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9 and on behalf of all others similarly situated.

10 *[Additional Counsel Listed on Following Page]*

11
12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF ALAMEDA**

15 JONATHAN CABAN, individually and on behalf
16 of all others similarly situated,

17 Plaintiffs,

18 v.

19 W.E. LODGE, INC.; and DOES 1 through 20,
20 inclusive,

21 Defendants.
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Case No. 21CV001074

Assigned For All Purposes to:
Judge Evelio Grillo
Dept. 21

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

1 KRISTA L. MITZEL (SBN 221002)
N. WILLIAM METKE (SBN 223885)
2 LINDLEY FRALEY (SBN 223421)
RONAK PATEL (SBN 296936)
3 SARA SHOK (SBN 302934)
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10 Attorneys for Defendants
11 W.E. LODGE, INC.
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1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of these Actions shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiff Jonathan Caban (“Named
7 Plaintiff”) and the Class Members, on the one hand, and Defendant W.E. Lodge, Inc. (“Waters Edge
8 Lodge” or “Defendant”), on the other hand. Named Plaintiff and Defendant collectively are referred
9 to in this Agreement as “the Parties.”

10 The Parties agree that the Actions shall be, and hereby are, ended, settled, resolved, and
11 concluded by agreement of Defendant to pay the settlement amount of Six Hundred Twenty-Five
12 Thousand Dollars (\$625,000.00) as provided in Section 3.06(a) below (“Gross Settlement Amount”)
13 pursuant to the terms and conditions of this Agreement and for the consideration set forth herein,
14 including but not limited to, a release of all claims by Named Plaintiff and the Class Members as set
15 forth herein.

16 ARTICLE I

17 DEFINITIONS

18 Unless otherwise defined herein, the following terms used in this Agreement shall have the
19 meanings ascribed to them as set forth below:

20 a. “Action” means the action described as follows: *Jonathan Caban v. W.E. Lodge, Inc.*;
21 and DOES 1 through 20, inclusive,” Case No. 21CV001074, commenced on October 25, 2021, in
22 the Superior Court of the State of California for the County of Alameda (the “Action”).

23 b. “Agreement” means this Joint Stipulation of Settlement, including the attached
24 Exhibit(s).

25 c. “Class” means *all* current and former non-exempt employees who are or were
26 employed by Defendant in California at any time during the Class Period.

27 d. “Class Counsel” means the attorneys for the Class and the Class Members, who are:

28 AEGIS LAW FIRM, PC

1 Kashif Haque
2 Samuel A. Wong
3 Jessica L. Campbell
4 Alexander G.L. Davies
5 9811 Irvine Center Drive, Suite 100
6 Irvine, California 92618
7 Telephone: (949) 379-6250
8 Facsimile: (949) 379-6251

9 e. "Class List" means a list based on Defendant's business records that identifies each
10 Class Member's name, last known home or mailing address, Social Security number or, as
11 applicable, other taxpayer identification number, dates of employment, and the number of Qualifying
12 Workweeks worked during the Class Period.

13 f. "Class Member(s)" means all current and former hourly employees who worked for
14 Defendant in California any time or times between April 30, 2017 through November 16, 2022 (the
15 "Class Period").

16 g. "Class Period" means April 30, 2017 through November 16, 2022 (the date of
17 settlement of the matter).

18 h. "Court" means the California Superior Court for the County of Alameda, where the
19 Actions are currently pending.

20 i. "Date of Finality" means the later of the following: (1) the date the Final Order is
21 signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no
22 appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or
23 other judicial review is taken from the Court's overruling of objections to the settlement, ten (10)
24 days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes
25 final.

26 j. "Defendant" means Defendant Integrated Security Services, Inc.

27 k. "Defense Counsel" means counsel for Defendant:

28 KRISTA L. MITZEL (SBN 221002)
N. WILLIAM METKE (SBN 223885)
LINDLEY FRALEY (SBN 223421)
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1. “Disposition” means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

m. “Final Order Approving Settlement of Class and Representative PAGA Action” or “Final Order” means the final formal court order signed by the Court following the Final Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement.

n. “Gross Settlement Amount” means Six Hundred Twenty-Five Thousand Dollars (\$625,000.00) to be paid by Defendant as provided by this Agreement to settle the Actions. All payments to the Class, administration costs, attorney’s fees and costs, and Incentive Awards, pursuant to Section 3.06(a) below, shall be paid out of the Gross Settlement Amount. The employer’s share of payroll taxes arising from the payments made under this settlement shall be paid by Defendant separate from and in addition to the Gross Settlement Amount. The Gross Settlement Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the Gross Settlement Amount shall revert to Defendant.

o. “Incentive Award” means a monetary amount of up to Ten Thousand Dollars (\$10,000.00) for Plaintiff Jonathan Caban, subject to Court approval, in recognition of his effort and work in prosecuting the Action on behalf of Class Members. Any portion of the Class Representative’s Incentive Award not awarded to Plaintiff will not revert to Defendant, but instead shall be returned to the Net Settlement Amount for distribution to Participating Class Members.

p. “Individual Settlement Payment(s)” means each Participating Class Member’s respective share of the Net Settlement Amount. Individual Settlement Payments will be determined by the calculations provided in this Agreement.

q. “LWDA” means The State of California Labor and Workforce Development Agency.

1 r. “LWDA Payment” means 75% of the PAGA Settlement Amount which, subject to
2 Court approval, will be paid to the LWDA pursuant to Section 3.06(e) of this Agreement, as provided
3 for below.

4 s. “Motion for Final Approval” means Plaintiff’s submission of a written motion,
5 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
6 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
7 to enter a Final Order in the Actions.

8 t. “Motion for Preliminary Approval” means Plaintiff’s submission of a written motion,
9 including any evidence as may be required for the Court to grant preliminary approval of the
10 Settlement as required by Rule 3.769 of the California Rules of Court.

11 u. “Named Plaintiff” means Jonathan Caban.

12 v. “Net Settlement Amount” means the Gross Settlement Amount less Court-approved
13 administration costs, Class Counsels’ attorney’s fees and costs, Incentive Award, and LWDA
14 Payment, pursuant to Section 3.06(a)-(f) below.

15 w. “Non-Participating Class Member(s)” means any Class Member(s) who submit to the
16 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
17 to Section 3.04(b) below.

18 x. “Notice Packet” means the Notice of Proposed Class and Representative PAGA
19 Action Settlement in a form substantially similar to the Notice Packet attached hereto as **Exhibit A**,
20 subject to Court approval.

21 y. “PAGA” means the California Private Attorneys General Act of 2004, which is
22 codified in California Labor Code §§ 2698 *et seq.*

23 z. “PAGA Group Members” or “Aggrieved Employees” means all current or former
24 non-exempt employees who worked for Defendant in the State of California from April 30, 2020
25 through November 16, 2022 (the date of the settlement).

26 aa. “PAGA Period” means April 30, 2020, through November 16, 2022.

27 bb. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount
28 allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties have

1 agreed that the PAGA Settlement Amount is Twenty Thousand Dollars (\$20,000.00), subject to
2 Court approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment,
3 and the remaining 25% will be added to the Net Settlement Amount and distributed to PAGA Group
4 Members.

5 cc. "Participating Class Member(s)" is defined as a Class Member who does not timely
6 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net
7 Settlement Amount automatically without the need to return a claim form. Each Participating Class
8 Member will be paid his/her Individual Settlement Payment.

9 dd. "Preliminary Approval Date" means the date the Court preliminarily approves the
10 Settlement embodied in this Agreement.

11 ee. "Qualified Settlement Fund" or "QSF" means a fund within the meaning of Treasury
12 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
13 Administrator for the benefit of Participating Class Members.

14 ff. "Qualifying Workweeks" means the number of weeks that a Class Member worked
15 for Defendant as a non-exempt employee during the Class Period.

16 gg. "Qualifying PAGA Workweeks" means the number of weeks that a Class Members
17 worked for Defendant as a non-exempt employee during the PAGA Period.

18 hh. "Released Parties" means Defendant as well as Defendant's officers, shareholders,
19 directors, agents, assigns, clients, employees, attorneys, insurers, subsidiaries, predecessors or
20 successors.

21 ii. "Response Deadline" means the deadline by which Class Members must postmark or
22 fax to the Settlement Administrator requests for exclusion or written notices of objection. The
23 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by
24 the Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal
25 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
26 Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-
27 mailing.

1 jj. “Settlement Administration Costs” means all costs incurred by the Settlement
2 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to
3 the class, calculation of Individual Settlement Payments, generation of Individual Settlement
4 Payment checks and related tax reporting forms, administration of unclaimed checks, and generation
5 of checks to Class Counsel for attorneys’ fees and costs, to Named Plaintiff for his Incentive Awards,
6 and to the LWDA. The Settlement Administration Costs shall be paid from the Gross Settlement
7 Amount.

8 kk. “Settlement Administrator” means ILYM Group, Inc., which the Parties have agreed
9 will be responsible for the administration of the Individual Settlement Payments to be made by
10 Defendant from the Gross Settlement Amount and related matters under this Agreement.

11 **ARTICLE II**

12 **CONTINGENT NATURE OF THE AGREEMENT**

13 **Section 2.01: Stipulation of Class Certification for Settlement Purposes**

14 Because the Parties are settling claims under Labor Code section 2699 *et. eq.* and have
15 stipulated to the certification of the Class with respect to all causes of action alleged in the Class
16 Action for settlement purposes only, this Agreement requires approval by the Court in accordance
17 with Labor Code section 2699(l) and California Rule of Court 3.769. Accordingly, the Parties enter
18 into this Agreement on a conditional basis. This Agreement is contingent upon the approval and
19 certification by the Court. If the Date of Finality does not occur, the fact that the Parties were willing
20 to stipulate for the purposes of this Agreement to a Class and agreed to resolution of Plaintiff’s claim
21 for PAGA penalties shall have no bearing on, nor be admissible in connection with, the issue of
22 certification of the Class with respect to all causes of action alleged in the Class Action. Defendant
23 does not consent to certification of the Class for any purpose other than to effectuate settlement of
24 the Actions. If the Date of Finality does not occur, or if Disposition of the Actions is not effectuated,
25 any certification of the Class as to Defendant and any approval or award of PAGA penalties will be
26 vacated, and Named Plaintiff, Defendant, and the Class will be returned to their positions with respect
27 to the Actions as if the Agreement had not been entered into. In the event that the Date of Finality
28 does not occur: (a) any Court orders preliminarily or finally approving certification of any class

1 contemplated by this Agreement and/or awarding PAGA penalties shall be null, void, and vacated,
2 and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement
3 reflected in this Agreement, the fact that Defendant did not oppose the certification of a Class under
4 this Agreement, or that the Court preliminarily approved the certification of the Class and/or
5 approved an award of PAGA penalties, shall not be used or cited thereafter by any person or entity,
6 including in any manner whatsoever, including without limitation any contested proceeding relating
7 to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed
8 null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any
9 purpose whatsoever. Defendant expressly reserves the right to challenge the propriety of class
10 certification in the Class Action for any purpose, if the Date of Finality does not occur.

11 The Parties and their respective counsel shall take all steps that may be requested by the Court
12 relating to the approval and implementation of this Agreement and shall otherwise use their
13 respective best efforts to obtain Court approval and implement this Agreement. Plaintiff shall be
14 responsible for submitting the settlement to the LWDA at the same time of filing the Motion for
15 Preliminary Approval. If the Court does not grant the Motion for Preliminary Approval and/or the
16 Motion for Final Approval and/or if the LWDA objects to the PAGA Settlement Amount, the Parties
17 agree to meet and confer to address the Court's and/or LWDA's concerns. If the Parties are unable
18 to agree upon a resolution, the Parties agree to seek the assistance of mediator Gig Kyriacouto to resolve
19 the dispute.

20 ARTICLE III

21 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

22 The procedure for obtaining Court approval of and implementing this Agreement shall be as
23 follows:

24 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

25 Named Plaintiff will bring a motion before the Court for an order conditionally certifying the
26 Class to include all claims pled in the Actions based on the preliminary approval of this Agreement.
27 The date that the Court grants preliminary approval of this Agreement will be the "Preliminary
28 Approval Date."

1 **Section 3.02: The Settlement Administrator**

2 The Parties have chosen ILYM Group, Inc., to administer this Settlement and to act as the
3 Settlement Administrator, including but not limited to distributing and responding to inquiries about
4 the Notice Packet, determining the validity of exclusions/opt-outs, calculating the Net Settlement
5 Amount and the Individual Settlement Payments, issuing the Individual Settlement Payment checks
6 and distributing them to Participating Class Members, establishing and maintaining the QSF, and
7 issuing the payment to Class Counsel for attorneys' fees and costs, the Incentive Award check to
8 Named Plaintiff, and the employer payroll taxes to the appropriate taxing authorities. The Settlement
9 Administrator shall expressly agree to all of the terms and conditions of this Agreement.

10 All costs of administering the Settlement, including but not limited to all costs and fees
11 associated with preparing, issuing and mailing any and all notices to Class Members and/or
12 Participating Class Members, all costs and fees associated with computing, processing, reviewing,
13 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax
14 returns and any other filings required by any governmental taxing authority or agency, all costs and
15 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the
16 course of administering disbursements from the Net Settlement Amount, and any other costs and fees
17 incurred and/or charged by the Settlement Administrator in connection with the execution of its
18 duties under this Agreement ("Settlement Administration Costs"), shall be paid to the Settlement
19 Administrator from the Gross Settlement Amount.

20 **Section 3.03: Notice to Class Members**

21 No later than ten (10) business days after the Preliminary Approval Date, Defendant will
22 provide the Settlement Administrator with a "Class List" in electronic format based on its business
23 records, identifying the names of the Class Members, their last known home addresses, Social
24 Security numbers or, as applicable, other taxpayer identification number, their dates of employment
25 and weeks worked during the Class Period and PAGA Period (if applicable).

26 Within ten (10) business days of receiving a Class List from Defendant, the Settlement
27 Administrator will send Class Members, by first-class mail, at their last known address, the Court
28 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the

1 Settlement Class. The Notice Packet will include a calculation of the Class Member's approximate
2 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of
3 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the
4 Settlement Administrator will check all Class Member addresses against the National Change of
5 Address database and shall update any addresses before mailing. The Settlement Administrator will
6 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
7 Notice Packet was undeliverable. If a Class Member's notice is re-mailed, the Class Member shall
8 have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from the date of the
9 initial mailing, whichever is later, in which to postmark objections or requests for exclusion. Class
10 Members shall not be required to submit claim forms in order to receive a proportional share of the
11 Net Settlement Amount.

12 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
13 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose
14 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
15 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
16 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
17 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
18 that reasonable means be used to locate Class Members and that the Settlement Administrator be
19 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
20 Individual Settlement Payments to all Participating Class Members.

21 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
22 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
23 status report provided to the Parties.

24 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
25 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
26 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
27 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
28 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and

Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the procedures set forth in Section 3.06(g) below.

No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration attesting to completion of the notice process, including any attempts to obtain valid mailing addresses for and re-sending of any returned Notice Packets, objections that the Settlement Administrator received, and the identity of those individuals who submitted valid requests for exclusion from the Settlement.

Section 3.04: Responses to Notice

a. Class Member Disputes

If any Class Member disagrees with Defendant's records as to his or her Qualifying Workweeks during the Class Period and/ or PAGA Period as reflected in the Notice Packet, the Class Member shall set forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period and/or PAGA Period and submit such writing to the Settlement Administrator by the Response Deadline, along with any supporting documentation. The Notice will also provide a method for the Class Member to challenge the employment data on which his or her Individual Settlement Payment is based. The Settlement Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith to resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the final arbiter of the Qualifying Workweeks for each Class Member during the Class Period and/or PAGA Period based on the information provided to it.

b. Requests for Exclusion from Class

In order for any Class Member to validly exclude himself or herself from the Class and this Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class Member or his or her authorized representative, and must be sent to the Settlement Administrator, postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall

1 contain instructions on how to validly exclude himself or herself from the Class and this Settlement
2 (*i.e.*, opt out), including the language to be used in a request for exclusion. The date of the initial
3 mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be
4 conclusively determined according to the records of the Settlement Administrator. Any Class
5 Member who timely and validly requests exclusion from the Class and this Settlement will receive
6 his/her share of PAGA Settlement Amount but will not be entitled to the remaining portion of the
7 Individual Settlement Payment which would have been paid to him/her, will not be bound by the
8 terms and conditions of this Agreement, and will not have any right to object, appeal, or comment
9 thereon.

10 Any Class Member who fails to timely submit a request for exclusion shall automatically be
11 deemed a Class Member whose rights and claims with respect to the issues raised in the Actions are
12 determined by the Court's Final Order Approving Settlement, and by the other rulings in the Actions.
13 Thus, said Class Member's rights to pursue any claims covered by the Actions and/or released in this
14 Agreement will be extinguished.

15 **c. Objections to Settlement**

16 For any Class Member to object to this Agreement, or any term of it, the person making the
17 objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the
18 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)
19 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),
20 a written statement of the grounds of objection, signed by the objecting Class Member or his or her
21 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and
22 the date the signed objection was postmarked, shall be conclusively determined according to the
23 records of the Settlement Administrator. The Settlement Administrator shall send any objections it
24 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class
25 Members may also appear at the final approval hearing to object. The Court retains final authority
26 with respect to the consideration and admissibility of any Class Member objections.

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1 **d. Encouragement of Class Members**

2 The Parties to this Agreement and the counsel representing such Parties shall not, directly or
3 indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from
4 this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from
5 Class Members.

6 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

7 Defendant represents that there are 314 total Class Members and 15,777 total workweeks in
8 the Class Period, and this serves as the basis for Plaintiff accepting the settlement. If the total number
9 of workweeks in the Class Period exceeds 15,577, or if the total number Class Members exceed 314,
10 by more than 10% ("Threshold"), the gross Settlement Amount will increase pro rata by \$40.12 per
11 additional workweek, or at a rate of \$1,990.45 per additional Class Member, whichever is greater.

12 **Section 3.05: Final Fairness and Approval Hearing**

13 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final
14 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement
15 and determine whether the Court should give it final approval, and (2) consider any objections made
16 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the
17 Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a
18 Proposed Final Order Approving Settlement of Class and Representative PAGA Action.

19 **Section 3.06: Settlement Payment Procedures**

20 **a. Settlement Amount**

21 In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the
22 Gross Settlement Amount in the amount of Three Hundred Six Hundred Twenty-Five Thousand
23 Dollars (\$625,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e).
24 The Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class
25 Members, all administration costs, Class Counsel's attorney's fees and costs, PAGA Settlement
26 Amount, and the Incentive Payment to Plaintiff.

27 Within sixty (60) calendar days after the Court signs the Final Order, Defendant shall transfer
28 the Gross Settlement Amount plus Defendant's share of employer-side payroll taxes, as set forth

herein, into a QSF established by the Settlement Administrator either directly or by sending the funds to the Settlement Administer to be deposited and distributed. The Settlement Administrator will use these funds to fund payment of the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, the Incentive Awards, the LWDA Payment, and the Settlement Administration Costs.

Within ten (10) court days after receiving Defendants' final payment, funding the Gross Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the Incentive Awards, and employer and employee tax withholdings applicable to the Net Settlement Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct for any known or identifiable address changes.

b. Payment of Attorneys' Fees and Costs

Class Counsel shall submit an application for an award of attorneys' fees of up to one-third of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is Two Hundred and Eight Thousand, Three Hundred and Thirty-Three Dollars and Thirty-Three Cents (\$208,333.33). Class Counsel shall submit an application for an award of costs not to exceed Twenty-Five Thousand Dollars (\$25,000.00). Such application for attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval Hearing. Defendant shall not object to or oppose any such application in these amounts. Class Counsel shall serve Defendant with copies of all documents submitted in support of their application for an award of attorneys' fees and costs.

Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys' fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs, and expenses related to the investigation, prosecution, and settlement of the Actions incurred through the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees and/or costs that Class Counsel requests, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

1 **c. Payment of Settlement Administration Costs**

2 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
3 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed
4 \$8,550.00

5 **d. Payment of Incentive Award to Named Plaintiff**

6 Subject to Court approval, the Named Plaintiff shall receive an Incentive Award of up to Ten
7 Thousand Dollars (\$10,000.00), the request for which Defendant will not object to or oppose. The
8 Incentive Award shall be paid out of the Gross Settlement Amount and shall not constitute payment
9 to any Participating Class Member(s) other than Named Plaintiff. To the extent that the Court
10 approves less than the amount of incentive award that Class Counsel request, the difference between
11 the requested and awarded amounts will be reallocated to the Net Settlement Amount.

12 Because it is the intent of the Parties that the Incentive Awards represent payment to Named
13 Plaintiff for their service to the Class Members, and not wages, the Settlement Administrator will not
14 withhold any taxes from the Incentive Awards. The Incentive Award will be reported on a Form
15 1099, which the Settlement Administrator will provide to Named Plaintiff and to the pertinent taxing
16 authorities as required by law.

17 **e. Payment to the Labor and Workforce Development Agency**

18 In consideration of claims for penalties made under PAGA, Class Counsel will request that
19 the Court approve allocation of Twenty Thousand Dollars (\$20,000.00) of the Gross Settlement
20 Amount to be attributed as the PAGA Settlement Amount. Seventy-five percent (75%) of this
21 payment will be allocated as the LWDA Payment, and twenty-five percent (25%) will be paid to the
22 Net Settlement Amount for distribution to PAGA Group Members. Defendant will not oppose this
23 request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount. The
24 Court's adjustment, if any, of the amount allocated to Named Plaintiff's PAGA claim in the PAGA
25 Action, will not invalidate this Agreement.

26 ///

f. Payment of Individual Settlement Payments to Participating Class Members

The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement Payments. The Parties agree that the Net Settlement Amount shall be divided between all Participating Class Members in proportion to the number of individual Qualifying Workweeks for each Class Member during the Class Period and PAGA Period. To calculate the minimum amount each Class Member will receive based on their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total number of Qualifying Workweeks by all Class Members during the Class Period and PAGA Period then allocated on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class Member's approximate Individual Settlement Payment amount will be included in his or her Notice Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to Participating Class Members (those who did not exclude themselves) on a pro rata basis based on the individual Qualifying Workweeks worked during the Class Period by each Participating Class Member. Class Members who were employed during the PAGA Period will receive their share of the PAGA Payment regardless of whether they Opt-out of the settlement.

Each Individual Settlement Payment will represent wages and penalties. Settlement Payments for the Class Period will be allocated using the following formula: 60 % percent wages, and 40% percent penalties and interest. Settlement Payments for the PAGA Period will be allocated as 100 percent penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement Amount. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms.

No later than ten (10) business days after receiving the Gross Settlement Amount from Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the Net Settlement Amount allocated to wages will be reduced by applicable employer and employee

1 tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of
2 the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the
3 extent required by law for the interest and penalty portions of the Individual Settlement Payments.
4 Participating Class Members shall have 180 days from the date their Individual Settlement Payment
5 checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration
6 of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller
7 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

8 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
9 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
10 a mass search on LexisNexis or a comparable databases based on set criteria and, if another address
11 is identified, the Settlement Administrator shall mail the check to the newly identified address. If the
12 Settlement Administrator is unable to obtain a valid mailing address through this process, the
13 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
14 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

15 **g. Default on Payment.**

16 Defendant's failure to fund the Gross Settlement Amount within sixty (60) calendar days after
17 the date that the Court grants final approval of the Settlement shall be considered a default. In the
18 event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will
19 provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed
20 payment. Thereafter, Defendant will have seven (7) days to cure the default and tender payment to
21 the Settlement Administrator. In the event Defendant fails to cure the default within the times set
22 forth herein, Named Plaintiffs may elect to enter judgment against Defendant, on an ex parte basis,
23 for the balance of the unpaid Gross Settlement Amount to date, and Named Plaintiffs will be entitled
24 to recover interest at ten percent (10%) per year from the due date for such payment and reasonable
25 attorneys' fees and costs.

26 **h. No Credit Toward Benefit Plans.**

27 The Individual Settlement Payments made to Participating Class Members under this
28 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to

1 calculate any additional benefits under any benefit plans to which any Class Members may be
2 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
3 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
4 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
5 Members may be entitled under any benefit plans.

6 **i. No Additional Contribution from Defendant**

7 Defendant's monetary obligation under this Agreement is limited to the Gross Settlement
8 Amount and any employer side payroll taxes owed on amounts characterized as wages under this
9 Agreement (with the express exception of any potential pro rata increase to the Gross Settlement
10 Amount, as described in Section 3.04(e)). All other costs and expenses arising out of or in connection
11 with the performance of this Agreement shall be paid from the Gross Settlement Amount, unless
12 expressly provided otherwise herein. However, in the event this agreement is deemed null and void
13 pursuant to Section 2.01, because the Court, in its independent determination, finds that the
14 Agreement does not meet the standards for settlement approval, then Defendant and Plaintiff shall
15 be equally responsible for the costs of the Claims Administrator incurred between the date the
16 Agreement was executed and the date of such event.

17 **ARTICLE IV**

18 **LIMITATIONS ON USE OF THIS SETTLEMENT**

19 **Section 4.01: No Admission**

20 Defendant disputes the allegations in the Actions and disputes that, but for this Settlement, a
21 Class should not have been certified in the Class Action and that any wages or penalties are due or
22 should be awarded. This Agreement is entered into solely for the purpose of settling highly disputed
23 claims. Nothing in this Agreement is intended nor will be construed as an admission of liability or
24 wrongdoing by Defendant or any of the Released Parties.

25 **Section 4.02: Non-Evidentiary Use**

26 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
27 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
28 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,

including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Actions, except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims released through this Agreement.

Section 4.03: Nullification

The Parties have agreed to the certification of the Class encompassing all claims alleged in the Actions for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the Actions in their entirety, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to stipulate to class certification of all causes of action pled in the Actions as part of the Settlement will have no bearing on, and will not be admissible in connection with, the issue of whether the Class should be certified by the Court in a non-settlement context in the Actions or any other action, and in any of those events, Defendant expressly reserves the right to oppose certification of the Class.

In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the Gross Settlement Amount shall not be distributed pending the completion of the appeal.

ARTICLE V

RELEASES

Section 5.01: Released Claims by Class Members

Upon the date Defendant transfers the Gross Settlement Amount to the Settlement Administrator ("Effective Date"), Named Plaintiff and Participating Class Members who do not opt out of the Settlement, release the Released Parties from any and all claims alleged, or that could

1 have been alleged, in Named Plaintiff's Actions, during the Class Period based on the facts alleged
2 therein, including but not limited to (1) failure to pay minimum wages under Labor Code §§ 1194,
3 1194.2, 1197 and Industrial Welfare Commission Wage ("IWC") Order 4, § 3-4; (2) failure to pay
4 overtime wages under Labor Code §§ 510, 1194, 1198 and IWC Order 4, § 3; (3) failure to
5 authorize or provide meal periods under Labor Code §§ 226.7 and 512 and IWC Order 4, § 11; (4)
6 failure to authorize or permit rest periods under Labor Code §§ 226.7 and IWC Order 4, § 12; (5)
7 failure to furnish accurate itemized wage statements wage statement violations under Labor Code §
8 226 and IWC Order 4; (6) failure to pay wages upon separation of employment in violation of
9 Labor Code §§ 201-203; and (7) violation of California Business and Professions Code §§17200, *et*
10 *seq.*, based on the preceding claims ("Released Claims").

11 **Section 5.02: Released Claims by PAGA Group Members**

12 Upon the Effective Date, the State of California and PAGA Group Members release the
13 Released Parties from all claims for civil penalties under Labor Code § 2698 *et seq.* exhausted in
14 Plaintiff's notice(s) sent to the LWDA and alleged in the Actions, which arose during the PAGA
15 Period, regardless of whether PAGA Group Members opt out of the Class Settlement. This
16 settlement is also conditioned on the covenant that PAGA Group members will not participate in or
17 receive recovery or monies in connection with any further proceeding seeking penalties under
18 Section 2699, which arose during the PAGA Period for claims based on the same facts or theories
19 of the Released Claims facts which were or could have been alleged in the Actions.

20 **Section 5.03: Named Plaintiff's Release of Unknown Claims**

21 Upon the Effective Date, Named Plaintiff, waives, releases, acquits, and forever discharges
22 the Released Parties from any and all claims, actions, charges, complaints, grievances, and causes of
23 action, of any nature arising from Named Plaintiff's employment with Defendant, whether known or
24 unknown, which exist or may exist as of the Parties' execution of this Agreement.

25 Section 1542 of the California Civil Code provides as follows:

26 *"A general release does not extend to claims which the creditor does not*
27 *know or suspect to exist in his or her favor at the time of executing the*
28

1 *release, which if known by him or her must have materially affected his*
2 *or her settlement with the debtor. ”*

3 Plaintiff’s general release provided herein is made with an express waiver and relinquishment
4 of any claim, right, or benefit under California Civil Code § 1542.

5 **ARTICLE VI**

6 **MISCELLANEOUS PROVISIONS**

7 **Section 6.01: Amendments or Modification**

8 The terms and provisions of this Agreement may be amended or modified only by an express
9 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel,
10 and approved by the Court.

11 **Section 6.02: Assignment**

12 None of the rights, commitments, or obligations recognized under this Agreement may be
13 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
14 consent of each other Party and their respective counsel. The representations, warranties, covenants,
15 and agreements contained in this Agreement are for the sole benefit of the Parties under this
16 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

17 **Section 6.03: Governing Law**

18 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
19 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
20 of laws.

21 **Section 6.04: Entire Agreement**

22 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
23 contains the entire understanding of the Parties with respect to the subject matter contained herein.
24 In case of any conflict between text contained in Articles I through VI of this Agreement and text
25 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be
26 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
27 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
28 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement

1 supersedes all prior agreements and understandings among the Parties with respect to the settlement
2 of the Actions, including correspondence between Class Counsel and Defense Counsel and drafts of
3 prior agreements or proposals.

4 **Section 6.05: Waiver of Compliance**

5 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
6 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
7 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
8 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
9 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
10 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

11 **Section 6.06: Counterparts and Fax/PDF Signatures**

12 This Agreement, and any amendments hereto, may be executed in any number of counterparts
13 and any Party and/or their respective counsel may execute any such counterpart, each of which when
14 executed and delivered shall be deemed to be an original. All counterparts taken together shall
15 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
16 signature.

17 **Section 6.07: Meet and Confer Regarding Disputes**

18 Should any dispute arise among the Parties or their respective counsel regarding the
19 implementation or interpretation of this Agreement, a representative of Class Counsel and a
20 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
21 to submitting such disputes to the Court.

22 **Section 6.08: Agreement Binding on Successors**

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

25 **Section 6.09: Cooperation in Drafting**

26 The Parties have cooperated in the negotiation and preparation of this Agreement. This
27 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
28 was the drafter or participated in the drafting of this Agreement.

1 **Section 6.10: Fair and Reasonable Settlement**

2 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
3 the Actions and have arrived at this Agreement through arm's-length negotiation and in the context
4 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
5 further believe that the Settlement is and is consistent with public policy, and fully complies with
6 applicable law.

7 **Section 6.11: Headings**

8 The descriptive heading of any section or paragraph of this Agreement is inserted for
9 convenience of reference only and does not constitute a part of this Agreement and shall not be
10 considered in interpreting this Agreement.

11 **Section 6.12: Notice**

12 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
13 communications under this Agreement must be in writing and addressed as follows:

14 *To Named Plaintiff and the Class:*

15 Kashif Haque
16 Samuel A. Wong
17 Jessica L. Campbell
18 Alexander G.L. Davies
19 AEGIS LAW FIRM, PC
20 9811 Irvine Center Drive, Suite 100
21 Irvine, California 92618
22 Telephone: (949) 379-6250
23 Facsimile: (949) 379-6251

24 And

25 *To Defendant:*

26 KRISTA L. MITZEL (SBN 221002)
27 N. WILLIAM METKE (SBN 223885)
28 LINDLEY FRALEY (SBN 223421)
29 RONAK PATEL (SBN 296936)
30 SARA SHOK (SBN 302934)
31 **THE MITZEL GROUP, LLP**
32 44 Montgomery Street, Suite 1660
33 San Francisco, California 94104
34 Telephone: (415) 813-4984
35 Facsimile: (415) 735-3572

Email: kmitzel@mitzelgroup.com
Email: wmetke@mitzelgroup.com
Email: lfrale@mitzelgroup.com
Email: rpatel@mitzelgroup.com
Email: sshok@mitzelgroup.com

Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction

To the extent consistent with class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Actions or the liability of the Parties resulting from the allegations of the Actions. Its sole purpose is to adopt the terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over the Actions and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

Section 6.14: Mutual Full Cooperation

The Parties agree fully to cooperate with each other to accomplish the terms of this Agreement, including but not limited to the execution of such documents, and the taking of such other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its terms. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

Section 6.15: Authorization to Act

Class Counsel warrants and represents that they are authorized by Named Plaintiffs, and Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action required to effectuate the terms of this Agreement, except for signing documents, including but not

limited to this Agreement, that are required to be signed by the Parties themselves. Defendant represents and warrants that the individual executing this Agreement on its behalf has the full right, power, and authority to enter into this Agreement and to carry out the transactions contemplated herein.

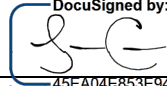
Section 6.16: No Reliance on Representations

The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of entering into and executing this Agreement, or with respect to any other matters. No representations, warranties, or inducements, except as expressly set forth herein, have been made to any party concerning this Agreement.

EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 3/2/2023 | 5:32 AM PST JONATHAN CABAN

By:  DocuSigned by:
45EA04E853E94CF...
Named Plaintiff

Dated: 2/23/2023 W.E. LODGE, INC.

By:  DocuSigned by:
84EA309FF3B047D...
(Signature)
Lauren Zimmerman Cook
(Printed Name)
CEO
(Title)

1 **APPROVED AS TO FORM ONLY:**

2 Dated: _____

AEGIS LAW FIRM, PC

3
4
5 By: _____


Samuel A. Wong
Jessica L. Campbell
Alexander G.L. Davies

6
7 Attorneys for Named Plaintiff Jonathan Caban

8
9 Dated: 2/23/2023

THE MITZEL GROUP, LLP

10
11 By: _____


Krista L. Mitzel
N. William Metke
Lindley Fraley
Ronak Patel
Sara Shok

12
13
14 Attorneys for Defendant W.E. Lodge, Inc.

EXHIBIT A

THIS IS AN IMPORTANT COURT APPROVED NOTICE. READ CAREFULLY.

Jonathan Caban v. W.E. Lodge Inc et al.
Alameda County Superior Court, Case No. 21CV001074

**If you worked for W.E. Lodge Inc. as a non-exempt employee, in California at any time from April 30, 2017 through November 16, 2022
the settlement of this class action lawsuit may affect your rights.**

This is a court-authorized notice. It is not a solicitation from a lawyer.

- A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Jonathan Caban v. W.E. Lodge Inc et al.*, Case No. 21CV001074 (Alameda County Superior Court) (the “Lawsuit”). The purpose of this Notice of Class Action Settlement (“Notice”) is to briefly describe the Lawsuit, and to inform you of your rights and options in connection with the Lawsuit and the Settlement.
- The Court has preliminarily approved a class action settlement with Defendant W.E. Lodge Inc. (“WEL” or “Defendant”), which will affect all non-exempt employees who worked for WEL in California at any time from April 30, 2017 through November 16, 2022.
- If the Court grants final approval of the Settlement, there may be money available to you.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
PARTICIPATE IN THE SETTLEMENT – <u>NO ACTION REQUIRED</u>	Stay in this Lawsuit. Receive a payment. Give up certain rights. By doing nothing, you become part of the Class and will be entitled to a settlement award as detailed below. But, you will not be able to bring your own lawsuit against WEL for violations that relate to the claims brought in this Lawsuit.
OBJECT TO THE SETTLEMENT	Stay in this Lawsuit. Object. Receive a payment. Give up certain rights. If you object to the settlement, you will remain a member of the Class. If the Court approves the settlement, you will be entitled to collect a settlement award and be bound by the terms of the settlement in the same way as Class Members who do not object.
ASK TO BE EXCLUDED	Get out of this Lawsuit. Receive no payment from the class settlement. Keep your rights. If you ask to be excluded from the Settlement, you will not receive any payment from the settlement award. But, you keep your right to sue WEL separately for the legal claims raised in this Lawsuit.

- **Regardless of the option you choose, you will not be retaliated against.**
- Your options are explained in this notice. To object to the settlement or to ask to be excluded, you must act before .

- **Any questions?** Read on or contact Class Counsel or the Settlement Administrator listed below.

BASIC INFORMATION

1. Why did I get this notice?

WEL's records show that you worked for WEL as a non-exempt employee in California at some point between April 30, 2017 and November 16, 2022.

The Court has determined only that there is sufficient evidence to suggest that the proposed Settlement may be fair, adequate, and reasonable. Any final determination of those issues will be made at the final hearing. You have legal rights and options that you may exercise as part of this Settlement. Judge Evelio Grillo of the Superior Court of the State of California, County of Alameda, is overseeing this lawsuit.

2. What is this lawsuit about?

In this Lawsuit, Plaintiff Jonathan Caban ("Plaintiff") claims that WEL: (1) failed to pay minimum wages; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to permit rest breaks; (5) failed to provide accurate itemized wage statements; (6) failed to pay all wages due upon separation of employment and within the required time; (7) violated California Business and Professions Code Section 17200 et seq.; (8) and violated California's PAGA Statute, Labor Code Section 2698 et seq.

Throughout the litigation, WEL has denied—and continues to deny—the factual and legal allegations in the Lawsuit. WEL denies any wrongdoing and asserts that its conduct at all times complied with the law. However, WEL has voluntarily agreed to the terms of a negotiated settlement in order to avoid the burden and expense of continued litigation.

3. What is a class action and who is involved?

In a class action lawsuit such as this, a person called the "Class Representative" sues on behalf of other people who may have similar claims. The people together are referred to as a "Class" or "Class Members." The person who is the Class Representative is also called the plaintiff. The company being sued is called the defendant. In class action litigation, a Court resolves the issues for everyone in the Class in one lawsuit, except for those people who choose to exclude themselves from the Class.

This class action also includes a "Private Attorney General Act" ("PAGA") claim, where the Plaintiff is attempting to recover civil penalties on behalf of the State of California. In a PAGA action, the State receives 75% of any recovered civil penalties, and the employees receive 25%. This Settlement will resolve all claims by the State for civil penalties arising from the claims made by Plaintiff in the Lawsuit during the period of April 30, 2020, through November 16, 2022. ("PAGA Period").

4. Why is this Lawsuit a class action?

For settlement purposes, Plaintiff and WEL agreed that this case can proceed as a class action and have agreed to ask the Court to approve the class action Settlement. The Court has not ruled on the merits of the claims in the Lawsuit.

5. What are the terms of the proposed Settlement?

The major terms of the settlement are as follows:

1. Defendant has agreed to pay \$625,000.00 to settle the claims in this Lawsuit. This amount is also known as the “Gross Settlement Amount.”
2. Plaintiff has agreed to release all of his claims in this this Lawsuit against Defendant.
3. Plaintiff seeks the following deductions from the \$625,000.00 Gross Settlement Amount:
 - a. Up to one-third (1/3) of the Gross Settlement Amount (which is currently equal to \$208,000.00) for Class Counsel’s attorneys’ fees.
 - b. Up to \$25,000.00 for reimbursement of Class Counsel’s litigation costs.
 - c. An Incentive Award of up to \$10,000.00 to the Plaintiff for filing the Lawsuit, performing work in connection with the Lawsuit, and the risks associated with filing the Lawsuit.
 - d. Up to \$8,550.00 to cover the costs of the Settlement Administrator.
 - e. A PAGA Settlement Amount of up to \$20,000.00 for the release of PAGA claims. The PAGA Settlement Amount shall be allocated 75% (\$15,000.00) to the California Labor and Workforce Development Agency and 25% (\$5,000.00) to the non-exempt employees that worked for Defendant in California at any time during the PAGA Period (“PAGA Group Members”).

If the Court approves these requested deductions, there will be approximately \$353,450.00 remaining. The remaining funds will be referred to as the “Net Settlement Amount.” The Net Settlement Amount will be distributed to Class Members who do not request exclusion according to the number of weeks they worked for Defendant in California during the Class Period.

PAGA Settlement Payments. 25% of the PAGA Settlement Amount (\$5,000.00) (“PAGA Group Payment”) will be paid to PAGA Group Members based on the number of pay periods they work for Defendant in California during the PAGA Period. If you are a PAGA Group Member, you will receive a pro rata share of the PAGA Group Payment regardless of whether you opt-out of the class settlement.

Check Cashing Period. If a settlement check remains uncashed after 180 days from the date it is issued, the check will become void and the amount of the uncashed check will be sent to the California State Controller’s Unclaimed Property Fund, to be held in your name.

WHO IS IN THE CLASS?

6. Am I part of this Class?

The “Class” includes: All non-exempt employees who are or were employed by WEL in California at any time from April 30, 2017 through November 16, 2022 (the “Class Period”).

7. I’m still not sure if I am included.

If you still are not sure whether you are included in the Class, you can get free help by contacting ILYM Group, Inc., the “Settlement Administrator”, at the designated phone number for this matter at [REDACTED] or by calling or writing the lawyers representing the Class in this case (“Class Counsel”), at the phone number or address listed in Section 19.

8. What is my approximate Individual Settlement Payment?

According to payroll records maintained by WEL, the total number of weeks you worked in California for WEL as a non-exempt employee during the Class Period is [REDACTED]. The total number of pay periods you worked in California for WEL as a non-exempt employee during the PAGA Period is [REDACTED].

Based on information provided above, anticipated court-approved deductions, and preliminary calculations Qualified Workweeks, it is estimated your share of the settlement will be \$[REDACTED], less applicable taxes and withholdings. This amount includes your share of the PAGA Group Payment, which is estimated to be \$[REDACTED].

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 16, below, of any changes to your mailing address for timely payment.

Disputing Your Payment Amount

If you believe your total weeks worked during the Class Period and/or PAGA Period shown above is not correct, you may contact the Settlement Administrator indicating what you believe is correct no later than [REDACTED]. You should send any documents or other information that supports your belief that the number of weeks set forth above is incorrect. The Settlement Administrator will attempt to resolve any dispute based upon WEL’s records and any information you provide. Any dispute not resolved by the Settlement Administrator will be resolved by the Court.

9. What rights am I releasing if I participate in the Settlement?

If the Court grants final approval of the Settlement and you do not exclude yourself from the Settlement, you will be deemed to have released Defendant and each and all of its officers, shareholders, directors, agents, assigns, clients, employees, attorneys, insurers, subsidiaries, predecessors or successors (collectively, “Released Parties”) from any and all claims alleged, or that could have been alleged, in Named Plaintiff’s Actions, during the Class Period based on the facts alleged therein, including but not

limited to (1) failure to pay minimum wages under Labor Code §§ 1194, 1194.2, 1197 and Industrial Welfare Commission Wage (“IWC”) Order 4, § 3-4; (2) failure to pay overtime wages under Labor Code §§ 510, 1194, 1198 and IWC Order 4, § 3; (3) failure to authorize or provide meal periods under Labor Code §§ 226.7 and 512 and IWC Order 4, § 11; (4) failure to authorize or permit rest periods under Labor Code §§ 226.7 and IWC Order 4, § 12; (5) failure to furnish accurate itemized wage statements wage statement violations under Labor Code § 226 and IWC Order 4; (6) failure to pay wages upon separation of employment in violation of Labor Code §§ 201-203; and (7) violation of California Business and Professions Code §§17200, *et seq.*, based on the preceding claims (collectively, “Released Claims”).

Additionally, if you are a PAGA Group Member, you will have released the right to bring a claim for civil penalties under PAGA that arose during the PAGA Period, on behalf of the State based on the facts alleged in the operative Complaint in this Lawsuit, the PAGA letter submitted to the LWDA by Plaintiff, and any further amended PAGA letters submitted to the LWDA by Plaintiff (collectively, “Released PAGA Claims”). You will release these Released PAGA Claims even if you opt-out of the class action settlement. This settlement is also conditioned on the covenant that PAGA Group members will not participate in or receive recovery or monies in connection with any further proceeding seeking penalties under Section 2699, which arose during the PAGA Period for claims based on the same facts or theories of the Released Claims facts which were or could have been alleged in the Actions.

10. How do I object to the Settlement?

If you are a Class Member and would like to object to the Settlement, you must not submit a request for exclusion (*i.e.*, you must not opt-out). To object, you may mail a written objection to the Settlement Administrator at the address in Section 16 below. Your written objection must set forth the grounds for your objection and be signed and dated, along with any supporting documents. Any written objection must be mailed to the Settlement Administrator no later than [REDACTED]. You can also appear at the final approval hearing. The information for the hearing is included in Section 17 of this notice.

11. Why would I ask to be excluded?

You have the right to exclude yourself from the Class (and the class settlement). If you exclude yourself from the Class—sometimes called "opting-out" of the Class – you will not receive any money or benefits from the class settlement. However, if you opt out, you may then be able to sue or continue to sue WEL for your own claims if permitted by law. If you exclude yourself, you will not be legally bound by the Court's ruling in this Lawsuit except for the release by PAGA Group Members. Whether or not you submit a Request for Exclusion, if you are a PAGA Group Member, you will still be entitled to your portion of the PAGA Group Payment.

12. How do I ask to be excluded from the Class?

If you are a Class Member and would like to exclude yourself from the Class (“opt-out”), you, or your authorized representative, need to submit a written statement requesting exclusion from the Class to the Settlement Administrator at the address in Section 16 below. The statement must contain your name, address, telephone number, and your signature or the signature of your legally authorized representative and must be postmarked on or before [REDACTED]. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion has been

timely submitted. Any class member who fails to submit a valid and timely request for exclusion will be bound by all terms of the settlement and any final disposition entered in this Class Action if the Settlement is approved by the Court.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

Class Counsel:

Kashif Haque
Samuel A. Wong
Jessica L. Campbell
Daniel E. Ishu
AEGIS LAW FIRM, PC
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251
dishu@aegislawfirm.com

The Court has preliminarily decided that Aegis Law Firm, PC is qualified to represent you and all Class Members. The law firm's attorneys are experienced in handling similar cases against other employers. More information about this law firm, their practice, and their lawyers' experience is available at www.aegislawfirm.com.

14. How will the lawyers be paid?

As part of the Settlement, Class Counsel has requested one-third of the Gross Settlement Amount (currently equal to \$208,333.33) in attorneys' fees, plus costs not to exceed \$25,000.00, to be paid from the Gross Settlement Amount to compensate Class Counsel for their work on this matter. You will not have to pay Class Counsel's fees and costs from your Individual Settlement Payment.

15. How will the Plaintiff be paid?

As part of the Settlement, Class Counsel has requested an incentive award of up to \$10,000 to be paid to the Plaintiff for his efforts in this matter, while serving as Class Representative and taking on the burden and risks of litigation.

THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS

16. Who is handling the Settlement Administration process?

ILYM Group, Inc.

[address]

[address]

[Telephone]

17. When is the Final Fairness and Approval Hearing and do I have to attend?

The Final Fairness and Approval Hearing has been set for [REDACTED], at [REDACTED], in Department 21 of the Superior Court of California, County of Alameda, located at 1225 Fallon Street, Oakland, CA 94612. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement, you may appear at the hearing. Please note that the hearing may be continued without further notice to the Class.

18. When will I get money after the hearing?

The Court will hold a hearing on [REDACTED], at [REDACTED], to decide whether to approve the settlement. If the Court approves the settlement, then there may be appeals if anyone objects. It is always uncertain when these objections and appeals can be resolved, and resolving them can take time. If the Court approves the settlement and if you do not opt out, your individual payment set forth in Section 8 above is expected to be distributed after WEL makes payment to the Settlement Administrator. To check on the progress of the settlement, contact the Settlement Administrator or Class Counsel at the phone number or address listed in Section 19.

GETTING MORE INFORMATION

19. Are more details available?

For more information, the pleadings and other records in this litigation, including copies of the Settlement Agreement, may be examined at any time during regular business hours at the office of the Clerk of the Superior Court of the State of California, for Alameda, at the Alameda County Superior Court, located at 1225 Fallon Street, Oakland, CA 94612. You can also view the case records online at the court's website: <https://portal.alameda.courts.ca.gov/?q=Login>. Create a free account on the Court's website, and search by Case No.: 21CV001074.

Any questions regarding this Class Notice or the Lawsuit may be directed to the Settlement Administrator at the address and/or telephone number listed in section 16 of this Notice. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact Class Counsel at the address, telephone number or email address set forth above. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

PLEASE DO NOT CALL OR WRITE TO THE COURT, OR TO ANY OF DEFENDANT'S MANAGERS, SUPERVISORS, OR DEFENDANT'S ATTORNEYS WITH QUESTIONS ABOUT THIS NOTICE.