

**CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE OF
CLAIMS**

This Class Action and PAGA Settlement Agreement and Release of Claims is entered into by and between Plaintiff David Verdugo, individually and on behalf of all others similarly situated, and Defendant nVent Thermal LLC, and is approved by their respective counsel of record, subject to the terms and conditions hereof and the Court's approval.

A. Definitions

1. "Action" or "Lawsuit" means and refers to the case entitled *David Verdugo v. nVent Thermal LLC*, Case No. 21-CIV-04370, filed in San Mateo Superior Court.

2. "Aggrieved Employees" include all persons who performed work in any non-exempt position for Defendant in California at any time from August 13, 2020 through September 30, 2022.

3. "Agreement," "Settlement Agreement," "Settlement," or "Stipulation" shall mean this Class Action and PAGA Settlement Agreement and Release of Claims, including any attached Exhibits.

4. "Class Claims" or "Released Class Claims" will include any and all wage and hour claims, rights, demands, liabilities, and causes of action of every nature and description, whether suspected or unsuspected, arising from, or reasonably related to, or that were asserted, or that could have been asserted, based on the facts, allegations, matters, transactions and occurrences alleged in the operative Second Amended Complaint, Plaintiff's PAGA Notice of August 13, 2021, and/or Plaintiff's supplemental PAGA Notice of July 11, 2022, specifically including without limiting the generality thereof: (a) all claims for failure to pay all minimum wages, failure to pay all overtime wages, alleged meal and/or rest break violations and/or failure to pay premiums, failure to provide accurate itemized wage statements, failure to timely pay all wages upon separation of employment, and unfair and unlawful business practices; (b) all causes of action asserted in the Second Amended Complaint for violations of, or remedies or penalties allowed under California Labor Code Sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 516, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, as well as all causes of action under the

Business & Professions Code section 17200, *et seq.* premised on alleged violation of any such Labor Code Section; (c) all theories of relief regardless of whether the claim is, was or could have been alleged as separate claims, causes of action, lawsuits or based on other theories of relief, whether under California law, federal law, state law or common law (including, without limitation, as violations of the Labor Code, IWC Wage Orders, applicable regulations, and/or Business & Professions Code section 17200), and (d) all types of relief available for the above-referenced claims, including without limitation, any claims for damages, restitution, losses, penalties, fines, liens, attorneys' fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages.

5. "Class Counsel" refers to Mehrdad Bokhour of Bokhour Law Group, P.C. and Joshua Falakassa of Falakassa Law, P.C.

6. "Class Data" means a complete list of all Settlement Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator on one Excel spreadsheet and shall include each Settlement Class Member's full name; last known mailing address and telephone number; Social Security Number; and the respective number of Workweeks that each Settlement Class Member worked in a non-exempt position for Defendant during the Class Period and the PAGA Period.

7. "Class Period" and "Class Release Period" shall mean the period from August 13, 2017 through September 30, 2022.

8. "Class Representative" or "Plaintiff" means and refers to David Verdugo.

9. "Class Representative's Released Claims" shall have the meaning ascribed to it in Paragraph 59 below.

10. "Complaint" refers to the Second Amended Complaint filed in the San Mateo County Superior Court action entitled *David Verdugo v. nVent Thermal LLC*, Case No. 21-CIV-04370.

11. "Court" means the California Superior Court, County of San Mateo or any Court of competent jurisdiction.

12. "Defendant" means and refers to nVent Thermal LLC.

1 13. “Defendant’s Counsel” or “Defense Counsel” mean and refer to Carrie McAtee,
2 Esq. and Jason M. Richardson, Esq. of Shook, Hardy & Bacon, L.L.P.

3 14. “Effective Date” means the first business day after all of the following events have
4 occurred: (a) the Settlement Agreement has been executed by all Parties and their respective
5 counsel; (b) the Court has given preliminary approval of the settlement; (c) the Notice has been
6 given to the Settlement Class Members; (d) the Court has held a Final Approval Hearing and
7 entered a Final Approval Order and Judgment certifying the Settlement Class and approving the
8 Settlement, and (e) the later of the following events: (i) 65 calendar days following notice of entry
9 of the Court’s Final Approval Order, assuming no appeal or request for review is filed, or (ii) if
10 any appeal, writ or other appellate proceeding opposing this settlement has been filed within 65
11 calendar days following notice of entry of the Court’s Final Approval Order, then 30 calendar
12 days after when any appeal, writ, or other appellate proceeding opposing the settlement has been
13 resolved finally and conclusively with no right to pursue further remedies or relief. In this regard,
14 it is the intention of the Parties that the Settlement shall not become effective until the Court’s
15 order approving the Settlement is completely final, and there is no further recourse by an appellant
16 or objector who seeks to contest the Settlement.

17 15. “Final” means that the Settlement has been granted “Final Approval” by the Court
18 and the “Effective Date” has occurred.

19 16. “Final Approval” refers to the order of the Court granting final approval of this
20 Settlement Agreement that disposes of all issues raised in this Action and entering a judgment
21 approving this Settlement on substantially the same terms provided herein or as may be modified
22 by subsequent mutual agreement of the Parties or order of the Court.

23 17. “Individual Settlement Amount” shall have the meaning ascribed to it in Paragraph
24 48(c) below.

25 18. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 48(b)
26 below.

27 19. “Notice” means the notice of the proposed settlement of class action and PAGA
28 Settlement and setting of a Final Approval Hearing that will be sent to the Settlement Class

Members.

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

21. “Objecting Settlement Class Member” means a Settlement Class Member, other than Plaintiff, who submits a valid and timely objection to the terms of this Agreement with respect to the Class Claims pursuant to Paragraph 71(c) below.

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

23. “PAGA Claims” or “Released PAGA Claims” shall include any and all claims, rights, demands, liabilities, and causes of action for civil penalties pursuant to PAGA, whether suspected or unsuspected, arising from, or reasonably related to, or that were asserted, or that could have been asserted, based on the facts, allegations, matters, transactions, and occurrences alleged in the PAGA Notices and that were pled in the operative Second Amended Complaint, specifically including without limiting the generality thereof: all claims for failure to pay all minimum wages, failure to pay all overtime wages, alleged meal and rest break violations and/or failure to pay premiums, failure to provide accurate itemized wage statements, failure to timely pay all wages upon separation of employment, and unfair and unlawful business practices; (b) all causes of action asserted in the Second Amended Complaint for violations of, or remedies or penalties allowed under PAGA premised on violations of California Labor Code Sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 516, 558, 1194, 1194.2, 1197, 1197.1, 1198, and/or 1199. The Released PAGA claims extend to all theories of relief regardless of whether the claim is, was or could have been alleged as separate claims, causes of action, lawsuits or based on other theories of relief, and to all types of relief available for the above-referenced claims, including without limitation, any claims for damages, restitution, losses, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages.

24. “PAGA Notice” shall refer to the two notices sent by Plaintiff, by and through counsel, on or about August 31, 2021 and July 11, 2022, to the LWDA and to Defendant, alleging

1 that Defendant engaged in violations of the California Labor Code and California Wage Order(s).

2 25. "PAGA Period" and "PAGA Release Period" shall mean the period from August
3 13, 2020 through September 30, 2022.

4 26. "Participating Class Member" means any and all Settlement Class Members who
5 do not opt-out of the settlement of the Class Claims by timely submitting valid Requests for
6 Exclusion.

7 27. "Parties" or "Settling Parties" mean Plaintiff, the Settlement Class Members, the
8 Aggrieved Employees, and Defendant, collectively.

9 28. "Preliminary Approval Date" means the date the Court preliminarily approves the
10 Settlement Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

11 29. "Preliminary Approval Order" means the judicial Order to be entered by the Court,
12 upon the application or motion of the Plaintiff, preliminarily approving this Settlement and
13 providing for the issuance of the Notice to the Settlement Class Members, an opportunity to opt
14 out of settlement of the Class Claims, an opportunity to submit timely objections to the terms of
15 this Settlement related to the Class Claims, and setting a hearing on the fairness of the terms of
16 Settlement, including approval of attorneys' fees and costs.

17 30. "QSF" means the Qualified Settlement Fund set up by the Settlement
18 Administrator for the benefit of the Participating Class Members, and from which the settlement
19 payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue
20 Code Section 468.

21 31. "Release" or "Released Claims" shall mean the release and discharge of the Class
22 Claims by Plaintiff and all of the Participating Class Members and the release and discharge of
23 the PAGA Claims by Plaintiff and all of the Aggrieved Employees.

24 32. "Released Parties" shall refer to Defendant, together with each of its past, present,
25 and future parents, subsidiaries, affiliates, and related companies, successors, and predecessors,
26 as well as their respective past, present, and future owners, officers, directors, shareholders,
27 employees, agents, principals, representatives, accountants, auditors, consultants, insurers and
28 reinsurers, company-sponsored employee benefit plans, and attorneys, both individually and in

1 their official capacities, as well as all persons acting by, through, under, or in concert with any of
2 these persons or entities. As set forth in Paragraphs 52 through 58 below, the Release in this
3 Agreement also extends to any and all third-party staffing agencies, including but not limited to
4 Adecco, Manpower, Volt, SMX, Staffmark, Aerotek, and Populus, for: (a) Released Class Claims
5 arising from or reasonably related to Participating Class Members' assignments by such third-
6 party staffing agencies with Defendant during the Class Release Period, and (b) Released PAGA
7 Claims arising from or reasonably related to the Aggrieved Employees' assignments by such
8 third-party staffing agencies with Defendant during the PAGA Release Period.

9 33. "Request for Exclusion" shall have the meaning ascribed to it in Paragraph 71(a)
10 below.

11 34. "Service Payment" or "Service Award" means the amount approved by the Court
12 to be paid to Class Representative in addition to his Individual Settlement Amount as a
13 Participating Class Member.

14 35. "Settlement Administration Costs" means the actual and direct fees and expenses
15 reasonably incurred by the Settlement Administrator for administering this Settlement, including,
16 but not limited to, printing, distributing, and tracking documents for this Settlement, calculating
17 estimated amounts per Settlement Class Member, tax reporting, due diligence, reporting and
18 remittance obligations, distributing the Settlement Amount, and providing necessary reports and
19 declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from
20 the Settlement Amount.

21 36. "Settlement Administrator" means and refers to a settlement administrator
22 mutually agreed to by the Parties, that will provide the Notice to the Class Members and perform
23 all duties relating to the administration of the Settlement as described in this Agreement,
24 including, but not limited to, printing, distributing, and tracking documents for this Settlement,
25 calculating estimated amounts per Settlement Class Member, tax reporting, distributing the
26 Settlement Amount, and providing necessary reports and declarations, as requested by the Parties.
27 The Settlement Administration Costs shall be paid from the Settlement Amount, including, if
28 necessary, any such costs in excess of the amount represented by the Settlement Administrator as

1 being the maximum costs necessary to administer the Settlement.

2 37. "Settlement Amount" or "Gross Settlement Amount" shall have the meaning
3 ascribed to it in Paragraph 48(a) below.

4 38. "Settlement Class Member" or "Class Member" refers to individual members of
5 the Settlement Class.

6 39. "Settlement Class" and "Settlement Class Members" refers to all persons who
7 performed work in any non-exempt position for Defendant in California at any time during the
8 Class Period.

9 40. "Workweeks" for each Settlement Class Member and Aggrieved Employee means
10 any workweek during the Class Period and/or the PAGA Period, as applicable, in which the
11 Settlement Class Member and/or Aggrieved Employee worked at least one shift in a non-exempt
12 position in California during the workweek for or on behalf of Defendant for which a prior release
13 of claims has not been signed. Workweeks will be calculated based on Defendant's business
14 records. This information shall be treated as confidential. Workweeks of Non-Participating Class
15 Members will not be included in the total number of Workweeks that are reported to the
16 Settlement Administrator for purposes of calculating and distributing Individual Settlement
17 Payments to Participating Class Members. The number of full workweeks that a Participating
18 Class Member was on a leave of absence, sick time, or vacation during the Class Period shall be
19 excluded from the total number of Workweeks.

20 **B. General Terms**

21 41. On or about August 13, 2021, Plaintiff filed the Action against Defendant,
22 including allegations of: (1) failure to pay all minimum wages, (2) failure to pay all overtime
23 wages, (3) meal period violations, (4) rest period violations, (5) waiting time penalties, (6) wage
24 statement violations, and (7) unfair competition. On or about April 26, 2022, Plaintiff filed in the
25 Action a First Amended Complaint to add a cause of action for PAGA penalties based on the
26 foregoing Labor Code violations. On or about October 4, 2022, Plaintiff filed in the Action a
27 Second Amended Complaint to add class claims and predicate violations to the PAGA claim for
28 alleged failure to pay all minimum and overtime wages based on Defendant's rounding practice

1 and/or policy.

2 42. Defendant denies Plaintiff's claims and allegations and contend that the Action is
3 not suitable for class certification and/or representative treatment.

4 43. Class Representative believes he can proceed with his class and representative
5 claims, that the Action is meritorious, and that class certification is appropriate.

6 44. The Parties have conducted a thorough investigation into the facts of the Action.
7 This includes conducting extensive exchange of informal discovery, including Defendant's
8 written policies and practices and the production of payroll and timekeeping records for
9 Settlement Class Members and Aggrieved Employees. Class Counsel is both knowledgeable
10 about and has done extensive research with respect to the applicable law and potential defenses
11 to the claims of the Settlement Class Members and Aggrieved Employees. Class Counsel has
12 diligently pursued an investigation of the Class Members' claims against Defendant. Based on
13 the foregoing data and on their own independent investigation and evaluation, Class Counsel is
14 of the opinion that the settlement with Defendant for the consideration and on the terms set forth
15 in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the
16 Settlement Class Members and Aggrieved Employees in light of all known facts and
17 circumstances, including the risk of significant delay and uncertainty associated with litigation,
18 various defenses asserted by Defendant, and numerous potential appellate issues.

19 45. On July 13, 2022, the Parties participated in mediation before Tripper Ortman, a
20 highly experienced class action mediator. After a full-day mediation and subsequent negotiations,
21 the Parties reached a settlement and entered into a Memorandum of Understanding. The Parties
22 agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arms-
23 length negotiations between the Parties supervised by a highly experienced class action mediator.
24 This Agreement represents a compromise and settlement of highly disputed claims, and is
25 intended to settle, compromise and discharge the Released Claims against the Released Parties
26 fully, finally, and forever.

27 46. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts
28 to be performed or judgments to be entered pursuant to the terms of the Settlement and

Agreement, shall be construed as an admission by Defendant or any of the Released Parties of any wrongdoing or violation of any statute or law or liability on the claims or allegations in the Action.

47. Stipulation for Class Certification and Representative Treatment. For settlement purposes only, Defendant will stipulate that the Settlement Class Members described herein who do not Request 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 purposes of enforcing this Agreement. Should, for whatever reason, the Court fail to issue Final Approval, 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 class certification and/or representative treatment would be appropriate in a non-settlement context. Defendant expressly reserve its right and declares that it will continue to oppose class certification, representative treatment, and the substantive merits of the case should the Court fail to issue Final Approval. Plaintiff expressly reserves his rights and declares that he will continue to pursue class certification and representative treatment and a trial should the Court fail to issue Final Approval.

C. Terms of Settlement

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

(a) Gross Settlement Amount: The Parties agree to settle this Action for Three Million Two Hundred Fifty Thousand Dollars (\$3,250,000). The Gross Settlement Amount is the maximum amount that will be paid by Defendant, and includes Individual Settlement Amounts, attorneys' fees of Class Counsel, costs and expenses, the Service Payment to Class Representative, all Settlement Administration Costs, and payment to the Labor Workforce Development Agency (LWDA) in resolution of Plaintiff's claims for PAGA penalties. In no event shall Defendant be required to pay any amounts above this Gross Settlement Amount under this

Settlement, with the limited exception that, as to the portion of the Individual Settlement Amounts that are allocated as wages as set forth in Paragraph 48(i) herein, Defendant shall be separately responsible for paying only its share of any applicable payroll taxes, including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount.

(b) Net Settlement Amount: The “Net Settlement Amount” is defined as the Gross Settlement Amount less attorneys’ fees of Class Counsel and litigation costs as approved and awarded by the Court as described in Paragraph 48(f) below, the Service Payment to Class Representative as approved and awarded by the Court as described in Paragraph 48(e) below, the Settlement Administration Costs, as approved and awarded by the Court as described in Paragraph 48(g) below, and the Fifty Thousand Dollars (\$50,000.00) allocated to payment in resolution of Plaintiff’s claims for PAGA penalties as described in Paragraph 48(h) below. In the event that the Court reduces the attorneys’ fees of Class Counsel and litigation costs or Service Awards, Settlement Administration Costs, or either increases or decreases the amount allocated to PAGA penalties, the Net Settlement Amount shall be increased or decreased accordingly.

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

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

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

10 (d) Allocation of Individual Settlement Amounts: The Individual Settlement Amounts
11 will be allocated for tax purposes based on the allegations in the Action as follows: thirty three
12 percent (33%) will be paid in settlement of wage claims subject to all applicable local, state, and
13 federal withholdings; and sixty seven percent (67%) will be paid in settlement of claims for
14 interest and civil penalties (pursuant to, e.g., California Labor Code sections 203, 226) from which
15 no taxes will be withheld. The Settlement Administrator will issue to each Participating Class
16 Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the
17 portion allocated to settlement of wage claims and a Form 1099 with respect to the portion
18 allocated to settlement of claims for civil penalties and interest

19 (e) Service Payment to Class Representative: The amount awarded to Class
20 Representative as a Service Payment will be set by the Court in its discretion, not to exceed
21 \$10,000. Defendant agrees not to oppose this request. The Service Payment to Class
22 Representative will be paid out of the Gross Settlement Amount. In exchange for this Service
23 Payment, Class Representative hereby agrees to the Release set forth in Paragraphs 59 through
24 61 below, agrees not to publicize the Settlement beyond what is required or expressly approved
25 by the Court, and agrees to respond to any inquiry regarding the Settlement only by referring the
26 inquiry to Class Counsel and saying nothing further, unless otherwise required by law. The
27 Settlement Administrator will issue Class Representative an IRS Form 1099 in connection with
28 this payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes

on this payment and will indemnify and hold Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of this payment. The Parties agree that any amount awarded by the Court as the Service Payment to Plaintiff less than the requested amount shall not be a basis for Plaintiff or Class Counsel to void this Settlement. Should the Court approve a lesser amount for the Service Payment, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members. In the event of any appeal of the amount of the Service Payment (if any) approved by the Court, if, after the exhaustion of any such appellate review, additional amounts not awarded to Class Representative shall be added to the Net Settlement Amount to be distributed to the Participating Class Members.

(f) Class Counsel's Attorneys' Fees and Costs: Defendant agree not to oppose a request by Class Counsel to the Court for an award of attorneys' fees of one-third (33.33%) of the Settlement Amount, plus reasonable litigation costs not to exceed \$20,000 ("Attorneys' Fees and Cost Award"). For purposes of this Settlement, Defendant agrees not to oppose any contention by Class Counsel that attorneys' fees should be based on the common fund theory. The Attorneys' Fee and Cost Award shall be paid from the Gross Settlement Amount, and except for this award, Defendant shall have no further obligation to pay any attorneys' fees, costs, or expenses to Class Counsel. The ultimate amount of any Attorneys' Fees and Cost Award is to be determined by the Court, and Defendant is not agreeing to pay any specific amount other than the amount awarded by the Court. Should the Court approve a lesser amount than what is sought by Class Counsel, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members. Any Court order awarding less than the amount sought by Class Counsel shall not be grounds to rescind the Settlement Agreement or otherwise void the Settlement. Any order, finding, ruling, holding or proceeding relating to any such applications for any Attorneys' Fees and Cost Award, or any separate appeal from any separate order, finding, ruling, holding, or proceeding relating to them or reversal or modification of them, shall not operate to terminate or cancel this Settlement or otherwise affect or delay the finality of the final order and judgment or this Settlement. While Class Counsel retains the right to appeal the amount of any Attorneys' Fees and Cost Award determined by the Court, such appeal will delay

1 Defendant's obligation to make all payments set forth in this Agreement. All claims for attorneys'
2 fees and costs that Class Counsel, Plaintiff and/or Participating Settlement Class Members may
3 possess against Defendant are compromised and resolved in this Settlement and shall not be
4 affected by any appeal that Class Counsel may file. If, after the exhaustion of any such appellate
5 review, additional amounts not awarded to as attorneys' fees and costs shall be added to the Net
6 Settlement Amount to be distributed to the Participating Class Members and/or Aggrieved
7 Employees. The Settlement Administrator shall issue to Class Counsel an IRS Form 1099
8 reflecting the amount of attorneys' fees and costs awarded by the Court. Class Counsel agrees
9 that any allocation, division and/or distribution of any Court-approved Attorneys' Fees and Cost
10 Award between or among Class Counsel and any other attorney representing or claiming to
11 represent Plaintiff, any other Class Member, and/or any other Aggrieved Employee shall be the
12 sole responsibility of Class Counsel. Class Counsel agrees to release Defendant and the Released
13 Parties from any responsibility for or liability arising out of or related to the allocation, division
14 and/or distribution of any Court-approved Attorneys' Fees and Cost Award. The Parties agree
15 that, over and above the total amount of any attorneys' fees and costs awarded to Class Counsel
16 pursuant to this Paragraph 48(f), Plaintiff and Defendant shall each bear his/its own fees and costs
17 incurred or arising out of this Action, the negotiation, execution and/or implementation of this
18 Settlement, and/or the process of obtaining, administering or challenging a Preliminary Approval
19 Order and/or Final Approval. The Parties shall not seek reimbursement of any such fees and/or
20 costs from each other or any of the Released Parties.

21 (g) Settlement Administration Costs: The fees and other charges of the Settlement
22 Administrator will be paid from the Gross Settlement Amount, not to exceed \$11,000 based on
23 the all-in proposal provided by the Settlement Administrator and subject to Court approval, unless
24 approved by all Parties and the Court. Any unapproved amount of Settlement Administration
25 Costs shall be allocated to the Net Settlement Amount to be distributed to the Participating Class
26 Members.

27 (h) PAGA Settlement Amount: The Parties agree that the \$50,000 PAGA Settlement
28 Amount is allocated to the resolution of claims for PAGA Penalties and is to be paid from the

1 Gross Settlement Amount, subject to Court approval. Of this amount, \$37,500 (75%) shall be
2 paid to the LWDA in satisfaction of Plaintiff's claims for civil penalties under the PAGA and
3 \$12,500 (25%) will be included in the Individual Settlement Amounts, payable to the Aggrieved
4 Employees as set forth in Paragraph 48(c).

5 (i) Responsibility for Employer's Share of Payroll Taxes: As to that portion of the
6 Settlement Class Members' settlement proceeds that constitute wages, Defendant will be
7 separately responsible for only its share of any employer payroll taxes, including the employer
8 FICA, FUTA and SDI contributions, which shall not be paid from the Gross Settlement Amount.
9 The Settlement Administrator shall provide to Defendant an estimate of the employer's share of
10 payroll taxes within ten (10) calendar days of sending out the Notice. Upon calculation of each
11 Participating Class Member's Settlement Share, and at least three (3) calendar days after Final
12 Approval (if not sooner), the Settlement Administrator shall advise Defendant of the amount of
13 the employer's share of payroll taxes. Defendant will provide that amount to the Settlement
14 Administrator within fifteen (15) business days after the Effective Date. The Settlement
15 Administrator shall remit the employer payroll taxes due to the appropriate taxing authorities.

16 (j) Tax Liability: Class Counsel, Defendant, and Defendant's Counsel make no
17 representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder,
18 and Plaintiff and the Settlement Class Members are not relying on any statement or representation
19 by Class Counsel, Defendant, or Defendant's Counsel in this regard. Plaintiff and Participating
20 Class Members understand and agree that they will be solely responsible for the payment of any
21 taxes and penalties assessed on their respective Settlement Amounts described herein. Income tax
22 withholding will also be made pursuant to applicable federal, state, and/or local withholding codes
23 or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner
24 required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement.
25 If the Code, the regulations promulgated thereunder, or other applicable tax law, are changed after
26 the date of this Agreement, the processes set forth in this Section may be modified in a manner to
27 bring Defendant into compliance with any such changes.

(j) 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, THEIR, 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.

49. No Determination of Eligibility for Employee Benefits. Defendant will not use any Individual Settlement Amounts, or any other payments made pursuant to this Settlement, for determinations of eligibility for, or calculation of, any employee benefits (*e.g.*, vacations, sick leave, holiday pay, retirement plans, etc.) of the Participating Class Members, and Defendant will

not modify the Participating Class Members' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendant and/or any of the Released Parties, unless otherwise required by law. Rather, it is the Parties' intention that this Agreement will not affect any rights, contributions, or amounts to which any Settlement Class Members may be entitled under any benefit plans.

50. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under no circumstances will any portion of the Settlement Amount revert to Defendant. Settlement Class Members will not have to make a claim to receive an Individual Settlement Amount; Rather, Participating Class Members are entitled to 100% of the Net Settlement Amount. Distributions, in the form of Individual Settlement Amounts, will be made directly to each Participating Class Member. The Settlement Administrator shall be responsible for accurately and timely reporting any remittance obligations with respect to unclaimed funds as a result of a Participating Class Member not cashing an Individual Settlement Amount by the check cashing deadline, as set forth herein.

51. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable, and adequate, and will so represent the same to the Court.

D. Release by Plaintiff and the Participating Class Members

52. Upon the Effective Date of this Settlement, Plaintiff and each Participating Class Member, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the Released Class Claims for the Class Release Period. Upon the Effective Date of this Settlement, Plaintiff and each Participating Class Member, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will also forever completely release and discharge any and all third-party staffing agencies who employed them and assigned them to Defendant from any and all Released Class Claims arising from or

1 reasonably related to their assignments with Defendant for the Class Release Period. The third-
2 party staffing agencies released from such Released Class Claims include but are not limited to
3 Adecco, Manpower, Volt, SMX, Staffmark, Aerotek, and Populus.

4 53. Each Participating Class Member will be deemed to have made the foregoing
5 Release as if by manually signing it. The Notice will advise all Settlement Class Members of the
6 binding nature of the foregoing Release and such Notice shall have the same force and effect as
7 if the Agreement were executed by each Participating Class Member.

8 54. Upon the Effective Date of this Settlement, Plaintiff, the LWDA, and each
9 Aggrieved Employee, for themselves and for their respective spouses, domestic partners, marital
10 community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees,
11 executors, administrators, trustees, conservators, guardians, assigns, and representatives, will
12 forever completely release and discharge the Released Parties from the Released PAGA Claims
13 for the PAGA Release Period. Upon the Effective Date of this Settlement, Plaintiff, the LWDA,
14 and each Aggrieved Employee, for themselves and for their respective spouses, domestic partners,
15 marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees,
16 legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives,
17 will also forever completely release and discharge any and all third-party staffing agencies who
18 employed them and assigned them to Defendant from any and all Released PAGA Claims arising
19 from or reasonably related to their assignments with Defendant for the PAGA Release Period.
20 The third-party staffing agencies released from such Released PAGA Claims include but are not
21 limited to Adecco, Manpower, Volt, SMX, Staffmark, Aerotek, and Populus.

22 55. Each Aggrieved Employee and the LWDA will be deemed to have made the
23 foregoing Release as if by manually signing it. The PAGA Released Claims are released by Class
24 Representative in his representative capacity as authorized proxy and agent for the State of
25 California and the LWDA and as a private attorney general "aggrieved employee" acting on
26 behalf of himself and all Aggrieved Employees. The Notice will advise all Aggrieved Employees
27 of the binding nature of the foregoing Release and such Notice shall have the same force and
28 effect as if the Agreement were executed by each Aggrieved Employee.

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

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

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

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

24 **E. Release by Class Representative**

25 59. In addition to Class Representative's release of the Released Class Claims and
26 Released PAGA Claims, as discussed in Paragraphs 52 through 58 above, Class Representative
27 does hereby, for himself and for his respective spouses, domestic partners, marital community,
28 children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors,

1 administrators, trustees, conservators, guardians, assigns, and representatives, forever completely
2 release and discharge the Released Parties from any and all charges, complaints, claims,
3 liabilities, obligations, promises, agreements, contracts, controversies, damages, actions, causes
4 of action, suits, rights, demands, costs, losses, debts, and expenses (including for back wages,
5 statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys'
6 fees, and costs) of any nature whatsoever, from the beginning of time through the execution of
7 this Stipulation, whether known or unknown, suspected or unsuspected, concealed or hidden,
8 including but not limited to all claims arising out of, based upon, or relating to Class
9 Representative's employment with Defendant or the remuneration for or termination of such
10 employment (collectively, the "Class Representative's Released Claims"). Class Representative
11 further does hereby, for himself and for his respective spouses, domestic partners, marital
12 community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees,
13 executors, administrators, trustees, conservators, guardians, assigns, and representatives, forever
14 completely release and discharge Manpower and any other third-party staffing agencies who
15 employed him and assigned him to Defendant from Class Representative's Released Claims, of
16 any nature whatsoever, from the beginning of time through the execution of this Stipulation,
17 whether known or unknown, suspected or unsuspected, concealed or hidden, arising from or
18 reasonably related to Class Representative's assignment with Defendant.

19 60. Class Representative expressly waives and relinquishes all rights and benefits
20 afforded by Section 1542 of the Civil Code of the State of California and do so understanding and
21 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code of
22 the State of California states:

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

27 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and
28 complete release and discharge of all parties, Class Representative, and Class Counsel expressly

1 acknowledge that this Settlement Agreement is intended to include in its effect, without
2 limitation, all claims that Class Representative knew of, as well as all claims that he does not
3 know or suspect to exist in his favor against the Released Parties, or any of them, for the time
4 period from the beginning of time to the execution of this Settlement Agreement, and that this
5 Settlement Agreement contemplates the extinguishment of any such Class Representative's
6 Released Claims.

7 61. Notwithstanding anything in this Agreement to the contrary, nothing contained
8 herein shall constitute a waiver or release by Class Representative of any claim which cannot be
9 legally waived. Class Representative hereby agrees not to bring or participate in any class or
10 collective action against Defendant or any Released Party that asserts, in whole or in part, any
11 claims that arose before he signed this Agreement, whether or not such claims (if brought by him
12 individually) are released by this Agreement. Nothing in this Agreement prohibits Class
13 Representative from reporting possible violations of federal or state law or regulation to the
14 government, including but not limited to the EEOC, Department of Justice, Securities and
15 Exchange Commission, Congress, and any agency inspector general, or filing a charge with or
16 participating in an investigation or proceeding conducted by the EEOC or a comparable state or local
17 agency (collectively, any such activity shall be referred to as a "Government Report"). However, by
18 signing this Agreement, Class Representative understands and agrees that he is waiving the right
19 to receive any award of monetary or other benefits or any other legal or equitable relief
20 whatsoever, including but not limited to payment for attorneys' fees, costs or disbursements,
21 resulting from any such proceeding by Class Representative, anyone else on his behalf, or
22 otherwise, unless this Agreement is invalidated. Class Representative agrees to waive such
23 personal relief even if it is sought on his behalf by an agency, a governmental authority, or a
24 person claiming to represent him and/or any member of a class.

25 **F. Interim Stay of Proceedings**

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

1 **G. Notice Process**

2 63. Appointment of Settlement Administrator. The Parties have agreed to the
3 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
4 including mailing the Notice, using standard devices to obtain forwarding addresses,
5 independently reviewing and verifying documentation associated with any claims or opt-out
6 requests, resolving any disputes regarding the calculation or application of the formula for
7 determining the Individual Settlement Amounts, establishing QSF, drafting and mailing the
8 settlement checks to Participating Class Members, issuing Forms W-2 and 1099, reporting to
9 taxing authorities, due diligence, reporting and remittance obligations, and performing such other
10 tasks as set forth herein or as the Parties mutually agree or that the Court orders. The Settlement
11 Administrator shall also be responsible for: (a) calculating the Individual Settlement Amounts;
12 (b) withholding from the Individual Settlement Amounts; (c) remitting to applicable government
13 agencies sufficient amounts, if any, as may be owed by Participating Class Members for
14 applicable employee taxes; (d) calculating the employer's share of payroll taxes due; (e) remitting
15 such payroll taxes to the appropriate taxing authorities; (e) issuing to Plaintiff, Participating Class
16 Members and Class Counsel any Forms W-2, Forms 1099 and/or other tax forms as may be
17 required by law for all amounts paid pursuant to this Agreement; (f) setting up all necessary tax
18 accounts; (g) preparing and sending all tax notices, and (h) forwarding all payroll taxes, notices,
19 and penalties to the appropriate government authorities.

20 64. Disputes Regarding Settlement Administration. Any and all disputes relating to
21 administration of the Settlement by the Settlement Administrator (except for disputes regarding
22 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
23 over the terms and conditions of this Settlement Agreement, until Plaintiff and Defendant notify
24 the Court that all payments and obligations contemplated by this Settlement Agreement have been
25 fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in
26 good faith to resolve the dispute without the necessity of Court intervention.

27 65. Class Data. Within fourteen (14) days after entry of the Preliminary Approval
28 Order, Defendant shall provide the Class Data to the Settlement Administrator. The Settlement

1 Administrator will run a check of the Class Members' addresses against those on file with the
2 U.S. Postal Service's National Change of Address List. The Class Data provided to the Settlement
3 Administrator will not be provided to Class Counsel and it will remain confidential, it shall be
4 used solely to administer the Settlement, and it will not be used or disclosed to anyone, except as
5 required by applicable tax authorities, pursuant to Defendant's express written consent, or by
6 order of the Court. The Settlement Administrator will be required to sign and provide to
7 Defendant a Certification Regarding Confidential Discovery Materials and to be bound by a
8 Stipulated Protective Order as entered by the Court.

9 66. Notice. The Parties will jointly draft the Notice for submission to the Court for
10 approval. The Notice, as approved by the Court, shall be sent by the Settlement Administrator to
11 the Settlement Class Members, by first class mail, in English and Spanish, within seven (7)
12 calendar days following the Settlement Administrator's receipt of the Class Data. The Settlement
13 Administrator shall use standard devices, including a skip trace, to obtain forwarding addresses
14 of Settlement Class Members if any envelopes are returned.

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

24 68. Presumption Regarding Receipt of Notice. It will be conclusively presumed that
25 if an envelope has not been returned within thirty (30) days of the mailing that the Settlement
26 Class Member received the Notice.

27 69. Disputes Regarding Class Data. Settlement Class Members are deemed to
28 participate in the Settlement unless they timely opt-out. The Notice will inform Settlement Class

Members of his/her/their estimated Individual Settlement Amount and the number of Workweeks during the Class Period and during the PAGA Period. Settlement Class Members may dispute their Workweeks if they feel they were employed more workweeks in the Class Period in California than Defendant's records show by timely submitting evidence to the Settlement Administrator. Defendant's records will be presumed determinative absent reliable evidence to rebut Defendant's records, but the Settlement Administrator will evaluate the evidence submitted by the Settlement Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Workweeks and estimated Individual Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to render a final decision. Settlement Class Members will have until the Notice Response Deadline to dispute Workweeks, object, or opt out, unless extended by the Court. In the event that the Settlement Administrator increases the number of Workweeks for any Settlement Class Member, then the Settlement Administrator will recalculate the Participating Class Members' Individual Settlement Amounts; accordingly, in no event will Defendant be required to increase the Gross Settlement Amount.

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

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

(a) Requests for Exclusion from Participating Settlement Class. Any Settlement Class Member, other than Plaintiff, may request to be excluded from the Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator,

1 postmarked on or before the Notice Response Deadline. The Request for Exclusion should state
2 in words to this effect:

3 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN
4 THE VERDUGO V. NVENT THERMAL LAWSUIT. I UNDERSTAND
5 THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT
6 CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE
7 SETTLEMENT OF THE CLASS CLAIMS IN THIS LAWSUIT.

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

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

26 (c) Objections to Settlement of Class Claims. Any Settlement Class Member,
27 other than Plaintiff, may object to the terms of this Agreement with respect to the Class Claims
28 and may appear at the Final Approval Hearing and object whether or not they have filed a written
objection as outlined herein. To object, a Settlement Class Member shall inform the Settlement

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

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

1 judgment, motion for new trial, a motion under California Code of Civil Procedure section 473,
2 and extraordinary writs.

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

6 72. Settlement Class Members will have until the Notice Response Deadline to object
7 or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement
8 Administrator shall disclose jointly to Class Counsel and Defendant's counsel what objections or
9 Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class
10 Counsel or Defense Counsel. Within ten (10) days of the close of the Notice Response Deadline,
11 the Settlement Administrator will provide to Class Counsel and Defendant's counsel a final report
12 identifying all objections and Requests for Exclusion.

13 73. Funding of the Settlement Amount. Defendant shall make a one-time deposit into
14 the QSF of the Settlement Amount, as described in Paragraph 48(a) that is necessary to make all
15 payments required under this Settlement, within fifteen (15) business days after the Effective
16 Date, plus Defendant shall separately pay its share of employer payroll taxes as calculated and
17 directed by the Settlement Administrator. Upon Defendant's transfer of the Settlement Amount
18 and its share of employer payroll taxes to the QSF, Defendant, the Released Parties and
19 Defendant's Counsel shall have no further monetary liability or financial responsibility to Class
20 Counsel, Plaintiff, Settlement Class Members, the Settlement Administrator, or any vendors or
21 third parties employed by Plaintiff, Class Counsel, and/or the Settlement Administrator in
22 connection with the Action. Defendant shall not be obligated to make any payments contemplated
23 by this Agreement unless and until the Court enters the Final Approval Order and Final Judgment,
24 and after the Effective Date of the Agreement.

25 74. Distribution of Funds. No later than ten (10) calendar days after deposit of the
26 payment into the QSF, the Settlement Administrator will mail the payments to the Participating
27 Class Members, the payment for the attorneys' fees and costs to Class Counsel, any Service
28 Payment to the Class Representative, the PAGA Settlement Amount to the LWDA, and will pay

1 itself the Settlement Administration Costs.

2 75. Deadline for Cashing Settlement Checks. Participating Class Members shall have
3 180 calendar days after mailing by the Settlement Administrator to cash their settlement checks.
4 If any Participating Class Member's check is not cashed within that period, the check will be void
5 and a stop-payment will be issued. All unclaimed funds shall be sent to the California State
6 Controller's Office in the name of the class member pursuant to California's Unclaimed Property
7 Law. The Release will be binding upon all Participating Settlement Class Members, including
8 both those who do cash their checks within the 180-day period and those who do not cash their
9 checks within the 180-day period. The Settlement Administrator shall provide notice to Class
10 Counsel and Defense Counsel of any settlement checks remaining un-cashed for more than 180
11 calendar days. In the event that any settlement check is returned to the Settlement Administrator
12 within 180 days of mailing, the Settlement Administrator will, within five (5) business days of
13 receipt of the returned settlement check, perform a skip trace to locate the individual. If a new
14 address is located by these means, the Administrator will have ten (10) business days to re-issue
15 the check and will notify Defense Counsel and Class Counsel that a re-issued check has been sent.
16 Neither Defendant, Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator
17 will have any liability for lost or stolen settlement checks, forged signatures on settlement checks,
18 or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a
19 Participating Class Member notifies the Settlement Administrator that he/she/they believe that a
20 settlement check has been lost or stolen, the Settlement Administrator shall immediately stop
21 payment on such check. If the check in question has not been negotiated prior to the stop payment
22 order, the Settlement Administrator will issue a replacement check.

23 76. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff,
24 Class Counsel, or the Settlement Administrator based on mailings, distributions, payments, or
25 reports made in accordance with or pursuant to this Agreement. This provision does not, however,
26 prevent a Party from seeking enforcement of this Agreement.

27 77. Without prejudice to any other remedies, the Settlement Administrator shall agree
28 to be responsible for any breach of its obligations (whether committed by the Settlement

Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any breach committed by the Settlement Administrator or its agents.

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

78. Upon completion of the execution of this Settlement Agreement, Plaintiff will move the Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order accomplishing the following:

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

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

(c) Directing the mailing of the Notice by first class mail to the Settlement Class Members;

(d) Preliminarily approving this Settlement; and

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

Defendant shall not oppose Plaintiff's Motion for Preliminary Approval so long as it and the supporting papers filed therewith are consistent with the terms of this Agreement.

In accordance with section 2699(1)(2) of the California Labor Code, Plaintiff shall provide a copy of this Settlement Agreement to the LWDA on the same day that Plaintiff files his motion for Preliminary Approval of this Settlement with the Court.

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

80. Confidentiality and Publicity. Neither Plaintiff nor Class Counsel shall issue any press release or announcement of any kind related to the Settlement. Prior to the filing of the Motion for Preliminary Approval, Plaintiff and Class Counsel shall keep the terms of this

Settlement Confidential. From and after the filing of the Motion for Preliminary Approval, Plaintiff and Class Counsel may: (1) as required by law; (2) as required under the terms of this Settlement, or (3) as required under Class Counsel's duties and responsibilities as Class Counsel, comment regarding the specific terms of the Settlement. In all other cases, Plaintiff and Class Counsel agree to limit their statements regarding the terms of the Settlement, whether oral, written or electronic, to say the Action has been resolved and that Plaintiff and Class Counsel are satisfied with the Settlement terms. Nothing in this Section is intended to interfere with Class Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including but not limited to, communicating with the Settlement Class Members regarding the Settlement.

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

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

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

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

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

In accordance with section 2699(1)(3) of the California Labor Code, Plaintiff shall provide to the LWDA a copy of the Final Approval Order and Judgment entered by the Court in this action within ten (10) days after entry of the Final Approval Order and Judgment.

82. Waiver of Appeal. Subject to the Preliminary Approval Order and Final Approval, Plaintiff and all Class Members, except those Class Members who timely and properly intervene or file a motion to vacate the Judgment, expressly waive the right to appeal.

J. Voiding the Agreement

83. If the Court fails or refuses to issue the Final Approval Order or fails to approve any material condition of this Settlement Agreement which effects a fundamental change of the Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of either Party and the Parties shall be returned to their respective positions as if no settlement had been contemplated. Material conditions include any modification to the definition of the Settlement Amount, Settlement Class, Aggrieved Employees, Class Period, PAGA Period, Released Class Claims, Released PAGA Claims and/or Released Parties.

84. At Defendant's sole discretion, it shall have the right to withdraw from or rescind this Agreement at any time prior to Final Approval if: (a) ten percent (10%) or more of the Settlement Class Members timely submit a Request for Exclusion, provided that Defendant exercises this right of rescission, in writing, to Class Counsel within fifteen (15) calendar days after the Notice Response Deadline and the Settlement Administrator's notification to the Parties of the total number of those Settlement Class Members who have timely submitted a Request for Exclusion; (b) the settlement is construed by the Court in such a fashion that Defendant would be required to pay more than the Gross Settlement Amount; (c) the Court does not approve the Settlement; (d) the Court does not certify the Settlement Class, does not certify a class releasing the Released Claims against the Release Parties, or otherwise makes an order inconsistent with any of the terms of the Agreement; (e) Plaintiff or Class Counsel breach any term of this Agreement, or (f) the LWDA or any other state or governmental agency seeks to intervene or commences an enforcement action. Defendant shall have the option of terminating or modifying this Agreement without prejudice to its pre-settlement positions and defenses in the Action. If Defendant exercises any option under this Paragraph, it shall be relieved of any obligation to pay the Gross Settlement Amount or any other obligations from the Settlement. In such event, the Parties shall be restored to their respective positions in all respects as though the contemplated settlement never occurred. In the event of such a termination, no party may use the fact that the Parties agreed to settle, or the terms provided herein as an admission, as evidence, or for any other purpose, including, without limitation, to prove any liability or the amount of any sum allegedly

owed by any Party.

85. The Parties will fully support this Agreement's approval and enforcement and will defend the Agreement from any legal challenge. The Parties and their counsel shall not encourage any Settlement Class Member to opt-out from and/or object to this Settlement. The Parties specifically agree not to solicit opt-outs, directly or indirectly, through any means.

86. If the Settlement is voided or fails for any reason, Plaintiff and Defendant will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

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

K. Other Terms

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

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

90. Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

91. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement

1 Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement
2 Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and
3 Defendant's Counsel, take all necessary steps to secure the Court's preliminary and final approval
4 of the settlement and the final entry of judgment.

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

9 93. No Admission. The Parties enter into this Agreement to resolve the dispute that
10 has arisen between them and to avoid the burden, expense and risk of continued litigation.
11 Defendant denies any and all liability to Plaintiff, all Settlement Class Members and all Aggrieved
12 Employees in this Action, as to any and all causes of action that were asserted or that might have
13 been asserted in this Action. Nonetheless, Defendant wish to settle and compromise the matters
14 at issue in the Complaint to avoid further substantial expense and the inconvenience and
15 distraction of protracted and burdensome litigation. Defendant also have considered the
16 uncertainty and risks inherent in litigation, and without conceding any infirmity in the defenses
17 that they have asserted or could assert against Plaintiff, have determined that it is desirable and
18 beneficial that Plaintiff's claims be settled in the manner and upon the terms and conditions set
19 forth in this Agreement.

20 94. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
21 Order, nothing contained herein, nor the consummation of this Settlement Agreement, is to be
22 construed or deemed an admission of liability, culpability, negligence, or wrongdoing whatsoever
23 on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has
24 entered into this Settlement Agreement with the intention of avoiding further disputes and
25 litigation with the attendant inconvenience and expenses. This Settlement Agreement is a
26 settlement document, and it, along with all related documents such as the notices, and motions
27 for preliminary and final approval, shall, pursuant to California Evidence Code section 1152
28 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an

1 action or proceeding to approve the Settlement, and/or interpret or enforce this Settlement
2 Agreement. The stipulation for class certification as part of this Settlement Agreement is for
3 settlement purposes only and if, for any reason the Settlement is not approved, the stipulation will
4 be of no force or effect.

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

9 To the Settlement Class Members and Aggrieved Employees:

10 Mehrdad Bokhour
11 *mehrdad@bokhourlaw.com*
12 1901 Avenue of the Stars, Suite 450
13 Los Angeles, California 90067
Tel: (310) 975-1493; Fax: (310) 675-0861

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

14 To Defendant:

15 Carrie A. McAtee
16 *cmcatee@shb.com*
17 Tel: (816) 559-2512

Jason M. Richardson
jmrichardson@shb.com
555 Mission Street, Suite 2300
San Francisco, CA 94105
Tel: (415) 544-1966

18 96. Construction. The Parties hereto agree that the terms and conditions of this
19 Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the
20 Parties and that this Settlement Agreement shall not be construed in favor of or against any Party
21 by reason of the extent to which any Party or their counsel participated in the drafting of this
22 Settlement Agreement. Plaintiff and Defendant expressly waive the common-law and statutory
23 rule of construction that ambiguities should be construed against the drafter of an agreement and
24 further agree, covenant, and represent that the language in all parts of this Agreement shall be in
25 all cases construed as a whole, according to its fair meaning.
26
27
28

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

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

9 99. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
10 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide
11 written notice to the other Party and allow an opportunity to cure the alleged deficiencies, and
12 Plaintiff and Defendant agree to seek the help of the mediator identified in this Agreement to
13 resolve any dispute they are unable to resolve informally. During this period, the Parties shall
14 bear their own attorneys' fees and costs. This provision shall not apply to any legal action or other
15 proceeding instituted by any person or entity other than Plaintiff or Defendant.

16 100. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of
17 dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure
18 section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action
19 over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations
20 of this Agreement.

21 101. Enforceability. Pursuant to California Evidence Code section 1123(a) and (b), this
22 Agreement is intended by the Parties to be, and shall be, enforceable, binding and admissible in
23 a court of law.

24 102. Choice of Law. This Settlement Agreement shall be governed by and construed,
25 enforced, and administered in accordance with the laws of the State of California, without regard
26 to its conflicts-of-law rules.

27 103. Integration Clause. This Settlement Agreement contains the entire agreement
28 between the Parties relating to the settlement and transaction contemplated hereby, and all prior

or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

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

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

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

APPROVAL AND EXECUTION BY PARTIES:

Dated: January __, 2023
1/17/2023

CLASS REPRESENTATIVE:

DocuSigned by:
David Verdugo
FBD588AF22A848B...

David Verdugo

Dated: January __, 2023

DEFENDANT:

NVENT THERMAL, LLC

By:
Its:

APPROVED AS TO FORM:

CLASS COUNSEL

Dated: January ___, 2023
1/2/2023

FALAKASSA LAW, P.C.

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

Dated: January ___, 2023
1/2/2023

BOKHOUR LAW GROUP, P.C.

DocuSigned by:
Mehrdad Bokhour
D8D3643F271940F...
Mehrdad Bokhour
Attorneys for Plaintiff

Dated: January ___, 2023

DEFENDANT'S COUNSEL:

SHOOK, HARDY & BACON L.L.P.

Carrie A. McAtee
Jason M. Richardson
Attorneys for Defendant,
nVent Thermal, LLC

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2 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights
3 hereunder may be waived except in writing.

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16 fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties.
17 Electronic signatures shall have the same force and effect as an original.

18 **APPROVAL AND EXECUTION BY PARTIES:**

19 Dated: January __, 2023

CLASS REPRESENTATIVE:

20
21
22 David Verdugo

23 Dated: January 12, 2023

DEFENDANT:

24 NVENT THERMAL, LLC

25
26 
27 By: Scott E. Schraut
28 Its: Associate General Counsel

1 **APPROVED AS TO FORM:**

2 **CLASS COUNSEL**

3 Dated: January __, 2023

FALAKASSA LAW, P.C.

4
5
6 Joshua Falakassa
7 Attorneys for Plaintiff

8 Dated: January __, 2023

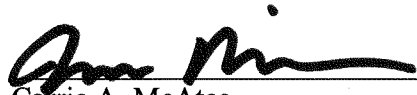
BOKHOUR LAW GROUP, P.C.

9
10
11 Mehrdad Bokhour
12 Attorneys for Plaintiff

13 Dated: January 12, 2023

DEFENDANT'S COUNSEL:

14 **SHOOK, HARDY & BACON L.L.P.**

15
16 
17 Carrie A. McAtee
18 Jason M. Richardson
19 Attorneys for Defendant,
20 nVent Thermal, LLC
21
22
23
24
25
26
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