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

ARMANDO DIAZ-GARCIA, as an individual,
and on behalf of all other similarly situated
employees,

Plaintiff,

vs.

AWESOME PRODUCTS, INC., a California
corporation and DOES 1-50, inclusive,

Defendant.

JOSE ELIAS BARAJAS, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

AWESOME PRODUCTS, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 30-2021-01193589-CU-OE-CXC
Consolidated with Case No.: 30-2021-
01217438-CU-OE-CXC

[Honorable Lon F. Hurwitz,
Department CX103]

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT**

Complaint Filed: April 2, 2021
Trial Date: Not Set

JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT

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JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT

This Joint Stipulation of Class and PAGA Action Settlement (“Joint Stipulation,” “Settlement,” or “Agreement”) is made and entered into by and between Plaintiffs Armando Diaz-Garcia and Jose Elias Barajas (“Plaintiffs” or “Class Representatives”), as individuals, and on behalf of all others similarly situated, and Defendant Awesome Products, Inc. (“Defendant”). Plaintiffs and Defendant will be referred to herein collectively as the “Parties.” The Parties stipulate and agree as follows:

1. RECITALS.

1.1 On February 23, 2021, Plaintiff Armando Diaz-Garcia filed with the Labor and Workforce Development Agency (“LWDA”), and sent via certified mail to Defendant, written notice of the California Labor Code sections, which he alleged Defendant had violated, pursuant to Labor Code section 2699.3, subdivision (a).

1.2 On April 2, 2021, Plaintiff Armando Diaz-Garcia filed a Class Action Complaint against Defendant, which alleged, on behalf of all non-exempt employees of Defendant who worked in California from the date four years before the filing of the complaint through the date of the signed order certifying the Class: Failure to Pay Minimum Wages [*Labor Code* §§ 510 and 1194]; Failure to Pay Overtime Wages [*Labor Code* §§ 510 and 1194]; Failure to Pay Timely Wages [*Labor Code* § 210]; Failure to Lawfully Receive Wages [*Labor Code* § 221]; Failure to Provide Meal Breaks [*Labor Code* §§ 226.7 and 512]; Failure to Provide Rest Periods [*Labor Code* § 226.7]; Failure to Provide and Maintain Accurate Itemized Wage Statements and Maintain Records [*Labor Code* § 226(a)]; Failure to Pay Timely Wages Upon Termination [*Labor Code* § 203]; and Unlawful Business Practices [*Business & Professions Code* §§ 17200, *et seq.*].

1.3 On August 22, 2021, Plaintiff Jose Elias Barajas filed with the Labor and Workforce Development Agency (“LWDA”), and sent via certified mail to Defendant, written notice of the California Labor Code sections, which he alleged Defendant had violated, pursuant to Labor Code section 2699.3, subdivision (a).

1.4 On August 23, 2021, Plaintiff Jose Elias Barajas filed a Class Action Complaint against Defendant, which alleged the same or similar causes of action as alleged in *Armando Diaz-Garcia v. Awesome Products, Inc.*, Case No. 30-2021-01193589-CU-OE-CXC.

1.5 On May 26, 2021, Plaintiff Armando Diaz-Garcia filed a First Amended Class Action and Representative Action Complaint, which alleged an additional cause of action for Civil Penalties under the Private Attorneys General Act [*Labor Code* §§ 2698, *et. seq.*] (“PAGA”); and on December 14, 2021, Plaintiff Jose Elias Barajas filed the same.

1.6 On January 26, 2023, the Parties participated in a private mediation with experienced, professional mediator, Marc Feder, Esq., which resulted in the Parties executing a Memorandum of Understanding containing the main financial terms of the instant Settlement.

1.7 On May 24, 2023, the Parties filed a Joint Stipulation to consolidate *Armando Diaz-Garcia v. Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01193589-CU-OE-CXC and *Jose Elias Barajas v. Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01217438-CU-OE-CXC, and to name the former as the lead case. Thereafter the Court granted an order thereon, rendering the Consolidated Second Amended Class and Representative Action Complaint (“Operative Complaint”) attached thereto as operative.

1.8 Now, therefore, the Parties enter into the instant Joint Stipulation and, solely for purposes of settling the Action and addressing any discrepancies identified herein, stipulate and agree that the requisites for establishing class certification with respect to the Class Members (defined below) have been met and are met, including that the putative Class is ascertainable and so numerous as to make it impracticable to join all putative Class Members; there are common questions of law and fact which predominate over any question(s) affecting any individual putative Class Member; Plaintiffs' claims are typical of the claims of the putative Class; Plaintiffs and Class Counsel will fairly and adequately protect the interests of the putative Class; the prosecution of separate actions by individual members of the putative Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct; and a class action is superior to other available means for the fair and efficient adjudication of the controversy.

1 **2. DEFINITIONS**

2 2.1. “Action” means the consolidated action entitled *Armando Diaz-Garcia, et. al. v.*
3 *Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01193589-CU-OE-
4 CXC.

5 2.2. “Administrator” means the neutral entity the Parties have appointed to administer
6 the Settlement, ILYM Group, Inc.

7 2.3. “Administration Expenses Payment” means the amount the Administrator will be
8 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
9 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection
10 with Preliminary Approval of the Settlement.

11 2.4. “Aggrieved Employees” means all non-exempt employees of Defendant who
12 worked in California during the PAGA Period, including any employee employed through any
13 staffing agency, professional employer organization, or temporary employment agency utilized
14 by Defendant during the Class Period, which are identified as Southbay Safety, Next Level
15 Staffing, Core Staffing Solutions, Precise Personnel, Randstad, the Baron HR, Fairway Staffing,
16 Selective Personnel, and Dynamic Staffing.

17 2.5. “Class” or “Class Members” means all non-exempt employees of Defendant who
18 worked in California during the Class Period, including any employee employed through any
19 staffing agency, professional employer organization, or temporary employment agency utilized
20 by Defendant during the Class Period, which are identified as Southbay Safety, Next Level
21 Staffing, Core Staffing Solutions, Precise Personnel, Randstad, the Baron HR, Fairway Staffing,
22 Selective Personnel, and Dynamic Staffing.

23 2.6. “Class Counsel” means Jackson APC and Moon & Yang, APC.

24 2.7. “Class Counsel Fees Payment” means the amount allocated to Class Counsel for
25 reimbursement of their reasonable fees incurred to prosecute the Action.

26 2.8. “Class Counsel Litigation Expenses Payment” means the amount allocated to
27 Class Counsel for reimbursement of their reasonable expenses incurred to prosecute the Action.

1 2.9. “Class Data” means Class Member identifying information, including the name,
2 last-known mailing address and Social Security number of the Class Member.

3 2.10. “Class Member Address Search” means the Administrator’s investigation and
4 search for current Class Member mailing addresses using all reasonably available sources,
5 methods and means, including, but not limited to, the National Change of Address database,
6 skip traces and direct contact by the Administrator with Class Members.

7 2.11. “Class Notice” means the Court-approved notice of class action settlement and
8 hearing date for final court approval, to be mailed to Class Members in English and Spanish.

9 2.12. “Class Period” means the period from April 2, 2017, through March 31, 2023.

10 2.13. “Class Representatives” means Armando Diaz-Garcia and Jose Elias Barajas, the
11 named Plaintiffs in the Action.

12 2.14. “Class Representative Service Payments” means the payments to the Class
13 Representatives for initiating and providing services in support of the Action and for their
14 general release, as described in Paragraph 5.1 below.

15 2.15. “Court” means the Orange County Superior Court.

16 2.16. “Defendant” means Awesome Products, Inc. and each of its past, present, and
17 future respective subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and
18 their current and former employees, managing agents, servants, consultants, agents, directors,
19 officers, members, independent contractors, representatives, insurers, reinsurers, and attorneys.

20 2.17. “Defense Counsel” means Fisher & Phillips, LLP and the Law Offices of Robert
21 Mackey.

22 2.18. “Effective Date” means the date on which both of the following have occurred:
23 (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b)
24 the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if
25 no Settlement Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
26 one or more Settlement Class Members object to the Settlement, the day after the deadline for
27 filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed,
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1 the day after the appellate court affirms the Judgment and issues a remittitur.

2 2.19. "Final Approval" means the Court Order Granting Final Approval of the
3 Settlement.

4 2.20. "Final Approval Hearing" means the Court Hearing on the Motion for Final
5 Approval of the Settlement.

6 2.21. "Final Judgment" means the Court Judgment made upon granting final approval
7 of the Settlement.

8 2.22. "Gross Settlement Amount" means \$630,000.00, the total amount Defendant
9 agrees to pay under the Settlement, except as provided in Paragraph 8 below, and which will be
10 used to pay the Individual Class Payments, PAGA Settlement Payment, Class Counsel Fees
11 Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments,
12 and Administration Expenses Payment.

13 2.23. "Individual Class Payments" means the individual payments made to each
14 Settlement Class Member from the Net Settlement Amount.

15 2.24. "Individual PAGA Payment(s)" means the allocation of twenty-five percent of the
16 PAGA Settlement Payment, to be paid to the Aggrieved Employees, pursuant to Labor Code
17 section 2699, subdivision (i).

18 2.25. "LWDA" means the California Labor and Workforce Development Agency.

19 2.26. "LWDA PAGA Payment" means the allocation of seventy-five percent of the
20 PAGA Settlement Payment, to be paid to the LWDA, pursuant to Labor Code section 2699,
21 subdivision (i).

22 2.27. "Net Settlement Amount" means the Gross Settlement Amount less the following
23 payments, in the amounts approved by the Court: the PAGA Settlement Payment, Class
24 Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation
25 Expenses Payment, and Administration Expenses Payment. The Net Settlement Amount is to
26 be paid to Settlement Class Members as Individual Class Payments.

27 2.28. "Non-Participating Class Members" means Class Members who submit a valid
28

1 and timely Request for Exclusion from the Settlement.

2 2.29. "PAGA" means the California Labor Code Private Attorneys General Act.

3 2.30. "PAGA Period" means the period from February 23, 2020, through March 31,
4 2023.

5 2.31. "PAGA Pay Period" means the pay periods in which any Aggrieved Employee
6 actually worked one shift during the PAGA Period.

7 2.32. "PAGA Settlement Payment" means \$60,000.000, the total amount of PAGA
8 civil penalties to be paid from the Gross Settlement Amount, and which shall be allocated
9 seventy-five percent to the LWDA (\$45,000.00) ("LWDA PAGA Payment") and twenty-five
10 percent to the Aggrieved Employees (\$15,000.00) ("Individual PAGA Payment"), in settlement
11 of the Released PAGA Claims.

12 2.33. "Plaintiffs" means Armando Garcia-Diaz and Jose Elias Barajas.

13 2.34. "Preliminary Approval" means the Court Order Granting Preliminary Approval
14 of the Settlement and Class Notice.

15 2.35. "Released Class Claims" means the claims being released as described in
16 Paragraph 5.2 below.

17 2.36. "Released PAGA Claims" means the claims being released as described in
18 Paragraph 5.3 below.

19 2.37. "Released Parties" means: Defendant and all of their past, present, and future
20 respective subsidiaries, dba's, affiliates, parents, predecessors, successors, investors, and their
21 current and former employees, managing agents, servants, consultants, agents, directors,
22 officers, members, independent contractors, representatives, insurers, reinsurers, attorneys; and
23 any staffing agency, professional employer organization, or temporary employment agency
24 utilized by Defendant during the Class Period, including Southbay Safety, Next Level Staffing,
25 Core Staffing Solutions, Precise Personnel, Randstad, the Baron HR, Fairway Staffing,
26 Selective Personnel, and Dynamic Staffing, and any of their past, present, and future respective
27 subsidiaries, dba's, affiliates, parents, predecessors, successors, investors, and their current and
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former employees, managing agents, servants, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, attorneys.

2.38. "Request for Exclusion" means the submission of a written request by a Class Member to be excluded from the Settlement, which is signed by the Class Member.

2.39. "Response Deadline" means sixty (60) calendar days after the Administrator mails the Class Notice to the Class Members and Aggrieved Employees and the last date on which Class Members may: (a) fax, email or mail Requests for Exclusion from the Settlement, or (b) fax, email or mail Objections to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline.

2.40. "Settlement" means the disposition of the Action effected by this Agreement.

2.41. "Settlement Class Member" or "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

2.42. "Workweeks" means the weeks in which any Settlement Class Member actually worked one shift during the Class Period.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant agrees to pay the Gross Settlement Amount of \$630,000.00 and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount or any payroll taxes prior to the deadline stated in Paragraph 4.2 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Settlement Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

1 3.2.1. To Plaintiffs: The Class Representative Service Payments to the Class
2 Representatives of not more than \$7,500.00 each (in addition to any Individual Class Payments
3 and Individual PAGA Payments the Class Representatives are entitled to receive as Settlement
4 Class Members and Aggrieved Employees). Defendant will not oppose a request for payments
5 that do not exceed this amount. As part of their motion for the Class Counsel Fees Payment and
6 Class Counsel Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class
7 Representative Service Payments no later than sixteen (16) court days prior to the Final
8 Approval Hearing. If the Court approves Class Representative Service Payments less than the
9 amount requested, the Administrator will retain the remainder in the Net Settlement Amount.
10 The Administrator will pay the Class Representative Service Payments using IRS Form 1099.
11 Plaintiffs assume full responsibility and liability for employee taxes owed on the Class
12 Representative Service Payments.

1 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
2 \$210,000.00, or one third of the Gross Settlement Amount, and a Class Counsel Litigation
3 Expenses Payment of not more than \$20,000.00. Defendant will not oppose a request for
4 payments that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion
5 for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than
6 sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class
7 Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment less than the
8 amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount.
9 Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising
10 from any claim to any portion of any Class Counsel Fees Payment and/or Class Counsel
11 Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and
12 Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel
13 assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and
14 Class Counsel Litigation Expenses Payment and hold Defendant harmless from and indemnify
15 Defendant for any dispute or controversy regarding division or sharing of such payments.

16 3.2.3. To the Administrator: An Administration Expenses Payment not to
17 exceed \$10,000.00, except for a showing of good cause and as approved by the Court. To the
18 extent the Administration Expenses Payment is less or the Court approves payment less than
19 \$10,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

20 3.2.4. To Each Settlement Class Member: An Individual Class Payment
21 calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks
22 worked by all Settlement Class Members during the Class Period and (b) multiplying the result
23 by each Settlement Class Member's Workweeks.

24 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each
25 Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion").
26 The Wage Portion is subject to tax withholding and will be reported on an IRS W-2 Form. 80%
27 of each Individual Class Payment will be allocated to settlement of claims for interest and
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1 penalties (the “Non-Wage Portion”). The Non-Wage Portion is not subject to wage
2 withholdings and will be reported on IRS 1099 Forms. Settlement Class Members assume full
3 responsibility and liability for any employee taxes owed on their Individual Class Payment.

4 3.2.4.2. Effect of Non-Participating Class Members on Calculation of
5 Individual Class Payments. Non-Participating Class Members will not receive any Individual
6 Class Payments. The Administrator will retain amounts equal to their Individual Class
7 Payments in the Net Settlement Amount for distribution to Settlement Class Members on a pro
8 rata basis.

9 3.2.5. To the LWDA and Aggrieved Employees: A PAGA Settlement Payment
10 in the amount of \$60,000.00 to be paid from the Gross Settlement Amount, with seventy-five
11 percent (\$45,000.00) allocated to the LWDA PAGA Payment and twenty-five percent
12 (\$15,000.00) allocated to the Individual PAGA Payment.

13 3.2.5.1. The Administrator will calculate each Individual PAGA
14 Payment by (a) dividing the amount of the total Individual PAGA Payment (\$15,000.00) by the
15 total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA
16 Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Pay Periods.
17 Aggrieved Employees assume full responsibility and liability for any taxes owed on their
18 Individual PAGA Payment.

19 **4. SETTLEMENT FUNDING AND PAYMENTS.**

20 4.1. Class Data. Not later than fifteen (15) business days after the Court grants
21 Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data
22 to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members’
23 privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data
24 only for purposes of this Settlement and for no other purpose, and restrict access to the Class
25 Data to Administrator employees who need access to the Class Data to effect and perform under
26 this Agreement. Defendant has a continuing duty to immediately (a) notify Class Counsel if it
27 discovers the Class Data omitted a class member and (b) provide corrected/updated Class Data
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1 as soon as reasonably feasible. Without any extension of the deadline by which Defendant must
2 send the Class Data to the Administrator, the Parties and their counsel will expeditiously use
3 best efforts, in good faith, to reconstruct or otherwise resolve any issues related to omitted data.

4 4.2. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross
5 Settlement Amount and the amounts necessary to fully pay their share of payroll taxes, by
6 transmitting the funds to the Administrator no later than twenty-one (21) business days after the
7 Effective Date. If Defendant fails to timely transfer the funds as set forth in this Agreement,
8 Defendant shall have fourteen (14) business days from the last day the payment is due to cure
9 the untimely payment. Defendant shall transmit the funds pursuant to the Settlement
10 Administrator's electronic transfer instructions. Defendant's payment obligations with respect
11 to the Gross Settlement Amount, Defendant's share of payroll taxes, and any cure payment
12 shall be met upon initiating the electronic transfer of funds to the Administrator, pursuant to the
13 Administrator's instructions. In the event of an unsuccessful electronic transfer of funds, the
14 Parties agree to cooperate in good faith to resolve the issues.

15 4.3. Payments from the Gross Settlement Amount. Within fourteen (14) business
16 days after Defendant fully funds the Gross Settlement Amount, the Administrator will mail
17 checks for the Individual Class Payments, Individual PAGA Payments, LWDA PAGA
18 Payment, Administration Expenses Payment, Class Counsel Fees Payment, Class Counsel
19 Litigation Expenses Payment, and Class Representative Service Payments. Disbursement of the
20 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class
21 Representative Service Payments shall not precede disbursement of the Individual Class
22 Payments and Individual PAGA Payments.

23 4.3.1. The Administrator will issue checks for the Individual Class Payments
24 and/or Individual PAGA Payments and send them to the Class Members via First Class U.S.
25 Mail, postage prepaid. The face of each check shall prominently state the date (not less than
26 180 calendar days after the date of mailing) when the check will be voided. The Administrator
27 will cancel all checks not cashed by the void date. The Administrator will send checks for
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1 Individual Settlement Payments to all Settlement Class Members, including those for whom
2 Class Notice was returned undelivered.

3 4.3.2. The Administrator will send checks for Individual PAGA Payments to all
4 Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved
5 Employees, including those for whom a Class Notice was returned undelivered. The
6 Administrator may send Settlement Class Members a single check combining his or her
7 Individual Class Payment and Individual PAGA Payment. Before mailing any checks, the
8 Administrator must update the recipients' mailing addresses using the National Change of
9 Address Database.

10 4.3.3. The Administrator must conduct a Class Member Address Search for all
11 other Class Members whose checks are returned undelivered without USPS forwarding
12 addresses. Within seven (7) calendar days of receiving a returned check the Administrator must
13 re-mail checks to the USPS forwarding address provided or to an address ascertained through
14 the Class Member Address Search. The Administrator need not take further steps to deliver
15 checks to Class Members whose re-mailed checks are returned as undelivered. The
16 Administrator shall promptly send a replacement check to any Class Member whose original
17 check was lost or misplaced, requested by the Class Member prior to the void date.

18 4.3.4. Any Individual Class Payment check or Individual PAGA Payment check
19 that is uncashed and cancelled after the void date shall be canceled and funds associated with
20 such checks shall be considered unpaid, unclaimed or abandoned cash residue pursuant to Code
21 of Civil Procedure section 384 ("Unpaid Residue"). The Unpaid Residue plus accrued interest,
22 if any, as provided in Code of Civil Procedure section 384, shall be transmitted to the mutually
23 agreeable *cy pres*, Legal Aid at Work, in compliance with Code of Civil Procedure sections 384
24 and 384.5, for use in Orange County and in the name of the Settlement Class Member. The
25 Administrator shall prepare a report regarding the distribution plan pursuant to Code of Civil
26 Procedure section 384 and the report shall be presented to the Court by Class Counsel along
27 with a proposed amended judgment that is consistent with the provisions of Code of Civil
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1 Procedure section 384.

2 4.3.5. The payment of Individual Class Payments and Individual PAGA
3 Payments shall not obligate Defendant to confer any additional benefits or make any additional
4 payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in
5 this Agreement.

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

10 5.1. Plaintiffs' Release. In addition to the Released Class Claims and Released
11 PAGA Claims described below, Plaintiffs and their respective former and present spouses,
12 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally,
13 release and discharge Released Parties from all claims, demands, rights, liabilities and causes of
14 action of every nature and description whatsoever, whether known or unknown, asserted or that
15 might have been asserted, whether in tort, contract, or for violation of any state or federal
16 statute, rule, law or regulation arising out of, relating to, or in connection with any act or
17 omission of the Released Parties through the date of full execution of this Settlement Agreement
18 in connection with his or her employment or the termination thereof ("Plaintiffs' Release").
19 Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to
20 those rights that as a matter of law cannot be waived, including, but not limited to any claims
21 for vested benefits, unemployment benefits, disability benefits, social security benefits, or
22 workers' compensation benefits that arose at any time. Plaintiffs acknowledge that they may
23 discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know
24 or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective
25 in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of
26 them. Irrespective of any terms in this agreement, this agreement does not impact or release any
27 of Plaintiff Garcia Diaz's claims alleged in the case entitled *Garcia-Diaz v. Awesome Products*,
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1 Inc. Case No. 30-2022-01253120-CU-WT-CJC.

2 5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542.

3 For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions,
4 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

10 5.2. Released Class Claims by Settlement Class Members: All Settlement Class
11 Members, on behalf of themselves and their respective former and present representatives,
12 agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from
13 all claims that were alleged, or reasonably could have been alleged, in the Operative Complaint,
14 and ascertained in the course of the Action, that arose during the Class Period including with
15 respect to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay
16 minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant
17 meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-compliant
18 rest periods; (e) failure to issue accurate, itemized wage statements and maintain payroll
19 records; (f) failure to pay all wages due upon separation of employment; (g) failure to reimburse
20 for necessary business expenses; (h) all claims under California Business & Professions Code §
21 17200 for unfair business practices that could have been premised on the facts, claims, causes of
22 action or legal theories described above; (i) violation of or claims under the following sections
23 of the California Labor Code sections 201, 202, 203, 204, 206, 210, 218.6, 226, 226(c), 226.3,
24 226.7, 227.3, 510, 512, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802;
25 and (j) violation of the California Industrial Wage Orders that could have been premised on the
26 facts, claims, causes of action or legal theories described above, as well as any potential
27 penalties, interest or attorneys' fees associated with all of such causes of action under California
28 law ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Settlement
Class Members do not release any other claims, including claims for vested benefits, wrongful

1 termination, violation of the Fair Employment and Housing Act, unemployment insurance,
2 disability, social security, workers' compensation, or claims based on facts occurring outside the
3 Class Period.

4 5.3. Released PAGA Claims by Aggrieved Employees: All Class Members who are
5 Aggrieved Employees, regardless of whether they are Settlement Class Members or Non-
6 Participating Class Members, are deemed to release, on behalf of themselves and their
7 respective former and present representatives, agents, attorneys, heirs, administrators,
8 successors, and assigns, the Released Parties from all claims demands, rights, liabilities and
9 causes of action under the California Labor Code Private Attorneys General Act that were
10 alleged, or reasonably could have been alleged, based on the claims asserted in the Operative
11 Complaint or Plaintiffs' respective Notices of Labor Code Violations and PAGA Penalties and
12 ascertained in the course of the Action arising during or with respect to the PAGA Period,
13 including, but not limited to, civil penalties pursuant to Labor Code sections 210, 226.3, 558,
14 1197.1, and 2699 in connection with violations of Labor Code sections 201, 202, 203, 204, 226,
15 226.7, 227.3, 246, 432, 510, 512, 558.1, 1174, 1194, 1194.2, 1197, 1197.1, 1198.5, 2802, and
16 2810.5 ("Released PAGA Claims"). The Released PAGA Claims excludes all claims outside of
17 the PAGA Period.

18 5.3.1. The foregoing release shall be binding on Plaintiffs, the Aggrieved
19 Employees, and the State of California, and shall bar by res judicata any claim under the PAGA
20 brought by any person, including the Aggrieved Employees, on behalf of the State of California,
21 as to any claims predicated on the Released PAGA Claims.

22 **6. MOTION FOR PRELIMINARY APPROVAL.** Plaintiffs will prepare and file a
23 motion for preliminary approval ("Motion for Preliminary Approval") that complies with the
24 Court's current checklist for Preliminary Approval.

25 6.1. Responsibilities of Counsel. Class Counsel is responsible for timely finalizing
26 and filing the Motion for Preliminary Approval. The Parties are jointly responsible for
27 appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel
28

1 is responsible for delivering the Court's Preliminary Approval to the Administrator to initiate
2 the notice process.

3 6.2. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
4 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
5 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
6 or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
7 Preliminary Approval or conditions Preliminary Approval on any material change to this
8 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of
9 the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement
10 and otherwise satisfy the Court's concerns.

11 **7. SETTLEMENT ADMINISTRATION.**

12 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc.
13 to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.
14 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
15 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
16 represent that they have no interest or relationship, financial or otherwise, with the
17 Administrator other than a professional relationship arising out of prior experiences
18 administering settlements.

19 7.2. Employer Identification Number. The Administrator shall have and use its own
20 Employer Identification Number for purposes of calculating payroll tax withholdings and
21 providing reports to state and federal tax authorities.

22 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund
23 that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury
24 Regulation section 468B-1.

25 7.4. Notice to Class Members.

26 7.4.1. No later than three (3) business days after receipt of the Class Data, the
27 Administrator shall notify Class Counsel that the list has been received and provide the number
28

1 of Class Members and Aggrieved Employees.

2 7.4.2. Using best efforts to perform as soon as possible, and in no event later
3 than fourteen (14) calendar days after receiving the Class Data, the Administrator will send to
4 all Class Members identified in the Class Data, via first-class United States Postal Service
5 (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit**
6 **A**. The Class Notice shall prominently estimate the dollar amounts of any Individual Class
7 Payment and/or Individual PAGA Payment payable to the Settlement Class Member and/or
8 Aggrieved Employee. Before mailing Class Notices, the Administrator shall update Class Member
9 addresses using the National Change of Address database.

10 7.4.3. Not later than three (3) business days after the Administrator’s receipt of
11 any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class
12 Notice using any forwarding address provided by the USPS. If the USPS does not provide a
13 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-
14 mail the Class Notice to the most current address obtained. The Administrator has no
15 obligation to make further attempts to locate or send Class Notices to Class Members whose
16 Class Notice is returned by the USPS a second time.

17 7.4.4. The deadlines for Class Members’ written objections and Requests for
18 Exclusion will be extended an additional fourteen (14) days beyond the sixty (60) days provided
19 in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will
20 inform the Class Member of the extended deadline with the re-mailed Class Notice.

21 7.4.5. If the Administrator, the Defendant, Defense Counsel or Class Counsel is
22 contacted by or otherwise discovers any persons who believe they should have been included in
23 the Class Data and should have received a Class Notice, the Parties will expeditiously meet and
24 confer in person or by telephone, and in good faith, in an effort to agree on whether to include
25 them as Class Members. If the Parties agree, such persons will be Class Members entitled to the
26 same rights as other Class Members, and the Administrator will send, via email or overnight
27 delivery, a Class Notice requiring them to exercise options under this Agreement no later than 14
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1 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever is later.

2 7.5. Requests for Exclusion (Opt-Outs).

3 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class
4 Settlement must send the Administrator, by fax, email or mail, a signed written Request for
5 Exclusion no later than forty-five (45) calendar days after the Administrator mails the Class
6 Notice (plus an additional fourteen (14) calendar days for Class Members whose Class Notice is
7 re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative
8 that reasonably communicates the Class Member's election to be excluded from the Settlement
9 and includes the Class Member's name, address and email address or telephone number. To be
10 valid, a Request for Exclusion must be timely faxed, emailed or postmarked by the Response
11 Deadline.

12 7.5.2. The Administrator may not reject a Request for Exclusion as invalid
13 because it fails to contain all the information specified in the Class Notice. The Administrator
14 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
15 identity of the person as a Class Member and the Class Member's desire to be excluded. The
16 Administrator's determination shall be final and not appealable or otherwise susceptible to
17 challenge. If the Administrator has reason to question the authenticity of a Request for
18 Exclusion, the Administrator may demand additional proof of the Class Member's identity.

19 7.5.3. Every Class Member who does not submit a timely and valid Request for
20 Exclusion is deemed to be a Settlement Class Member under this Agreement, entitled to all
21 benefits and bound by all terms and conditions of the Settlement, including the Settlement Class
22 Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the
23 Settlement Class Member actually receives the Class Notice or objects to the Settlement.

24 7.5.4. Every Class Member who submits a valid and timely Request for
25 Exclusion is a Non-Participating Class Member and shall not receive an Individual Class
26 Payment or have the right to object to the class action components of the Settlement. Because
27 future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
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1 Participating Class Members who are Aggrieved Employees are deemed to release the claims
2 identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

3 7.6. Objections to Settlement.

4 7.6.1. Only Settlement Class Members may object to the class action
5 components of the Settlement and/or this Agreement, including contesting the fairness of the
6 Settlement and/or amounts requested for the Class Counsel Fees Payment, Class Counsel
7 Litigation Expenses Payment and/or Class Representative Service Payments. Non-Participating
8 Class Members have no right to object to any of the class action components of the Settlement.

9 7.6.2. Settlement Class Members may send written objections to the
10 Administrator, by fax, email, or mail. In the alternative, Settlement Class Members may appear
11 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final
12 Approval Hearing. A Settlement Class Member who elects to send a written objection to the
13 Administrator must do so not later than sixty (60) calendar days after the Administrator's
14 mailing of the Class Notice (plus an additional fourteen (14) calendar days for Class Members
15 whose Class Notice was re-mailed).

16 7.7. Administrator Duties. The Administrator has a duty to perform or observe all
17 tasks to be performed or observed by the Administrator contained in this Agreement.

18 7.7.1. Website, Email Address and Toll-Free Number. The Administrator will
19 establish and maintain and use an internet website to post information of interest to Class
20 Members including the date, time and location for the Final Approval Hearing and copies of the
21 Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
22 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class
23 Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final
24 Approval and the Judgment. The Administrator will also maintain and monitor an email address
25 and a toll-free telephone number to receive Class Member calls, faxes and emails.

26 7.7.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
27 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
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1 later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the
2 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
3 and other identifying information of Class Members who have timely submitted valid Requests
4 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
5 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
6 Exclusion from Settlement submitted (whether valid or invalid).

7 7.7.3. Weekly Reports. The Administrator must, on a weekly basis, provide
8 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
9 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
10 Exclusion (whether valid or invalid) received, objections received, and checks mailed for
11 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly
12 Reports must include the Administrator’s assessment of the validity of Requests for Exclusion
13 and attach copies of all Requests for Exclusion and objections received.

14 7.7.4. Administrator’s Declaration. Not later than fourteen (14) days before the
15 date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the
16 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
17 for filing in Court attesting to its due diligence and compliance with all of its obligations under
18 this Agreement, including, but not limited to, its mailing of the Class Notice, the Class Notices
19 returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the
20 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
21 number of written objections and attach the Exclusion List. The Administrator will supplement
22 its declaration as needed or requested by the Parties and/or the Court. Class Counsel is
23 responsible for filing the Administrator’s declaration(s) in Court.

24 7.7.5. Final Report by Administrator. Within ten (10) days after the
25 Administrator disburses all funds in the Gross Settlement Amount, the Administrator will
26 provide Class Counsel and Defense Counsel with a final report detailing its disbursements by
27 employee identification number only of all payments made under this Agreement. At least
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1 fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and
2 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court
3 attesting to its disbursement of all payments required under this Agreement. Class Counsel is
4 responsible for filing the Administrator's declaration in Court.

5 **8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records,
6 Defendant estimates that, as of the date of this Settlement Agreement, there are no more than
7 10,034 total Workweeks worked by all Settlement Class Members during the Class Period. If
8 the number of Workweeks as of March 31, 2023, increases by more than 6% (more than 602),
9 Defendant shall, at its option, either (a) increase the Gross Settlement Amount proportionally by
10 the Workweeks in excess of 10,636 multiplied by the workweek value; or (b) cap the Release
11 Period as of the date that the 6% of Workweeks is exceeded. In the event Defendant chooses
12 option (a) to increase the Gross Settlement Amount, the workweek value shall be calculated by
13 dividing the Gross Settlement Amount by 10,034. The Parties agree that the workweek value
14 amounts to and the settlement amounts to \$62.78 per Workweek ($\$630,000.00 / 10,034$
15 workweeks). Thus, for example, should there be 11,000 Workweeks in the Class Period, then
16 the Gross Settlement Amount shall be increased by \$62,567.82 ($[11,000 \text{ workweeks} - 10,034$
17 workweeks] x \$62.78 per Workweek).

18 **9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for
19 Exclusion identified in the Exclusion List exceeds 6% of the Class Members representing more
20 than an aggregate total of 6% of the verified Workweeks, Defendant may, but is not obligated
21 to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the
22 Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will
23 have any further obligation to perform under this Agreement; provided, however, Defendant
24 will remain responsible for paying all Settlement Administration Expenses incurred to that
25 point. Defendant must notify Class Counsel and the Court of its election to withdraw not later
26 than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel;
27 late elections will have no effect.

1 **10. MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the
2 calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of
3 the Settlement that includes a request for approval of the PAGA settlement under Labor Code
4 section 2699, subd. (1), a Proposed Final Approval Order, and a proposed Judgment
5 (collectively “Motion for Final Approval”).

6 10.1. Response to Objections. Each Party retains the right to respond to any objection
7 raised by a Settlement Class Member, including the right to file responsive documents in Court
8 no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or
9 accepted by the Court.

10 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions
11 Final Approval on any material change to the Settlement (including, but not limited to, the
12 scope of release to be granted by Class Members), the Parties will expeditiously work together
13 in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain
14 Final Approval. The Court’s decision to award less than the amounts requested for the Class
15 Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation
16 Expenses Payment and/or Administration Expenses Payment shall not constitute a material
17 modification to the Agreement within the meaning of this paragraph.

18 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of
19 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely
20 for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
21 administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

22 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
23 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
24 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties,
25 their respective counsel, and all Settlement Class Members who did not object to the Settlement
26 as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights
27 to post-judgment and appellate proceedings, the right to file motions to vacate judgment,
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1 motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include
2 any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the
3 Judgment, the Parties' obligations to perform under this Agreement will be suspended until such
4 time as the appeal is finally resolved and the Judgment becomes final, except as to matters that
5 do not affect the amount of the Net Settlement Amount.

6 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If
7 the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
8 material modification of this Agreement (including, but not limited to, the scope of release to be
9 granted by Class Members), this Agreement shall be null and void. The Parties shall
10 nevertheless expeditiously work together in good faith to address the appellate court's concerns
11 and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional
12 Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate,
13 reverse, or modify the Court's award of the Class Representative Service Payments or any
14 payments to Class Counsel shall not constitute a material modification of the Judgment within
15 the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

19 12. ADDITIONAL PROVISIONS.

20 12.1. No Admission of Liability, Class Certification or Representative Manageability
21 for Other Purposes. This Agreement represents a compromise and settlement of highly
22 disputed claims. Nothing in this Agreement is intended or should be construed as an admission
23 by Defendant that any of the allegations in the Operative Complaint have merit or that
24 Defendant has any liability for any claims asserted; nor should it be intended or construed as an
25 admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree
26 that class certification and representative treatment is for purposes of this Settlement only. If,
27 for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, or
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1 if Defendant exercises its option pursuant to paragraph 9 of this Joint Stipulation to nullify the
2 settlement, Defendant reserves the right to contest certification of any class for any reasons and
3 all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for
4 class certification on any grounds available and to contest Defendant's defenses. The
5 Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on,
6 and will not be admissible in connection with, any litigation, except for proceedings to enforce
7 or effectuate the Settlement and this Agreement.

8 12.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel,
9 Defendant and Defense Counsel separately agree that, until the Motion for Preliminary
10 Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or
11 publicize, or cause or permit another person to disclose, disseminate or publicize, any of the
12 terms of the Agreement directly or indirectly, specifically or generally, to any person,
13 corporation, association, government agency, or other entity except: (1) to the Parties' attorneys,
14 accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2)
15 counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing
16 authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or
17 subpoena issued by a state or federal government agency.

18 12.3. Each Party agrees to immediately notify each other of any judicial or agency
19 order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and
20 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
21 communication, before the filing of the Motion for Preliminary Approval, with any third party
22 regarding this Agreement or the matters giving rise to this Agreement except to respond only
23 that "the matter was resolved," or words to that effect. This paragraph does not restrict Class
24 Counsel's communications with Class Members in accordance with Class Counsel's ethical
25 obligations owed to Class Members.

26 12.4. No Solicitation. The Parties separately agree that they and their respective
27 counsel and employees will not solicit any Class Member to opt out of or object to the
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1 Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to
2 restrict Class Counsel's ability to communicate with Class Members in accordance with Class
3 Counsel's ethical obligations owed to Class Members.

4 12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this
5 Agreement together with its attached exhibits shall constitute the entire agreement between the
6 Parties relating to the Settlement, superseding any and all oral representations, warranties,
7 covenants, or inducements made to or by any Party.

8 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant
9 and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all
10 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
11 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
12 terms of this Agreement including any amendments to this Agreement.

13 12.7. Cooperation. The Parties and their counsel will cooperate with each other and
14 use their best efforts, in good faith, to implement the Settlement by, among other things,
15 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
16 points and authorities as requested by the Court. In the event the Parties are unable to agree
17 upon the form or content of any document necessary to implement the Settlement, or on any
18 modification of the Agreement that may become necessary to implement the Settlement, the
19 Parties will seek the assistance of a mediator and/or the Court for resolution.

20 12.8. No Prior Assignments. The Parties separately represent and warrant that they
21 have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
22 transfer, or encumber to any person or entity and portion of any liability, claim, demand, action,
23 cause of action, or right released and discharged by the Party in this Settlement.

24 12.9. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense
25 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
26 Settlement be relied upon as such within the meaning of United States Treasury Department
27 Circular 230 (31 CFR Part 10, as amended) or otherwise.

1 12.10. Modification of Agreement. This Agreement, and all parts of it, may be
2 amended, modified, changed, or waived only by an express written instrument signed by all
3 Parties or their representatives, and approved by the Court.

4 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and
5 inure to the benefit of, the successors of each of the Parties.

6 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibits
7 will be governed by and interpreted according to the internal laws of the state of California,
8 without regard to conflict of law principles.

9 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and
10 preparation of this Agreement. This Agreement will not be construed against any Party on the
11 basis that the Party was the drafter or participated in the drafting.

12 12.14. Confidentiality. To the extent permitted by law, all agreements made, and
13 orders entered during Action and in this Agreement relating to the confidentiality of information
14 shall survive the execution of this Agreement.

15 12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant
16 to Cal. Evid. Code section 1152, and all copies and summaries of the Class Data provided to
17 Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or
18 in connection with the Settlement, may be used only with respect to this Settlement, and no
19 other purpose, and may not be used in any way that violates any existing contractual agreement,
20 statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges
21 the Administrator's obligation to provide a Declaration confirming the final pay out of all
22 Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data
23 received from Defendant unless, prior to the Court's discharge of the Administrator's
24 obligation, Defendant makes a written request to Class Counsel for the return, rather than the
25 destructions, of Class Data.

26 12.16. Headings. The descriptive heading of any section or paragraph of this
27 Agreement is inserted for convenience of reference only and does not constitute a part of this
28

1 Agreement.

2 12.17. Calendar Days. Unless otherwise noted, all reference to “days” in this
3 Agreement shall be to calendar days. In the event any date or deadline set forth in this
4 Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first
5 business day thereafter.

6 12.18. Notice. All notices, demands or other communications between the Parties in
7 connection with this Agreement will be in writing and deemed to have been duly given as of the
8 third business day after mailing by United States mail, or the day sent by email or messenger,
9 addressed as follows:

10 To Plaintiffs:

11 **MOON & YANG, APC**

12 Kane Moon
13 Allen Feghali
14 Jacquelyne VanEmmerik
15 1055 West Seventh Street, Suite 1880
16 Los Angeles, California 90017

JACKSON APC

Armond M. Jackson
Andrea Fernandez-Jackson
Anthony Filer, Jr.
2 Venture Plaza, Suite 240
Irvine, California 92618

15 To Defendant:

16 **FISHER & PHILLIPS, LLP**

17 Christine Baran
18 Andrew C. Crane
19 2050 Main Street, Suite 1000
20 Irvine, California 92614

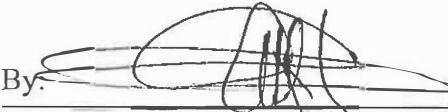
The Law Offices of Robert Mackey

Robert Mackey (SBN 125961)
16320 Murphy Road
Sonora, CA 95370

21 12.19. Execution in Counterparts. This Agreement may be executed in one or more
22 counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this
23 Agreement shall be accepted as an original. All executed counterparts and each of them will be
24 deemed to be one and the same instrument if counsel for the Parties will exchange between
25 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
26 prove the existence and contents of this Agreement.

1 12.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement
2 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties
3 further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to
4 extend the date to bring a case to trial under CCP section 583.310 for the entire period of this
5 settlement process.

6 06/14/2023
Dated: May, 2023

By: 
Armando Diaz-Garcia

8 //

9
10 Dated: May, 2023

By: _____
Jose Elias Barajas

11 //

12
13 Dated: May, 2023

By: _____
For Awesome Products, Inc.

14
15
16 JACKSON APC

17
18 Dated: June 14
May, 2023

By: 
Armond Jackson, Esq.
Andrea Fernandez-Jackson, Esq.
Anthony Filer, Jr., Esq.
Attorney for Plaintiff, Armando Diaz-
Garcia

19
20
21
22 MOON & YANG, APC

23
24 Dated: May, 2023

By: _____
Kane Moon, Esq.
Allen Feghali, Esq.
Jacquelyne VanEmmerik, Esq.
Attorneys for Plaintiff, Jose Elias
Barajas

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Dated:

By:

Armando Diaz-Garcia

//

Dated: 7/6/2023

By:

DocuSigned by:

 Jose Elias Barajas

//

Dated:

By:

For Awesome Products, Inc.

JACKSON APC

Dated:

By:

Armond Jackson, Esq.
 Andrea Fernandez-Jackson, Esq.
 Anthony Filer, Jr., Esq.
Attorney for Plaintiff, Armando Diaz-Garcia

MOON & YANG, APC

Dated: 7/6/2023

By:


 Kane Moon, Esq.
 Allen Feghali, Esq.
 Jacquelyne VanEmmerik, Esq.
Attorneys for Plaintiff, Jose Elias Barajas

1 12.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement
2 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties
3 further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to
4 extend the date to bring a case to trial under CCP section 583.310 for the entire period of this
5 settlement process.

6 Dated:

By:

Armando Diaz-Garcia

8 //

9 Dated:

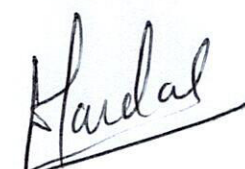
By:

Jose Elias Barajas

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12 Dated:

By:


For Awesome Products, Inc.

JACKSON APC

17 Dated:

By:

Armond Jackson, Esq.
Andrea Fernandez-Jackson, Esq.
Anthony Filer, Jr., Esq.
*Attorney for Plaintiff, Armando Diaz-
Garcia*

MOON & YANG, APC

23 Dated:

By:

Kane Moon, Esq.
Allen Feghali, Esq.
Jacquelyne VanEmmerik, Esq.
*Attorneys for Plaintiff, Jose Elias
Barajas*

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FISHER & PHILLIPS, LLP

By:


Christine Baran, Esq.
Andrew C. Crane, Esq.
*Attorneys for Defendant, Awesome
Products, Inc.*

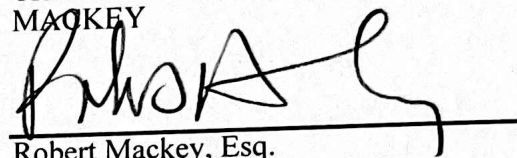
Dated:

Dated:

7/20/2023

THE LAW OFFICES OF ROBERT
MACKEY

By:


Robert Mackey, Esq.
*Attorneys for Defendant, Awesome
Products, Inc.*

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EXHIBIT A