

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Settlement Agreement is between Plaintiff Justin Avalos (“Plaintiff”), on behalf of the Class (as defined below) and Defendant Indio Products, Inc. (“Defendant”). Plaintiff and Defendant collectively are referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to the other terms defined in this Agreement, the terms below have the following meaning:

- A. **Action**: The lawsuit originally filed by Plaintiff Justin Avalos in the Superior Court of California, County of Los Angeles, on October 19, 2020, entitled *Avalos v. Indio Products, Inc.*, Case No. 20STCV40470, and which will be amended by the First Amended Complaint, adding a PAGA cause of action, to be filed by Plaintiff in the Superior Court of California, County of Los Angeles.
- B. **Administration Costs**: The costs incurred by the Settlement Administrator to administer this Settlement, which is currently estimated at \$3,700.00, and shall not exceed \$5,000.00. All Administration Costs shall be paid from the Qualified Settlement Fund. If the actual Administration Costs are less than the Parties’ estimated Administration Costs, the difference between the actual and estimated Administration Costs will increase the Net Settlement by that amount.
- C. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
- D. **Attorney Fee Award**: The amount, not to exceed 35% of the Gross Settlement Amount or \$131,250.00, finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. If Class Counsel’s request for the Attorney Fee Award is not approved and/or is reduced by the Court, any amount not approved and/or reduced by the Court will increase the Net Settlement Amount by that amount.
- E. **Class**: All California non-exempt employees of Defendant during the Class Period.
- F. **Class Counsel**: Attorneys Douglas Han, Shunt Tatavos-Gharajeh, and Chancellor Nobles of Justice Law Corporation.
- G. **Class Data**: The Class Data means information regarding Class Members that Defendant will compile from its available, existing, electronic records and provide to the Settlement Administrator. It shall be formatted as a Microsoft

Excel spreadsheet and shall include: (i) each Class Member's full name; (ii) each Class Member's last-known address; (iii) each Class Member's last known telephone number; (iv) each Class Member's Social Security and Employee ID number, if any; (v) each Class Member's relevant dates of employment; and (vi) any information in Defendant's possession that the Settlement Administrator may reasonably need to calculate workweeks, pay periods, Participating Class Members' Individual Settlement Shares, and Eligible Aggrieved Employees' Individual PAGA Payments.

- H. **Class Member**: Each person eligible to participate in this Settlement who is a member of the Class as defined above.
- I. **Class Period**: The time period from July 5, 2016, to December 31, 2021.
- J. **Class Representative or Plaintiff**: Justin Avalos.
- K. **Class Representative Enhancement Payment**: The amount the Court awards to Plaintiff for his services as Class Representative, his participation in the Action, and his execution of a general release of claims, which will not exceed \$10,000.00. This payment shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. The Class Representative Enhancement Payment is subject to the approval of the Court. If Plaintiff's request for the Class Representative Enhancement Payment is not approved and/or is reduced by the Court, any amount not approved and/or reduced by the Court will increase the Net Settlement Amount by that amount.
- L. **Complaints**: The Complaint originally filed by Plaintiff in the Superior Court of California, County of Los Angeles, on October 19, 2020, in the case entitled *Avalos v. Indio Products, Inc.*, Case No. 20STCV40470, and the First Amended Complaint, adding a PAGA cause of action, to be filed by Plaintiff in the Superior Court of California, County of Los Angeles in the case entitled *Avalos v. Indio Products, Inc.*
- M. **Cost Award**: The amount that the Court awards Class Counsel for payment of actual litigation costs subject to proof, which shall not exceed \$20,000.00. The Cost Award will be paid from the Qualified Settlement Fund and will not be opposed by Defendant. The Cost Award is subject to Court approval. If Class Counsel's request for the Cost Award is less or is not approved and/or is reduced by the Court, any amount not requested, not approved and/or reduced by the Court will increase the Net Settlement Amount by that amount.
- N. **Counsel for Defendant**: Attorney Todd E. Croutch of Fraser Watson & Croutch LLP.
- O. **Court**: The Superior Court of the State of California, County of Los Angeles.

- P. **Defendant:** Indio Products, Inc.
- Q. **Effective Final Settlement Date:** The effective date of this Settlement will be the date Defendant fully funds the Gross Settlement Amount and any employer's share of payroll taxes.
- R. **Eligible Aggrieved Employees:** The aggrieved employees eligible to recover the PAGA payment shall consist of all California non-exempt employees of Defendant during the PAGA Period.
- S. **Exclusion Form:** The Election Not To Participate ("Opt Out From") Settlement, substantially similar to the form attached hereto as **Exhibit B**, subject to Court approval.
- T. **Final Approval or Judgment:** The final order entered by the Court finally approving the proposed Settlement.
- U. **Gross Settlement Amount or GSA:** The total value of the Settlement is a non-reversionary Three Hundred Seventy-Five Thousand Dollars and Zero Cents (\$375,000.00). This is the gross amount Defendant can be required to pay under this Settlement Agreement, which includes: the (1) Net Settlement Amount to be paid to Participating Class Members; (2) Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) Administration Costs paid to the Settlement Administrator, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Eligible Aggrieved Employees, as approved by the Court. Defendant's portion of payroll taxes as the Class Members' current or former employer is not included in the GSA and will be a separate obligation of Defendant. No portion of the Gross Settlement Amount will revert to Defendant for any reason. In no event shall Defendant be responsible for any other attorneys' fees or costs.
- V. **Individual PAGA Payment(s):** The amount payable to each Eligible Aggrieved Employee from the portion of the PAGA Payment allocated to the Eligible Aggrieved Employees under the terms of this Settlement Agreement. Eligible Aggrieved Employees are not required to submit a claim form to receive their Individual PAGA Payments. Rather, Eligible Aggrieved Employees will be mailed an Individual PAGA Payment automatically, without the return of a claim form.
- W. **Individual Settlement Share(s):** The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement Shares under the terms of this Settlement Agreement. Rather, Participating

Class Members will be mailed an Individual Settlement Share automatically, without the return of a claim form.

- X. **LWDA**: California Labor and Workforce Development Agency.
- Y. **Net Settlement Amount or NSA**: The total amount of money available from the GSA for distribution to Participating Class Members, which is the GSA less the Attorney Fee Award, Cost Award, Class Representative Enhancement Payment, PAGA Payment, and Administration Costs. In other words, the Net Settlement Amount is the portion of the Gross Settlement Amount that will be distributed to Class Members who do not request exclusion from the Settlement.
- Z. **Notice**: The “Notice of Class Action and PAGA Settlement” to be provided to all Class Members, in both English and Spanish, regarding the terms of this Settlement, substantially like the form attached hereto as **Exhibit A**, subject to Court approval. The Notice shall constitute class notice pursuant to California Rules of Court, rule 3.769 (f) and, once approved by the Court, shall be deemed compliant with California Rules of Court, rule 3.766.
- AA. **Notice Packet**: The Notice and Exclusion Form.
- BB. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (California Labor Code section 2698, *et seq.*).
- CC. **PAGA Notice**: The PAGA Notice refers to the pre-filing notice of Labor Code violations served by Plaintiff on the LWDA on November 30, 2020.
- DD. **PAGA Payment**: The PAGA Payment consists of \$20,000.00 of the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the Action. Seventy-five percent (75%) of the PAGA Payment (\$15,000.00) shall be paid to the LWDA, and twenty-five percent (25%) of the PAGA Payment (\$5,000.00) shall be distributed to Eligible Aggrieved Employees, on a pro rata basis, as set forth below.
- EE. **PAGA Period**: The time period from November 30, 2020, to December 31, 2021.
- FF. **PAGA Released Claims**: PAGA Released Claims means all claims for civil penalties pursuant to PAGA asserted in the Action or in the PAGA Notice against the Released Parties. The period of the PAGA Released Claims shall extend to the limits of the PAGA Period.

The PAGA Released Claims does not include claims that, as a matter of law, cannot be released and does not include claims for retaliation, discrimination, wrongful termination, and individual claims for the recovery of workers’ compensation benefits.

GG. Participating Class Members: All Class Members who do not submit a valid and timely request to exclude themselves from this Settlement.

HH. Parties: Plaintiff Justin Avalos as an individual and as a Class Representative, and Defendant Indio Products, Inc.

II. Preliminary Approval or Preliminary Approval Order: The order entered by the Court preliminarily approving the proposed settlement.

JJ. Qualified Settlement Fund or QSF: A fund within the meaning of Treasury Regulation § 1.46B-1, 26 C.F.R. § 1.468B-1 *et seq.*, that is established by the Settlement Administrator for the benefit of Participating Class Members, Plaintiff and Class Counsel.

KK. Released Claims: Released Claims means all claims asserted in the Action by Plaintiff and the Class Members against the Released Parties. The Released Claims includes claims relating to any and all facts and claims asserted in the Action, or any other claims that could have been asserted in the Action and based on the facts alleged, including but not limited to, minimum, overtime, and double time wages (including but not limited to any claims for additional wages owed due to “off-the-clock” work); meal and rest breaks; failure to keep time records; wage statement violations; separation pay violations; unreimbursed business expenses; untimely payment of wages; failure to maintain records; and unfair business practices. The period of the Released Claims shall extend to the limits of the Class Period.

The Released Claims does not include claims that, as a matter of law, cannot be released and does not include claims for retaliation, discrimination, wrongful termination, and individual claims for the recovery of workers’ compensation benefits. The Released Claims also expressly excludes the PAGA Released Claims, meaning Participating Class Members will not release the PAGA Released Claims unless such Participating Class Members are also Eligible Aggrieved Employees. Participating Class Members who are also Eligible Aggrieved Employees shall release the PAGA Released Claims, in addition to releasing the Released Claims, upon the Effective Final Settlement Date.

LL. Released Parties: Defendant and its present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent and related companies, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and all of their present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent and related companies, subsidiaries, divisions, affiliates, predecessors, successors, and assigns.

MM. Response Deadline: Sixty (60) calendar days from the initial mailing of the Class Notice.

NN. Settlement Administrator: The third-party administrator agreed upon by Parties to administer this Settlement is Simpluris, Inc.

II. RECITALS

- A. Investigation and Discovery.** Prior to the mediation on August 17, 2021, and both before and after the Action was filed, the Parties conducted significant investigation and discovery of the facts and law. Prior to mediation, Defendant produced hundreds of documents relating to its policies, practices, and procedures regarding timekeeping, overtime, scheduling, meal and rest periods, reimbursement, and other payroll and operational policies. As part of Defendant's production, Plaintiff also reviewed time records, pay records, information relating to the size and scope of the Class, and data permitting Plaintiff to understand the number of workweeks in the Class Period and pay periods in the PAGA Period. Plaintiff also interviewed various Class Members who worked for Defendant throughout the Class Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis.
- B. Benefits of Settlement to Class Members.** Plaintiff and Class Counsel recognize the expense and length of additional proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff and Class Counsel also have considered the uncertainty and risks, the potential outcome, and the difficulties and delays inherent in further litigation. Plaintiff and Class Counsel have conducted extensive settlement negotiations, including formal mediation on August 17, 2021. Based on the foregoing, Plaintiff and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.
- C. Defendant's Reasons for Settlement.** Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of Defendant's time, energy, and resources have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.
- D. Defendant's Denial of Wrongdoing.** Defendant generally and specifically denies any and all liability or wrongdoing of any sort with regard to any of the claims alleged, makes no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the Action is not

appropriate for class or PAGA treatment. Defendant also asserts several defenses to the claims and has denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any statements, discussions, or communications, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiff can serve as an adequate Class Representative or that an ascertainable class exists. There has been no determination by any court as to the merits of the claims asserted by Plaintiff against Defendant or as to whether a class or classes should be certified, other than for settlement purposes only.

- E. Plaintiff's Claims.** Plaintiff asserts that Defendant's defenses are without merit. Neither this Agreement, nor any document referred to or contemplated herein, nor any statements, discussions, or communications, nor any action taken to carry out this Agreement is or may be construed as, or may be used as an admission, concession or indication by or against Plaintiff, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Action. However, if this Settlement is finally approved by the Court, none of Plaintiff, Class Members, or Class Counsel will oppose Defendant's efforts to use this Agreement to prove that Plaintiff and Participating Class Members have resolved and are forever barred from re-litigating the Released Claims.

III. SETTLEMENT TERMS AND CONDITIONS

- A. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount, excluding payroll taxes, that Defendant is obligated to pay under this Settlement Agreement is Three Hundred Seventy-Five Thousand Dollars and Zero Cents (\$375,000.00).
- B. Notice to the Labor and Workforce Development Agency ("LWDA").** On November 30, 2021, Plaintiff filed and served his Notice of Labor Code Violations Pursuant to Labor Code section 2699.3. Thus, Plaintiff has satisfied his notice obligations under PAGA.
- C. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that for this Settlement to occur, the Court must certify the Class as defined in this Agreement.
- D. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement only. If the Settlement does not

become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with the question of whether the Court should certify any claims in a non-settlement context in this Action or in any other lawsuit or venue. If the Settlement does not become effective, Defendant reserves the right to contest any issues relating to class certification, liability and damages.

- E. Appointment of Class Representative.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiff shall be appointed as the representative for the Class.
- F. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree that Class Counsel shall be appointed to represent the Class.
- G. Settlement Disbursement.** Subject to the terms and conditions of this Agreement, and the approval of the Court, the Settlement Administrator will disburse the Gross Settlement Amount as follows:

 - 1. To the Plaintiff, Justin Avalos.** In addition to his respective Individual Settlement Share, and subject to the Court's approval, Plaintiff Justin Avalos will receive up to Ten Thousand Dollars and Zero Cents (\$10,000.00) as a Class Representative Enhancement Payment. The Settlement Administrator will pay the Class Representative Enhancement Payment out of the Qualified Settlement Fund. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payment. An IRS Form 1099 will be issued to Plaintiff with respect to his Class Representative Enhancement Payment. Plaintiff shall be solely and legally responsible for paying any and all applicable taxes due on the Class Representative Enhancement Payment and shall hold harmless Defendant, Class Counsel and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payment. In the event the Court does not approve the entirety of the application for the Class Representative Enhancement Payment, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiff, the difference shall become part of the NSA and will be distributed to Participating Class Members. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payment, Plaintiff shall not have the right to revoke the Settlement, and it will remain binding, nor will Plaintiff seek, request, or demand an increase in the Gross Settlement Amount on that basis or any basis.

- 2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendant agrees not to oppose, a total Attorney Fee Award not to exceed thirty-five percent (35%), or One Hundred Thirty-One Thousand Two Hundred Fifty Dollars and Zero Cents (\$131,250.00), of the GSA and a Cost Award not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00). The Settlement Administrator will pay the Court-approved amounts for the Attorney Fee Award and Cost Award out of the Gross Settlement Amount. The Settlement Administrator may purchase an annuity to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the Attorney Fee Award and Cost Award. In the event the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount(s) the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount(s) requested and the amount(s) awarded. If the amount(s) awarded is less than the amount(s) requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference(s) shall become part of the NSA and will be distributed to Participating Class Members. In the event that the Court reduces the requested Attorney Fee Award and/or Cost Award, neither Plaintiff nor Class Counsel shall have the right to revoke the Settlement, and it will remain binding, nor will Plaintiff seek, request, or demand an increase in the Gross Settlement Amount on that basis or any basis.
- 3. To the Responsible Tax Authorities.** The Settlement Administrator will withhold the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each person's Individual Settlement Share apportioned to wages. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendant's portion of payroll withholding taxes. The Settlement Administrator will submit Defendant's portion of payroll withholding tax calculation to Defendant for additional funding and forward those amounts along with each person's Individual Settlement Share withholdings to the appropriate taxing authorities. Defendant will pay half of its portion of employer-side payroll taxes at the same time Defendant funds the first half of the Gross Settlement Amount and the second half of its portion of employer-side payroll taxes at the same time Defendant funds the second half of the Gross Settlement Amount, in accordance with the requirements of Section III (J)(8)(a) of this Settlement Agreement.
- 4. To the Settlement Administrator.** The Settlement Administrator will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed Five Thousand Dollars and Zero Cents (\$5,000.00).

This will be paid out of the Qualified Settlement Fund. If the actual amount of Administration Costs is less than the amount estimated and/or requested, the difference shall become part of the NSA and will be distributed to Participating Class Members.

5. To Participating Class Members. The Settlement Administrator will pay each Participating Class Member an Individual Settlement Share from the NSA.

a. Individual Settlement Share Calculation. The Settlement Administrator will pay each Participating Class Member according to his or her proportional share of the Net Settlement Amount, which will be equal to: (i) the number of weeks the Participating Class Member worked during the Class Period, based on the Class Data provided by Defendant, (ii) divided by the total number of weeks worked by any and all Participating Class Members collectively during the Class Period, based on the same Class Data, (iii) which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a week for purposes of this calculation. Therefore, the value of each Participating Class Member's Individual Settlement Share ties directly to the number of weeks the Participating Class Member worked during the Class Period.

b. Tax Treatment for Individual Settlement Shares. Each Participating Class Member's Individual Settlement Share will be apportioned as follows: twenty percent (20%) wages and eighty percent (80%) penalties and interest. The portion 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 IRS Forms W-2. Payment of all amounts will be made subject to backup withholding unless a duly executed IRS Form W-4 is received from the payee(s). 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 Forms 1099. The employees' share of payroll tax withholdings shall be withheld from each person's Individual Settlement Share. Participating Class Members will be responsible for the payment of any taxes and penalties assessed on the Individual Settlement Shares and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual Settlement Shares.

6. To Eligible Aggrieved Employees. The Settlement Administrator will pay each Eligible Aggrieved Employee an Individual PAGA Payment from the

portion of the PAGA Payment allocated to the Eligible Aggrieved Employees.

a. Individual PAGA Payment Calculation. The Settlement Administrator will pay each Eligible Aggrieved Employee according to his or her proportional share of the portion of the PAGA Payment allocated to the Eligible Aggrieved Employees, which will be equal to: (i) the number of pay periods the Eligible Aggrieved Employee worked during the PAGA Period, based on the Class Data provided by Defendant, (ii) divided by the total number of pay periods worked by any and all Eligible Aggrieved Employees collectively during the PAGA Period, based on the same Class Data, (iii) which is then multiplied by the portion of the PAGA Payment allocated to the Eligible Aggrieved Employees. One day worked in a given pay period will be credited as a pay period for purposes of this calculation. Therefore, the value of each Eligible Aggrieved Employee's Individual PAGA Payment ties directly to the number of pay periods the Eligible Aggrieved Employee worked during the PAGA Period.

b. Tax Treatment for Individual PAGA Payments. Each Eligible Aggrieved Employee's Individual PAGA Payment will be apportioned as one hundred percent (100%) penalties and 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 Forms 1099. Eligible Aggrieved Employees will be responsible for the payment of any taxes and penalties assessed on the Individual PAGA Payments and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual PAGA Payments.

H. Appointment of Settlement Administrator. The Settlement Administrator shall be responsible for preparing, translating into Spanish, printing, and mailing the Notice Packets to the Class Members; creating a static settlement website that will go live on the same date the Notice Packet is first mailed to the Class Members and that will include, among other things, the Complaints, standalone generic copies of the Notice and Exclusion Form, all papers filed in connection with the Preliminary Approval Hearing (including all orders filed by the Court), all papers filed in connection with the Final Approval Hearing (including the fee motion and the final approval motion), and, if the Settlement is approved, the Final Approval Order and Judgment; keeping track of any objections or requests for exclusion from Class Members; performing skip traces and remailing Notice Packets, Individual Settlement Shares, and Individual PAGA Payments to Class Members and Eligible Aggrieved Employees; calculating any and all payroll tax deductions as required by law; calculating each Class Member's Individual Settlement Share; calculating each

Eligible Aggrieved Employee's Individual PAGA Payment; providing weekly status reports to Counsel for Defendant and Class Counsel, which are to include updates on any objections or requests for exclusion that have been received; providing a due diligence declaration for submission to the Court upon completion of the Settlement and prior to the Final Approval Hearing; mailing Individual Settlement Shares to Participating Class Members; mailing Individual PAGA Payments to Eligible Aggrieved Employees; mailing the portion of the PAGA Payment due to the LWDA to the LWDA; distributing the Attorney Fee Award and Cost Award to Class Counsel; printing and providing Class Members, Eligible Aggrieved Employees, and Plaintiff with IRS Forms W-2 and 1099 as required under this Agreement and applicable law; turning over any funds remaining in the QSF as a result of uncashed checks to the California State Controller's Office in accordance with California's Unclaimed Property Law, including the administration of related tax reimbursements; and for such other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in Simpluris or otherwise have a relationship with Simpluris that could create a conflict of interest.

I. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a. Plaintiff will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Notice and Exclusion Form.
- b. At the Preliminary Approval Hearing, Plaintiff will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representative, Class Counsel, and the Settlement Administrator; approving the Notice; and setting the Final Approval Hearing.
- c. Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement with prejudice, the Settlement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payment shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items is not a condition of this Settlement Agreement and is to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for

the Attorney Fee Award, Cost Award, Administration Costs, and/or Class Representative Enhancement Payment shall not operate to terminate or cancel this Settlement Agreement.

2. Notice to Class Members. After the Court enters its Preliminary Approval Order, every Class Member will be provided with the Notice Packet in accordance with the following procedure:

- a.** Within three (3) calendar days after entry of the Preliminary Approval Order, Defendant shall deliver the Class Data to the Settlement Administrator. The Settlement Administrator shall maintain the Class Data as private and confidential and take reasonable and necessary precautions to maintain the confidentiality of the Class Data. The Settlement Administrator shall not distribute or use the Class Data or any information contained therein for any purpose other than to administer this Settlement.
- b.** At the same time Defendant provides the Class Data to the Settlement Administrator, Defendant will also provide the Class Data to Class Counsel. Class Counsel shall maintain the Class Data as private and confidential and take reasonable and necessary precautions to maintain the confidentiality of the Class Data. Class Counsel shall not distribute or use the Class Data or any information contained therein for any purpose other than in connection with this Settlement.
- c.** Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes.
- d.** Within fourteen (14) calendar days after Defendant's deadline to provide the Class Data to the Settlement Administrator, the Settlement Administrator will mail the Notice Packet to all identified Class Members via first-class regular U.S. Mail.
- e.** If a Notice Packet is returned because of an incorrect address, within three (3) business days from receipt of the returned Notice Packet, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Notice Packet to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Notice Packet is

returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Settlement Administrator is unable to locate a better address, the Notice Packet shall be re-mailed to the original address. If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip-trace or forwarded mail, will have an additional fourteen (14) calendar days to submit a request for exclusion from or objection to the Settlement or dispute the information provided in their Notices. The Settlement Administrator shall mark on the envelope whether the Notice Packet is a re-mailed notice and shall provide on the envelope the Class Member's new deadline to respond.

- f. Class Members may dispute the information provided in their Notices, but must do so in writing by the Response Deadline. Class Members may submit written disputes to the Settlement Administrator by faxing or emailing their disputes by the Response Deadline, or by mailing their written disputes by first-class regular U.S. mail, postmarked by the Response Deadline. To the extent Class Members dispute the number of workweeks or pay periods to which they have been credited or the amounts of their Individual Settlement Shares or Individual PAGA Payments, Class Members must produce and submit evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Settlement Administrator will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible workweeks or pay periods to which the Class Member should be credited and/or the Individual Settlement Share or Individual PAGA Payment to which the Class Member may be entitled. The Settlement Administrator's determinations of workweek/pay period and Individual Settlement Share/Individual PAGA Payment challenges will not be appealable or otherwise challengeable. The Settlement Administrator will mail Class Members notice of the determinations of their challenges within three (3) business days of the Settlement Administrator's determination.
- g. If the Settlement Administrator receives an incomplete or deficient request for exclusion, the Settlement Administrator shall

send a letter informing the Class Member of the deficiency and shall allow the Class Member fourteen (14) calendar days to cure the deficiency. If, after the 14-day cure period expires, the request for exclusion is not cured, the Settlement Administrator will determine that the Class Member did not exclude himself or herself from the Settlement, and the Class Member will be bound by the Settlement.

- h.** The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Counsel for Defendant of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, and the number of requests for exclusion received.
- i.** No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel no later than ten (10) calendar days before the Final Approval Hearing. If any material changes occur before the Final Approval Hearing but after the Settlement Administrator's declaration of due diligence has been filed, the Settlement Administrator will supplement its declaration.

3. Objections to Settlement.

- a. Notice.** The Notice will provide that Class Members who wish to object to the Settlement may do so by submitting an objection to the Settlement Administrator by the Response Deadline. Class Members may submit objections by faxing or emailing them to the Settlement Administrator by the Response Deadline or mailing them by regular U.S. mail to the Settlement Administrator, postmarked by the Response Deadline. Class Members who object to this Settlement or any term(s) of this Settlement may not also submit requests for exclusion from this Settlement (i.e., may not opt out of this Settlement). In the event a Class Member both submits a valid request for exclusion and submits or makes a valid objection, the request for exclusion will be deemed invalid, and the objection will remain valid. If a Class Member objects to the Settlement, the objecting Class Member will remain a member of the Settlement and, if the Court approves the Settlement, the objecting Class Member will be bound by the terms of the Settlement in the same way and to the same extent as a

Participating Class Member who does not object. Eligible Aggrieved Employees do not have the right to object to the PAGA portion of the Settlement.

- b. Format.** Objections should: (a) state the objecting Class Member's full name, address, and telephone number; (b) include the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objecting Class Member may call to testify at the Final Approval Hearing; and (e) provide true and correct copies of any exhibit(s) the Objecting Class Member intends to offer at the Final Approval Hearing. However, an objection will be deemed valid as long as it is submitted or postmarked to the Settlement Administrator by the Response Deadline and provides sufficient information to allow the Settlement Administrator to ascertain the Class Member's identity and to ascertain that the Class Member objects to the Settlement or to some term(s) of the Settlement.
- c. Objector Appearances.** Participating Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through their own counsel. The failure to file and serve a written objection does not waive a Participating Class Member's right to appear at and make an oral objection at the Final Approval Hearing. The Court will hear from any Class Member who attends the Final Approval Hearing and asks to speak, regardless of whether the Class Member has submitted a written objection.

4. Request for Exclusion from the Settlement ("Opt-Out").

- a. Notice.** The Notice will provide that Class Members who wish to exclude themselves from the Settlement may do so by submitting a written request for exclusion to the Settlement Administrator by fax or email by the Response Deadline or by mailing a request for exclusion to the Settlement Administrator by regular U.S. mail, postmarked by the Response Deadline.
- b. Format.** The request for exclusion should: (a) include the Class Member's full name and address, and the last four digits of the Class Member's Social Security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member; and (d) be submitted or postmarked no later than the Response Deadline. However, a request for exclusion will be deemed valid as long as it is submitted or postmarked to the Settlement Administrator by the Response Deadline and provides sufficient

information to allow the Settlement Administrator to ascertain the Class Member's identity and to ascertain that the Class Member wants to opt out of the Settlement.

- c. **No Opt Out From PAGA.** Eligible Aggrieved Employees will not be able to exclude themselves from the PAGA portion of the Settlement. Therefore, if the Court approves the Settlement, Eligible Aggrieved Employees will be bound by the PAGA portion of the Settlement and will still be mailed checks for their Individual PAGA Payments. The Notice will inform Eligible Aggrieved Employees that they cannot opt out of the PAGA portion of the Settlement and will explain that Eligible Aggrieved Employees will be bound by the PAGA portion of the Settlement, meaning they will release and be barred from pursuing any of the PAGA Released Claims against the Released Parties, and will still be entitled to their Individual PAGA Payments, even if they opt out of the class portion of the Settlement.
- d. **Validity and Effect.** Any Class Member who returns a timely and valid request for exclusion will not participate in or be bound by the Settlement and Judgment and will not receive an Individual Settlement Share. A Class Member who does not submit a timely and valid request for exclusion will be included in the Settlement, will be mailed an Individual Settlement Share, and will be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the Judgment, regardless of whether the Class Member has objected to the Settlement.
- e. **Report.** No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notice Packets mailed to Class Members, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed to Class Members, the number of re-mailed Notice Packets returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who submitted valid requests for exclusion, and the number of Class Members who submitted invalid requests for exclusion.
- f. **Defendant's Option to Terminate.** If ten percent (10%) or more of the Class Members exercise their right to exclude themselves from the Settlement, or if the approximate 4,618 workweeks increases by more than twenty percent (20%) by December 31, 2021, Defendant may, at its sole discretion, unilaterally withdraw from and terminate the Settlement Agreement no later than five

(5) court days prior to the date of the Final Approval Hearing. In the event of Defendant's withdrawal, no Party may use the fact that the Parties agreed to the Settlement for any reason. If Defendant exercises its right to withdraw from the Settlement under this provision, Defendant will be responsible for paying all Administration Costs incurred up to the point of Defendant's exercising its right to withdraw under this provision.

5. No Solicitation of Objection or Requests for Exclusion. Neither the Parties nor their respective counsel will solicit directly or indirectly any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Judgment. Nothing in this provision shall interfere with the ethical duties Class Counsel owes to the Class Members.

6. Motion for Final Approval.

a. Class Counsel will file unopposed motions and memoranda in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: the (1) Attorney Fee Award; (2) Cost Award; (3) Administration Costs; (4) Class Representative Enhancement Payment; and (5) PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Participating Class Members and the PAGA Released Claims of the Eligible Aggrieved Employees. Class Counsel's motion for Final Approval of the Settlement, including Final Approval of the (1) Attorney Fee Award, (2) Cost Award, (3) Administration Costs, (4) Class Representative Enhancement Payment, and (5) PAGA Payment, shall be filed at least sixteen (16) Court days before the Final Approval Hearing.

b. If the Court denies Final Approval of the Settlement with prejudice, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree they shall be equally responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement Payment, Attorney Fee Award, and/or Cost Award will not constitute a material modification to the Settlement within the meaning of this paragraph.

- c. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the Action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters; and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law. The Final Approval Order and Judgment will be posted on the Settlement Administrator's website.
- 7. **Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount.
- 8. **Disbursement of Settlement Shares and Payments.** Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's Final Approval Order and Judgment. The maximum amount Defendant can be required to pay pursuant to this Settlement for any purpose is the Gross Settlement Amount plus Defendant's portion of payroll taxes as the Class Members' current or former employer. The Settlement Administrator shall keep Defendant's Counsel and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Counsel for Defendant and Class Counsel. No person shall have any claim against Defendant, Counsel for Defendant, Plaintiff, Class Counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.
 - a. **Funding the Settlement:** Defendant shall fund the Gross Settlement Amount of Three Hundred Seventy-Five Thousand Dollars and Zero Cents (\$375,000.00) in two separate payments. The first half payment of One Hundred Eighty-Seven Thousand Five Hundred Dollars and Zero Cents (\$187,500.00), plus Defendant's share of employer-side payroll taxes on this first half payment, shall be due at Final Approval. The second half payment of One Hundred Eighty-Seven Thousand Five Hundred Dollars and Zero Cents (\$187,500.00), plus Defendant's share of employer-side payroll taxes on this second half payment, shall be due one hundred eighty (180) days after Final Approval.

Defendant shall wire these funds to the Settlement Administrator on the above-specified dates.

b. Disbursement:

1. Within fourteen (14) calendar days after the Settlement Administrator receives the entire Gross Settlement Amount, the Settlement Administrator shall calculate and disburse all payments due under the Settlement Agreement, including all Individual Settlement Shares, Individual PAGA Payments, the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, the PAGA Payment, and the Administration Costs.
2. The Settlement Administrator will forward a check for seventy-five percent (75%) of the PAGA Payment to the LWDA for settlement of the PAGA claim. After such payment, Defendant shall have no liability for PAGA claims by or on behalf of Eligible Aggrieved Employees during the PAGA Period, which are released under this Agreement.
3. The Settlement Administrator will not pay the Attorney Fee Award, Cost Award, and Class Representative Enhancement Payment until after the Settlement Administrator has distributed the Individual Settlement Shares and Individual PAGA Payments to the Class Members and Eligible Aggrieved Employees.
4. Before the Settlement Administrator mails the Individual Settlement Shares and Individual PAGA Payments to the Participating Class Members and Eligible Aggrieved Employees, the Settlement Administrator shall update the Participating Class Members' and Eligible Aggrieved Employees' addresses using the National Change of Address Database. The Settlement Administrator will mail Individual Settlement Shares and Individual PAGA Payments to all Participating Class Members and Eligible Aggrieved Employees, including those for whom Notice Packets were return as undeliverable. With respect to returned checks directed to Participating Class Members and Eligible Aggrieved Employees whose Notice Packets were returned as undeliverable and for whom no new addresses are ascertained, the Settlement Administrator shall take no further steps. The Settlement Administrator shall remail all other returned checks to any forwarding address provided by the U.S.P.S. or, if no forwarding address is provided by the

U.S.P.S., shall perform a skip trace and take other reasonable steps to attempt to find a current address for the Class Member and shall mail the returned check to the Class Member's ascertained current address. The Settlement Administrator shall remail checks to ascertained current addresses within seven (7) business days of the return of the check.

- c. **QSF:** The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.468B-1, 26 C.F.R. § 1.468B-1 *et seq.*, and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

9. Uncashed Checks. Participating Class Members and Eligible Aggrieved Employees must cash or deposit their Individual Settlement Share and Individual PAGA Payment checks within one hundred eighty (180) calendar days after the checks are mailed to them. The void date of each Individual Settlement Share and Individual PAGA Payment check shall be stated on each check. If any checks are returned as undeliverable and without a forwarding address, the Settlement Administrator will conduct a skip trace search to find the most up-to-date mailing address and re-mail the checks promptly. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) calendar days, it will expire and become non-negotiable, and offering to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder postcards, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the Individual Settlement Share or Individual PAGA Payment (as applicable) to the California State Controller's Office in accordance with California Unclaimed Property Law so that the Participating Class Member and/or Eligible Aggrieved Employee will have his or her Individual Settlement Share and/or Individual PAGA Payment available to him or her per the applicable claim procedure to request that money from the State of California.

10. Final Report by Settlement Administrator. Within three hundred sixty-five (365) calendar days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds. Class Counsel shall file the Settlement

Administrator's declaration with the Court within ten (10) calendar days of receipt.

11. Defendant's Legal Fees. Defendant is responsible for paying all Defendant's own legal fees, costs, and expenses incurred in this Action outside of the Gross Settlement Amount.

J. Release of Claims. As of the Effective Final Settlement Date, in exchange for the consideration set forth in this Agreement, Plaintiff and the Participating Class Members release the Released Parties from the Released Claims for the Class Period.

K. PAGA Release. As of the Effective Final Settlement Date, the LWDA and each Eligible Aggrieved Employee, including Plaintiff, individually and on behalf of their heirs, executors, administrators, representatives, attorneys, successors and assigns hereby voluntarily and knowingly is barred from bringing any action for the PAGA Released Claims during the PAGA Period. The release of the PAGA Released Claims is effective, regardless of whether the Eligible Aggrieved Employee submits a timely and valid request for exclusion.

L. Plaintiff's Release of Claims and General Release. As of the Effective Final Settlement Date, and in exchange for the Class Representative Enhancement Payment to Plaintiff in an amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00), in recognition of his work and efforts in obtaining the benefits for the Class, and undertaking the risk for the payment of costs in the event this matter had not successfully resolved, Plaintiff hereby provides a general release of claims for himself and his spouse, heirs, successors, and assigns, and forever releases, remises, and discharges the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, arising from the beginning of time through the date of the Court grants Preliminary Approval, known or unknown, suspected or unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to his employment with Defendant or the remuneration for, or termination of, such employment. Plaintiff's general release of claims also includes a waiver of California Civil Code section 1542, 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.

M. Miscellaneous Terms

- 1. No Admission of Liability.** Defendant make no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement, a Class should not be certified in the Action and the Action should not proceed on a representative basis. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiff's and Defendant's willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation, administrative proceeding, or other special proceeding (other than solely in connection with this Settlement).
- 2. No Effect on Employee Benefits.** The Class Representative Enhancement Payment, Individual Settlement Shares, and/or Individual PAGA Payments paid to Plaintiff, Participating Class Members, and/or the Eligible Aggrieved Employees shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, vacation, holiday pay, retirement plans, etc.) of Plaintiff, Participating Class Members, or Eligible Aggrieved Employees. The Parties agree that any Class Representative Enhancement Payment, Individual Settlement Shares, and/or Individual PAGA Payments paid to Plaintiff, Participating Class Members, and/or Eligible Aggrieved Employees under the terms of this Agreement do not represent any modification of Plaintiff's, Participating Class Members', or Eligible Aggrieved Employees' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.
- 3. Publicity.** Plaintiff and Class Counsel agree that they have not and will not publish the Settlement Agreement. In response to any inquiries, Plaintiff will state that "the case was resolved and it was resolved confidentially." Class Counsel shall not report the Settlement Agreement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff or the Class Members or the Settlement Agreement on its website, and shall not contact any reporters or media regarding the Settlement Agreement, or communicate with any reporters or media regarding the claims of Plaintiff or the Class Members or the Settlement Agreement. Despite this provision, Class Counsel can discuss the Settlement Agreement with Plaintiff and the Class Members, in any filings with the Court, and in communications with third parties.

- 4. Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
- 5. Authorization to Enter Into Settlement Agreement.** Class Counsel and Counsel for Defendant warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.
- 6. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
- 7. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.
- 8. Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest and if approved by the Court.
- 9. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.

- 10. No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that he has not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 11. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
- 12. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arm's-length negotiations, taking into account all relevant factors, current and potential.
- 13. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any recipient of a disbursement under this agreement, such recipient assumes all responsibility for the payment of such taxes.
- 14. Jurisdiction of the Superior Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Superior Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.
- 15. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.
- 16. 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.

17. Escalator Clause. Defendant estimates the Class consists of approximately 4,618 workweeks, and the Settlement was reached based on approximately 4,618 workweeks. Should the number of workweeks increase by more than ten percent (10%) by December 31, 2021, this will increase the Gross Settlement Amount proportionally over the ten percent (10%) increase. For example, if the number of workweeks in the Class increases by eleven percent (11%), the Gross Settlement Amount will increase by one percent (1%). Likewise, if the settlement increases by twelve (12%), the Gross Settlement Amount will increase by two percent (2%). Any additional amounts to be paid shall be included in the Gross Settlement Amount. The Settlement Administrator will provide Class Counsel with the final workweek count prior to the initial mailing of the Notice Packets.

18. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

01/31/2022

Dated: _____, 2022

PLAINTIFF JUSTIN AVALOS



Justin Avalos

Dated: _____, 2022

DEFENDANT INDIO PRODUCTS, INC.

[Representative for Indio Products, Inc.]
Indio Products, Inc.

Dated: January 31, 2022

JUSTICE LAW CORPORATION



17. Escalator Clause. Defendant estimates the Class consists of approximately 4,618 workweeks, and the Settlement was reached based on approximately 4,618 workweeks. Should the number of workweeks increase by more than ten percent (10%) by December 31, 2021, this will increase the Gross Settlement Amount proportionally over the ten percent (10%) increase. For example, if the number of workweeks in the Class increases by eleven percent (11%), the Gross Settlement Amount will increase by one percent (1%). Likewise, if the settlement increases by twelve (12%), the Gross Settlement Amount will increase by two percent (2%). Any additional amounts to be paid shall be included in the Gross Settlement Amount. The Settlement Administrator will provide Class Counsel with the final workweek count prior to the initial mailing of the Notice Packets.

18. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: _____, 2022

PLAINTIFF JUSTIN AVALOS

Justin Avalos

Dated: Jan 31 _____, 2022

DEFENDANT INDIO PRODUCTS, INC.

P. C. Boh

[Representative for Indio Products, Inc.]
Indio Products, Inc.

Dated: _____, 2022

JUSTICE LAW CORPORATION

Douglas Han, Esq.
Shunt Tatavos-Gharajeh, Esq.
Chancellor Nobles, Esq.
Attorneys for Plaintiff Justin Avalos, on behalf of
himself and all others similarly situated

Dated: February 7, 2022

FRASER WATSON & CROUTCH LLP

A handwritten signature in black ink, reading "Todd E. Croutch". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

Todd E. Croutch, Esq.
Attorneys for Defendant Indio Products, Inc.

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is manderson@justicelawcorp.com

On February 9, 2022, I served the foregoing document described as

JOINT STIPULATION AND SETTLEMENT AGREEMENT

for the following case: **Avalos v. Indio Products, Inc.**
LWDA/Court Case No.: **LWDA-CM-855116-21**
 20STCV40470
 Los Angeles County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 9, 2022, at Pasadena, California.


Mariah Anderson