

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT
AND RELEASE OF CLAIMS

This Class Action and PAGA Settlement Agreement is entered into by and between Plaintiff Alexander Nejat, individually, and on behalf of all members of the Settlement Class, and on behalf of the State of California with respect to PAGA Group Members, as defined below, and Defendants, as that term is defined below, and is approved by their respective counsel of record. This Settlement resolves the Action and the released claims as provided below subject to the Court's approval.

A. Definitions

1. "Action" or "Lawsuit" means and refers to the case entitled *Nejat v. MTN Inc. Environmental Services, et al.*, Case No. 22CV395032, filed in Santa Clara Superior Court.

2. "Agreement," "Settlement Agreement," "Settlement," or "Stipulation" means this Class Action and PAGA Settlement Agreement and Release of Claims, including any attached Exhibits.

3. "Class Claims" or "Released Class Claims" will include all claims, actions or causes of action alleged or that reasonably could have been alleged against Released Parties arising out of the facts, circumstances, and primary rights at issue in the operative Complaint and any amendments thereto during the Class Period, including all claims for: 1) failure to pay all minimum and overtime wages; 2) meal period violations; 3) rest period violations; 4) wage statement violations; 5) failure to timely pay wages during employment and upon separation of employment; and 6) Unfair Competition Law violations.

4. "Class Counsel" refers to Mehrdad Bokhour of Bokhour Law Group, P.C. and Jake Finkel of The Finkel Firm.

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

1 Period for each Settlement Class Member.

2 6. "Class Member" refers to any individual that falls under the Settlement Class,
3 PAGA Group Members, or both, as applicable.

4 7. "Class Period" and "Class Release Period" shall mean March 7, 2018, through
5 August 11, 2023.

6 8. "Complaint" refers to the Class Action and PAGA Representative Complaint filed
7 in the Santa Clara Superior Court action entitled *Nejat v. MTN Inc Environmental Services, et al.*,
8 Case No. 22CV395032.

9 9. "Court" means the Superior Court of the State of California for the County of
10 Santa Clara.

11 10. "Defendants" means and refers to defendants MTN Inc Environmental Services
12 and MES Inc Mountain Environmental.

13 11. "Defendants' Counsel" or "Defense Counsel" mean and refer to Stacey F. Blank
14 of Littler Mendelson, P.C.

15 12. "Effective Date" means the latter of: (a) sixty-one (61) days after the Court's final
16 approval of the settlement if no objections by or on behalf of Class Members have been filed and
17 not withdrawn; (b) the time for appeal has expired if an objection has been filed and no appeal
18 has been filed or withdrawn; or (c) five (5) business days after any appeal, writ, or other appellate
19 proceedings opposing the settlement have been finally and conclusively dismissed and the
20 settlement has been upheld with no right to pursue further remedies or relief.

21 13. "Final Approval" refers to the order of the Court granting final approval of this
22 Settlement Agreement and entering a judgment approving this Settlement on substantially the
23 same terms provided herein or as may be modified by subsequent agreement of the Parties or
24 order of the Court.

25 14. "Final Settlement Class" means, collectively, all Participating Class Members.

26 15. "Individual Settlement Amount" will have the meaning ascribed to it in Paragraph
27 50(d) below.

28 16. "Net Settlement Amount" will have the meaning ascribed to it in Paragraph 50(c)

below.

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

18. “Notice Response Deadline” is forty-five (45) calendar days from the date the Notice is mailed to the Class Members.

19. “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 72(c) below.

20. “PAGA” refers to the California Labor Code Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*

21. “PAGA Claims” or “Released PAGA Claims” will include any and all claims, actions, and causes of action for PAGA Penalties that were alleged, or reasonably could have been alleged reasonably could have been alleged against Released Parties during the PAGA Period arising out of the facts, circumstances, and primary rights at issue in the operative Complaint and any amendments thereto, and the LWDA notices, including all claims for the PAGA Notices, and ascertained in the course of the Actions, including, all claims for 1) failure to pay all minimum and overtime wages; 2) meal period violations; 3) rest period violations; 4) wage statement violations; 5) failure to timely pay wages during employment and upon separation of employment; and 6) Unfair Competition Law violations.

22. “PAGA Members” and “PAGA Group Members” refers to all current and former non-exempt employees who worked for any Defendant within the State of California at any time during the PAGA Period.

23. “PAGA Notice” refers to the notices sent by Plaintiff, by and through counsel to the LWDA and to Defendants, alleging that Defendants engaged in violations of the California Labor Code and California Wage Order(s).

24. “PAGA Penalties” will have the meaning ascribed to it in Paragraph 50(d) below.

25. “PAGA Period” and “PAGA Release Period” means August 13, 2020 through August 11, 2023.

1 26. “Participating Class Member” means a Class Member who does not submit a
2 timely and valid Request for Exclusion.

3 27. “Plaintiff” or “Class Representative” as used herein means Alexander Nejat.

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

6 29. “Preliminary Approval Order” means the judicial Order to be entered by the Court,
7 upon the application or motion of the Plaintiff, preliminarily approving this Settlement and
8 providing for the issuance of the Notice to the Settlement Class Members, an opportunity to opt
9 out of settlement of the Class Claims, an opportunity to submit timely objections to the terms of
10 this Settlement related to the Class Claims, and setting a hearing on the fairness of the terms of
11 Settlement, including approval of attorneys’ fees and costs.

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

16 31. “Release” shall mean the general release and discharge of all claims by Plaintiff,
17 the release and discharge of the Class Claims by all Participating Class Members, and the release
18 and discharge of all PAGA Claims by the State of California, LWDA, and PAGA Group
19 Members.

20 32. “Released Parties” shall refer to Defendants, together with their insurers, brands,
21 concepts, affiliates, subsidiaries, parent companies, predecessors, successors, assigns, employees,
22 officers, directors, agents, attorneys, administrators, representatives, heirs, estates, powers-of-
23 attorney, and any individual or entity that could be jointly liable with Defendants.

24 33. “Request for Exclusion” will have the meaning ascribed to it in Paragraph 72(a)
25 below.

26 34. “Service Payment” or “Service Award” means the amount approved by the Court
27 to be paid to Class Representative in addition to his Individual Settlement Amount as a
28 Participating Class Member.

35. "Settlement Administration Costs" means the costs payable from the Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, costs of notice to the Class, printing, distributing, and tracking documents for this Settlement, tax reporting, due diligence, reporting and remittance obligations, distributing the Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement Amount.

36. "Settlement Administrator" means and refers to CPT Group, Inc., which the Parties have mutually agreed will provide the Notice to the Settlement Class Members and distribute the settlement amounts as described in this Agreement.

37. "Settlement Amount" or "Gross Settlement Amount" will have the meaning ascribed to it in Paragraph 50(a) below.

38. "Settlement Class Members" refers to individual members of the Settlement Class.

39. "Settlement Class" refers to all current and former non-exempt employees who worked for any Defendant within the State of California at any time during the Class Period.

40. "Workweeks Worked" for each Class Member means any workweek during the Class Period and/or the PAGA Period, as applicable, in which the Class Member was employed by any Defendant as a non-exempt employee in California and worked at least one shift during the workweek for or on behalf of any Defendant. Workweeks Worked shall not include weeks where a Class Member only had sick time, vacation time, was on leave, or otherwise did not record any actual work time in Defendants' timekeeping system. Workweeks Worked will be calculated based on Defendants' business records.

B. General Terms

41. On or about March 7, 2022, Plaintiff filed a putative wage and hour class action complaint in the Court against Defendants.

42. In this class and PAGA action, Plaintiff alleged, on behalf of himself and all others similarly situated, that Defendants violated California state wage and hour laws and the California Business and Professions Code Section 17200 *et seq.* as a result of Defendants' California wage and hour policies and practices. Specifically, Plaintiff's allegations included: 1) failure to pay all

1 minimum and overtime wages; 2) meal period violations; 3) rest period violations; 4) wage
2 statement violations; 5) failure to timely pay wages during employment and upon separation of
3 employment; and 6) Unfair Competition Law violations; and (7) PAGA penalties.

4 43. Defendants deny Plaintiff's claims and allegations and contend that the Action is
5 not suitable for class certification and/or representative treatment.

6 44. Plaintiff believes he can proceed with his class and representative claims, that the
7 Action is meritorious, and that class certification is appropriate.

8 45. Class Counsel conducted extensive investigation, informal discovery, review and
9 analysis of data and documents, including Defendants' written policies and practices and the
10 production of payroll and timekeeping records for Class Members, and evaluation concerning the
11 claims in the Action.

12 46. On August 11, 2023, the Parties participated in mediation before Tripper Ortman,
13 Esq., a highly experienced class action mediator resulting in settlement of the Action
14 memorialized in this Settlement Agreement.

15 47. Class Counsel is both knowledgeable about and has done extensive research with
16 respect to the applicable law and potential defenses to the claims of the Class Members. Class
17 Counsel has diligently pursued an investigation of the Class Members' claims against Defendants.
18 Based on the foregoing data, and on their own independent investigation and evaluation, Class
19 Counsel is of the opinion that the settlement with Defendants for the consideration and on the
20 terms set forth in this Settlement Agreement is fair, reasonable, and adequate, and is in the best
21 interest of the Class Members in light of all known facts and circumstances, including the risk of
22 significant delay and uncertainty associated with litigation, various defenses asserted by
23 Defendants, and numerous potential appellate issues.

24 48. Defendants deny each of the allegations and claims asserted against them in the
25 Action. Nevertheless, Defendants have concluded that, because of the substantial expense of
26 defending against the Action, the length of time necessary to resolve the issues presented herein,
27 the inconvenience involved, and the concomitant disruption to their business operations, it is in
28 Defendants' best interest to accept the terms of this Agreement. The Parties agree that neither the

Parties' Settlement, this Agreement, nor the acts to be performed or judgments to be entered pursuant to the terms of the Settlement Agreement, shall be construed as an admission by Defendants of any wrongdoing or violation of any statute or law or liability on the claims or allegations in the Action or in any other action.

49. Stipulation for Class Certification and Representative Treatment. For purposes of effectuating a settlement according to the terms of this Agreement only, Defendants will stipulate that: (a) the Settlement Class Members described herein who do not Request Exclusion from the Settlement Class may be conditionally certified as a settlement class, and (b) the PAGA Group Members may be treated as a single group appropriate for representative treatment. This stipulation to certification and representative treatment is in no way an admission that class certification and/or representative treatment is otherwise 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. Defendants expressly reserve their right to oppose representative treatment, class certification and/or proactively move to deny certification should the Settlement be modified or reversed on appeal or otherwise not become final. Defendants also do not waive any defenses, including the defense of arbitration, in entering into this Settlement, and expressly reserve their right to raise such defenses should the Settlement be modified or reversed on appeal or otherwise not become final. 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

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

(a) Gross Settlement Amount: The Parties agree to settle this Action for Two Hundred Six Thousand and Five Hundred Dollars (\$206,500) ("the Settlement Amount"). The Settlement

Amount is the maximum amount that will be paid by Defendants, and includes Individual Settlement Amounts, the Attorneys' Fees and Cost Award, the Service Payment to Class Representative, all Settlement Administration Costs, and payment to the Labor Workforce Development Agency (LWDA) for PAGA Penalties. Defendants shall separately pay the employers' share of applicable payroll taxes.

(b) The Settlement is based on Defendants' representation that there were approximately 86 Class Members that worked 2,950 weeks worked through the Class Period. In the event that the actual number of workweeks worked by all Class Members during the Class Period increases by 10% or more, then Defendants shall increase the Gross Settlement Amount on a proportional basis (*i.e.*, if there was a 11% increase in the number of workweeks, Defendants will increase the maximum settlement amount by 1%).

(c) Net Settlement Amount: The "Net Settlement Amount" is defined as the Settlement Amount, less the Attorneys' Fees and Cost Award as approved and awarded by the Court, the Service Payment to Class Representative as approved and awarded by the Court, and the Settlement Administration Costs. In the event that the Court reduces the Attorneys' Fees and Cost Award, Service Payment, Settlement Administration Costs, the Net Settlement Amount shall be increased or decreased accordingly.

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

i. PAGA Amount: \$5,000 of the Gross Settlement Amount has been designated to the PAGA Claims as "PAGA Penalties." Twenty-five percent (25%) or \$1,250, shall be paid out to PAGA Group Members, while seventy-five percent (75%), or \$3,750, will be paid to the LWDA. Each PAGA Member shall receive a portion of the \$1,250 proportionate to their number of Workweeks Worked during the PAGA Period compared to the total number of Workweeks Worked by all PAGA Members during the PAGA Period. PAGA Group Members will have their settlement amount for the Released PAGA Claims paid one hundred percent

(100%) as civil penalties for which no taxes will be withheld and for which a Form 1099 will be issued by the Settlement Administrator.

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

(e) Allocation of Individual Settlement Amounts: The Individual Settlement Amounts will be allocated for tax purposes based on the allegations in the Action as follows: twenty-five percent (25%) will be as attributed to wages subject to withholding of all applicable local, state, and federal taxes; and seventy five percent (75%) will be attributed as penalties and interest from which no taxes will be withheld. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Settlement Amounts. The Settlement Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the penalties and interest allocations.

(f) Service Payment to Plaintiff: The amount awarded to Plaintiff as a Service Payment will be set by the Court in its discretion, not to exceed \$7,500. Defendants agree not to oppose this request. The Service Payment to Plaintiff will be paid out of the Gross Settlement Amount. Plaintiff will be issued IRS Form 1099 in connection with this payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on this payment. The Parties agree that any amount awarded by the Court as the Service Payment to Plaintiff less than the requested amount shall not be a basis for Plaintiff or Class Counsel to void this Stipulation. Should

1 the Court approve a lesser amount for the Service Payment, the difference shall be added to the
2 Net Settlement Amount to be distributed to the Participating Class Members. In the event of any
3 appeal of the amount of the Service Payment (if any) approved by the Court, if, after the
4 exhaustion of any such appellate review, additional amounts not awarded to Class Representative
5 shall be added to the Net Settlement Amount to be distributed to the Participating Class Members.

6 (g) Attorneys' Fees and Costs: Defendants agree not to oppose a request by Class
7 Counsel to the Court for an award of attorneys' fees of one-third (33.33%) of the Settlement
8 Amount (approximately \$68,333.33), plus reasonable litigation costs not to exceed \$15,000
9 ("Attorneys' Fees and Cost Award"). For purposes of this Settlement, Defendants agree not to
10 oppose any contention by Class Counsel that attorneys' fees should be based on the common fund
11 theory. The Attorneys' Fee and Cost Award shall be paid from the Gross Settlement Amount, and
12 except for this award, Defendants shall have no further obligation to pay any attorneys' fees,
13 costs, or expenses to Class Counsel. Should the Court approve a lesser amount than what is sought
14 by Class Counsel, the difference shall be added to the Net Settlement Amount to be distributed to
15 the Participating Class Members. Any Court order awarding less than the amount sought by Class
16 Counsel shall not be grounds to rescind the Settlement Agreement or otherwise void the
17 Settlement. In the event of any appeal of the amount of the awards of attorneys' fees and costs (if
18 any) approved by the Court, final funding and administration of the portion of the attorneys' fees
19 and/or costs award in dispute will be segregated and stayed pending the exhaustion of appellate
20 review. If, after the exhaustion of any such appellate review, additional amounts not awarded to
21 as attorneys' fees and costs shall be added to the Net Settlement Amount to be distributed to the
22 Participating Class Members and/or PAGA Group Members. The Settlement Administrator shall
23 issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs
24 awarded by the Court. Class Counsel agrees that any allocation of fees between or among Class
25 Counsel and any other attorney representing or claiming to represent the Class Members shall be
26 the sole responsibility of Class Counsel.

27 (h) Settlement Administration Costs: The fees and other charges of the Settlement
28 Administrator ("Settlement Administration Costs") will be paid from the Gross Settlement

1 Amount, not to exceed \$5,000 subject to Court approval, unless approved by all Parties and the
2 Court.

3 (j) Tax Liability: Class Counsel, Defendants, and Defendants' Counsel make no
4 representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder,
5 and Plaintiff and the Class Members are not relying on any statement or representation by Class
6 Counsel, Defendants, or Defendants' Counsel in this regard. Plaintiff and Final Settlement Class
7 Members understand and agree that they will be solely responsible for the payment of any taxes
8 and penalties assessed on their respective Settlement Amounts described herein and assume full
9 responsibility and liability for any employee taxes owed on their Individual Settlement Amounts.
10 Income tax withholding will also be made pursuant to applicable federal, state, and/or local
11 withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and
12 in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with
13 this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law,
14 are changed after the date of this Agreement, the processes set forth in this Section may be
15 modified in a manner to bring Defendants into compliance with any such changes.

16 51. No Credit Towards Benefit Plans. The Individual Settlement Payments and
17 Individual PAGA Payments made to Participating Class Members and/or PAGA Group Members
18 under this Settlement, as well as any other payment made pursuant to this Settlement, will not be
19 utilized to calculate any additional benefits under any employee benefit plan, policy, or bonus
20 program sponsored by Defendants to which any Class Members may be eligible, including, but
21 not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation
22 plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention
23 that this Settlement Agreement will not affect the rights, contributions, or amounts to which any
24 Class Member may be entitled under any employee benefit plans, policy, or bonus program. Any
25 payments made under the terms of this Settlement shall not be applied retroactively, currently or
26 on a going forward basis as salary, earnings, wages, or any other form of compensation for the
27 purposes of Defendants' benefit plans, policies, or bonus programs. Defendants retain the right
28 to modify the language of their benefit plan, policies and bonus programs to effect this intent and

1 to make clear that any amounts paid pursuant to this Settlement are not for “hours worked,” “hours
2 paid,” “hours of service,” or any similar measuring term as defined by applicable plans, policies
3 and bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and
4 that additional contributions or benefits are not required by this Settlement.

5 52. “Non-Reversionary” Settlement. This is a “non-reversionary” settlement. Under
6 no circumstances will any portion of the Settlement Amount revert to Defendants. Final
7 Settlement Class Members will not have to make a claim to receive an Individual Settlement
8 Amount. Distributions, in the form of Individual Settlement Amounts, will be made directly to
9 each Final Settlement Class Member. The Settlement Administrator shall be responsible for
10 accurately and timely reporting any remittance obligations with respect to unclaimed funds as a
11 result of a Final Settlement Class Member not cashing an Individual Settlement Amount by the
12 check cashing deadline, as set forth in Paragraph 76 of this Agreement.

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

15 **D. Release As to All Participating Settlement Class Members**

16 54. Upon the Effective Date of this Settlement, Plaintiff and all Participating
17 Settlement Class Members, for themselves and for their respective spouses, domestic partners,
18 marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees,
19 legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives,
20 will forever completely release and discharge the Released Parties from the Released Class
21 Claims for the Class Period.

22 55. Plaintiff and Defendants intend that the Settlement described in this Agreement
23 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
24 arbitration, demand, or other action of any kind, by each and all of the Participating Class
25 Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released
26 Class Claims. The Settlement Class Members shall be so notified in the Notice. This Paragraph
27 does not apply to any Settlement Class Member who timely and validly opts out of the Settlement
28 for purposes of Class Claims. Plaintiff, on behalf of himself and the Participating Settlement Class

Members, acknowledges and agrees that the claims for 1) failure to pay all minimum and overtime wages; 2) meal period violations; 3) rest period violations; 4) wage statement violations; 5) failure to timely pay wages during employment and upon separation of employment; and 6) Unfair Competition Law violations are disputed. Plaintiff, on behalf of himself and the Participating Settlement Class Members, acknowledges and agrees that California Labor Code Section 206.5 is not applicable to the Parties hereto. Section 206.5 provides in pertinent part as follows:

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

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

E. Release as to LWDA, State of California and PAGA Members

57. Upon the Effective Date of this Settlement, Plaintiff, the LWDA, the State of California, and PAGA Group Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, shall waive, release, and discharge Released Parties of any and all Released PAGA Claims. A Class Member's submission of Request for Exclusion will have no effect on their release of the Released PAGA Claims. In other words, even if a Class Member submits a Request for Exclusion, they will still be bound by the release set forth in this Paragraph, and there shall be no opting out for PAGA Group Members.

58. Plaintiff and Defendants intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by the PAGA Members, State of California, and the LWDA to obtain a recovery based on, arising out of, and/or related to any and all of the Released PAGA Claims.

59. Each PAGA Group Member, the State of California, and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

F. General Release by Plaintiff (Class Representative) Only

60. As a material inducement to Defendants to enter into this Settlement Agreement, in addition to Plaintiff's release of the Released Class Claims and Released PAGA Claims, Plaintiff does hereby, for himself and for his respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, forever completely release and discharge the Released Parties from any and all claims, transactions, or occurrences against Released Parties—which will include without limitation any and all claims which in any way relate to Plaintiff's employment with Defendant, under State or Federal law, in tort, common law, statute, contract, or equity, whether pled in the Complaint or not, including but not limited to any claims under the Fair Labor Standards Act ("FLSA"), Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act ("ADA"), Fair Employment and Housing Act ("FEHA"), Age Discrimination in Employment Act ("ADEA"), 42 U.S.C. § 1981, the Equal Pay Act, the Family and Medical Leave Act, the California Family Rights Act, Executive Order 11246 and 11141, the California Constitution, the Rehabilitation Act of 1973, the Private Attorneys General Act ("PAGA"), California Labor Code, any Industrial Welfare Commission Wage Order, and the alleged violation or breach of any other state or federal statute, rule, and or regulation—now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time to the date of execution hereof whether known or unknown, suspected or unsuspected, concealed or hidden, including but not limited to all claims arising out of, based upon, or relating to Plaintiff's employment with Defendants or the remuneration for or termination of such employment.

61. Without limiting the generality of the foregoing, Plaintiff also expressly releases all claims or rights against Released Parties arising out of or relating to alleged violations of any contracts, express or implied (including but not limited to any contract of employment); any contract or covenant of good faith and fair dealing (express or implied); any tort, including but not limited to, negligence, fraud, misrepresentation and violation of California Labor Code section 970, negligent infliction of emotional distress, intentional infliction of emotional distress,

1 defamation; any “wrongful discharge,” “constructive discharge;,” “retaliation” claims and claims
2 for violation of public policy; any legal restrictions on Defendants’ right to discharge employees;
3 unfair competition and unfair business practices pursuant to Business and Professions Code
4 Section 17200 *et seq.*, interest and costs pursuant to California Civil Code Section 3287 and
5 California Labor Code Section 218.6, statutory or common law rights to attorneys’ fees and costs,
6 and all similar causes of action, including but not limited to, any claim for restitution, equitable
7 relief, interest, penalties, costs, or attorneys’ fees in connection with any of the foregoing.

8 62. Plaintiff expressly waives and relinquishes all rights and benefits afforded by
9 Section 1542 of the Civil Code of the State of California and does so understanding and
10 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code of
11 the State of California states:

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

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

25 **F. Interim Stay of Proceedings**

26 63. The Parties agree to the stay of all proceedings in the Action except such
27 proceedings necessary to implement and complete the Settlement, pending final approval of the
28 Settlement by the Court.

1 **G. Notice Process**

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

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

23 66. Class Data. Within seven (7) days after entry of the Preliminary Approval Order,
24 Defendants shall provide the Class Data to the Settlement Administrator. The Settlement
25 Administrator will run a check of the Class Members' addresses against those on file with the
26 U.S. Postal Service's National Change of Address List. The Class Data provided to the Settlement
27 Administrator will not be provided to Class Counsel and it will remain confidential, it shall be
28 used solely to administer the Settlement, and it will not be used or disclosed to anyone, except as

1 required by applicable tax authorities, pursuant to Defendants' express written consent, or by
2 order of the Court. The Settlement Administrator must maintain the Class Data in confidence, use
3 the Class Data only for purposes of this Settlement and for no other purpose, and restrict access
4 to the Class Data to Settlement Administrator employees who need access to the Class Data to
5 effect and perform under this Settlement.

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

11 68. Returned Notices. The Settlement Administrator will take steps to ensure that the
12 Notice is received by all Settlement Class Members, including utilization of the National Change
13 of Address Database maintained by the United States Postal Service to review the accuracy of
14 and, if possible, update a mailing address. If no forwarding address is provided, the Settlement
15 Administrator will promptly attempt to determine the correct address using a skip-trace, or other
16 search using the name, address, and/or Social Security number of the Class Member involved and
17 will then perform a single re-mailing. In the event the procedures in this Paragraph are followed
18 and the intended recipient of a Notice Packet still does not receive the Notice Packet, the Class
19 Member shall be bound by all terms of the Settlement and any Judgment entered by the Court if
20 the Settlement is approved by the Court. Notices will be re-mailed to any Settlement Class
21 Member for whom an updated address is located within ten (10) calendar days following both the
22 Settlement Administrator learning of the failed mailing and its receipt of the updated address. The
23 Notice shall be identical to the original Notice, except that it shall notify the Settlement Class
24 Member that the exclusion (opt-out) request or objection must be returned by the later of the
25 Notice Response Deadline or fifteen (15) days after the remailing of the Notice.

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

1 70. Disputes Regarding Class Data. The Notice will inform Settlement Class Members
2 of their estimated Individual Settlement Amount and the number of Workweeks Worked during
3 the Class Period and during the PAGA Period. Settlement Class Members may dispute their
4 Workweeks Worked if they feel they were employed more workweeks in the Class Period in
5 California than Defendants' records show by timely submitting evidence to the Settlement
6 Administrator. Defendants' records will be presumed determinative absent reliable evidence to
7 rebut Defendants' records, but the Settlement Administrator will evaluate the evidence submitted
8 by the Settlement Class Member and provide the evidence submitted to Class Counsel and
9 Defense Counsel (with identifying information other than names redacted) who agree to meet and
10 confer in good faith about the evidence to determine the Class Member's actual number of
11 Workweeks Worked and estimated Individual Settlement Amount. If Class Counsel and Defense
12 Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to
13 render a final decision. Settlement Class Members will have until the Notice Response Deadline
14 to dispute Workweeks Worked, unless extended by the Court. In the event that the Settlement
15 Administrator increases the number of Workweeks Worked for any Settlement Class Member,
16 then the Settlement Administrator will recalculate the Participating Class Members' Individual
17 Settlement Amounts; accordingly, in no event will Defendants be required to increase the Gross
18 Settlement Amount.

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

22 72. Settlement Class Members' Rights. Each Settlement Class Member will be fully
23 advised of the Settlement, the ability to object to the provisions in the Settlement related to the
24 Class Claims, and the ability to opt out or request exclusion from the Class Claims provisions of
25 the Settlement. The Notice will inform the Settlement Class Members of the Court-established
26 deadlines for filing objections or requesting exclusion from the Class Claims provisions of the
27 Settlement in accordance with the following guidelines:
28

1 (a) Requests for Exclusion from Participating Settlement Class. Any
2 Settlement Class Member, other than Plaintiff, may request to be excluded from the Participating
3 Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator,
4 postmarked on or before the Notice Response Deadline. The Request for Exclusion should state
5 in words to this effect:

6 I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN
7 THE NEJAT V. MTN LAWSUIT. I UNDERSTAND THAT IF I ASK TO
8 BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT
9 RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE CLASS
CLAIMS IN THIS LAWSUIT.

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

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

(c) Objections to Settlement of Class Claims. Any Settlement Class Member, other than Plaintiff, may object to the terms of this Agreement with respect to the Class Claims 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 Administrator, in writing, of their objection, which must be postmarked by the Notice Response Deadline at the address set forth in the Notice. Such objection shall include the full name, address, telephone number, and dates of employment with Defendants of the Objecting Settlement Class Member, the case name and number, the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by counsel, the name and address of their counsel. If any Objecting Settlement Class Member wishes to speak at the Final Approval Hearing with respect to the Class Claims, that Objecting Settlement Class Member's written submission should include a request to be heard, and the Court will determine whether Objecting Settlement Class Members will be permitted to speak. The Settlement Administrator shall provide objections, if any, to Class Counsel and Defense Counsel within three (3) days of receipt, and the Settlement Administrator shall attach the same to its declaration of due diligence it files with the Court prior to the Final Approval Hearing. Any Participating Class Member who files an objection remains eligible to receive monetary compensation from the Settlement. Plaintiff and Defendants shall not be responsible for any fees, costs, or expenses incurred by any Class Member and/or their counsel related to any objections to the Settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment under Code of Civil Procedure section 663. Settlement Class Members and PAGA Members may not object to or opt out of the Settlement with respect to the PAGA Claims. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement or appeal from the Judgment. To the extent a timely Notice of Objection is withdrawn before final approval, such an objection shall be treated as though no objection has been made.

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

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

12 73. Settlement Class Members will have until the Notice Response Deadline to object
13 or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement
14 Administrator shall disclose jointly to Class Counsel and Defendants' counsel what objections or
15 Requests for Exclusion were timely submitted on a weekly basis (with personal identifying
16 information other than names redacted), and upon the request of Class Counsel or Defense
17 Counsel. If a Class Member submits both a Request for Exclusion and an objection, only the
18 Request for Exclusion will be accepted and the objection will be void.

19 74. Funding of the Settlement Amount. Defendants shall make a one-time deposit into
20 the QSF of the Settlement Amount, as described in Paragraph 50(a) that is necessary to make all
21 payments required under this Settlement, within thirty (30) days after the Effective Date, plus
22 Defendants shall separately pay its share of employer payroll taxes as calculated and directed by
23 the Settlement Administrator.

24 75. Distribution of Funds. No later than seven (7) calendar days after deposit of the
25 payment into the QSF, the Settlement Administrator will mail the payments to the Participating
26 Class Members, the payment for the Attorneys' Fees and Cost Award to Class Counsel, any
27 Service Payment to the Class Representative, the payment to the LWDA for PAGA penalties, and
28 will pay itself the Settlement Administration Costs.

1 76. Deadline for Cashing Settlement Checks. Final Settlement Class Members shall
2 have 180 calendar days after mailing by the Settlement Administrator to cash their settlement
3 checks. If any Final Settlement Class Member's check is not cashed within that period, the check
4 will be void and a stop-payment will be issued. All unclaimed funds shall be donated to State Bar
5 of California – Justice Gap Fund pursuant to the terms of Code of Civil Procedure section 384(b),
6 and the Settlement Administrator shall issue the unclaimed funds to the *cy pres* within
7 approximately 215 days of the mailing of the settlement checks. In the event that any settlement
8 check is returned to the Settlement Administrator within 180 days of mailing, the Settlement
9 Administrator will, within five (5) business days of receipt of the returned settlement check,
10 perform a skip trace to locate the individual. If a new address is located by these means, the
11 Administrator will have ten (10) business days to re-issue the check and will notify Defense
12 Counsel and Class Counsel that a re-issued check has been sent. Neither Defendants, Defense
13 Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator will have any liability for lost
14 or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation
15 of settlement checks. Without limiting the foregoing, in the event a Final Settlement Class
16 Member notifies the Settlement Administrator that they believe a settlement check has been lost
17 or stolen, the Settlement Administrator shall immediately stop payment on such check. If the
18 check in question has not been negotiated prior to the stop payment order, the Settlement
19 Administrator will issue a replacement check.

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

24 78. Without prejudice to any other remedies, the Settlement Administrator shall agree
25 to be responsible for any breach of its obligations (whether committed by the Settlement
26 Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from
27 and against all liabilities, claims, causes of action, costs and expenses (including legal fees and
28 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

79. Within 30 days of execution of this 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.

80. Class Counsel will provide Defendants' Counsel the opportunity to review the motion for Preliminary Approval and provide input at least five (5) days before the motion is filed with the Court.

81. In conjunction with the Preliminary Approval Hearing, Plaintiff will submit this Settlement Agreement, and will include the proposed Notice Packet, which will include the Notice of Class Action Settlement document and proposed Mailing Envelope.

82. 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.

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

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

84. In connection with the Final Approval Hearing provided for in this Settlement

1 Agreement, Class Counsel shall submit a proposed Final Approval Order:

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

4 (b) Approving Class Counsel's application for an award of attorneys' fees and
5 reimbursement of litigation costs and expenses consistent with the Attorneys' Fees and Costs
6 Award, the Service Payment to the Class Representative, and the payment to the Settlement
7 Administrator for costs of administering the settlement; and

8 (c) Entering judgment approving settlement, thereby permanently barring all
9 Participating Class Members from prosecuting any Released Class Claims against any of the
10 Released Parties and permanently barring all PAGA Group Members, the LWDA, and the State
11 of California from prosecuting any Released PAGA Claims against any of the Released Parties.

12 **J. Voiding the Agreement**

13 85. If the Court fails or refuses to issue the Final Approval Order or fails to approve
14 any material condition of this Settlement Agreement which effects a fundamental change of the
15 Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to
16 all Parties herein at the option of either Party. The Court's decision to award less than the amounts
17 requested for the Service Payment, Attorneys' Fees and Costs Award, and/or Settlement
18 Administration Costs shall not constitute a material modification to the Agreement within the
19 meaning of this paragraph.

20 86. In the event that fifteen percent (15%) or more of the Class Members timely submit
21 a Request for Exclusion, Defendants retain the exclusive right, but not the obligation, to jointly
22 and unanimously elect to withdraw from and terminate the Settlement and return all Parties back
23 to their same position before the Settlement was reached and the Settlement Agreement was
24 entered into. In the event that Defendants exercise such right under this Section, Plaintiff and
25 Defendants shall resume the Action. Defendants must notify Class Counsel and the Court in
26 writing of such a joint and unanimous election to withdraw and terminate the Settlement no later
27 than seven (7) business days after receiving written notice from the Settlement Administrator that
28 the number of opt outs equals or exceeds fifteen percent (15%) of the Settlement Class. In the

event of Defendants' withdrawal, no Party may use the fact that the Parties agreed to the Settlement for any reason, and Defendants shall pay all administration expenses incurred through the date of its termination of the Settlement.

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

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

K. Other Terms

89. 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.

90. 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.

91. Parties' Authority. The signatories hereto represent that they are fully authorized to execute this Settlement Agreement on behalf of the Party for whom or which that individual sign.

92. 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 Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendants and

1 Defendants' Counsel, take all necessary steps to secure the Court's preliminary and final approval
2 of the settlement and the final entry of judgment.

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

7 94. No Admission of Liability. Defendants deny any and all liability to Plaintiff and/or
8 any Class Member in this Action, as to any and all causes of action that were asserted or that
9 might have been asserted in this Action. Nonetheless, Defendants wish to settle and compromise
10 to avoid further substantial expense and the inconvenience and distraction of protracted litigation.
11 Defendants also have considered the uncertainty and risks inherent in litigation, and without
12 conceding any infirmity in the defenses that they have asserted or could assert against Plaintiff,
13 have determined that it is desirable and beneficial that Plaintiff's claims be settled in the manner
14 and upon the terms and conditions set forth in this Agreement.

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

27 96. Notices. Unless otherwise specifically provided herein, all notices, demands, or
28 other communications given hereunder shall be in writing and shall be deemed to have been duly

1 given as of the third business day after mailing by United States registered or certified mail, return
2 receipt requested, addressed:

3 To the Settlement Class Members and PAGA Group Members:

4 Mehrdad Bokhour
5 *mehrdad@bokhourlaw.com*
6 1901 Avenue of the Stars, Suite 450
7 Los Angeles, California 90067
8 Tel: (310) 975-1493

9 To Defendants:

10 Stacey F. Blank
11 *sblank@littler.com*
12 2049 Century Park East, 5th Floor
13 Los Angeles, CA 0067
14 Tcl: (310) 553-0308

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

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

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

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

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

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

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

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

24 105. Binding on Successors and Assigns. This Settlement Agreement shall be binding
25 upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors,
26 administrators, successors, and assigns.

27 106. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
28 because the members of the Settlement Class are numerous, it is impossible or impractical to have

each Final Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Final Settlement Class Member.

107. 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:

9/10/2023

Dated: September __, 2023

CLASS REPRESENTATIVE:

DocuSigned by:

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ALEXANDER NEJAT

Dated: September 28, 2023

DEFENDANTS:

MTN INC ENVIRONMENTAL SERVICES


By Michael Steel

Its Director of Operations

Dated: September 28, 2023

MES INC MOUNTAIN ENVIRONMENTAL


By Michael Steel

Its Director of Operations

APPROVED AS TO FORM:

9/11/2023
Dated: September ___, 2023

CLASS COUNSEL

THE FINKEL FIRM

DocuSigned by:

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Jake D. Finkel
Attorneys for Plaintiff

9/12/2023
Dated: September ___, 2023

BOKHOUR LAW GROUP, P.C.

DocuSigned by:

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Mehrdad Bokhour
Attorneys for Plaintiff

Dated: October 2, 2023

DEFENDANTS' COUNSEL:

LITTLER MENDELSON, P.C.


Stacey F. Blank
Attorneys for Defendants MTN Inc Environmental Services
and MES Inc Mountain Environmental