

PAGA SETTLEMENT AGREEMENT

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This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Floyd Johnson (“Plaintiff”) and Field Nation, LLC and Mynul Khan (“Defendants” or “Field Nation”). The Agreement refers to Plaintiff, Field Nation, LLC, and Mynul Khan as “Parties” or individually as “Party.”

I. DEFINITIONS

A. “Action”

Plaintiff’s PAGA lawsuit alleging wage and hour violations against Field Nation captioned *Johnson v. Field Nation, et al.*, Case No. 21-CIV-04363 pending in the Superior Court of the State of California, County of San Mateo and before the American Arbitration Association under Case No. 01-22-0005-2476.

B. “Administrator”

Apex Class Action, LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.

C. “Administration Expenses Payment”

The amount of \$11,250, which the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid.

D. “Aggrieved Employee”

Any individual who performed services as a “Provider” through the Field Nation platform in California and received payments from the Field Nation platform for such services during the PAGA Period.

E. “Aggrieved Employee Data”

Aggrieved Employee identifying information in Field Nation’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

F. “Aggrieved Employee Address Search”

The Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces and direct contact by the Administrator with Aggrieved Employees.

G. “Approval Order”

The proposed Award approving the PAGA Settlement by the Arbitrator.

H. “Arbitrator”

The Hon. Kevin J. Murphy.

I. “Court”

The Superior Court of California, County of San Mateo.

J. “Defense Counsel”

William Hays Weissman and Michael W. Nelson of Littler Mendelson P.C.

K. “Effective Date”

The date by when both of the following have occurred: (a) the Arbitrator enters an Award approving this Settlement, (b) the Court enters an Order confirming the Arbitrator’s Award approving this Settlement, and (c) the Court’s Confirmation Order is final.

The Court’s Confirmation Order is final as of the latest of the following occurrences: (a) If an appeal or other review is sought from the Confirmation Order, the next day after the Confirmation Order is affirmed or the appeal or other review is dismissed or denied and Confirmation Order is no longer subject to judicial review or other challenge; or (b) If an appeal or other review is not sought from the Confirmation Order, the 65th calendar day after the Confirmation Order is signed and entered by the Court.

L. “Field Nation”

Defendants Field Nation LLC and Mynul Khan.

M. “Gross Settlement Amount”

The amount of \$5 million, which is the total amount Field Nation agrees to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, the Administrator’s Expenses Payment, and the Plaintiff Individual Payment.

N. “Individual PAGA Payment”

The Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

O. “Judgment”

The Confirmation Order and Judgment entered by the Court confirming the Arbitrator’s Award approving the Settlement.

P. “LWDA”

The California Labor and Workforce Development Agency.

Q. “LWDA PAGA Payment”

75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).

R. “Net Settlement Amount”

The Gross Settlement Amount, less the following payments in the amounts approved by the Arbitrator: Plaintiff’s Individual Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is the PAGA Payments to be paid to the LWDA and Aggrieved Employees as set forth herein.

S. “PAGA Counsel”

Peter R. Dion-Kindem of Peter R. Dion-Kindem, P.C., Lonnie C. Blanchard III of the Blanchard Law Group, APC, and Jeffry D. Holmes of the Holmes Law Group, APC, the attorneys representing the Plaintiff in the Action.

T. “PAGA Counsel Attorney’s Fees Payment” and “PAGA Counsel Litigation Expenses Payment”

The amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

U. “PAGA Pay Period”

Any Pay Period during which an Aggrieved Employee as a Provider for Field Nation for at least one day during the PAGA Period.

V. “PAGA Period”

The period from August 11, 2020 to April 1, 2024.

W. “PAGA”

The Private Attorneys General Act (Lab. Code, § 2698. *et seq.*).

X. “PAGA Notice”

Plaintiff’s August 11, 2021, letter to Field Nation and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).

Y. “PAGA Penalties”

The total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and 75% to LWDA in settlement of the PAGA claims.

Z. “Plaintiff”

Floyd Johnson, the named plaintiff in the Action.

AA. “Plaintiff Individual Payment”

The payment of \$15,000 paid from the Gross Settlement to Plaintiff in return for his general release as set forth paragraph IV.

BB. “Released PAGA Claims”

The claims being released by the Plaintiff as described in Paragraph IV below.

CC. “Released Parties”

Field Nation and each of its former and present directors, officers, shareholders, owners, members, employees, attorneys, insurers, predecessors, successors, assigns, and affiliates.

DD. “Settlement”

The disposition of the Action effected by this Agreement.

RECITALS

A. On August 11, 2021, pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff served Field Nation and the LWDA with the PAGA Notice.

B. On August 12, 2021, Plaintiff commenced the Action by filing a Complaint against Field Nation alleging causes of action against Field Nation and Mynul Khan for violation of the PAGA, and on October 16, 2021, Plaintiff filed a First Amended Complaint (collectively referred to as the “Complaint”).

C. Field Nation filed a motion to compel arbitration on July 22, 2022, and the Court granted the motion on December 12, 2022. On December 12, 2022, Plaintiff submitted his claims to the American Arbitration Association. The Parties thereafter agree that the Hon. Kevin J. Murphy would serve as the arbitrator over the arbitration proceedings.

D. Field Nation denies the allegations in the PAGA Notice, the Complaint, and Arbitration Claim, denies any failure to comply with the laws identified in the Notice, Complaint, and Arbitration Claims, and denies all liability for the causes of action alleged.

E. On March 29, 2024, the Parties participated in an all-day mediation presided over by the Hon. Amy Hogue, Ret., which led to this Agreement to settle the Action. Prior to the mediation, Plaintiff obtained through depositions, informal discovery, and formal written discovery, substantial information and documents from Field Nation relating to its policies, procedures, records, and data regarding the services provided by Providers.

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

II. MONETARY TERMS

A. Gross Settlement Amount

Field Nation promises to pay \$5 million and no more as the Gross Settlement Amount. Field Nation has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph III(C) of this Agreement. \$2.5 of the Gross Settlement Amount shall be paid seven days after the Effective date. The remaining \$2.5 million of the Gross Settlement Amount shall be paid six months thereafter.

The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Field Nation.

B. Payments from the Gross Settlement Amount

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

1. To Plaintiff

Plaintiff has individual claims against Field Nation. In consideration of his general release, the Parties agree that \$15,000 of the Gross Settlement Payment shall be paid to Plaintiff. The Administrator will pay this payment using an IRS 1099 Form. Plaintiff assumes full responsibility

and liability for taxes owed on this payment and holds Field Nation harmless and indemnifies Field Nation from any taxes related thereto.

2. To PAGA Counsel

A PAGA Counsel Fees Payment of not more than one-third of the Gross Settlement Amount in the amount of \$1,666,667 and PAGA Counsel Litigation Expenses Payment for expenses document by PAGA Counsel in an amount not to exceed \$50,000. Field Nation will not oppose requests for Arbitrator and Court approval of these payments if they do not exceed these amounts.

If the Arbitrator and Court approve a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount.

Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment.

The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Field Nation harmless and indemnifies Field Nation from any dispute or controversy regarding any division or sharing of any of these Payments.

3. To the Administrator

An Administrator Expenses Payment not to exceed \$11,250 and as approved by the Arbitrator and the Court shall be paid from the Gross Settlement Amount. If the approved Administration Expenses are less than \$11,250, the Administrator will retain the remainder in the Net Settlement Amount.

4. To the LWDA and Aggrieved Employees

PAGA Penalties shall be the amount of the Net Settlement Amount, and 75% shall be allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods.

Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

III. SETTLEMENT FUNDING AND PAYMENTS

A. Aggrieved Employee Pay Periods

Based on a review of its records, Field Nation estimates there are _____ Aggrieved Employees who worked a total _____ of PAGA Pay Periods during the PAGA Period.

B. Aggrieved Employee Data

Within 10 days of the Court's entry of an Order and Judgment confirming the Arbitrator's Award approving this Settlement, Field Nation will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement.

Field Nation has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible.

Without any extension of the deadline by which Field Nation must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

C. Funding of Gross Settlement Amount

Field Nation shall fully fund the Gross Settlement Amount by transmitting 50% of the funds to the Administrator no later than seven days after the Effective Date and the remaining 50% of the funds to the Administrator no later than six months from the seventh day after the Effective Date.

D. Payments from the Gross Settlement Amount

Within seven days after Field Nation funds each one-half payment of the Gross Settlement Amount, the Administrator will mail checks (or wire if requested by PAGA Counsel as to their for PAGA Counsel Attorney's Fees and Expenses Payments) for: 50% of all Individual PAGA Payments, 50% of the LWDA PAGA Payment, 50% of the Administration Expenses Payment, 50% of the PAGA Counsel Attorney's Fees and Expenses Payments, and 50% the Plaintiff's Individual Payment.

The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address.

Within seven days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered.

The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and

cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

The payment of Individual PAGA Payments shall not obligate Field Nation to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

IV. RELEASES OF CLAIMS

Effective on the date when Field Nation fully funds the entire Gross Settlement Amount, the following claims shall be deemed released against all Released Parties as follows:

A. Plaintiff's Release

Subject to the terms and conditions of this Agreement, Plaintiff, on behalf of Plaintiff and Plaintiff's executors, legatees, devisees, administrators, subcontractors, employees, successors and assigns, specifically releases any and all past, present and future claims, demands, actions, suits, causes of action, obligations, damages, rights or liabilities, of any nature, kind or description whatsoever, regardless of the legal or equitable theory, that Plaintiff has or may have against any of the Released Parties which arise or arose at any point from the beginning of time through, up to, and including the date Plaintiff executes this Agreement, including without limitation all assigned and derivative claims, whether known or unknown, asserted or unasserted, foreseen or unforeseen, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, apparent or unapparent, pursuant to any theory of recovery, including whether based in tort, contract, statute, common law, public policy, or other legal theory, and including unknown claims covered by California Civil Code Section 1542 and/or any other applicable state or local law equivalents. Plaintiff's released claims include, but are not limited to, any claims against Field Nation or any of the other Released Parties arising directly or indirectly, out of, relating to, or in any way connected to any alleged act, omission, misconduct, misrepresentation, transmission, breach, breach of contract, or occurrence by, and all Released Claims against Field Nation or any other Released Parties. The claims released by Plaintiff includes, but are not limited to, claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*; claims relating to any screening conducted by Field Nation or any other Released Parties pertaining to background screening, including under the Fair Credit Reporting Act, 15 U.S.C. §§ 1681, *et seq.*, and any state analogues; any express or implied agreements between Plaintiff and any Released Parties; claims under any law pertaining to employment, wrongful termination, wage statement and recordkeeping violations, or any other perquisites of employment; claims under any other federal, state, county, city, or local law, ordinance, rule, or regulation regarding employment, wages or compensation (and all of their implementing regulations and interpretive guidelines), including but not limited to (i) any claims under the National Labor Relations Act; (ii) any claims for employee benefits under any state or federal law, including without limitation; (iii) any claims under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.*; (iv) any claims under the PAGA; (v) any claims under the California Business and Professions, Civil, Government and/or Labor Code; (vi) any claims under any applicable California Industrial Welfare Commission Wage Orders, all as amended; and (vii) any claims on the basis of discrimination, harassment or retaliation under any state, federal, or local law, including without limitation, (a) Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 *et seq.*, (b) the Civil Rights Act of 1866, 42 U.S.C. § 1981, (c) the Civil Rights Act of 1991, (d) the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, (e) the Family and Medical Leave Act of 1993, (f) the California Fair Employment and Housing Act,

(g) the California Family Rights Act, (h) the Americans with Disabilities Act, (i) the Age Discrimination in Employment Act of 1967, as amended, (j) the Older Workers' Benefit Protection Act, and (k) any other federal, state or local ordinances, all as amended. The claims released by Plaintiff further includes, but is not limited to, any claims and causes of action of whatever kind or character, in tort or contract, statutory or otherwise, for legal or equitable relief, any other claims for any form of damages or relief, including liquidated damages, and claims for restitution, statutory or other penalties, punitive damages, equitable relief, litigation costs, interest, attorneys' fees, or any other form of relief. However, this release shall not apply to claims for workers' compensation benefits, unemployment insurance benefits, pension or retirement benefits or any other claim or right that as a matter of law cannot be waived or released. Plaintiff shall be deemed to have, and by operation of the Court's Confirmation Order and Judgment shall have, expressly waived and relinquished to the fullest extent permitted by law the provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law that purports to limit the scope of a general release. Plaintiff, for himself, has read Section 1542 of the Civil Code of the State of California, which provides as follows:

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

Plaintiff understands that Section 1542 gives Plaintiff the right not to release existing claims of which he is not now aware unless Plaintiff voluntarily chooses to waive this right. Having been so apprised, Plaintiff nevertheless voluntarily waives the rights described in Section 1542, and elects to assume all risks for claims that now exist in his favor, known or unknown.

Notwithstanding this General Release by Plaintiff, nothing in this Agreement is intended to waive claims (a) for unemployment or workers' compensation benefits, (b) for vested rights under ERISA-covered benefit plans as applicable on the date Plaintiff signs this Agreement, (c) that may arise after Plaintiff signs this Agreement, or (d) which cannot be released by private agreement. In addition, nothing in this Agreement including but not limited to the acknowledgments, release of claims, proprietary information, return of property, confidentiality, cooperation, and non-disparagement provisions, (e) prevents Plaintiff from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that you have reason to believe is unlawful or waives Plaintiff's right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment on the part of Defendant, or on the part of the agents of Defendant, when Plaintiff has been required or requested to attend such a proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the legislature, (f) limits or affects Plaintiff's right to challenge the validity of this Agreement under the ADEA or the OWBPA, (g) prevent Plaintiff from communicating with, filing a charge or complaint with; providing documents or information voluntarily or in response to a subpoena or other information request to; or from participating in an investigation or proceeding conducted by the Equal Employment Opportunity Commission, National Labor Relations Board, the Securities and Exchange Commission, law enforcement, or any other any federal, state or local agency charged with the enforcement of any laws, or from responding to a subpoena or discovery request in court litigation

or arbitration, or (h) limit Plaintiff from exercising rights under Section 7 of the NLRA or similar state law to engage in protected, concerted activity with other person, although by signing this Agreement Plaintiff is waiving rights to individual relief (including backpay, front pay, reinstatement or other legal or equitable relief) in any charge, complaint, or lawsuit or other proceeding brought by Plaintiff or on Plaintiff's behalf by any third party, except for any right Plaintiff may have to receive a payment or award from a government agency (and not Defendant) for information provided to the government agency or otherwise where prohibited. Further, notwithstanding the confidentiality and non-disclosure obligations in this Agreement and otherwise, Plaintiff understands that as provided by the Federal Defend Trade Secrets Act, Plaintiff will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret made: (1) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (2) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

This release includes the release of all claims that Plaintiff has against any of Field Nation's Customers (also called Buyers), including any claims before the Labor Board, and specifically including pending case WC-CM-963888, filed on or about June 22, 2023, which Plaintiff will dismiss with prejudice.

B. Release by Aggrieved Employees

Subject to the terms and conditions of this Agreement, all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged or reasonably could have been alleged based on the PAGA Period facts stated in the Complaint or PAGA Notice.

C. Release by PAGA Counsel

Subject to the terms and conditions of this Agreement, PAGA Counsel releases the Released Parties from all claims for PAGA Fees incurred in connection with the Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

V. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT

The Parties agree to jointly apply for approval of this Settlement with the Arbitrator and to cooperate in obtaining an Order from the Court confirming the Arbitrator's Award approving this Settlement.

A. Parties to Seek Approval from the Arbitrator.

The Parties will prepare an Award seeking approval from the Arbitrator of this Agreement that can be confirmed by the Court in accordance with Paragraph V.B of this Agreement. Nothing in the Arbitrator's Order shall suggest or indicate that Field Nation engaged in willful misclassification or otherwise violated any provision of California law, including the Labor Code, but such Order shall indicate that the Order shall indicate that the terms set out in this Agreement are fair, reasonable, and adequate and in the best interests of the Parties and all Aggrieved Employees and that the Agreement is a reasonable compromise of disputed allegations. Once the Arbitrator has issued an Award approving this Settlement, the Parties will otherwise comply with the terms of this Section V Agreement.

B. Plaintiff's and PAGA Counsel's Responsibilities

PAGA Counsel will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code section 2699, subdivision (f)(2)) including (i) a draft proposed Award Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Lab. Code, §2699, subd. (l)(1)), this Agreement (Lab. Code, § 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator.

In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

C. Responsibilities of PAGA Counsel and Defense Counsel

PAGA Counsel and Defense Counsel are jointly responsible for expeditiously applying for an Award approving this Settlement and, if necessary, obtaining a prompt hearing date and appearing before the Arbitrator to advocate in favor of the application. PAGA Counsel is responsible for delivering the Arbitrator's Award of Approval and the Court's Order and Judgment confirming such Award to the Administrator.

D. Duty to Cooperate

If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone and in good faith to resolve the disagreement.

If the Arbitrator does not approve this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone and in good faith to modify the Agreement and otherwise satisfy the Arbitrator's concerns.

VI. SETTLEMENT ADMINISTRATION

The Parties have jointly selected Apex Class Action, LLC to serve as the Administrator and verified that, as a condition of appointment, it agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses.

The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

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

VII. CONTINUING JURISDICTION OF THE COURT

The Parties agree that after confirming by the Court confirming the Arbitrator’s Award approving this Settlement, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement administration matters and (iii) addressing such post-approval matters as are permitted by law.

VIII. Waiver of Right to Appeal

Provided the Award of the Arbitrator and Court’s Order confirming such Award are consistent with its terms and conditions, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel waive all rights to appeal from any Court order approving the Settlement, including all rights to post-approval and appellate proceedings, the right to file motions to vacate approval, motions for new trial, extraordinary writs and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals.

If another party appeals the Order, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Order becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

IX. ADDITIONAL PROVISIONS

A. No Admission of Liability or Representative Manageability for Other Purposes

Nothing in this Agreement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Field Nation of any liability or wrongdoing as to Plaintiff, any Aggrieved Employee, or any other person, or that Plaintiff or any Aggrieved Employee was or is misclassified as an independent contractor, and Field Nation specifically disclaims any such liability or wrongdoing. Field Nation contends that all Aggrieved Employees were and are properly treated as independent contractors and otherwise compensated in compliance with the law, and that Field Nation’s conduct was not willful with respect to any alleged failure to pay any wages or penalties. Field Nation has denied, and continues to deny, each of the claims and contentions alleged in the Action. Field Nation has asserted and continues to assert defenses thereto and has expressly denied and continues to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. Neither this Agreement, nor any action taken to carry out the terms of this Agreement, shall ever be construed as, offered, admitted, received, or deemed to be evidence in any civil, criminal, administrative, or other proceeding against Field Nation or any of the other Released Parties, or may be used as an admission, concession, or indication by or against Field Nation or any of the other Released Parties of any fault, wrongdoing, or liability whatsoever.

Nothing in this Settlement Agreement, nor any action taken in implementation thereof, nor any statements, discussions, or communications, nor any materials prepared, exchanged, issued,

or used during the course of the negotiations leading to this Agreement, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used, or be admissible in any way in the Action or any other judicial, arbitral, administrative, investigative, or other forum or proceeding, is evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity, by Field Nation or any other Released Party. The Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative, or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before any court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders of the Court entered in connection with the Agreement.

None of the documents produced or created by Field Nation or any other Released Party, Plaintiff, or any Aggrieved Employee in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Field Nation or any other Released Party of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity, nor may they be introduced or otherwise used in any other judicial, arbitral, administrative, investigative, or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity, or for any other purpose.

If for any reason the Arbitrator does not approve this Settlement or the Court does not confirm the Arbitrator's Award Approving the Settlement, Field Nation reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Field Nation's defenses.

B. No Publicity

Except to the extent specifically authorized by Field Nation, Plaintiff and PAGA Counsel will not make any public disclosure of this Settlement until after the filing of the motion for approval of the Settlement, including (a) issuing any press or other media release, (b) initiating any contact with the press, other media (including social media), or any third party, (c) responding to any inquiry from the press or media, or (d) having any communication with the press or other media about the Action, including but not limited to the fact, amount, and/or terms of the Settlement Agreement. Plaintiff and PAGA Counsel represent that they have not made any such disclosure. PAGA Counsel will take all steps necessary to ensure that Plaintiff is aware of, and will encourage him to adhere to, the restriction against any public disclosure of any terms of this Agreement until after the settlement is approved by the Court. Plaintiff and PAGA Counsel agree to keep the terms of the Agreement confidential, except as reasonably necessary to obtain judicial approval of the Agreement, including as appropriate in the Parties' anticipated Joint Motion. To the extent limited public disclosures are required to effectuate the settlement or to notify the Court or parties in any pending or related proceeding, such limited and necessary details may be revealed with the consent of all Parties. However, any such disclosures shall not constitute a waiver of confidentiality with respect to any information not publicly disclosed. Thereafter, PAGA Counsel and Plaintiff agree to not publicize the terms of this settlement with the media, including but not limited to any newspaper, journal, magazine, website, and/or online reporter of settlements or on

any website or other social media platform, though PAGA Counsel may provide the name and underlying facts of the case on its website and in declarations submitted to the Court and may represent that the case was settled without stating the amount of the settlement.

C. No Impact Upon Benefit Plans.

Neither the Agreement nor any amounts paid to Plaintiff or any Aggrieved Employee under this Agreement will modify or constitute credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Field Nation. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Field Nation's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Field Nation benefit plans, policy, or bonus programs, if any. Field Nation retains the right, if necessary, to modify the language of its benefit plans, policies, and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies, and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Agreement.

D. Integrated Agreement

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

E. Attorney Authorization

PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Field Nation, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

F. Cooperation

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

G. No Prior Assignments

The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action or right released and discharged by the Party in this Settlement.

H. No Tax Advice

Neither Plaintiff, PAGA Counsel, Field Nation, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

I. Modification of Agreement

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

J. Agreement Binding on Successors

This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

K. Applicable Law

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

L. Cooperation in Drafting

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

M. Confidentiality

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

N. Use and Return of Aggrieved Employee Data

Information provided to PAGA Counsel pursuant to Evidence Code section 1152 and all copies and summaries of the PAGA Data provided to PAGA Counsel by Field Nation in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute or California Rules of Court rule.

Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Field Nation unless, prior to the Administrator's payment of all Settlement Funds, Field Nation makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved Employee Data.

O. Headings

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

P. Calendar Days

Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. If any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

Q. Notice

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

To Plaintiff:

Peter R. Dion-Kindem
The Dion-Kindem Law Firm
Peter R. Dion-Kindem, P. C.
3856 Davids Road, Agoura Hills, CA 91301
Telephone: (818) 883-4900
Email: peter@dionkindemlaw.com

Lonnie C. Blanchard III (SBN 93530)
The Blanchard Law Group, APC
177 East Colorado Boulevard, Suite 200
Pasadena, California 91105
Telephone: (213) 599-8255
Email: lonnieblanchard@gmail.com

To Field Nation:

William Hays Weissman
Littler Mendelson P.C.
Treat Towers
1255 Treat Blvd., Suite 600
Walnut Creek, CA 94597
wwissman@littler.com

R. Execution in Counterparts

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

S. Stay of Litigation

The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to

bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

T. Waiver and Release of Claims Under ADEA and OWBPA.

With respect to the General Release by Plaintiff only, this Agreement is intended by the Parties to release and discharge any and all claims that Plaintiff may have under the Age Discrimination in Employment Act (“ADEA”), and to satisfy the requirements of the Older Workers’ Benefit Protection Act (“OWBPA”). Therefore, Plaintiff acknowledges and agrees as follows:

- a. Because the arrangements discussed in this Agreement affect important rights and obligations, Plaintiff acknowledges that he has been advised to consult with an attorney before he executes this Agreement.
- b. Plaintiff acknowledges that he has a full twenty-one (21) calendar days from the date he receives this Agreement within which to consider the provisions herein and to execute this Agreement, although he may sign it at any time during this 21-day consideration period.
- c. Any modification of this Agreement by the Parties shall not enlarge or extend the aforementioned 21-day consideration period.
- d. Plaintiff acknowledges that he has the right to revoke this Agreement for a period of seven (7) days after he has executed it, in which event this Agreement shall be null and void and Defendant solely as to the General Release, and as such, Field Nation will be under no obligation to pay the Plaintiff Individual Payment referenced in Paragraph B.1 of this Agreement, or any portion thereof.
- e. If Plaintiff decides to revoke this Agreement, he must deliver a signed written Notice of Revocation to counsel of record for Defendant, William Weissman, Esq., via email at wweissman@littler.com, to be received no later than noon pacific time on the eighth (8th) day following execution of this Agreement by Plaintiff. Upon delivery of a timely written Notice of Revocation, the Agreement shall be canceled and void, and neither Plaintiff nor Defendant shall have any rights or obligations arising under it, solely with respect to the General Release and Plaintiff Individual Payment only, and the remainder of this Agreement, including its remaining payment terms and Release by Aggrieved Employees, shall remain in effect.
- f. This waiver and release does not apply to any rights or claims that may arise under the ADEA after the date Plaintiff signs this Agreement.

If Plaintiff signs the Agreement, delivers the Agreement to Field Nation as described above, and does not revoke this Agreement, the General Release and Plaintiff Individual Payment will become effective, binding and enforceable on the eighth day after such signature.

Signatures on following page

Dated: 04/08/2024

Floyd Johnson

Floyd Johnson

Dated: _____

Mynul Khan, individually and as
CEO of Field Nation, LLC on its behalf

Approved as to Form:

Dated: April 8, 2024

THE DION-KINDEM LAW FIRM

By: *Peter R. Dion-Kindem*
Peter R. Dion-Kindem, P.C.
Peter R. Dion-Kindem
Attorneys for Floyd Johnson

Dated: April 8, 2024

BLANCHARD LAW GROUP, APC

By: *Lonnie Blanchard*
Lonnie Blanchard III
Attorneys for Floyd Johnson

Dated: April 8, 2024

LITTLER MENDELSON P.C.

By: _____
William Hays Weissman
Attorneys for Respondents Field Nation, LLC
and Mynul Khan

Dated: _____

Floyd Johnson

Dated: _____



Mynul Khan, individually and as
CEO of Field Nation, LLC on its behalf

Approved as to Form:

Dated: April 8, 2024

THE DION-KINDEM LAW FIRM

By: _____

Peter R. Dion-Kindem, P.C.
Peter R. Dion-Kindem
Attorneys for Floyd Johnson

Dated: April 8, 2024

BLANCHARD LAW GROUP, APC

By: _____

Lonnie Blanchard III
Attorneys for Floyd Johnson

Dated: April 8, 2024

LITTLER MENDELSON P.C.

By: _____



William Hays Weissman
Attorneys for Respondents Field Nation, LLC
and Mynul Khan