

KINGSLEY & KINGSLEY, APC
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
KELSEY M. SZAMET, Esq. (SBN 260264)
kelsey@kingsleykingsley.com
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Tel: (818) 990-8300, Fax (818) 990-2903

ABRAMSON LABOR GROUP
WILLIAM ZEV ABRAMSON, Esq. (SBN 289387)
Wza@abramsonlabor.com
11846 Ventura Blvd., Suite 100
Studio City, CA 91604
Tel: (213) 493-6300, Fax (213) 382-4083

Attorneys for Plaintiff and the Proposed Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

NICK VASQUEZ, an individual, on behalf of
himself and others similarly situated,

PLAINTIFF,

v.

TURBINE ENGINE COMPONENTS
TECHNOLOGIES CORPORATION; and
DOES 1 thru 50, inclusive,

DEFENDANTS.

CASE NO. 21STCV42670

[Case Assigned for All Purposes to Hon.
Yvette M Palazuelos in Dept. 9]

**DECLARATION OF KELSEY M.
SZAMET IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

*[Filed concurrently with Motion for
Preliminary Approval of Settlement,
Declarations of Nick Vasquez, Zev Abramson,
and Jodey Lawrence of Phoenix Class Action
Administration Solutions; and [Proposed]
Order]*

Date: November 2, 2023

Time: 10:00 AM

Dept.: 9

Complaint Filed: November 19, 2021

Trial Date: None Set

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

I, Kelsey M. Szamet, state and declare as follows:

1. I am an attorney admitted before all courts of the State of California and a partner in the law firm of Kingsley & Kingsley, APC, counsel of record for Plaintiff in this action. I am completely familiar with the present litigation, including the pleadings, discovery, and filings submitted in this matter. I make this Declaration from my own personal knowledge, and, if called upon, I could and would competently testify to the following.

2. I graduated cum laude from the University of California, San Diego in 2004 with a degree in Human Development. I graduated from the University of California, Los Angeles School of Law in 2008. I am admitted to practice before the following Courts: United States Supreme Court; United States District Court, Northern, Eastern, Southern and Central of California; all California State Courts.

3. I make this Declaration in support of Plaintiff's Motion for Preliminary Approval of the Class Action Settlement in the above-captioned case.

RELEVANT PROCEDURAL HISTORY

4. On November 19, 2021, Plaintiff NICK VASQUEZ filed a complaint entitled *NICK VASQUEZ v. TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION* in the Los Angeles County Superior Court, case number 21STCV42670.

5. In the Complaint, Plaintiff alleged five causes of action for: (1) Failure to Provide Meal Periods Under Labor Code §§ 226.7 and 512; (2) Failure to Pay Vested Vacation Wages Under Labor Code §§ 227.3 and 510; (3) Violation of Labor Code § 226(a); (4) Penalties Pursuant to Labor Code § 203; and (5) Violation of Business & Professions Code § 17200, *et seq.*

6. Also on November 19, 2021, Plaintiff sent a notice letter, pursuant to Labor Code § 2699 *et seq.* the Private Attorneys General Act (“PAGA”), to the Labor Workforce Development Agency (“LWDA”) regarding his intent to seek civil penalties for the Labor Code violations above.

7. On February 2, 2022, Plaintiff filed a First Amended Complaint, adding a sixth claim for penalties under the Labor Code’s Private Attorneys General Act (“PAGA”), Labor Code § 2699 *et seq.*

1 8. On June 16, 2023, Plaintiff filed a Second Amended Class and Representative
2 Action Complaint, adding a claim for violations of Labor Code § 226.7 for failure to provide rest
3 periods on behalf of a settlement class during the relevant class period. Additionally, Plaintiff sent
4 an amended notice letter to the LWDA regarding his intent to add this additional rest period claim.

5 **THE DISCOVERY PROCESS**

6 9. The Parties have yet to engage in formal discovery, instead focusing their efforts
7 on resolving this case through early mediation.

8 10. The Parties scheduled a private mediation with Francis J. Ortman III, Esq. on
9 January 24, 2023.

10 11. In preparation for mediation, Defendant informally produced multiple documents
11 and provided other information necessary to evaluate settlement.

12 12. This included Plaintiff's personnel file and time and pay records, a redacted
13 sampling of payroll journals and ending hourly pay rates for Defendant's employees (i.e., hourly
14 rate of pay at time of termination), and the total number of Class Members and relevant work
15 weeks at issue.

16 13. The Parties engaged in extensive informal discovery that allowed the Parties to
17 fully investigate the claims at issue and understand their strengths and weakness.

18 14. Defendant denies any liability or wrongdoing of any kind associated with the claims
19 alleged in the Action, disputes the damages and penalties claimed by Plaintiff, and further contends
20 that, for any purpose other than settlement, Plaintiff's claims are not appropriate for class or
21 representative action treatment. Defendant contends, among other things, that, at all times, it has
22 complied with the California Labor Code, and the Industrial Wage Commission Orders.

23 15. Based on our own independent investigation and evaluation, Class Counsel is of
24 the opinion that the Agreement with Defendant is fair, reasonable and adequate, and in the best
25 interest of the Classes in light of all known facts and circumstances, including the risk of significant
26 delay, defenses asserted by Defendant, uncertainties regarding a class and representative action
27 trial on the merits, and numerous potential appellate issues. Although Defendant denies any
28 liability, Defendant is agreeing to this Agreement solely to avoid the cost of litigation.

1 Accordingly, the Parties and their counsel desire to fully, finally, and forever settle, compromise
2 and discharge all disputes and claims arising from or relating to the Action on the terms set forth
3 here.

4 **CERTIFICATION FOR SETTLEMENT PURPOSES**

5 16. Plaintiff maintains that the proposed Class is ascertainable for several reasons:
6 First, Defendant has agreed in the Agreement to provide a class list to the Administrator containing
7 the name, last known mailing address, last known telephone number, social security number, and
8 number of Covered Period Workweek and PAGA Pay Periods for all putative class members after
9 issuance of the preliminary approval order.

10 17. Class Members consist of Defendant's non-exempt employees, and Defendant is
11 required to keep records of such employees' names, home addresses, and social security numbers.

12 18. Defendant informally produced Plaintiff's personnel file and pay statements;
13 relevant policies; and a sampling of shift data, pay data, and wage statements for Class Members
14 containing class member contact information, which confirms that all Class Members may be
15 readily identified based on Defendant's records.

16 19. Plaintiff is confident he will be able to establish that the proposed Class is
17 ascertainable and sufficiently numerous.

18 20. Plaintiff argues that there are questions of law and fact common to the proposed
19 Class that predominate over any questions affecting only individual Settlement Class Members.

20 21. These common questions include:

- 21 1) Whether Defendant failed to provide lawfully required meal periods and/or
22 failed to compensate employees one (1) hour's wages in lieu thereof;
- 23 2) Whether Defendant failed to provide lawfully required rest periods and/or
24 failed to compensate employees one (1) hour's wages in lieu thereof;
- 25 3) Whether Defendant failed to provided vested vacation wages;
- 26 4) Whether Defendant failed to provide accurate itemized wage statements;
- 27 5) Whether Defendant failed to pay compensation due and owing upon
28 termination of employment;
- 6) Whether Defendant engaged in unfair competition; and,

1 7) Whether Defendant violated § 2699, et seq. of the Labor Code by engaging
2 in the acts previously alleged.

3 22. Plaintiff's challenge to Defendant's uniform policies and practices involves
4 common factual and legal issues that are amenable to class treatment.

5 23. Plaintiff maintains that the proposed Class Members suffered the same injuries, in
6 the same manner: (1) Class Members did not receive their meal and rest periods as required; (2)
7 Class Members did not receive their vested vacation wages as required; (3) Class Members were
8 not provided accurate itemized wage statements; and (4) Class Members were not paid all wages
9 owed upon termination/resignation.

10 24. Accordingly, for purposes of settlement, certification for settlement purposes is
11 appropriate.

12 25. Plaintiff worked as an hourly "material manager" for Defendant in California that
13 has since been shut down.

14 26. Plaintiff contends that he: (1) worked without being provided meal and rest periods
15 as required by law; (2) worked without being provided vested vacation wages; (3) worked without
16 being provided accurate itemized wage statements; and (4) worked without being paid all wages
17 due upon separation. He also alleges that he experienced derivative claims for unfair business
18 competition (B&P Code §17200) and Labor Code §2699, et seq.

19 27. Plaintiff also contends that his claims are typical of those of the Class.

20 28. Plaintiff believes that he is capable of fairly representing and adequately protecting
21 the interests of the proposed Class Members.

22 29. Plaintiff's interests in this litigation are coextensive with the interests of the
23 proposed Class Members. The members of the proposed Class all worked for Defendant during
24 the relevant time period and incurred the same type of alleged damages with regard to Defendant's
25 alleged violations of the law.

26 30. Plaintiff has agreed to serve as Class Representative and has retained qualified
27 Counsel who is experienced in prosecuting wage and hour class actions.

28 31. This demonstrates his commitment to bringing about the best possible results for

1 the benefit of the proposed Class.

2 32. Plaintiff has provided his Counsel with all necessary and pertinent information.

3 33. Plaintiff has been a very active participant in the litigation including having
4 frequent contact with Class Members, working closely with Class Counsel to develop the theories
5 of liability, and providing his Counsel with all necessary and pertinent information. He also made
6 himself available for the full-day mediation in this matter and was informed of and involved in all
7 of the Settlement negotiations.

8 34. Therefore, Plaintiff believes that he has and will continue to adequately represent
9 the proposed Class Members.

10 35. Plaintiff has provided his Counsel with all necessary and pertinent information.

11 36. The superiority of class treatment is evident here because individual pursuit of class
12 members' claims may not be economically viable.

13 37. The only alternative to certification would be to force over 219 employees to join
14 this action, file individual, uniform actions, or abandon their legal rights altogether.

15 38. Plaintiff maintains that this economic reality would result in a windfall for
16 Defendant if this case were not certified.

17 **THE PROPOSED SETTLEMENT**

18 39. The Class is defined as: "all current and former non-exempt employees of
19 Defendant in the State of California including all temporary employees supplied by Defendant by
20 any staffing agency at any time between November 19, 2017 through January 24, 2023." ("Class")

21 40. The "Class Members" shall not include any person who submits a timely and valid
22 Request for Exclusion as provided in this Agreement, or any person who previously released the
23 Released Claims under a separate agreement.

24 41. The Class Period is November 19, 2017 through January 24, 2023.

25 42. As of January 24, 2023 (the date of mediation) and based on documents and other
26 information produced by Defendant, there are approximately 219 Class Members.

27 43. The Aggrieved Employees are defined as: "all current and former non-exempt
28 employees of Defendant in the State of California, including all temporary employees supplied to

1 Defendant by any staffing agency at any time between November 19, 2020, through the end of the
2 Class Period.” (“Aggrieved Employees” or “PAGA Members”)

3 44. The PAGA Period is November 19, 2020 through January 24, 2023.

4 45. As detailed fully in the Agreement, the Settlement provides for Defendant to pay a
5 Gross Settlement Amount of \$650,000.00, which includes the sum of the Individual Class
6 Payments, the Class Representative service award, the Class Counsel Award, PAGA Payment, and
7 the Settlement Administration Costs.

8 46. The Net Settlement Amount is the Gross Settlement Amount, less Class Counsel
9 Award, Class Representative Enhancement, PAGA Payment, and Settlement Administration
10 Costs.

11 **KULLAR ANALYSIS**

12 47. The proposed settlement satisfies each of the *Kullar* factors.

13 48. Class Counsel conducted extensive informal discovery before entering into
14 meaningful settlement negotiations in this matter. This discovery permitted Class Counsel to fairly
15 evaluate the strength of the case and the risks associated with ongoing litigation.

16 49. Class Counsel is experienced in handling wage and hour class actions, and after
17 weighing all of the following factors, supports this Agreement.

18 50. Plaintiff and the Class Members consistently worked shifts over five (5) hours.

19 51. Plaintiff contends that Defendant failed to provide Plaintiff and the Class Members
20 with proper meal periods of not less than thirty (30) minutes as required by the Labor Code during
21 the relevant time period. Indeed, due to the hectic nature of their job, Plaintiff alleged that was
22 often unable to take a meal break and when he was able, meal breaks were sometimes
23 uninterrupted, late or short (less than 30 minutes).

24 52. Plaintiff alleged that Defendant violated California’s meal period laws by not
25 paying Plaintiff and the other similarly situated Class Members one (1) hour of pay at the
26 employees’ regular rate of compensation for each workday that the first meal period was not
27 provided within the first five (5) hours of the shift.

28 53. Defendant vehemently denies the alleged meal break claim. Defendant maintains

1 that it maintained a valid written meal period policy during the Class Period and had compliant
2 practices during the Class Period.

3 54. Defendant contends that Plaintiff and all Class Members were provided with all
4 required meal periods and that Defendant paid meal period premiums when necessary.

5 55. This presented a risk on the meal period claim that Plaintiff considered when
6 evaluating this settlement.

7 56. As an initial matter, Defendant meets *Brinker's* "provide" standard by maintaining
8 a valid written policy and not doing anything to interfere with the taking of lawful meal periods.

9 57. Plaintiff worked with an expert to analyze Defendant's time and pay records.

10 58. The records show that there are first meal periods recorded for shifts greater than 5
11 hours in 92.8% of shifts.

12 59. Plaintiff contends that the records show that of these recorded meal periods for
13 shifts greater than five hours, 59.9% of them occur after the end of the 5th hour of work (i.e late
14 meal periods).

15 60. This can be a tough claim to prove on a classwide basis, however, because
16 Defendant will argue it is an individualized inquiry that requires questioning of each and every
17 Class Member as to each and every late meal period in the records as to why the break was late –
18 was it "provided" but the person chose to take the meal period later or was the person prohibited
19 from taking it timely by Defendant.

20 61. Defendant would argue that such an inquiry necessarily defeats class certification.

21 62. Based on this significant risk, Class Counsel contends it was appropriate to discount
22 the full value of this claim for settlement purposes.

23 63. Plaintiff and the Proposed Class's rest period claims arise from an alleged common
24 course of conduct wherein Defendant did not provide employees with the opportunity to take a 10-
25 minute rest break during their shifts in compliance with California law.

26 64. Plaintiff contends that he and the Class Members consistently worked shifts of 4+
27 hours and were not authorized or permitted to take rest breaks.

28 65. Plaintiff alleges that for each rest period Plaintiff and the Class Members were not

provided with, Defendant is liable for one (1) additional hour of pay at the employee's regular rate of compensation.

66. Defendant disagreed and maintained that there was accurate rest period policy and employee were provided the opportunity to take all required rest breaks.

67. The risk for Plaintiff is that there are no time records to show if rest periods are compliant because rest breaks are not recorded.

68. The primary way that Plaintiff can establish rest period liability is through testimonial evidence.

69. Plaintiff could have secured several class member declarations about their experiences regarding rest breaks to bolster Plaintiff's contentions.

70. There is risk as to what these declarations would have said and Defendant likewise would presumably attempt to gather competing declarations that state the opposite.

71. Such would devolve into a "declaration war" that could potentially defeat class certification.

72. It also would likely result in dozens of class members declarations with great uncertainty as to what those depositions would establish.

73. Just as with meal periods, Defendant will argue that it is an individualized inquiry that requires questioning of each and every Class Member as to each and every shift as to whether or not they were able to take all compliant rest periods.

74. Again, such an inquiry, Defendant would argue, necessarily defeats class certification.

75. Based on this significant risk and given that rest period claims can be very difficult to certify and prove liability, Plaintiff factored in a significant discount for this claim for settlement purposes.

76. Plaintiff's wage allegations are based on Defendant's alleged failure pay Plaintiff and all members of the Proposed Settlement Class for their vested vacation at the time of their separation from the company.

77. Plaintiff pled that, as a result of this unlawful policy, Defendant does not pay all

1 wages owed at the appropriate rate to Plaintiff and all members of the Proposed Settlement Class
2 in violation of Labor Code §510.

3 78. Defendant argued that when the location was closed, all vested vacation was paid
4 out at the correct rate.

5 79. Plaintiff's expert analysis of the pay records did indicate that vested vacation was
6 paid out at the time of termination.

7 80. Defendant further argued that at the time of filing the lawsuit, Plaintiff was out on
8 leave and therefore potentially not a typical or adequate representative as to the vacation claim.

9 81. Plaintiff viewed this claim as extremely weak and placed no value on it for
10 settlement purposes.

11 82. Plaintiff's review of the records did reveal a wage problem as it relates to sick pay.

12 83. In the data, there were approximately 3,800 pay periods with sick pay and of those
13 half of the pay periods with sick pay also had shift differential pay for a total of approximately
14 1,900 pay periods.

15 84. The sick pay was paid out at the regular rate, not the correctly blended rate.

16 85. The average underpayment of sick pay due to the failure to blend to determine the
17 correct regular rate was approximately \$10 for each of the 1,900 payments leading to a maximum
18 exposure of \$19,000.

19 86. Though small in overall value, Plaintiff felt confident this claim would be certified.

20 87. Plaintiff maintains that Defendant issued wage statements that allegedly violate
21 Labor Code §§ 226(a)(2) and (9).

22 88. Labor Code § 226(a) specifically requires that the employer shall, semimonthly or
23 at the time of each payment of wages, furnish each of his or her employees, an accurate itemized
24 statement in writing showing all applicable hourly rates in effect during the pay period and the
25 corresponding number of hours *worked* at each hourly rate by the employee. Plaintiff alleges that
26 he and Class Members are issued wage statements that do not accurately show the applicable
27 overtime rate and the number of hours worked at the corresponding rate based on Defendant's
28 alleged failure to blend discussed above.

1 89. Plaintiff must recognize that this is a derivative claim.

2 90. Plaintiff does not argue that Defendant failed to show required information on the
3 paystubs it issued to Class Members, only that the paystubs do not accurately show the
4 information.

5 91. While Plaintiff believes this claim is easily certifiable, Plaintiff has to acknowledge
6 that this is a more difficult argument to prevail on when it comes to assessing liability and a
7 resulting discount for settlement purposes is appropriate.

8 92. All Class Members, including Plaintiff, are no longer employed by Defendant as a
9 result of the facility being shut down over a period of time in approximately Q4 2020 and Q1 2021.

10 93. Plaintiff contends that Defendant has failed to pay employees wages immediately
11 or within 72 hours of termination and/or resignation by not paying all meal period premiums owed
12 and wages.

13 94. Plaintiff contends that “waiting time” penalties would be triggered for each former
14 employee in the class.

15 95. Defendant argues that a good-faith belief applies here and that if it inadvertently
16 did not pay final wages to an individual, its actions were not willful.

17 96. Plaintiff responds that the well-settled meaning of “willful,” as used in Labor Code
18 section 203, is that an employer has intentionally failed or refused to perform an act which was
19 required to be done. (*Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1201.)

20 97. Plaintiff contends that Defendant knew wages were owed but failed to pay them.

21 98. Plaintiff discounted the PAGA claim for settlement purposes for multiple reasons.
22 First, the aggrieved employees’ PAGA claims are derivative of all the underlying class claims.
23 Second, a court has discretion to award less than the maximum penalty. Finally, the Class is
24 arguably compensated for these violations in the proposed Agreement, and thus any PAGA
25 recovery for these same violations would be duplicative. As such, Class Counsel believes that the
26 Agreement’s contemplated PAGA payment of \$25,000.00 is appropriate.

27 99. There is significant expense associated with the class certification process, which
28 the Parties can avoid by entering into the contemplated Agreement now.

1 100. If the Court did eventually certify a meal/rest or wage class, trial of a case
2 involving approximately 219 Class Members would require the retention of expensive expert
3 witnesses, the accrual of extensive litigation costs, and a significant time overlay by the parties.

4 101. Moreover, given the complexity and unsettled nature of the issues in this case it is
5 likely that any outcome at trial would have resulted in a lengthy and costly appeal. An appeal
6 would result in further delay for the Class Members who are waiting for a resolution in this matter.

7 102. This case has not been certified to be tried as a class action. While Plaintiff believes
8 there is strong evidence to support certification of several possible subclasses, certification is
9 always hard fought and subject to judicial discretion. Moreover, in class actions, decertification
10 is always a possibility. In attempting to certify a class, the parties would need to conduct multiple
11 depositions, including of the Class Representative and of several person(s) most knowledgeable
12 regarding Defendant's meal/rest policies and practices and the payment of vested vacation wages.
13 There is a risk for both sides as to what these depositions will reveal and whether they will support
14 class certification to the extent expected.

15 103. It was very difficult for the Parties to reach this Settlement of \$650,000.00.

16 104. This Settlement is the result of adversarial, non-collusive, and arms-length
17 negotiations. The Parties arrived at it after extensive investigation and discovery, careful
18 evaluation of the law, risks, and all information substantiating the amount of penalties reasonably
19 likely to be awarded to the class were the trier of fact to find Defendant liable, and the assistance
20 of a very experienced jurist and mediator, Francis J. Ortman (Ret.).

21 105. Plaintiff worked with an expert to analyze the time and pay records and put together
22 an exposure model for purposes of mediation.

23 106. Plaintiff assessed full value of the wage claim related to the underpaid sick pay
24 allegations discussed above, without any discount, at a maximum of approximately \$19,000.

25 107. As discussed above, if Plaintiff could prove that the "late" meal periods in the
26 records did amount to a meal period violation with a premium due and owing, the value of the
27 claim, without any discount, was approximately \$1,261,498.

28 108. If Plaintiff likewise assumed a rest break violation rate of 59.9%, the full value of

1 the rest period claim, without any discount, would also be approximately \$1,261,498.

2 109. This amount assumes a rest period premium of \$25.08 (average hourly rate of pay)
3 for 50,299 shifts.

4 110. Plaintiff determined that accepting a discount of the full amount was appropriate.

5 111. Plaintiff valued the Wage Statement Claim, without discount, at \$231,150.

6 112. Based on expert analysis of the time pay data, this assumes there are 65 class
7 members in the wage statement penalty period of November 19, 2020 to January 24, 2023 with
8 4,517 pay periods at issue.

9 113. Plaintiff used 50\$ for the first wage statement and \$100 per wage statement
10 thereafter for each Class Member (Labor Code §226(e)(1) uses \$50 for the initial pay period (not
11 \$100) and puts a \$4,000 cap on wage statement penalties per employee).

12 114. Due to the risk discussed above that 226(a) liability would not, Plaintiff determined
13 that a discount of this claim was fair for settlement purposes.

14 115. Plaintiff valued the Waiting Time Claim (Labor Code §203), tied to the sick pay
15 claim discussed above, at \$561,452.

16 116. Based on the data, this assumes there are 75 Class Members with the sick pay
17 issue who are owed wages.

18 117. Plaintiff calculated the maximum value of the PAGA claim at \$850,600 for Class
19 Members (using \$100/\$200 per pay period) if Plaintiff prevailed on the meal period claim.

20 118. The main risk taken into account with PAGA is the discretionary nature of the
21 penalty award.

22 119. A judge can award the statutory maximum of \$100 for the initial violation and \$200
23 thereafter or – in theory – one cent per wage statement.

24 120. While there is a dearth of available authority, in Plaintiff's view, were he to succeed
25 on any of the underlying Labor Code violations, it is not likely that a Judge would also award a
26 large amount of penalties of top of any damages recovered.

27 121. Per Plaintiff's assessment, adding all of the exposure above, the maximum potential
28 value of all of Plaintiff's and the Class Members' claims was approximately \$4,185,198.

1 122. However, as a result of the forgoing risks on the merits, Class Counsel believes the
2 Gross Settlement Amount of \$650,000.00 is fair and reasonable.

3 123. Though the risks at to each claim and the resulting discounts are discussed at length
4 above, another major risk factor Class Counsel took into account is that Defendant provided
5 informal evidence that it gathered approximately 55 signed severance agreements.

6 124. This certainly presented cognizable risk that Defendant was willing to and could
7 engage in a successful *Chindarah v. Pick Up Stix* campaign to gather signed severance agreements
8 form Class Members.

9 125. If Defendant did this successfully, the exposure could be reduced dramatically if
10 not almost entirely eliminated.

11 126. Also factoring in this risk, Class Counsel believes that the settlement is fair and
12 reasonable and should be approved.

13 **ATTORNEY COMPETENCE**

14 127. Kingsley & Kingsley is very experienced in prosecuting employment litigation, and
15 since the year 2000 we have focused our practice on wage, hour, and working condition violations.
16 My firm is well versed in class action litigation and has diligently and aggressively pursued this
17 action. Kingsley & Kingsley currently serves as class counsel for several dozens of pending class
18 action lawsuits in Northern, Central, Eastern, and Southern California in both State and Federal
19 Court. Below is a small, but representative sampling of wage and hour cases handled by my firm:

- 20 a. *Goodman v. Crystal Ventures, Inc.* (No. BC245561, L.A. Super. Ct.) In January
21 2002, Hon. Anthony Mohr granted final approval of settlement in the gross amount
22 of \$255,000 and the court approved the attorneys' fee request of 33 1/3%.
- 23 b. *Johnston v. The Cheesecake Factory* (No. BC316180, L.A. Super. Ct.) In
24 December 2005, Honorable Rita Miller granted final approval of Settlement in the
25 gross amount of \$4,000,000 and the court granted attorneys' fees request of 30%.
- 26 c. *Tumino v. HOB Entertainment* (No. BC327962, L.A. Super. Ct.) In May 2006, the
27 Honorable Conrad R. Aragon granted final approval of Settlement in the gross
28 amount of \$1,000,000 and the court granted attorneys' fees request of 30%.

- d. *Ryan v. Hilton Hotels Corporation*, (No. BC364260, L.A. Super. Ct.) In March 2008, the Honorable Mary Thornton House granted final approval of Settlement in the gross amount of \$1,675,000.00 and the court granted attorneys' fees request of 33 1/3%.
- e. *Gerritson v. Styles For Less, Inc.*, (No. BC402921, L.A. Super. Ct.) In September 2010, the Hon. Kenneth R. Freeman granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorneys' fees request of 33.3%.
- f. *Lewis v. Collabrus, Inc., et al.*, (No. 109CV-142927, Santa Clara Super. Ct.) In March 2012, the Honorable James P. Kleinberg granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorneys' fees request of 33.3%.
- g. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (No. BC402739, L.A. Super. Ct.) In June 2013, the Honorable Lee Smally Edmund granted final approval of Settlement in the gross amount of \$4,700,000.00, and the court granted attorneys' fees request of 38%.
- h. *Anderson v. Total Renal Care, Inc.*, (No. BC388335, L.A. Super. Ct.) In January 2014, the Honorable William F. Highberger granted final approval of Settlement in the gross amount of \$1,500,000.00 and the court granted attorneys' fees request of 33.33%.
- i. *Rojas, et al. v. Sunview Vineyards of California, Inc.*, Eastern District (1:09-cv-00705 AWIJLT). This certified class action was approved for final settlement by the Honorable Anthony W. Ishii in October 2015, in the gross amount of \$4,550,000.00, with attorneys' fees approved in the amount of \$1,137,500.00.
- j. *Westbrook v. International Surfacing Systems*, (No. RG10510015, Alameda Super. Ct.) In August 2015, the Hon. Wynne Carvill granted final approval of Settlement in the gross amount of \$995,000.00, and the court granted attorney's fees request of 33.33%.

- 1 k. *Kane et al. v. Valley Slurry Seal*, (No. CV08-2483, Yolo Super. Ct.) In March 2016
2 after a class trial with a verdict in the class's favor, the Honorable Daniel P.
3 Maguire, awarded Kingsley & Kingsley and co-counsel \$996,232.72 in attorney's
4 fees.
- 5 l. *Aparacio v. Abercrombie & Fitch Stores, Inc.*, (No. BC499281, L.A. Super. Ct.) In
6 June 2016, the Hon. Kenneth Freeman granted final approval of Settlement in the
7 gross amount of \$2,000,000.00, and the court granted attorney's fees request of
8 33.33%.
- 9 m. *Isaguirre v. Guess?, Inc., Los Angeles Superior Court (BC357631)*. The matter was
10 proposed for final settlement by the Honorable Richard L. Fruin on February 19,
11 2016, in the gross amount of \$5,250,000.
- 12 n. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (BC402739).
13 The matter was approved for final settlement by the Honorable Lee Smally Edmund
14 in June 2013, in the gross amount of \$4,700,000.00, with attorney's fees request of
15 38%.
- 16 o. *Munoz, et al. v. Giumarra Vineyards Corporation*, United States District Court for
17 the Eastern District of California (Case No.: 1:09-cv-00703 - AWI – JLT). The
18 matter was approved for final settlement by the Honorable Anthony W. Ishii in
19 November 2017, in the gross amount of \$6,100,000.00, plus interest, with
20 attorney's fees benchmark award of \$1,525,000.
- 21 p. *Pineda, et al. v. Grimmway Enterprises, Inc.*, Kern County Superior Court (BCV-
22 15-101333). The matter was approved for final settlement before the Hon. Stephen
23 D. Schuett, Dept. 10, in January 2018, in the gross amount of \$9,000,000 with
24 attorneys' fees request of 33.33%.

25 128. Kingsley & Kingsley, APC filed its first class certification motion in the year 2000
26 and since that time has been appointed class counsel on dozens of wage and hour class actions that
27 have been approved for class certification. Since 2012, Kingsley & Kingsley, APC has moved for
28 class certification in 15 matters and has successfully obtained class certification in 15 of those

cases. A brief sampling of which includes:

- a. *Lewis v. Collabrus, Inc., Santa Clara County Superior Court (109CV-142927), approved for Class Certification in 2011.*
- b. *Melendrez v. JK Communications*, No. BC497692, (L.A. Super. Ct., filed December 19, 2012) (court granted contested class certification and appointed Kingsley & Kingsley as class counsel).
- c. *Amaro, et al v. Gerawan Farming, Inc.*, No. 1:14-cv-00147-DAD-SAB (E.D. Cal., filed February 3, 2014) (court granted contested class certification and appointed Kingsley & Kingsley as class counsel).
- d. *Suarez v. Mazatlan, Inc.*, No. 37-2015-00002978-CU-OE-CTL (S.D. Super. Ct., filed January 27, 2015) (court granted contested class certification and appointed Kingsley & Kingsley as class counsel).
- e. *Ruiz v. Daniel C. Salas Harvesting, Inc.*, Kings County Superior Court (16 C 0214). contested class certification granted in June 2020.
- f. *Weldon v. Geo Corrections & Detentions, LLC*, Kern County Superior Court (BCV-16-102833), contested class certification granted in 2018.
- g. *Patton v. Skyler Electric*, Nevada County Superior Court, (CU17-082544), contested class certification granted in June 2020.
- h. *Hameister v. Jaco Oil Company*, Kern County Superior Court (BCV-17-102876), contested class certification granted in August 2020.

129. Class Counsel is experienced in the handling of wage and hour class actions and supports this Settlement. Based on its analysis, Class Counsel believes that this settlement is fair and reasonable and in the best interest of the Class.

130. After factoring in the risks explained above, Class Counsel believes that the proposed settlement is fair and reasonable.

131. The plan of allocation distributes Agreement funds proportionally to each class member's potential damages and should therefore be approved as fair, adequate, and reasonable.

///

1 **SERVICE AWARD TO THE NAMED PLAINTIFF**

2 132. The Class Representative is entitled to an enhancement for his valiant effort and
3 time expended in this matter. The time spent by NICK VASQUEZ is significant and includes
4 researching and retaining competent counsel; providing information to Class Counsel regarding
5 the nature of the work at Defendant; compiling relevant documents; working closely with Class
6 Counsel to develop the theories of liability and martial relevant evidence; regularly discussing the
7 status of the case with Class Counsel; discussing the case via telephone with many Class Members;
8 making himself available for a full-day of mediation as necessary; and responding promptly to
9 Class Counsel’s communications regarding settlement.

10 133. As set forth in the Agreement, Plaintiff will also be entering into a general release
11 of liability pursuant to Civil Code Section 1542.

12 134. Class Counsel considers this to be a fair and reasonable enhancement. The
13 enhancement takes into consideration the time, effort, and expense incurred by Plaintiff in coming
14 forward to litigate this matter on behalf of all Class Members. Plaintiff will provide a detailed
15 declaration with the Final Approval Motion detailing his participation and further justification for
16 the enhancement.

17 **SUBMISSION TO THE LABOR WORKFORCE DEVELOPMENT AGENCY**

18 135. As indicated on the Proof of Service, Plaintiff’s Motion for Approval of Class
19 Action Settlement (“Motion”), and all related documents, will be concurrently uploaded to the
20 Labor and Workforce Development Agency’s (“LWDA”) website on the date this Motion is filed
21 as required by statute. Proof of submission of Plaintiff’s Motion, all related documents, and copy
22 of the email from the LWDA confirming receipt is attached hereto as Exhibit “4.”

23 **EXHIBITS**

24 136. Attached hereto as Exhibit “1” is a true and correct copy of the fully-executed Class
25 Action and PAGA Settlement Agreement (“Settlement” or “Agreement”).

26 137. Attached hereto as Exhibit “2” is a true and correct copy of Plaintiff’s PAGA notice
27 letter to the LWDA and Defendant.

28 138. Attached hereto as Exhibit “3” is a true and correct copy of amended Plaintiff’s

1 PAGA notice letter to the LWDA and Defendant.

2 139. Attached hereto as Exhibit “4” is a true and correct copy of the proof of submission
3 of Plaintiff’s Motion, all related documents, and copy of the email from the LWDA confirming
4 receipt.

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

7 This Declaration was executed this 11th day of September, 2023, in Altadena, California.

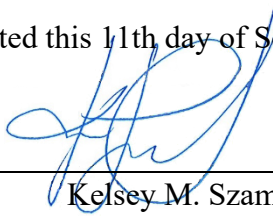
8 
9 _____
10 Kelsey M. Szamet

EXHIBIT "1"

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Nick Vasquez (“Plaintiff”) and Defendant TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION (“Defendant” or “TECTC”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION captioned: *NICK VASQUEZ, an individual, on behalf of himself and others similarly situated, PLAINTIFF v. TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION; and DOES 1 thru 50, inclusive, DEFENDANTS*, Case No. 21STCV42670 initiated on November 19, 2021 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Phoenix Class Action Settlement Administration Solutions (“Phoenix”), the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “PAGA Members” means All current and former non-exempt employees of Defendant in the State of California including all temporary employees supplied to Defendant by any staffing agency at any time between November 19, 2020, through the end of the Class Period.
- 1.5. “Class” means all current and former non-exempt employees of Defendant in the State of California including all temporary employees supplied to Defendant by any staffing agency at any time between November 19, 2017, through January 24, 2023. This shall be an opt-out class.
- 1.6. “Class Counsel” means Kingsley & Kingsley, APC and Abramson Labor Group.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an PAGA Member).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from November 19, 2017 to January 24, 2023.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Los Angeles.
- 1.16. “Defendant” means named Defendant Turbine Engine Components Technologies Corporation.
- 1.17. “Defense Counsel” means Seyfarth Shaw LLP.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. For purposes of the Settlement Agreement, the Court’s Judgment “becomes final” upon the later of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other challenge to, the Court’s Judgment (i.e., 61 calendar days after notice of entry of the Court’s Judgment); (ii) if an appeal is filed, the date affirmance of an appeal of the Judgment becomes final; or (iii) if an appeal is filed, the date of final dismissal of any appeal from the Judgment or the final dismissal of any proceeding on review of any court of appeal decision relating to the Judgment.

- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$650,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses. The Gross Settlement Amount excludes the employer’s share of payroll taxes on the amounts allocated to claims for unpaid wages, which shall be paid separate and apart from the Gross Settlement Amount.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the PAGA Member’s pro rata share of 25% of the PAGA Amount calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Amount paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments. The Net Settlement Amount excludes the employer’s share of payroll taxes on the amounts allocated to claims for unpaid wages, which shall be paid separate and apart from the Gross Settlement Amount. The Net Settlement Amount is the maximum amount that shall be available for distribution to and on behalf of Class Members for Class Member Payments, and PAGA Members for Individual PAGA Payments.

- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an PAGA Member worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period from November 19, 2020 to January 23, 2023.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means Plaintiff’s November 19, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a)
- 1.34. “PAGA Amount” means the total amount that the Parties have agreed to pay the LWDA and the PAGA Members in connection with the PAGA claim from the Gross Settlement Amount. The Parties have agreed that Twenty-Five Thousand Dollars (\$25,000) of the Gross Settlement Amount will be allocated to the resolution of the State of California’s and any PAGA Members’ claims arising under PAGA. Pursuant to PAGA, 25% of the PAGA Amount will be paid to the PAGA Members (\$6,250) and the 75% to LWDA (\$18,750) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. “Plaintiff” means Nick Vasquez, the named plaintiff in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.
- 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 6.3 below.
- 1.41. “Released Parties” means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries and affiliated entities, including but not limited to Whitcraft LLC (and its owners).
- 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

- 1.43. "Response Deadline" means 60 days after the Administrator mails Notice to Class Members and PAGA Members, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. "Workweek" means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On November 19, 2021, Plaintiff commenced this Action by filing a Class Action Complaint alleging causes of action against Defendant for (1) failure to provide meal breaks pursuant to Labor Code § 226.7, 512, and Wage Order 1-2001; California Code of Regulations, Title 8, Section 11010; (2) failure to pay vested vacation wages under Labor Code §§ 227.3 and 510; (3) violation of Labor Code section 226(a); (4) penalties under California Labor Code section 201-203; (5) violation of Business and Professions Code 17200. On February 2, 2022, Plaintiff filed a First Amended Class and Representative Action Complaint adding an additional claim for penalties under Labor Code § 2699 et seq., the Private Attorneys General Act ("PAGA"), for the causes of action alleged previously. The First Amended Class and Representative Action Complaint is the operative complaint in the Action (the "Operative Complaint.") Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2. On or about November 19, 2021, Plaintiff sent a PAGA Notice to the LWDA thereby authorizing him to represent the State of California as a private attorney general for the purposes of PAGA after the expiration of the applicable 65-day exhaustion period. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice. Defendant denies the allegations in the PAGA Notice.
- 2.3. On January 24, 2023, the Parties participated in an all-day mediation presided over by Francis J. "Tripper" Ortman III, Esq. which led to this Agreement to settle the Action.
- 2.4. Prior to mediation Plaintiff obtained, through informal discovery, Plaintiff's personnel file and time and pay records for 2017 to May 2020, sample wage statements, and the total number of Class Members and relevant work weeks at issue. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v.*

Foot Locker Retail, Inc. (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

- 2.5. The Court has not granted class certification. The Parties request certification of the Settlement Class for settlement purposes only.
- 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$650,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or PAGA Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
- 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$5,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff’s request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The amount of the Class Representative Service Payment is not a material term of this Agreement, and an award by the Court of an amount less than requested shall not be a basis to abrogate this Agreement or appeal a Judgment. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
- 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%, which is currently estimated to be \$216,666.67 and a Class Counsel

Litigation Expenses Payment of not more than \$25,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$8,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$8,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 25% of each Participating Class Member's Individual Class Payment will be allocated to settlement of disputed wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of disputed non-wage claims for (e.g., interest and penalties) (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. The Administrator will issue to Settlement Class Members a form W-2 for all amounts attributable to disputed Wage Portion, making all deductions and withholdings required by law and a form 1099 for all amounts attributable to disputed non-wage claims. The Administrator will issue to the PAGA Members a form 1099 for all amounts attributable PAGA Payments. Settlement Class Members and PAGA Members shall assume full responsibility and liability for the payment of taxes due on payment amounts allocated to the settlement of disputed non-wage claims and PAGA payments

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive

any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Payment in the amount of \$25,000.00 to be paid from the Gross Settlement Amount, with 75% (\$18,750) allocated to the LWDA PAGA Payment and 25% (\$6,250) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Members' 25% share of PAGA Penalties (\$6,250.00) by the total number of PAGA Period Pay Periods worked by all PAGA Members during the PAGA Period and (b) multiplying the result by each PAGA Member's PAGA Period Pay Periods. PAGA Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves a PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and PAGA Member Pay Periods. Based on a review of its records to date, Defendant estimates there are 219 Class Members (consisting of 183 regular full-time non-exempt employees and 36 temporary non-exempt employees) who collectively worked a total of 20,964 Workweeks (consisting of 29,480 worked by the full-time non-exempt employees and 484 worked by temporary non-exempt employees). Defendant estimates based on a review of its records that PAGA Member worked a total 4,517 of PAGA Pay Periods.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 20 calendar days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all PAGA Members including Non-Participating Class Members who qualify as PAGA Members (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). In such event, release of Released Class Claims

and Released PAGA Claims will remain binding upon the affected Settlement Class Member and, if applicable, PAGA Member.

4.4.4. Payments to Class Members pursuant to this Settlement Agreement are not intended by the Parties to be compensation for purposes of determining eligibility, vesting, participation, or contributions with respect to any employee benefit plan. For purposes of this Agreement, the term “benefit plan” means every ERISA “employee benefit plan,” as defined in the Employee Retirement and Income Security Act of 1974 (“ERISA”), 29 U.S.C. section 1002(3). The term also includes any 401(k) plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare, profit sharing, retirement, disability, vacation, severance, hospitalization, insurance, incentive, deferred compensation, or any other similar benefit plan, practice, program, or policy, regardless of whether any such plan is considered an ERISA employee benefit plan.

6. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1 Plaintiff’s Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred at any time prior to Plaintiff’s execution of this Agreement, including, but not limited to: (a) all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney’s fees, damages, actions, causes of action of whatever kind, known or unknown, contingent or accrued, and irrespective of the theory of recovery, that were, or could have been brought based on the facts or claims alleged in any version of the complaints filed in the action, the PAGA Notice or any letter submitted to the LWDA in connection with the Action, arising during the Class Period. The released claims included, but are not limited to, claims for failure to pay vacation pay, failure to provide meal periods, failure to authorize and permit rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to pay or properly compensate meal or rest break premiums, failure to furnish accurate wage statements, failure to pay final wages upon separation of employment, claims related to pay wages based on failure to properly calculate the regular rate of pay, claims derivative and/or related to these claims, liquidated damages, conversion of wages, claims for penalties for violation of the California Labor Code Private Attorneys General Act (“PAGA”), and claims under the UCL (Business and Professions Code Section 17200 et seq.). (“Plaintiff’s Release.”) Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain

effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. In exchange for this Release and Section 6.1.1, and subject to Court approval, Plaintiff shall be paid the Class Representative Service Payment from the Gross Settlement Amount.

6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542.

For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

6.2 Release by Participating Class Members Who Are Not PAGA Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, and irrespective of theory of recovery, that were or could have been brought based on the facts or claims alleged in any version of the complaints filed in the Action, the PAGA Notice or in any letters submitted to the LWDA in connection with the Action, arising during the Class Period. The released claims include, but are not limited to, claims for failure to pay vacation pay, failure to provide meal periods, failure to authorize and permit rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to pay or properly compensate meal or rest break premiums, failure to furnish accurate wage statements, failure to pay final wages upon separation of employment, claims related to pay wages based on failure to properly calculate the regular rate of pay, claims derivative and/or related to these claims, liquidated damages, conversion of wages, claims for penalties for violation of the California Labor Code Private Attorneys General Act ("PAGA"), and claims under the UCL (Business and Professions Code Section 17200 et seq.). Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

6.3 Release by Non-Participating Class Members Who Are PAGA Members: The State of California, through the Plaintiff in his role as private attorney general, and all Non-Participating Class Members who are PAGA Members are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged during the PAGA Period, based on the facts stated in the Operative Complaint, the

PAGA Notices, or ascertained in the course of the Action, irrespective of the theory of recovery, including, but not limited to, claims for failure to pay vacation pay, failure to provide meal periods, failure to authorize and permit rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to pay or properly compensate meal or rest break premiums, failure to furnish accurate wage statements, failure to pay final wages upon separation of employment, claims related to pay wages based on failure to properly calculate the regular rate of pay, claims derivative and/or related to these claims, liquidated damages, conversion of wages, claims for penalties for violation of the PAGA, and claims under the UCL (Business and Professions Code Section 17200 et seq.)

6.4 Plaintiff warrants and represents that he has not assigned or, transferred, to any person or entity any of Plaintiff's Released Claims or any rights, claims, or causes of action arising out of Plaintiff's Released Class Claims or Released PAGA Claims. In addition,

6.5 Prohibition on Subsequent Assertion of Released Class Claims and Released PAGA Claims. Plaintiff, to the fullest extent allowed by law, is prohibited from asserting a Plaintiff's Released Class Claim or Released PAGA Claim, and from commencing, joining in, or voluntarily assisting in a lawsuit or adversary proceeding against the Released Parties, based on Plaintiff's Released Class Claims or Released PAGA Claims. Excluded from this prohibition are any instances where any individual is legally compelled to testify through service of a subpoena or other process. Settlement Class Members, to the fullest extent allowed by law, are prohibited from asserting a Released Claim, and from commencing, joining in, or voluntarily assisting in a lawsuit or adversary proceeding against the Released Parties, based on Released Claims. Excluded from this prohibition are any instances where any individual is legally compelled to testify through service of a subpoena or other process. The State of California and PAGA Members, to the fullest extent allowed by law, are prohibited from asserting a Released Claim, and from commencing, joining in, or voluntarily assisting in a lawsuit or adversary proceeding against the Released Parties, based on the Released PAGA Claims. Excluded from this prohibition are any instances where any individual is legally compelled to testify through service of a subpoena or other process

7. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

7.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval at least 1 day prior to filing them, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement (iii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of

insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (iv) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and all facts relevant to any actual or potential conflict of interest with Class Members, and the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

7.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, attempt to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, attempt to reach an agreement to modify the Agreement and otherwise satisfy the Court's concerns. No Party shall be required to agree to any material change to this Agreement.

8. SETTLEMENT ADMINISTRATION.

8.1 Selection of Administrator. The Parties have jointly selected Phoenix to serve as the Administrator and verified that, as a condition of appointment, Phoenix] agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

8.4 Notice to Class Members.

8.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Class Member Workweeks, and PAGA Member Pay Periods in the Class Data.

8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

8.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later

than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

8.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are PAGA Members are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator

via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

8.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their

validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

- 8.8.3 Resolution of Disputes. If a Participating Class Member timely disputes the number of workweeks listed on the Class Notice or a PAGA Member disputes the number of pay periods worked during the PAGA Period, the Administrator will review any documentation provided by the Participating Class Member, as well as records for the Participating Class Member provided by Defendant, to determine whether there was an error in the number of workweeks or pay periods calculated, and adjust any payment to be allocated if necessary. In the absence of definitive documentation provided by the Participating Class Member or PAGA Member, Defendant’s time and pay records shall be determinative for purposes of calculating the number of workweeks during the Class Period, and number of pay periods during the PAGA Period
- 8.8.4 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 8.8.5 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 8.8.6 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the

Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

8.8.7 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

9. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 219 Class Members and 20,964 Total Workweeks that were worked by Class Members during the Class period and (2) there were PAGA Members who worked 4,517 Pay Periods during the PAGA Period.ⁱ

Increase in Compensable Work Weeks. Defendant's time and pay records shall be determinative for purposes of calculating the number of workweeks during the Class Period, and number of pay periods during the PAGA Period. Defendant estimates that there were approximately 219 Class Members who worked approximately 20,964 workweeks during the Class Period. If the number of workweeks worked during the Class Period increases by more than 5% (i.e., that is above 22,012.2 workweeks) by the time Defendant provides class data to the settlement administrator for dissemination of settlement notices, Defendant shall have the option to either cut off the Class Period as of the date that there are 22,012.2 workweeks or increase the GFV on a proportional basis equal to the percentage increase in the workweeks above the 20,964 (i.e., if there is a 6% increase in the number of workweeks during the Class Period, Defendant has the option to increase the GFV by 6% to cover the entire Class Period).

10. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than ten business days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
11. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code

section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to attempt to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. No Party shall be required to agree to any material change to this Agreement. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph and shall not be a basis to abrogate this Agreement or appeal a Judgment.
- 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an any appeal of the Judgment is filed, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the

scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to attempt to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. No Party shall be required to agree to any material change to this Agreement. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

- 12. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

13. ADDITIONAL PROVISIONS.

- 13.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reason, and contest the suitability of this case to proceed as a representative action, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation

or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. Class Counsel agrees not to identify Defendant in any way in any website, blog, article, or social media. Nothing in this provision shall prevent Defendant from making any required disclosure or Class Counsel from referencing the Settlement in adequacy filings. Neither Plaintiff nor Class Counsel will publicize the Settlement in any way, except that nothing in this Settlement Agreement shall preclude Class Counsel from communicating with members of the Settlement Class about the Agreement or in submitting filings with the Court or the LWDA in furtherance of obtaining approval of the Settlement. Nor shall anything herein restrict Class Counsel from including publicly available information regarding this Settlement in future judicial submissions regarding Class Counsel’s qualifications and experience or otherwise allowing the Judgment to become known to Class Members.

- 13.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5 Attorney Authorization. Class Counsel and Defense Counsel separately 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 pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 13.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

- 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability in connection with the Settlement or any payment made pursuant to the Settlement, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. Each Participating Class Member and PAGA Member agrees to indemnify, and hold harmless Defendant from any liability for taxes, fees, costs, or assessments resulting from his or her failure to timely pay his or her share of taxes, interest, fees, or penalties owed.
- 13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12 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.
- 13.13 Extensions of Time. Without further order of the Court, the Parties hereto may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement.
- 13.14 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.15 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

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

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

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

To Plaintiff:

Kingsley & Kingsley, APC
Eric B. Kingsley
Kelsey M. Szamet
16133 Ventura Blvd., Suite 1200
Encino, CA 91436

To Defendant:

Seyfarth Shaw LLP
Andrew M. Paley
Jill A. Porcaro
Angelina T. Evans
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021

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

13.20 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

DATED: June 12, 2023

KINGSLEY & KINGSLEY, APC

By: 
Kelsey M. Szamet
Attorneys for Plaintiffs NICK VASQUEZ and the
proposed class

DATED: June __, 2023

SEYFARTH SHAW LLP

By: _____
Andrew M. Paley
Jill A. Porcaro
Angelina T. Evans
Attorneys for Defendant

DATED: June 12, 2023

By: 
PLAINTIFF Nick Vasquez

DATED June __, 2023

By: _____
DEFENDANT TURBINE ENGINE COMPONENTS
TECHNOLOGIES CORPORATION

DATED: June __, 2023

KINGSLEY & KINGSLEY, APC

By: _____
Kelsey M. Szamet
Attorneys for Plaintiffs NICK VASQUEZ and the
proposed class

DATED: June 9, 2023

SEYFARTH SHAW LLP

By: /s/ Jill A. Porcaro
Andrew M. Paley
Jill A. Porcaro
Angelina T. Evans
Attorneys for Defendant

DATED: June __, 2023

By: _____
PLAINTIFF Nick Vasquez

DATED June 9, 2023

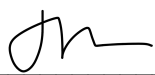
By:  _____
DEFENDANT TURBINE ENGINE COMPONENTS
TECHNOLOGIES CORPORATION

EXHIBIT "A"

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

*NICK VASQUEZ, an individual, on behalf of himself and others similarly situated, PLAINTIFF
v. TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION; and DOES 1 thru
50, inclusive, DEFENDANTS, Los Angeles Superior Court Case No. 21STCV42670*

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION (abbreviate name; “Defendant” or “TECTC” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by a former TECTC employee Nick Vasquez (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of non-exempt employees, including all temporary employees supplied to TECT by any staffing agency, (“Class Members”) who worked for TECTC during the Class Period (November 19, 2017 to January 24, 2023); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all non-exempt employees, including all temporary employees supplied to TECTC by any staffing agency, who worked for TECTC during the PAGA Period (November 19, 2020 to January 24, 2023) (“PAGA Members”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring TECTC to fund Individual Class Payments, and (2) a PAGA Settlement requiring TECTC to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on TECTC’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to TECTC’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on TECTC’s records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires TECTC to make payments under the Settlement and requires Class Members and PAGA Members to give up their rights to assert certain claims against TECTC.

If you worked for TECTC during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against TECTC.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against TECTC, and, if you are an PAGA Member, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Turbine Engine Components Technologies Corporation will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against TECTC that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [date]	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. TECTC must pay Individual PAGA Payments to all PAGA Members and the PAGA Members must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel

Written Objections Must be Submitted by [date]	or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [date] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [date]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by [date]	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to TECTC's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [date]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former TECTC employee. The Action accuses TECTC of violating California labor laws by failing to pay to pay vested vacation wages, failure to pay all wages due upon termination and failing to provide meal periods, accurate itemized wage statements, as well as engaging in unfair business practice. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Kingsley & Kingsley, APC ("Class Counsel.")

TECTC strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether TECTC or Plaintiff is correct on the merits. In the meantime, Plaintiff and TECTC hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and TECTC have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, TECTC does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) TECTC has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and PAGA Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. TECTC Will Pay \$650,000.00 as the Gross Settlement Amount (Gross Settlement).
TECTC has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, TECTC will fund the Gross Settlement not more than 20 days after the Judgment entered by the Court become final. The Judgment will be final 61 days after the date the Court enters Judgment, or a later date if the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$216,666.67 (33.33% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$5,000 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$8,000 to the Administrator for services administering the Settlement.
 - D. Up to \$25,000.00 for a PAGA Payment, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the PAGA Members based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross

Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages (“Wage Portion”) and 75% to e.g., penalties and interest, etc. (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. TECTC will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as non-wage payments rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and TECTC have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [date], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [date] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against TECTC.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against TECTC based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and TECTC have agreed that, in either case, the Settlement will be void:

TECTC will not pay any money and Class Members will not release any claims against TECTC.

8. Administrator. The Court has appointed a neutral company, [name] (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and TECTC has fully funded the Gross Settlement [Option 1: (and separately paid all employer payroll taxes)], Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against TECTC or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney’s fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, and irrespective of theory of recovery, that were or could have been brought based on the facts or claims alleged in any version of the complaints filed in the Action or letters submitted to the Labor and Workforce Development Agency (“LWDA”) in connection with the Action, arising during the Class Period,. The released claims include, but are not limited to, claims for failure to pay vacation pay, failure to provide meal periods, failure to authorize and permit rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to pay or properly compensate meal or rest break premiums, failure to furnish accurate wage statements, failure to pay final wages upon separation of employment, claims related to pay wages based on failure to properly calculate the regular rate of pay, claims derivative and/or related to these claims, liquidated damages, conversion of wages, claims for penalties for violation of the California Labor Code Private Attorneys General Act (“PAGA”), and claims under the UCL (Business and Professions Code Section 17200 et seq.).

10. PAGA Members’ PAGA Release. After the Court’s judgment is final, and TECTC has paid the Gross Settlement (and separately paid the employer-side payroll taxes), the State of California and all PAGA Members will be barred from asserting PAGA claims against TECTC, whether or not they exclude themselves from the Settlement. This means that

all PAGA Members, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against TECTC or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The PAGA Members' Releases for Participating and Non-Participating Class Members are as follows:

The State of California, through Plaintiff in his role as private attorney general, and all Participating and Non-Participating Class Members who are PAGA Members are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged during the PAGA Period, based on the facts stated in the Operative Complaint, the PAGA Notices, or ascertained in the course of the Action, irrespective of the theory of recovery, including, but not limited to, claims for failure to pay vacation pay, failure to provide meal periods, failure to authorize and permit rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to pay or properly compensate meal or rest break premiums, failure to furnish accurate wage statements, failure to pay final wages upon separation of employment, claims related to pay wages based on failure to properly calculate the regular rate of pay, claims derivative and/or related to these claims, liquidated damages, conversion of wages, claims for penalties for violation of the California Labor Code Private Attorneys General Act ("PAGA"), and claims under the UCL (Business and Professions Code Section 17200 et seq.).

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. \$25,000 of the Gross Settlement Amount will be allocated to settle all PAGA claims. 75% of this amount (\$18,750) will be sent to the State of California and 25% (\$6,250) will be distributed to PAGA Members. The Administrator will calculate Individual PAGA Payments by (a) dividing 6,250 by the total number of PAGA Pay Periods worked by all PAGA Members and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual PAGA Member.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until [date] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the

Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as PAGA Members. The single check will combine the Individual Class Payment and the Individual PAGA Payment, if any.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every PAGA Member who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Nick Vasquez v. Turbine Engine Components Technologies Corporation*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [date], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least [insert] days before the [date] Final Approval Hearing, Class Counsel

and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [need details] or the Court's website [need details].

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [date].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action (*Nick Vasquez v. Turbine Engine Components Technologies Corporation*) and include your name, current address, telephone number, and approximate dates of employment for TECTC and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [date] at [time] in Department [9] of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). [confirm]. Check the Court's website (<https://www.lacourt.org/casesummary/ui>) for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything TECTC and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Los Angeles County Superior Court's website at

<https://www.lacourt.org/casesummary/ui/>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) **[confirm]** and entering the Case Number for the Action, Case No. 21STCV42670. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION
ABOUT THE SETTLEMENT.**

Class Counsel:

KINGSLEY & KINGSLEY, APC

Eric B. Kingsley

Kelsey M. Szamet

eric@kingsleykingsley.com

kelsey@kingsleykingsley.com

16133 Ventura Blvd., Suite 1200

Encino, CA 91436

Tel: (818) 990-8300

Settlement Administrator:

[Name of Company]

[Email Address]

[Mailing Address]

[Telephone]

[Fax Number]

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

ⁱ I.

EXHIBIT "2"

KINGSLEY & KINGSLEY

| L A W Y E R S |

November 19, 2021

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION
1211 Old Albany Road
Thomasville, GA 31792
Via Certified Mailing No.: 7020 0640 0002 1439 7823

TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION
c/o Agent for Service of Process
Corporation Service Company Which Will Do Business in California as CSC - Lawyers
Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833
Via Certified Mailing No.: 7020 0640 0002 1439 7816

Re: NICK VASQUEZ v. TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents NICK VASQUEZ (“Plaintiff”) and a proposed group of current and former employees working for TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION (“Defendant”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees defined as: All persons who are employed or have been employed as a non-exempt employee by TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION, in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’. (“aggrieved employees”).

Any limitations period referenced in this letter is extended pursuant to Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the California Rules of Court,

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

November 19, 2021

Page 2 of 4

adopted effective April 6, 2020, which provides that the statutes of limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.”] Any reference to the relevant time period or statute of limitations referenced in this letter is extended into the past by the number of days in which this tolling was in effect.

Defendant has engaged in practices that violate Labor Code §§ 226.7 and 512 with respect to Plaintiff and all aggrieved employees. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of compensation for each meal period the employer fails to provide. Employees are entitled to a first meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the first five (5) hours of the shift. Pursuant to Labor Code § 226.7(c), if an employer fails to provide an employee with a lawful meal period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that a thirty (30) minute uninterrupted meal period was not provided, was not provided in full, or was not provided in a timely manner.

Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with meal periods and failed to provide timely and compliant meal periods. In addition, Defendant has had a consistent policy of: (1) failing to provide Plaintiff and the aggrieved employees timely and compliant meal periods of at least 30 minutes in length; and (2) failing to pay such employees one (1) hour of pay at the employees’ regular rate of compensation for each workday that the complaint meal period was not provided.

Very recently, on July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the formula for calculating the one extra hour of premium pay that employees are owed if an employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as such as a shift differentials), and cannot simply be paid at an employee’s base hourly rate. Here, when meal period premiums are provided, Defendant has had a consistent policy of paying meal period premiums at the base rate and not the blended rate that includes all shift differentials (or other non-discretionary compensation) in violation of Labor Code §§ 226.7 and 512.

Defendant also engaged in a practice of failing to furnish accurate itemized wage statements in violation of Labor Code § 226(a), which requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each employee an accurate itemized statement in writing showing a number of specific items, including total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee (See Labor Code §§ 226(a) (2) and (9).) Here, Defendant has failed to furnish Plaintiff and all aggrieved employees with accurate itemized wage statements that include total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Further, Plaintiff and the aggrieved employees are issued wage statements that do not

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

November 19, 2021

Page 3 of 4

include premiums as a result of the claims alleged above and when they do, they are not at the accurate rate.

Additionally, Labor Code §226(a)(8) requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing the name and address of the legal entity that is the employer. Plaintiff and the aggrieved employees are issued wage statements that do not include the name and address of the legal entity that is the employer. Thus, Plaintiff is an aggrieved employee within the meaning of PAGA and Defendant has violated Labor Code §226(a) with respect to Plaintiff and all aggrieved employees.

Labor Code §227.3 provides: "...whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served..." Defendant has had a consistent policy of failing to pay Plaintiff and the aggrieved employees for their vested vacation wages at the time of the employee's separation from the company.

As a result of this unlawful policy, Defendant does not pay all wages owed at the appropriate rate to Plaintiff and the aggrieved employees in violation of Labor Code §510. Labor Code § 510(a) states that eight hours of labor constitutes a day's work and any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek must be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of twelve (12) hours in one day shall be compensated at the rate of no less than twice the regular rate of pay. Plaintiff and the aggrieved employees were forced to work on a regular and consistent basis without receiving compensation for all hours

Labor Code § 203 provides that if "an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

Here, Plaintiff and all aggrieved employees were not paid all wages due upon their separation from Defendant's employ. As such, Plaintiff is an aggrieved employee and Defendant failed to pay Plaintiff and all aggrieved employees all wages due at the time of termination or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter in violation of Labor Code §203.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 227.3, and 512 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

November 19, 2021

Page 4 of 4

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: _____

Kelsey M. Szamet

KMS/jl

- Cc:
1. LWDA Letter filed via Electronic Submission: <https://dir.tfaforms.net/308>
 2. Abramson Labor Group, 3580 Wilshire Blvd Ste 1260, Los Angeles, CA 90010-2513

EXHIBIT "3"

KINGSLEY & KINGSLEY

| L A W Y E R S |

June 13, 2023

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION
C/O SEYFARTH SHAW LLP
ANDREW M. PALEY, Esq.
apaley@seyfarth.com
JILL A. PORCARO, Esq.
jporcaro@seyfarth.com
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021
Via Electronic Mail

Re: NICK VASQUEZ v. TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents NICK VASQUEZ (“Plaintiff”) and a proposed group of current and former employees working for TURBINE ENGINE COMPONENTS TECHNOLOGIES CORPORATION (“Defendant”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* This is an amended notice letter which shall serve to incorporate and supplement the letter from our office on November 19, 2021. Plaintiff is amending his letter to add violations for Labor Code § 226.7 for failure to provide rest periods. We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees defined as: All current and former non-exempt employees of Defendant in the State of California including all temporary employees supplied to Defendant by any staffing agency at any time between November 19, 2020, through January 24, 2023. (“PAGA Members” (“aggrieved employees”).

Any limitations period referenced in this letter is extended pursuant to Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

June 13, 2023

Page 2 of 4

from April 6, 2020, until October 1, 2020.”] Any reference to the relevant time period or statute of limitations referenced in this letter is extended into the past by the number of days in which this tolling was in effect.

Defendant has engaged in practices that violate Labor Code §§ 226.7 and 512 with respect to Plaintiff and all aggrieved employees. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of compensation for each meal period the employer fails to provide. Employees are entitled to a first meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the first five (5) hours of the shift. Pursuant to Labor Code § 226.7(c), if an employer fails to provide an employee with a lawful meal period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that a thirty (30) minute uninterrupted meal period was not provided, was not provided in full, or was not provided in a timely manner.

Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with meal periods and failed to provide timely and compliant meal periods. In addition, Defendant has had a consistent policy of: (1) failing to provide Plaintiff and the aggrieved employees timely and compliant meal periods of at least 30 minutes in length; and (2) failing to pay such employees one (1) hour of pay at the employees’ regular rate of compensation for each workday that the complaint meal period was not provided.

Very recently, on July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the formula for calculating the one extra hour of premium pay that employees are owed if an employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as such as a shift differentials), and cannot simply be paid at an employee’s base hourly rate. Here, when meal period premiums are provided, Defendant has had a consistent policy of paying meal period premiums at the base rate and not the blended rate that includes all shift differentials (or other non-discretionary compensation) in violation of Labor Code §§ 226.7 and 512.

Pursuant to Labor Code § 226.7 and Wage Order 16-2001, Defendant is required to provide Plaintiff and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period, or major fraction thereof. Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with rest periods and failed to provide all required ten (10) minute rest periods. Further, Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages for each missed rest period as required by Labor Code § 226.7. As discussed above, *Ferra* requires the rest period premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee’s base hourly rate. Defendant has had a consistent policy of paying rest period premiums at the base rate and not the blended rate when rest premiums are provided, in violation of Labor Code § 226.7.

Defendant also engaged in a practice of failing to furnish accurate itemized wage statements in violation of Labor Code § 226(a), which requires that every employer shall, semimonthly or at the

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

June 13, 2023

Page 3 of 4

time of each payment of wages, furnish each employee an accurate itemized statement in writing showing a number of specific items, including total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee (See Labor Code §§ 226(a) (2) and (9).) Here, Defendant has failed to furnish Plaintiff and all aggrieved employees with accurate itemized wage statements that include total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Further, Plaintiff and the aggrieved employees are issued wage statements that do not include premiums as a result of the claims alleged above and when they do, they are not at the accurate rate.

Additionally, Labor Code §226(a)(8) requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing the name and address of the legal entity that is the employer. Plaintiff and the aggrieved employees are issued wage statements that do not include the name and address of the legal entity that is the employer. Thus, Plaintiff is an aggrieved employee within the meaning of PAGA and Defendant has violated Labor Code §226(a) with respect to Plaintiff and all aggrieved employees.

Labor Code §227.3 provides: "...whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served..." Defendant has had a consistent policy of failing to pay Plaintiff and the aggrieved employees for their vested vacation wages at the time of the employee's separation from the company.

As a result of this unlawful policy, Defendant does not pay all wages owed at the appropriate rate to Plaintiff and the aggrieved employees in violation of Labor Code §510. Labor Code § 510(a) states that eight hours of labor constitutes a day's work and any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek must be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of twelve (12) hours in one day shall be compensated at the rate of no less than twice the regular rate of pay. Plaintiff and the aggrieved employees were forced to work on a regular and consistent basis without receiving compensation for all hours

Labor Code § 203 provides that if "an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

Here, Plaintiff and all aggrieved employees were not paid all wages due upon their separation from Defendant's employ. As such, Plaintiff is an aggrieved employee and Defendant failed to pay Plaintiff and all aggrieved employees all wages due at the time of termination or within seventy-

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

June 13, 2023

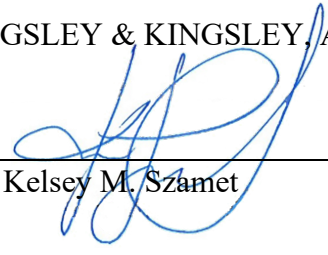
Page 4 of 4

two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter in violation of Labor Code §203.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 227.3, and 512 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

Kelsey M. Szamet

KMS/tg

- Cc:
1. LWDA Letter filed via Electronic Submission: <https://dir.tfaforms.net/310>
 2. Abramson Labor Group, 3580 Wilshire Blvd Ste 1260, Los Angeles, CA 90010-2513

(Proof of Submission to Labor and Workforce
Development Agency)

EXHIBIT "4"

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

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 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On September 11, 2023, I served all interested parties in this action the following documents described as: **DECLARATION OF KELSEY M. SZAMET IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEYFARTH SHAW LLP Andrew M. Paley apaley@seyfarth.com Jill A. Porcaro jporcaro@seyfarth.com Angelina Evans aevans@seyfarth.com 2029 Century Park East, Suite 3500 Los Angeles, CA 90067-3021	ABRAMSON LABOR GROUP William Zev Abramson wza@abramsonlabor.com 11846 Ventura Blvd., Suite 100 Studio City, CA 91604
--	--

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL THROUGH CASE ANYWHERE): On interested parties set forth on the attached service list.

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 11, 2023, at Woodland Hills, California.

Michelle Tanzer