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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

FRANCISCO MARTINEZ, individually, and
on behalf of other members of the general public
similarly situated,

Plaintiff,

vs.

STATE ROOFING SYSTEMS, INC., a
California Corporation and DOES 1-10,
inclusive,

Defendants.

Case No.: 21CV002168

**JOINT STIPULATION OF CLASS ACTION
SETTLEMENT AND RELEASE**

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JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement Agreement”) is made and entered into by and between Plaintiff Francisco Martinez (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and Defendant State Roofing Systems, Inc. (“Defendant”) (individually, “Party” and collectively, the “Parties”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means the lawsuit captioned *Francisco Martinez v. State Roofing Systems, Inc.*, initiated in Alameda County Superior Court on November 8, 2021, Case No. 21CV002168. On March 19, 2022, Plaintiff filed a First Amended Complaint (“Operative Complaint”), which added a representative action for penalties pursuant to the Private Attorneys General Act of 2004, (Cal. Lab. Code, §§ 2698, *et seq.*) (“PAGA”).

2. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all out-of-pocket costs incurred and to be incurred by Class Counsel in the Action, including but not limited to expert/consultant fees, investigation costs, and costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the Settlement, administering the Settlement, and obtaining entry of a Judgment terminating the Action. Class Counsel will request attorneys’ fees not in excess of one-third (1/3) of the Gross Settlement Amount, or One Hundred Sixty-Six Thousand Six Hundred Sixty-Seven Dollars (\$166,667). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any costs and expenses associated with Class Counsel’s litigation and settlement of the Action, up to Ten Thousand Dollars (\$10,000), subject to the Court’s approval. Defendant has agreed not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth above.

3. “Class Counsel” means Capstone Law APC and Sullivan & Yaeckel Law Group, APC.

4. “Class List” means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator within forty-five

(45) calendar days of the date of Preliminary Approval of this Settlement. The Class List will be formatted in Microsoft Office Excel and will include, to the extent available to Defendant, each Class Member's: (1) full name; (2) last known recent mailing address; (3) last known telephone number; (4) Social Security number; (5) dates of employment (including all re-hire and subsequent separation dates during the Class Period); and (6) the respective number of Pay Periods that each Class Member worked during the Class Period and/or PAGA Period.

5. "Class Member" means an individual who worked for Defendant as an hourly and/or non-exempt employee in California at any time from November 8, 2017, through the earlier of January 6, 2023 or the date of Preliminary Approval, collectively "Class Members."

6. "Class Notice" means the Court-Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, substantially in the form attached as Exhibit A and incorporated by reference into this Agreement, which the Settlement Administrator shall mail to all Class Members in English and Spanish.

7. "Class Period" means the period from November 8, 2017, through the earlier of January 6, 2023 or the date of Preliminary Approval.

8. "Class Representative Enhancement Payment" means the amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for his general release of claims. Subject to the Court granting Final Approval and subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of a Class Representative Enhancement Payment of up to Ten Thousand Dollars (\$10,000).

9. "Class Settlement" means the portion of the Settlement that resolves the class claims Plaintiff alleged in the Action on behalf of Class Members.

10. "Court" means the Alameda County Superior Court.

11. "Defendant" means Defendant State Roofing Systems, Inc.

12. "Effective Date" means the later of: (a) if no timely objections are filed or, if all objections are withdrawn, the date of Final Approval; or (b) if a Class Member files an objection to the Settlement that is not withdrawn, the deadline for filing an appeal from the Judgment in connection with that objection, provided no appeal has already been initiated; or (c) if a timely appeal is initiated, then the

1 date of final resolution (or withdrawal) of that appeal that results in the Judgment approving the
2 Settlement becoming final.

3 13. “Final Approval” means the Court entering an order granting final approval of the
4 Settlement Agreement and entering judgment (“Judgment”).

5 14. “Gross Settlement Amount” means the gross settlement amount of Five Hundred
6 Thousand Dollars (\$500,000), to be paid by Defendant in full satisfaction of all Released Class Claims
7 and Released PAGA Claims, which includes all Individual Settlement Payments to Participating Class
8 Members and PAGA Members, Attorneys’ Fees and Costs, the Class Representative Enhancement
9 Payment, the LWDA Payment, and Settlement Administration Costs. This Gross Settlement Amount
10 has been agreed to by Plaintiff and Defendant as the aggregate amount to settle all individual claims. In
11 no event will Defendant be liable for more than the Gross Settlement Amount except as otherwise
12 explicitly set forth herein. There will be no reversion of the Gross Settlement Amount to Defendant.
13 Defendant will be separately responsible for any employer payroll taxes required by law, including
14 employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement
15 Amount.

16 15. “Individual Settlement Payment” means each Participating Class Member’s and/or
17 PAGA Member’s individual share(s) of the Net Settlement Fund and/or PAGA Fund, respectively.

18 16. “Net Settlement Fund” means the portion of the Gross Settlement Amount remaining
19 after deducting the Attorneys’ Fees and Costs, the Class Representative Enhancement Payment, the
20 PAGA Settlement Amount, and Settlement Administration Costs. The Net Settlement Fund will be
21 distributed to Participating Class Members. There will be no reversion of the Net Settlement Fund to
22 Defendant.

23 17. “Notice of Objection” means a Class Member’s valid and timely written objection to the
24 Settlement Agreement.

25 18. “PAGA Members” means all individuals who worked for Defendant as hourly and/or
26 non-exempt employees in California at any time from September 3, 2020, through the earlier of January
27 6, 2023 or the date of Preliminary Approval.

28 19. “PAGA Period” means the period from September 3, 2020, through the earlier of

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January 6, 2023 or the date of Preliminary Approval.

20. “PAGA Pay Period Value” means the settlement value of each Pay Period worked by PAGA Members during the PAGA Period, calculated by dividing the PAGA Fund by the aggregate total number of Pay Periods.

21. “PAGA Settlement” means the portion of the Settlement that resolves the PAGA claims Plaintiff alleged in the Action on behalf of PAGA Members.

22. “PAGA Settlement Amount” means the total amount that the Parties have agreed to pay to the California Labor and Workforce Development Agency (“LWDA”) and PAGA Members in connection with Plaintiff’s claim under PAGA, which the Parties have agreed will be Forty Thousand Dollars (\$40,000). Pursuant to PAGA, Seventy-Five Percent (75%), or Thirty Thousand Dollars (\$30,000), of the PAGA Settlement Amount, will be paid to the LWDA (“LWDA Payment”), and Twenty-Five Percent (25%), or Ten Thousand Dollars (\$10,000), of the PAGA Settlement Amount will be disbursed to PAGA Members (“PAGA Fund”), regardless whether they request to be excluded from the Class Settlement. The PAGA Settlement Amount shall be paid from the Gross Settlement Amount.

23. “Parties” means Plaintiff and Defendant, collectively.

24. “Participating Class Members” means those Class Members who do not submit timely and valid Requests for Exclusion and, thus, who will be included in the Class Action Settlement. “Participating Class Members” shall also be referred to collectively as “the Settlement Class.”

25. “Pay Period(s)” means the weekly pay periods, as designated by Defendant, during which each Class Member/PAGA Member worked (i.e., was employed by Defendant *and* actually performed worked) for Defendant in a non-exempt, hourly paid position during the applicable Class Period/PAGA Period.

26. “Pay Period Value” (as opposed to “PAGA Pay Period Value”), means the settlement value of each Pay Period worked by Class Members during the Class Period, calculated by dividing the Net Settlement Fund by the aggregate total number of Pay Periods.

27. “Plaintiff” means Plaintiff Francisco Martinez, who also is referred to herein as the “Class Representative.”

28. “Preliminary Approval” means the Court entering an order granting preliminary

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1 approval of the Settlement.

2 29. "Qualified Settlement Account" means a separate bank account to be opened and
3 maintained by the Settlement Administrator into which Defendant will deposit the Gross Settlement
4 Amount and employer payroll taxes and from which the Settlement Administrator will have authority to
5 distribute payments made in accordance with the terms of this Settlement Agreement

6 30. "Released Class Claims" means all claims, rights, demands, liabilities, and causes of
7 action, reasonably arising from, or related to, the same set of operative facts as those set forth in the
8 Operative Complaint during the Class Period, including: (a) all claims for unpaid overtime; (b) all claims
9 for meal and rest break violations; (c) all claims for unpaid minimum wages; (d) all claims for the failure
10 to reimburse for necessary business expenses; (e) all claims for the failure to timely pay wages upon
11 termination based on the preceding claims; (f) all claims for the failure to timely pay wages during
12 employment based on the preceding claims; (g) all claims for wage statement violations, whether based
13 on the preceding claims or otherwise (i.e., both derivative and non-derivative claims); and (h) all claims
14 asserted through California Business & Professions Code §§ 17200, *et seq.*

15 31. "Released PAGA Claims" means all claims for civil penalties under California Labor
16 Code §§ 2698, *et seq.* that were brought or could reasonably have been brought based on the facts
17 alleged in Plaintiff's November 9, 2021, LWDA letter to Defendant and the LWDA, providing notice
18 pursuant to Labor Code section 2699.3, subd. (a) during the PAGA Period and the Operative Complaint.

19 32. "Released Parties" means Defendant, and each of its former, present and future owners,
20 parents, and subsidiaries, and all of its current officers, directors, members, managers, employees,
21 consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants,
22 insurers, reinsurers, and/or legal representatives.

23 33. "Request for Exclusion" means a timely letter submitted by a Class Member indicating a
24 request to be excluded from the Class Settlement.

25 34. "Response Deadline" means the deadline by which Class Members must postmark
26 Requests for Exclusion, disputes concerning the calculation of Individual Settlement Payments, or
27 Notices of Objection mailed to the Settlement Administrator. The Response Deadline will be forty-five
28 (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator, unless

the forty-fifth (45th) calendar day falls on a Sunday or State or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be extended by express agreement between Class Counsel and Defendant.

35. "Settlement" shall mean the disposition of the overall Action pursuant to this Agreement and refers to the Class Settlement and PAGA Settlement collectively.

36. "Settlement Administration Costs" means the costs for administering this Settlement, including, but not limited to, the costs of printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The costs will include, if necessary, any such costs in excess of the amount initially estimated by the Settlement Administrator as being the maximum costs necessary to administer the Settlement. Based on an estimated Settlement Class of approximately one hundred (100) Class Members, the Settlement Administration Costs are currently estimated to be Ten Thousand Dollars (\$10,000). The Settlement Administration Costs will be paid from the Gross Settlement Amount.

37. "Settlement Administrator" means CPT Group, Inc., or any other third-party class action settlement administrator agreed to by the Parties and approved by the Court for the purposes of administering this Settlement. Each Party represents it does not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

TERMS OF AGREEMENT

The Plaintiff, on behalf of himself and the Settlement Class, and Defendant agree as follows:

38. Funding of the Gross Settlement Amount. Defendant will make a one-time deposit of the Gross Settlement Amount of Five Hundred Thousand Dollars (\$500,000) into a Qualified Settlement Account to be established by the Settlement Administrator. Defendant may deposit the employer's share of payroll taxes into the Account separately. After the Effective Date, the Gross Settlement Amount will be used for: (a) Individual Settlement Payments; (b) the LWDA Payment; (c) the Class Representative Enhancement Payment; (d) Attorneys' Fees and Costs; and (e) Settlement Administration Costs. Defendant will deposit the Gross Settlement Amount and the employer's share of payroll taxes within thirty (30) calendar days of the Effective Date ("Funding Date"), unless the Funding Date falls on a

1 Saturday, Sunday, or State or Federal holiday, in which case the Funding Date will be extended to the
2 next business day.

3 39. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or
4 motion by Class Counsel for Attorneys' Fees and Costs of not more than One Hundred Sixty-Six
5 Thousand, Six Hundred Sixty-Seven Dollars (\$166,667), plus the reimbursement of all out-of-pocket
6 costs and expenses associated with Class Counsel's litigation and settlement of the Action (including
7 expert/consultant fees, investigations costs, etc.), not to exceed Ten Thousand Dollars (\$10,000), both of
8 which will be paid from the Gross Settlement Amount.

9 40. Class Representative Enhancement Payment. In exchange for a general release, and in
10 recognition of Plaintiff's effort and work in prosecuting the Action on behalf of Class Members,
11 Defendant agrees not to oppose or impede any application or motion for a Class Representative
12 Enhancement Payment of up to Ten Thousand Dollars (\$10,000), to Plaintiff. The Class Representative
13 Enhancement Payment will be paid from the Gross Settlement Amount and will be in addition to
14 Plaintiff's Individual Settlement Payment paid pursuant to the Settlement. Plaintiff will be solely and
15 legally responsible for paying any and all applicable taxes on the Class Representative Enhancement
16 Payment. Plaintiff understands and agrees that this Settlement Agreement shall remain in full force and
17 effect even if the full amount of Class Representative Enhancement Payment sought by Plaintiff is not
18 ultimately awarded by the Court.

19 41. Settlement Administration Costs. The Settlement Administrator will be paid for the
20 reasonable costs of administration of the Settlement and distribution of payments from the Gross
21 Settlement Amount, which is currently estimated to be Ten Thousand Dollars (\$10,000). These costs,
22 which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting
23 on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing the Class
24 Notices, calculating and distributing the Individual Settlement Payment checks, and providing necessary
25 reports and declarations.

26 42. PAGA Settlement Amount. Subject to Court approval, the Parties agree that Forty
27 Thousand Dollars (\$40,000) of the Gross Settlement Amount will be designated for satisfaction of
28 Plaintiff's PAGA claim. Pursuant to PAGA, Seventy-Five Percent (75%), or Thirty Thousand Dollars

1 (\$30,000), of this sum will be paid to the LWDA, and Twenty-Five Percent (25%), or Ten Thousand
2 Dollars (\$10,000), will be paid to PAGA Members in proportion to the number of Pay Periods worked
3 during the PAGA Period.

4 43. Net Settlement Fund. The entire Net Settlement Fund will be distributed to Participating
5 Class Members. No portion of the Net Settlement Fund will revert to or be retained by Defendant.

6 44. PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No
7 portion of the PAGA Fund will revert to or be retained by Defendant.

8 45. Individual Settlement Payment Calculations. Individual Settlement Payments will be
9 calculated and apportioned from the Net Settlement Fund and PAGA Fund based on the number of Pay
10 Periods a Class Member worked during the Class Period and PAGA Period. Specific calculations of
11 Individual Settlement Payments will be made as follows:

12 45(a) Payments from the Net Settlement Fund. Defendant will calculate the total
13 number of Pay Periods worked by each Class Member during the Class Period and the aggregate total
14 number of Pay Periods worked by all Class Members during the Class Period. To determine each Class
15 Member's estimated Individual Settlement Payment from the Net Settlement Fund, the Settlement
16 Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate
17 total number of Pay Periods, resulting in the Pay Period Value. Each Class Member's Individual
18 Settlement Payment will be calculated by multiplying each individual Class Member's total number of
19 Pay Periods by the Pay Period Value. The Individual Settlement Payment will be reduced by any
20 required deductions for each Participating Class Member as specifically set forth herein, including
21 employee-side tax withholdings or deductions. The entire Net Settlement Fund will be disbursed to all
22 Class Members who do not submit timely and valid Requests for Exclusion. If there are any valid and
23 timely Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual
24 Settlement Payment for each Participating Class Member according to the number of Pay Periods
25 worked by all Class Members, so that the amount actually distributed to the Settlement Class equals
26 100% of the Net Settlement Fund.

27 45(b) Payments from the PAGA Fund. Defendant will calculate the total number
28 of Pay Periods worked by each PAGA Member during the PAGA Period and the aggregate total number

of Pay Periods worked by all PAGA Members during the PAGA Period. To determine each PAGA Member's estimated Individual Settlement Payment, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Pay Periods, resulting in the PAGA Pay Period Value. Each PAGA Member's Individual Settlement Payment will be calculated by multiplying each individual PAGA Member's total number of Pay Periods by the PAGA Pay Period Value. The entire PAGA Fund will be disbursed to all PAGA Members.

46. No Credit Toward Benefit Plans. The Individual Settlement Payments made to Participating Class Members, as well as any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plan.

47. Administration Process. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement.

48. Delivery of the Class List. Within forty-five (45) days of the Preliminary Approval Date, Defendant will provide the Class List to the Settlement Administrator only, unless the forty-fifth (45th) calendar day falls on a Sunday or State or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Settlement Administrator will maintain the list in confidence and shall access and use the list solely to administer the Settlement in conformity with the Court's orders.

49. Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the Class List from Defendant, the Settlement Administrator will mail a Class Notice with Spanish translation to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

50. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information

1 to update and correct for any known or identifiable address changes. Any Class Notice returned to the
2 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly
3 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
4 Administrator will indicate the date of such re-mailing of the Class Notice. If no forwarding address is
5 provided, the Settlement Administrator will promptly attempt to determine the correct address using a
6 skip-trace, or other search using the name, address and/or Social Security number of the Class Member
7 involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed
8 Class Notice, whether by skip-trace or by request, will have either (a) an additional fifteen (15) calendar
9 days or (b) until the Response Deadline, whichever is later, to submit a Request for Exclusion or an
10 objection to the Settlement.

11 51. The Class Notice. All Class Members will be mailed an individualized Class Notice,
12 which will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's
13 principal terms; (c) the Settlement Class and PAGA Member definitions; (d) the total number of Pay
14 Periods each respective Class Member and PAGA Member worked for Defendant during the Class
15 Period and PAGA Period; (e) each Class Member's and PAGA Member's estimated Individual
16 Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which
17 comprise the Class Period and PAGA Period; (g) instructions on how to submit Requests for Exclusion
18 or Notices of Objection; (h) the deadlines by which the Class Member must postmark Requests for
19 Exclusion or Notices of Objection to the Settlement; and (i) the claims to be released.

20 52. Disputed Information on the Class Notice. Class Members will have an opportunity to
21 dispute the information provided in their Class Notice. To the extent Class Members dispute the number
22 of Pay Periods on record, Class Members may produce evidence to the Settlement Administrator
23 showing that such information is inaccurate. The Settlement Administrator will field inquiries or disputes
24 and attempt to resolve them with the information available to it, with Defendant's records being
25 presumed correct. If the Settlement Administrator is unable to resolve a dispute based on Defendant's
26 records, it shall contact the Parties regarding the dispute and the Parties will work in good faith to resolve
27 it. All disputes must be submitted by the Response Deadline and will be decided within ten (10) business
28 days after the Response Deadline.

53. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the Settlement Class must sign and postmark a written Request for Exclusion to the Settlement Administrator by the Response Deadline. The postmark date will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. To be effective, a Request for Exclusion must: (a) set forth the name, address, telephone number and last four digits of the Social Security Number of the Class Member requesting exclusion; (b) be signed and dated by the Class Member; (c) clearly state that the Class Member does not wish to be included in the Settlement Class, in words materially similar to the following: "I wish to exclude myself from the class settlement reached in the matter of *Francisco Martinez v. State Roofing Systems, Inc.* I understand that, by excluding myself, I will not receive an individual settlement payment consisting of payment for my release of class claims from the settlement in addition to any share of civil penalties to which I am entitled and will still receive for the PAGA settlement."

54. Defective Request for Exclusion Submissions. If a Class Member's Request for Exclusion is defective as to the requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark a revised Request for Exclusion. If the revised Request for Exclusion is not postmarked within that period, it will be deemed untimely.

55. Escalator. This Settlement is based on Defendant's estimate, based on its records, that there were approximately Eleven Thousand Two Hundred and Ninety-Four (11,294) Pay Periods worked by Class Members from November 8, 2017, through the date of mediation on October 6, 2022. If the number of Pay Periods worked by Class Members during the Class Period increases by more than Ten Percent (10%) (i.e., by more than 1,129, for a total of Twelve Thousand Four Hundred and Twenty-Three (12,423) Pay Periods), then Defendant will, in its sole discretion, have the option to either: (a) de-escalate the Settlement so that the Class Period ends on the date when the Pay Period count totals 12,423; or (b) permit the Gross Settlement Amount to be increased proportionally by the number of Pay Periods

1 worked *in excess of 12,423*, multiplied by the Pay Period Value. The Pay Period Value shall be
2 calculated by dividing the originally agreed-upon Gross Settlement Amount (\$500,000) by 11,294 Pay
3 Periods, which amounts to a Pay Period Value of \$44.27. Thus, for example, should there be 12,500 Pay
4 Periods in the Class Period, the Gross Settlement Amount shall be increased by \$3,408.79 ((12,500 Pay
5 Periods – 12,423 Pay Periods) × \$44.27/Pay Period).

6 56. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
7 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid
8 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Class
9 Claims, as well as any Judgment that may be entered by the Court if it grants final approval of the
10 Settlement.

11 57. Releases by Participating Class Members. Upon the Funding Date, and except as to such
12 rights or claims as may be created by this Settlement Agreement, each Participating Class Member,
13 together and individually, on their behalf and on behalf of their respective heirs, executors,
14 administrators, agents, and attorneys, shall fully and forever release and discharge all of the Released
15 Parties, or any of them, from each of the Released Class Claims arising during the Class Period.

16 58. Releases by PAGA Members. Upon the Funding Date, and except as to such rights or
17 claims as may be created by this Settlement Agreement, each PAGA Member, together and individually,
18 on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys,
19 shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the
20 Released PAGA Claims during the PAGA Period.

21 59. Defendant's Right to Rescind. Defendant in its sole discretion, will have the right to void
22 and withdraw from the Settlement if, at any time prior to Final Approval, Ten Percent (10%) or more of
23 Class Members opt out of the settlement. Defendant must notify Class Counsel and the Court, in writing,
24 of its election to withdraw within twenty-one (21) days after the Settlement Administrator sends the
25 Exclusion List (defined in Paragraph 63) to Defense Counsel. If the option to rescind is exercised, then
26 Defendant will be solely responsible for all Settlement Administration Costs incurred to the date of
27 rescission.

28 60. Objection Procedures. To object to the Settlement Agreement, a Class Member may

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either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response Deadline, or appear (or hire an attorney to appear on his/her behalf at his/her own cost), in person, by telephone or by using the Court's virtual appearance platform) at the final fairness hearing. For the Notice of Objection to be valid, it must include: (a) the objector's full name, signature, address, and telephone number, (b) a written statement of all grounds for the objection, accompanied by any legal support for such objection; (c) copies of any papers, briefs, or other documents upon which the objection is based; and (d) a statement whether the objector intends to appear at the final fairness hearing. Class Members who fail to object either by submitting a valid Notice of Objection or appearing at the final fairness hearing, as provided above, will be deemed to have waived all objections to the Settlement and will be foreclosed from making any objections, whether by appeal or otherwise, to the Settlement Agreement. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement Agreement or appeal from the final approval order and judgment. Class Counsel will not represent any Class Members with respect to any such objections to this Settlement. If a Class Member timely submits both a Notice of Objection and a Request for Exclusion, the Request for Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the Class Member shall not participate in or be bound by the Settlement.

61. No Right to Exclusion or Objections to the PAGA Settlement. Because this Settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA Member has the right to exclude himself or herself from the PAGA Settlement, including the release of the Released PAGA Claims, and all PAGA Members will receive their shares of the PAGA Fund. The Parties also agree that no PAGA Member has the right to object to the PAGA Settlement Amount.

62. Weekly Reports. The Settlement 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 (as provided above), objections received, challenges to individual Pay Period calculations received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). Weekly Reports must provide the Settlement Administrator's

assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received, with any social security numbers redacted.

63. Requests for Exclusion (Opt-outs) and Exclusion List. The Settlement Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Settlement Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information, excluding social security numbers, of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information, excluding social security numbers, of Class Members who have submitted invalid Requests for Exclusion; and (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid), with any social security numbers redacted.

64. Timing of Distribution of Individual Settlement Payments. Within ten (10) calendar days of the Funding Date, the Settlement Administrator will issue payments to: (a) Participating Class Members and PAGA Members; (b) the LWDA; (c) Plaintiff; and (d) Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved services performed in connection with the Settlement.

65. Uncashed Settlement Checks. Individual Settlement Payment checks returned as undeliverable and Individual Settlement Payment checks remaining uncashed for more than one hundred and eighty (180) calendar days after issuance will be canceled and, thus, void. Pursuant to and in compliance with California Code of Civil Procedure Section 384, all funds associated with these canceled checks will be tendered to Legal Aid for Work (“the Cy Pres Recipient”), a non-profit organization or foundation within the meaning of subd. (b), thereby leaving no “unpaid residue” from the Net Settlement Fund. The Parties, Class Counsel, and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the Cy Pres Recipient and that they are aware of no facts that could reasonably create the appearance of impropriety between the selection of the Cy Pres Recipient and the interests of the Class.

66. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the

1 Court and counsel for all Parties.

2 67. Treatment of Individual Settlement Payments. All Individual Settlement Payments paid
3 to Participating Class Members from the Net Settlement Fund will be allocated as follows: (a) One-Third
4 (1/3) of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will
5 be issued; and (b) Two-Thirds (2/3) will be allocated as non-wages for which IRS Forms 1099-MISC
6 will be issued. All Individual Settlement Payments paid to PAGA Members from the PAGA Fund will
7 be allocated in their entirety as penalties/non-wages for which IRS Forms 1099-MISC will be issued.
8 The Class Representative Enhancement Payment will be allocated in its entirety as non-wages for which
9 an IRS Form 1099-MISC will be issued.

10 68. Administration of Taxes by the Settlement Administrator. The Settlement Administrator
11 will be responsible for issuing to Plaintiff, Participating Class Members, PAGA Members, and Class
12 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to
13 this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes
14 and penalties to the appropriate government authorities.

15 69. Tax Liability. Plaintiff assumes full responsibility and liability for employee taxes owed
16 on his Class Representative Enhancement Payment. Defendant makes no representation as to the tax
17 treatment or legal effect of any of the other payments called for hereunder, and Plaintiff and Participating
18 Class Members are not relying on any statement, representation, or calculation by Defendant or by the
19 Settlement Administrator in this regard.

20 70. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES
21 OF THIS SECTION, THE "ACKNOWLEDGING PARTY," AND EACH PARTY TO THIS
22 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY")
23 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND
24 NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES
25 OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
26 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED
27 OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
28 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE

1 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS
2 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
3 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
4 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
5 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY
6 UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO
7 ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
8 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
9 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF
10 ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER
11 SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
12 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
13 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
14 AGREEMENT.

15 71. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
16 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
17 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
18 action or right herein released and discharged.

19 72. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally
20 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
21 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
22 and void and any order or judgment entered by the Court in furtherance of this Settlement Agreement
23 will likewise be treated as void from the beginning.

24 73. Motion for Preliminary Approval/Hearing. The Parties agree to jointly participate in the
25 preparation and filing of a motion for preliminary approval ("Motion for Preliminary Approval"), as
26 follows:

27 73(a) Plaintiff's Responsibilities. Class Counsel shall be primarily responsible for
28 preparing the Motion for Preliminary Approval and all supporting documents and for obtaining a hearing

1 before the Court to request the Preliminary Approval of the Settlement, and the entry of a Preliminary
2 Approval order for: (a) conditional certification of the Settlement Class for settlement purposes only, (b)
3 preliminary approval of the proposed Settlement Agreement, and (c) setting a date for a final fairness
4 hearing. At least five (5) Court days before filing the Motion for Preliminary Approval, Class
5 Counsel shall deliver to Defense Counsel all documents necessary for obtaining Preliminary
6 Approval, including: (i) a draft of the notice and memorandum in support of the Motion for
7 Preliminary Approval that includes an analysis of the Settlement under *Dunk v. Foot Locker Retail, Inc.*
8 *(1996) 48 Cal.App.4th 1794, 1801* and *Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116,*
9 *129-130 (“Dunk/Kullar”)* and a request for approval of the PAGA Settlement under Labor Code
10 Section 2699, subd. (f)(2)); and (ii) a draft proposed Order Granting Preliminary Approval and
11 Approval of the PAGA Settlement. Plaintiff shall file the Motion for Preliminary Approval and all
12 supporting documents by no later than January 26, 2023.

13 73(b) Responsibilities of Defendant. Upon receipt of Plaintiff’s proposed Motion
14 for Preliminary Approval documents, provided above in Paragraph 73(a), Defense Counsel shall work in
15 good faith to expeditiously provide their comments/proposed revisions to the documents referenced in
16 (i)-(iii), to afford Class Counsel sufficient time to address Defendant’s comments/proposed revisions, to
17 meet and confer with Defense Counsel as necessary, and to make any agreed-upon revisions to the
18 documents in advance of the motion filing deadline.

19 73(c) Duty to Cooperate. If the Parties disagree on any aspect of the proposed
20 Motion for Preliminary Approval and/or the supporting documents, Class Counsel and Defense Counsel
21 will work together on behalf of the Parties by meeting and conferring in good faith to expeditiously
22 resolve the disagreement. If the Court does not grant Preliminary Approval, or conditions Preliminary
23 Approval on any change to this Agreement, Class Counsel and Defense Counsel will work together on
24 behalf of the Parties by meeting and conferring in good faith to expeditiously modify the Agreement and
25 otherwise satisfy the Court’s concerns.

26 73(d) Final Settlement Approval Hearing and Entry of Judgment. Upon expiration
27 of the deadlines to postmark Requests for Exclusion or Notices of Objection to the Settlement
28 Agreement, and with the Court’s permission, a final fairness hearing will be conducted to determine the

Final Approval of the Settlement Agreement along with the amounts properly payable for: (a) Attorneys' Fees and Costs; (b) the Class Representative Enhancement Payment; (c) Individual Settlement Payments; (d) the LWDA Payment; and (e) all Settlement Administration Costs. The final fairness hearing will not be held earlier than thirty (30) calendar days after the Response Deadline. Class Counsel will be responsible for drafting all documents necessary to obtain Final Approval. Class Counsel shall provide a draft of the Final Approval motion and supporting documents to Defense Counsel at least five (5) business days before the motion filing deadline. Defense Counsel shall work in good faith to expeditiously provide their comments/proposed revisions to the documents to afford Class Counsel sufficient time to address them, to meet and confer with Defense Counsel as necessary, and to make any agreed-upon revisions to the documents in advance of the motion filing deadline. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the final fairness hearing.

74. Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by the Court or after the final fairness hearing, the Parties will present the Judgment to the Court for its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement. Release by Plaintiff. Upon the Funding Date, in addition to the claims being released by all Participating Class Members, Plaintiff will release and forever discharge the Released Parties, to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not asserted, which Plaintiff has or may have against the Released Parties as of the date of execution of this Settlement Agreement. To the extent the foregoing release is a release to which Section 1542 of the California Civil Code or similar provisions of other applicable law may apply, Plaintiff expressly waives any and all rights and benefits conferred upon him by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law which are as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE

1 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
2 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
3 PARTY.

4 75. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the
5 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
6 herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

7 76. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
8 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements
9 may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section
10 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is
11 to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and
12 the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or
13 contradict the terms of this Settlement Agreement.

14 77. Amendment or Modification. No amendment, change, or modification to this Settlement
15 Agreement will be valid unless in writing and signed, either by the Parties or their counsel, and approved
16 by the Court.

17 78. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
18 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
19 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
20 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
21 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each
22 other and use their best efforts to implement the Settlement. If the Parties are unable to reach agreement
23 on the form or content of any document needed to implement the Settlement, or on any supplemental
24 provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the
25 assistance of the Court to resolve such disagreement.

26 79. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
27 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

28 80. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto

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1 will be governed by and interpreted according to the laws of the State of California.

2 81. Execution and Counterparts. This Settlement Agreement is subject only to the execution
3 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
4 executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned
5 copies of the signature page, will be deemed to be one and the same instrument.

6 82. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
7 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
8 Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account
9 all relevant factors, present and potential. The Parties further acknowledge that they are each represented
10 by competent counsel and that they have had an opportunity to consult with their counsel regarding the
11 fairness and reasonableness of this Settlement.

12 83. Invalidity of Any Provision. Before declaring any provision of this Settlement
13 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
14 possible, consistent with applicable precedents. so as to define all provisions of this Settlement
15 Agreement valid and enforceable.

16 84. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that
17 Plaintiff or Class Counsel may appeal any reduction of the Attorneys' Fees and Costs below the amount
18 they request from the Court, and either party may appeal any Court order that materially alters the
19 Settlement Agreement's terms.

20 85. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
21 class action certification for purposes of this Settlement only. If, for any reason, the Settlement is not
22 approved, the stipulation to certification will be void. The Parties further agree that certification for
23 purposes of the Settlement is not an admission that class action certification is proper under the standards
24 applied to contested certification motions and that this Settlement Agreement will not be admissible in
25 this or any other proceeding as evidence that either (a) a class action should be certified or (b) as
26 provided further below, that Defendant is liable to Plaintiff or any Class Member, other than according to
27 the Settlement's terms.

28 86. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute

4890-1354-2210.1

1 that has arisen between them and to avoid the burden, expense and risk of continued litigation. By
2 entering into this Settlement, Defendant does not admit, and specifically denies, that it violated any
3 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or
4 any other applicable laws, regulations or legal requirements; breached any contract; violated or breached
5 any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with
6 respect to its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any
7 of the negotiations connected with it, will be construed as an admission or concession by Defendant of
8 any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to
9 enforce the terms of this Settlement, this Settlement Agreement and its terms and provisions will not be
10 offered or received as evidence in any action or proceeding to establish any liability or admission on the
11 part of Defendant or to establish the existence of any condition constituting a violation of, or a non-
12 compliance with, federal, state, local or other applicable law.

13 87. No Public Comment: The Parties and their counsel agree that they will not issue any
14 press releases, initiate any contact with the press, respond to any press inquiry, or have any
15 communication with the press about the fact, amount or terms of the Settlement.

16 88. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
17 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
18 constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

19 89. Enforcement Actions. In the event that one or more of the Parties institutes any legal
20 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
21 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
22 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
23 expert witness fees incurred in connection with any enforcement actions.

24 90. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
25 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
26 more strictly against one party than another merely by virtue of the fact that it may have been prepared
27 by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
28 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

1 91. Representation By Counsel. The Parties acknowledge that they have been represented
2 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
3 that this Settlement Agreement has been executed with the consent and advice of counsel. Further,
4 Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

5 92. All Terms Subject to Final Court Approval. All amounts and procedures described in
6 this Settlement Agreement herein will be subject to final Court approval.

7 93. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
8 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
9 Settlement Agreement.

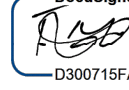
10 94. Binding Agreement. The Parties warrant that they understand and have full authority to
11 enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully
12 enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in
13 any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that
14 otherwise might apply under federal or state law.

15
16 **THIS SECTION LEFT BLANK**
17
18
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27
28

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

DocuSigned by:



D300715FA6FF44E...

1/11/2023

Dated: _____

Francisco Martinez

DEFENDANT

Dated: _____

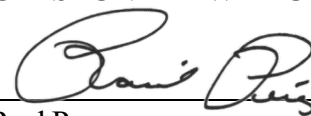
[Name of Authorized Signatory]
State Roofing Systems, INC.

APPROVED AS TO FORM

CAPSTONE LAW APC

1/12/2023

Dated: _____

By:  _____
Raul Perez

Attorneys for Plaintiff Francisco Martinez

SULLIVAN & YAECKEL LAW GROUP, APC



1/12/2023

Dated: _____

By: _____
Eric K. Yaeckel

Attorneys for Plaintiff Francisco Martinez

LEWIS BRISBOIS BISGAARD & SMITH LLP

Dated: _____

By: _____
Katherine Den Bleyker

Attorneys for Defendant State Roofing Systems, Inc.

Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT

***THIS NOTICE AFFECTS YOUR RIGHTS.
PLEASE READ THIS NOTICE CAREFULLY IN ITS ENTIRETY.***

To: All individuals who worked for State Roofing Systems, Inc. as hourly and/or non-exempt employees in California at any time from November 8, 2017, through [the earlier of January 6, 2023 or the date of Preliminary Approval] (“Class Members”).

The Alameda County Superior Court has authorized this Notice in the matter of *Martinez v. State Roofing Systems, Inc.*, Case No. 21CV002168 (the “Action”). This is not a solicitation from a lawyer and you are not being sued.

- Francisco Martinez (“Plaintiff”/“Class Representative”) was a Laborer employed by State Roofing Systems, Inc. (“Defendant”). Plaintiff filed a class action lawsuit against Defendant on November 8, 2021 on behalf of himself and Class Members.
- Plaintiff claims that, with respect to all of Defendant’s hourly, non-exempt workers, Defendant failed to pay all minimum wages and overtime wages due, failed to provide meal periods and rest periods, failed to provide accurate wage statements, failed to timely pay all wages during each pay period and after the end of employment, and failed to reimburse business expenses, and is liable for civil penalties under the Private Attorneys General Act of 2004 (“PAGA”) for these alleged wage violations.
- Plaintiff brought his PAGA claim on behalf of those Class Members who worked as hourly and/or non-exempt employees in California at any time from September 3, 2020, through [the earlier of January 6, 2023 or the date of Preliminary Approval] (“PAGA Members”).
- Defendant disputes Plaintiff’s claims and expressly and specifically denies violating any laws.
- On [date of Preliminary Approval], for settlement purposes only, the Honorable Evelio Grillo of the Alameda County Superior Court (the “Court”) conditionally certified the Action to be a class action on behalf of all hourly or non-exempt employees employed by Defendant in California from November 8, 2017, through [the earlier of January 6, 2023 or the date of Preliminary Approval] (the “Class Period”).
- Your legal rights may be affected by this Settlement, whether you act or do not act. Your options are explained in this Notice. Thus, please read this Notice carefully and in its entirety.

As explained below, to request to be excluded from, or object to, this Settlement, you must act before [45 days from date of Notice].

You have received this Notice because Defendant’s records indicate that you are a Class Member and, therefore, you are entitled to a payment from the Settlement, which provides for payments to all Class Members in connection with Plaintiff’s class claims (“Class portion”) and to all PAGA Members in connection with Plaintiff’s PAGA claim (“PAGA portion”).

Unless you choose to opt out of the Class portion of the Settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the Settlement, you will be mailed a check for your share of the Class portion of the Settlement fund. The final approval hearing on the adequacy, reasonableness, and fairness of the Settlement (“Final Approval Hearing”) will be held at :00 .m. on _____, 2023 in Department 21 of the Alameda County Superior Court located at 1221 Oak Street, Oakland, California 94612.

Please also note that the Final Approval Hearing may be rescheduled by the Court to another date and/or time. To determine if there are any scheduling changes, please visit the Court’s website or contact Class Counsel or the Settlement Administrator, CPT Group, Inc., which has been appointed by the Court to administer the Settlement.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your Settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Do NOT Have to Do Anything to Participate in the Settlement	If you do nothing, you will be deemed a “Participating Class Member,” and will be eligible for a payment from the Net Settlement Fund and PAGA Fund. In exchange, you will be bound by the terms of the proposed Settlement and give up your right to assert wage and hour claims and PAGA penalty claims against Defendant based on the facts alleged in the Action during the applicable Class Period and PAGA Period, as provided below.
You Can Opt-out of the Class Portion of the Settlement but not the PAGA Portion of the Settlement The Opt-out Deadline is 45 days from date of Notice	If you do not want to fully participate in the proposed Settlement, you can opt-out of the Class portion of the Settlement by sending the Settlement Administrator a written request to be excluded from the Class portion of the Settlement (“Request for Exclusion”), as provided below. Once excluded, you will no longer be eligible for a payment from the Net Settlement Fund and will not be bound by the terms of the proposed Class portion of the Settlement. You cannot opt-out of the PAGA portion of the proposed Settlement. PAGA Members remain eligible to receive a payment from the PAGA Fund and must give up their rights to pursue PAGA penalty claims against Defendant based on the facts alleged in the Action during the PAGA Period, as provided below.
Participating Class Members Can Object to the Class Portion of the Settlement but not the PAGA Portion of the Settlement Written Objections Must be Submitted by Mail 45 days from date of Notice	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Class portion of the Settlement, but not the PAGA portion of the Settlement.
You Can Participate in the [date] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [date] in Department 21 of the Courthouse located at 1221 Oak Street, Oakland, California 94612. You do not 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. If the Court grants final approval of the Settlement despite your objection, you will receive a payment from the Net Settlement Fund and you will be bound by the terms of the Settlement.

Summary of the Litigation

On November 8, 2021, Plaintiff Francisco Martinez filed a complaint in Alameda Superior Court on his behalf and on behalf of other current and former hour and/or non-exempt employees. The complaint alleges that Defendant violated California state labor laws as a result of its alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) reimburse employees for necessary business expenses; (4) timely pay all wages owed to employees during each pay period and upon termination of their employment; (5) provide employees with accurate, itemized wage statements, and (6) to, on account of these alleged violations, comply with the unfair competition laws. On March 19, 2022, Plaintiff amended the complaint to add a cause of action under PAGA for the aforementioned alleged wage violations.

After the exchange of relevant information and evidence, the Parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On October 6, 2022, the Parties participated in a mediation with Brandon Coen, an experienced and well-respected class action mediator. With Mr. Coen's guidance, the Parties were able to negotiate a complete settlement of Plaintiff's claims.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Capstone Law APC and Sullivan & Yaeckel Law Group, APC ("Class Counsel"), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendant has denied, and continues to deny, the factual and legal allegations in the case and believes that it has valid defenses to each of Plaintiff's claims. But, like Plaintiff, Defendant wishes to avoid the burden, expense, and risk of continued litigation. By agreeing to settle, Defendant is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action..

Summary of The Proposed Settlement Terms

Plaintiff and Defendant have agreed to settle the underlying class claims in exchange for \$500,000 ("Gross Settlement Amount). This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) a Class Representative Enhancement Payment of \$10,000 to Francisco Martinez for his services on behalf of the class, and for a release of all claims arising out of his employment with Defendant; (3) \$166,667 in attorneys' fees and up to \$ [REDACTED] in litigation costs and expenses; (4) a \$40,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), inclusive of a \$30,000 payment (75%) to the California Labor and Workforce Development Agency ("LWDA") and a \$10,000 payment (25%) ("PAGA Fund") to all PAGA Members, as required by law; and (5) reasonable Settlement Administrator fees and expenses currently estimated at \$10,000. After deducting the above payments, a total of approximately \$ [REDACTED] will be allocated to Class Members who do not opt out of the Settlement Class ("Net Settlement Fund"). Additionally, all PAGA Members will receive a proportionate share of the \$10,000 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. Defendant has calculated the total number of Pay Periods worked by each Class Member in an hourly and/or non-exempt position, from November 8, 2017, through [the earlier of January 6, 2023 or the date of Preliminary Approval] ("Class Period") and the aggregate total number of Pay Periods worked by all Class Members during the Class Period. *For purposes of this Notice, "Pay Periods worked" refers to Pay Periods during which an individual was not only employed by Defendant but actually performed work for it.)* To determine each Class Member's estimated share of the Net Settlement Fund, the Settlement Administrator used the following formula: The Net Settlement Fund was divided by the aggregate total number of Pay Periods, resulting in the "Pay Period Value." Each Class Member's

share of the Net Settlement Fund was calculated by multiplying each individual Class Member's total number of Pay Periods by the Pay Period Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member's share of the Net Settlement Fund according to the number of Pay Periods worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

According to Defendant's records, you worked during the Class Period in an hourly and/or non-exempt position for a total of [redacted] Pay Periods. Accordingly, your estimated payment from the Net Settlement Fund is approximately \$ [redacted].

Payments from PAGA Fund. Defendant has calculated the total number of Pay Periods worked by each PAGA Member in an hourly and/or non-exempt position, from September 3, 2020, through [the earlier of January 6, 2023 or the date of Preliminary Approval] ("PAGA Period") and the aggregate total number of Pay Periods worked by all PAGA Members during the PAGA Period. To determine each PAGA Member's estimated share of the PAGA Fund, the Settlement Administrator used the following formula: The PAGA Fund was divided by the aggregate total number of Pay Periods, resulting in the "PAGA Pay Period Value." Each PAGA Member's share of the PAGA Fund was calculated by multiplying each individual Participating PAGA Member's total number of Pay Periods by the PAGA Pay Period Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive his or her portion of the PAGA Fund even if he or she submits a valid Request for Exclusion.

According to Defendant's records, you worked during the PAGA Period in an hour and/or non-exempt position for a total of [redacted] Pay Periods. Accordingly, your estimated payment from the PAGA Fund is approximately \$ [redacted].

Your Estimated Payment and Opportunity to Dispute Pay Period Calculation: Based on the above, your estimated payment from the Settlement is approximately \$ [redacted]. If you believe the Pay Period information provided above is incorrect, please contact the Settlement Administrator by mail to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked on or before [insert date of Response Deadline] and must be sent to:

Settlement Administrator
c/o [name]
[address]

If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

Note: If you are a PAGA Member and opt out of the Class portion of the Settlement, you will receive a check for your Settlement Payment from the PAGA Fund only. Your check will be void if you do not cash or deposit it within 180 calendar days from the date of the check !

Deadline for Cashing Settlement Check/Waiver. Your settlement check will be void if you do not cash or deposit it within 180 calendar days of the date of the check. The sum of any voided checks shall be given to the non-profit organization Legal Aid for Work. **Whether or not you cash or deposit your check, you will be bound by the Settlement and will be deemed to have waived irrevocably any right or claim to your Settlement share and/or to appeal the approval of the Settlement.**

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments Class Members receive under the Settlement. Class Members should

consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of the Class portion of the Settlement, one-third (1/3) of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and two-thirds (2/3) will be allocated as non-wages for which IRS Forms 1099-MISC will be issued. All settlement payments paid to PAGA Members from the PAGA Fund will be allocated in their entirety as penalties/non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the Settlement, you will be mailed a check for your share of the settlement funds.

In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

Released Class Claims: All claims, rights, demands, liabilities, and causes of action, reasonably arising from, or related to, the same set of operative facts as those set forth in the operative complaint during the Class Period, including: (a) all claims for unpaid overtime; (b) all claims for meal and rest break violations; (c) all claims for unpaid minimum wages; (d) all claims for the failure to reimburse for necessary business expenses; (e) all claims for the failure to timely pay wages upon termination based on the preceding claims; (f) all claims for the failure to timely pay wages during employment based on the preceding claims; (g) all claims for wage statement violations, whether based on the preceding claims or otherwise (i.e., both derivative and non-derivative claims); and (h) all claims asserted through California Business & Professions Code §§ 17200, *et seq.*

Released PAGA Claims: All claims for civil penalties under California Labor Code §§ 2698, *et seq.*, that arose during the PAGA Period, that were brought or could reasonably have been brought in this Action based on the facts alleged in Plaintiff's LWDA letter and Plaintiff's Complaint in this Action.

Option 2 – Opt Out of the Settlement

IMPORTANT: You will be bound by the terms of the Class portion of the Settlement unless you submit a timely and signed written request to be excluded from the Class portion of the Settlement. If you do not wish to participate in the Class portion of the Settlement, you may exclude yourself from participating by submitting a Request for Exclusion in the form of a written request to the Settlement Administrator expressly and clearly indicating your request to be excluded from the settlement in words similar to the following:

“I wish to exclude myself from the class settlement reached in the matter of *Francisco Martinez v. State Roofing Systems, Inc.* I understand that, by excluding myself, I will not receive an individual settlement payment consisting of payment for my release of class claims from the settlement in addition to any share of civil penalties to which I am entitled and will still receive for the PAGA settlement.”

The Request for Exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the Request for Exclusion by First Class U.S. Mail or equivalent, to the address below. Your Social Security Number will not be provided to Class Counsel.

Settlement Administrator
c/o [name]
[address]

The Request for Exclusion must be postmarked not later than [45 days from the date of the Notice], 2023. If you submit a Request for Exclusion which is not postmarked by [45 days from the date of the Notice], 2023, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not receive a payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- If you are a PAGA Member, you will still release the Released PAGA Claims, and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

If you decide to object to the Class portion of the Settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the Settlement, or you may instead appear at the Final Approval Hearing, as provided above, to object to the Settlement. Written objections must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the Settlement Administrator at [Administrator's address].

All written objections must be received by the Settlement Administrator by not later than [45 days from the date of the Notice], 2023. By submitting an objection, you are not excluding yourself from the Class portion of the Settlement. To exclude yourself from the Class portion of the Settlement, you must follow the directions described above. Please note that you cannot both object to the Settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Approval Hearing set for [] at [] a.m./p.m. in the Superior Court of the State of California, for the County of Alameda, and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Class Claims and Released PAGA Claims.

Examination of Court Papers and Questions

This Notice of Class Action Settlement is only a summary of the case and the Settlement. For a more detailed statement of the matters involved in the Action and the Settlement, you may refer to the pleadings, the settlement agreement (named the "Joint Stipulation of Class Action Settlement and Release"), and other papers filed in the case, which are on file with the Clerk of the Court, Case Number 21CV002168. The pleadings and all other records from this Action may be examined by inspecting the Court file at the Clerk's Office of the Alameda County Superior Court, located at 1221 Oak Street, Oakland, California 94612. You can also find the settlement agreement, by accessing the Court's website at <<https://eportal.alameda.courts.ca.gov>>. The most recent version of the settlement agreement was attached to the [] that was filed with the Court on []. All inquiries by Class Members regarding this Class Notice and/or the Settlement should be directed to the Settlement Administrator or Counsel.

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PLEASE DO NOT CONTACT THE COURT REGARDING THE SETTLEMENT.