hiring; (9) Defendants owe penalties pursuant to the PAGA, premised on the alleged violations articulated above; and (10) the Defendants owe penalties, interest, attorney fees, or other damages arising out of the Defendants' alleged California Labor Code violations released herein.

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4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA

Payments by (a) dividing \$25,000 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until INSERT DEADLINE to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

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5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Henderson Donis v. Battle-Tested Strategies, LLC (Los Angeles

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County Superior Court, Case No. 21STCV21052), and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [INSERT DEADLINE FOR REQUEST FOR EXCLUSION], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

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7. HOW DO I OBJECT TO THE SETTLEMENT?

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

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A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is [INSERT OBJECTION DEADLINE].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action Henderson Donis v. Battle-Tested Strategies, LLC (Los Angeles County Superior Court, Case No. 21STCV21052) and include your name, current address, telephone number, and approximate dates of employment for BTS and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [INSERT DATE] at [INSERT TIME] in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [\[INSERT URL\]](#) beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything **Defendants** and **Plaintiffs** have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to **the Administrator's** website at [\[INSERT URL\]](#). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. **21STCV21052**. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Name of Attorney: Shadie L. Berenji

Email Address: berenji@employeejustice.law

Name of Firm: Berenji Law Firm, APC

Mailing Address: 8383 Wilshire Boulevard, Suite 708, Beverly Hills, California 90211

Telephone: (310) 855-3270

Name of Attorney: Jennifer Kramer

Email Address: jennifer@employmentattorneyla.com

Name of Firm: Hennig Kramer Ruiz & Singh, LLP

Mailing Address: 3600 Wilshire Blvd., Suite 1908, Los Angeles, CA 90010

Telephone: (213) 310-8301

Name of Attorney: Robert Ackermann

Email Address: videolaw@aol.com

Name of Firm: Law Office Of Robert Ackermann

Mailing Address: 11040 Santa Monica Blvd., Ste. 320, West Los Angeles, CA 90025

Telephone: (310) 479-2441

Settlement Administrator:

Name of Company: ILYM Group

Email Address: _____

Mailing Address: _____

Telephone: _____

Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

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<#>you will have no way to recover the money.

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

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

ⁱⁱⁱ See endnote ii above.

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

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

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

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

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

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1 **PROOF OF SERVICE**

2 I, Molly Stapelfeldt, am employed in the County of Los Angeles, State of California. I
3 am over the age of 18 and not a party to the within action; my business address is 8383
4 Wilshire Blvd., Suite 708, Los Angeles, California, 90211.

5 On the date set forth below, I served the foregoing document, entitled: **PLAINTIFFS'**
6 **SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR AN ORDER:**
7 **(1) CONDITIONALLY CERTIFYING A SETTLEMENT CLASS; (2) PRELIMINARILY**
8 **APPROVING CLASS ACTION SETTLEMENT; (3) APPROVING NOTICE OF CLASS**
9 **ACTION SETTLEMENT; (4) APPOINTING CLASS COUNSEL AND CLASS**
10 **REPRESENTATIVES; AND (5) SETTING HEARING FOR FINAL APPROVAL;**
11 **SUPPLEMENTAL DECLARATION OF KRISTOPHER N. TAYYEB** on the following
12 interested parties:

13 Tim Johnson, Esq. Counsel for Defendant BATTLE-TESTED
14 Tim.Johnson@ogletreedeakins.com STRATEGIES, LLC
15 Nikolas T. Djordjevski, Esq.
16 Nikolas.djordjevski@ogletreedeakins.com
17 Yousaf M. Jafri, Esq.
18 Yousaf.jafri@ogletreedeakins.com
19 Ogletree, Deakins, Nash, Smoak, & Stewart
20 4660 La Jolla Village Drive, Suite 900
21 San Diego, California 92122

22 Jennifer Kramer, Esq. Counsel for Plaintiffs HENDERSON
23 jennifer@employmentattorneyla.com DONIS and JAHAD MUHAMMAD
24 Ashley Cruz, Esq.
25 ashley@employmentattorneyla.com
26 Hennig Kramer Ruiz & Singh, LLP
27 3600 Wilshire Blvd., Suite 1908
28 Los Angeles, CA 90010

Robert Ackermann, Esq. Counsel for Plaintiff HENDERSON DONIS
videolaw@aol.com and JAHAD MUHAMMAD
Law Office of Robert Ackermann
11040 Santa Monica Blvd., Ste. 320
West Los Angeles, CA 90025

23 ☒ **[by ELECTRONIC SERVICE]** Based on a court order and an agreement of the
24 parties to accept service by electronic transmission, I electronically served the above-
25 listed document(s) by uploading the document(s) to the Case Anywhere website.

26 Albert Giang, Esq. Counsel for Defendants AMAZON
27 agiang@kslaw.com LOGISTICS, INC., AMAZON.COM
28 Kelly Perigoe, Esq. SERVICES, INC., and
kperigoe@kslaw.com AMAZON.COM SERVICES LLC
King & Spalding LLP
633 West Fifth Street, Suite 1600

Los Angeles, California 90071

☒ **[by ELECTRONIC SERVICE]** Pursuant to California Code of Civil Procedure section 1010.6, I electronically served the above-listed document(s) on the parties listed herein by electronic transmission.

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

Executed on April 28, 2023, at Beverly Hills, California.

Molly Stapelfeldt

Print Name

By:

Signature

