

Jonathan M. Genish (State Bar No. 259031)
jgenish@blackstonepc.com
Miriam L. Schimmel (State Bar No. 185089)
mschimmel@blackstonepc.com
Joana Fang (State Bar No. 309623)
jfang@blackstonepc.com
Alexandra Rose (State Bar No. 329407)
arose@blackstonepc.com
BLACKSTONE LAW, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Tel: (310) 622-4278 / Fax: (855) 786-6356

Attorneys for Plaintiff Bobby Birdi

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

BOBBY BIRDI, individually and on behalf of
others similarly situated, and as an aggrieved
employee and Private Attorney General,

Plaintiff,

vs.

LUCID USA, INC., a Delaware corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 21CV003541

Honorable Tara Desautels
Department 23

**DECLARATION OF JONATHAN M. GENISH
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Reservation ID: 197750242423
Date: March 13, 2024
Time: 2:30 p.m.
Dept.: 23

Complaint Filed: December 3, 2021
FAC Filed: February 1, 2022
Trial Date: Not 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

2

3
4
5
6

7

8
9
0

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

9
20
21
22
23
24
25
26
27
28

1 Angeles Times, Deadline, The Hollywood Reporter, Business Insider, Law360, and others. Super
2 Lawyers has regularly honored me as a Southern California Rising Star since 2012.

3 5. In February 2018, I started the law firm of Blackstone Law, APC, representing
4 plaintiffs in individual and representative employment litigation. The firm has grown exponentially
5 over the past four-plus years, now maintaining seven highly pedigreed attorneys working on almost
6 exclusively labor and employment class actions, California Labor Code Private Attorney General Act
7 of 2004 (“PAGA”) cases, and individual matters, with roughly 15% of the firm focused on other
8 complex general litigation matters.

9 6. I have considerable experience in handling class and representative action lawsuits
10 throughout my career and have been approved as counsel in a number of cases, including, most
11 recently:

- 12 • *Anthony DiRico v. Seek Capital, LLC*, Los Angeles Superior Court, Case No. BC698076,
13 a wage and hour class action brought on behalf of a class of hourly-paid employees
14 working in the State of California.
- 15 • *Consumer Protection Group, LLC v. A. D. Sutton & Sons, Inc.*, Los Angeles Superior
16 Court, Case No. 19STCV29979, a private attorney general action for penalties pursuant
17 to Health and Safety Code section 25249.7.
- 18 • *Consumer Protection Group, LLC v. Shaxon Industries, Inc., et al.*, Los Angeles Superior
19 Court, Case No. 19STCV30306, a private attorney general action for penalties pursuant
20 to Health and Safety Code section 25249.7.
- 21 • *Consumer Protection Group, LLC v. Home Depot U.S.A., Inc.*, Los Angeles Superior
22 Court, Case No. 19STCV30445, a private attorney general action for penalties pursuant
23 to Health and Safety Code section 25249.7.
- 24 • *Eric Savoy v. Collector’s Universe, Inc., et al.*, Central District Court of California, Case
25 No.: 8:20-cv-00632-DOC-ADS (recently remanded to Orange County Superior Court,
26 Case No. 30-2020-01130892-CU-RI-CXC), a consumer fraud class action.

27 7. Blackstone Law, APC has been counsel of record on several class action and PAGA
28 actions that have since been resolved, the most recent of which are as follows:

- *Alejandro Valdez v. C.H.I. Automart, Inc.*, Los Angeles County Superior Court, Case No. 21STCV40168, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Sheizan Bawa v. Meathead Movers, Inc.*, Orange County Superior Court, Case No. 30-2021-01211895-CU-OE-CXC, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Tanisha Lopez, et al. v. Restorix Health, Inc.*, Los Angeles County Superior Court, Case No. 21STCV33067, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Perla Soto, et al. v. Nippon Express U.S.A., Inc.*, Los Angeles Superior Court, Case No. 21STCV24902, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Angel Garcia, et al. v. J&B Investments, Inc., et al.*, San Bernardino Superior Court, Case No. CIVSB2208601, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Sindy Aviles, et al. v. Freeway Insurance Services America, LLC*, Los Angeles County Superior Court, Case No. 21STCV34864, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Alexander Gnaedig, et al. v. Favorite Healthcare Staffing, Inc.*, Los Angeles County Superior Court, Case No. 21STCV20904, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Richard Evans v. My Paint Stop, LLC, et al.*, Contra Costa Superior Court, Case No. MSC21-01812, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Jose Luis Parada George v. Main Electric Supply Company, LLC, et al.*, Orange County Superior Court, Case No. 30-2021-01220136-CU-OE-CXC, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.

///

- *Samia Salazar Yunis v. Sharif Jewelers*, Sacramento Superior Court, Case No. 34-2020-00290080, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Daniel Analco v. Felix Chevrolet, LP, et al.*, Los Angeles Superior Court, Case No. 21STCV36654, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Sasha Aiono v. Benefit Cosmetics*, Los Angeles Superior Court, Case No. 21STCV33719, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Ramiro Cruz v. LK Plumbing & Heating, Inc.*, Los Angeles Superior Court, Case No. BC686825, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.

8. I am currently the managing partner overseeing roughly 100 labor and employment cases, approximately 80% of which include a wage and hour component. The majority of those cases are wage-and-hour putative class actions or representative PAGA actions seeking relief on behalf of thousands of California employees.

Procedural History of the Action

9. On December 3, 2021, Plaintiff provided written notice to the California Labor and Workforce Development Agency (“LWDA”) by online submission and to Defendant Lucid USA, Inc. (“Defendant”) by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3, of the specified provisions of the California Labor Code alleged to have been violated by Defendant (“PAGA Letter”). A true and correct copy of the notice is attached hereto as **Exhibit 1**.

10. On December 3, 2021, Plaintiff filed a Class Action Complaint in the action entitled *Bobby Birdi v. Lucid USA, Inc.*, Alameda County Superior Court Case No. 21CV003541 (“Action”), thereby commencing a putative class action against Defendant.

11. On December 20, 2021, Defendant propounded formal written discovery onto Plaintiff (specifically, Request for Production (Set One)), and noticed the deposition of Plaintiff. Thereafter, on December 28, 2022, Defendant served an amended notice of deposition of Plaintiff.

12. On January 3, 2022, Plaintiff propounded written formal discovery onto Defendant (specifically, Form Interrogatories – General (Set One), Special Interrogatories (Set One), and Requests for Production of Documents (Set One)), noticed the deposition of Defendant’s Person Most Qualified, and served a proposed Belaire-West notice.

13. On January 21, 2022, Plaintiff served responses to Defendant’s discovery requests along with a production of documents.

14. On February 1, 2022, the Court entered an Order, which granted Plaintiff leave to file a First Amended Class Action and Representative Action Complaint (“Operative Complaint”) in the Action, which added a cause of action under PAGA. The Operative Complaint alleges eight (8) causes of action for violations of the California Labor Code for failure to pay overtime wages, failure to provide compliant meal periods and premium payments in lieu thereof, failure to provide compliant rest periods and premiums payments in lieu thereof, failure to pay minimum wages, failure to timely pay wages upon termination, and failure to provide accurate wage statements, for violations of California Business & Professions Code Section 17200, *et seq.* based on the aforementioned California Labor Code violations, and for civil penalties under PAGA based on the aforementioned California Labor Code violations. Pursuant to the Court’s February 1, 2022 Order, the Operative Complaint was deemed filed as of the date of entry of the Order (i.e., February 1, 2022).

15. On February 14, 2022, Plaintiff served an objection to Defendant’s notice of deposition of Plaintiff. On February 15, 2022, Plaintiff served supplemental responses to Defendant’s discovery requests.

16. On March 11, 2022, Defendant served responses to Plaintiff’s discovery requests (specifically, Form Interrogatories – General (Set One), Special Interrogatories (Set One), and Requests for Production of Documents (Set One)). On July 1, 2022, Defendant served supplemental responses to Plaintiff’s discovery requests (specifically, Form Interrogatories – General (Set One), Special Interrogatories (Set One), and Requests for Production of Documents (Set One)).

17. On July 7, 2022, a Belaire-West notice was mailed to four hundred and seventy-four (474) putative class members by a third-party administrator. Thirty-five (35) putative class members timely opted out by the response deadline.

1 18. On July 19, 2022, Defendant served a production of documents in response to
2 Plaintiff's discovery requests. On July 29, 2022, Defendant served a production of documents in
3 response to Plaintiff's discovery requests and a further supplemental response to Plaintiff's discovery
4 requests (specifically, Requests for Production of Documents (Set One)). On November 28, 2022,
5 Defendant served a third supplemental response to Plaintiff's discovery requests (specifically, Request
6 for Production of Documents (Set One)).

7 19. On January 23, 2023, Blackstone Law, APC defended the deposition of Plaintiff.

8 20. On February 22, 2023, Blackstone Law, APC took the deposition of Defendant's
9 Person Most Knowledgeable (Director of People Operations).

10 21. On February 23, 2023, Blackstone Law, APC took the deposition of Defendant's
11 Person Most Knowledgeable (Senior Manager of Payroll).

12 22. On November 28, 2023, Plaintiff and Defendant (together, the "Parties") participated
13 in a formal mediation conducted by Steven J. Rottman, Esq. ("Mediator"), a neutral and respected
14 mediator with extensive experience in complex wage and hour matters. After a full day of mediation,
15 and with the help of the Mediator, the Parties were able to reach an agreement to resolve this dispute
16 on a class and representative basis, and shortly thereafter executed a memorandum of understanding
17 memorializing the key settlement terms. Following the mediation, the Parties worked diligently to
18 negotiate and memorialize the terms in a long form settlement agreement.

19 23. On January 24, 2024, the Parties executed the Joint Stipulation of Class Action and
20 PAGA Settlement ("Settlement" or "Settlement Agreement"). A true and correct copy of the
21 Settlement Agreement is attached as **Exhibit 2** hereto.

22 **Summary of the Terms of the Settlement Agreement**

23 24. For purposes of settlement only, the Parties have agreed that the Class shall be defined
24 as "all current and former non-exempt employees of Defendant who worked within the State of
25 California during the Class Period ("Class Members" or "Class"). The Class Period is defined as the
26 period from December 3, 2017 through the date on which the Court grants preliminary approval of the
27 Settlement or the date that is sixty (60) calendar days after the date Plaintiff executes the Settlement
28 Agreement, whichever is earlier, subject to Paragraph 13 of the Settlement Agreement. Based on

1 information provided by Defendant, as of November 28, 2023, it is estimated that there are a total of
2 eight hundred and ninety-three (893) Class Members.

3 25. The Parties have agreed to settle the class and PAGA claims at issue in the Operative
4 Complaint for a non-reversionary Gross Settlement Amount of One Million Seventy-Five Thousand
5 Dollars and Zero Cents (\$1,075,000.00), exclusive of employer-side payroll taxes. The Gross
6 Settlement Amount is a common fund and therefore includes all requested costs, fees, and other
7 allocations. The Gross Settlement Amount includes: (1) Class Counsel's fees in the amount of one-
8 third (1/3) of the Gross Settlement Amount (i.e., \$358,333.33 if the Gross Settlement Amount is
9 \$1,075,000.00); (2) Class Counsel's actual litigation costs and expenses, not to exceed Thirty-Five
10 Thousand Dollars and Zero Cents (\$35,000.00); (3) Settlement Administration Costs, not to exceed
11 Fourteen Thousand Dollars and Zero Cents (\$14,000.00); (4) Enhancement Payment in the amount of
12 Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00); and (5) PAGA Amount in the
13 amount of Fifty Thousand Dollars and Zero Cents (\$50,000.00). After the above-estimated amounts
14 are deducted from the Gross Settlement Amount, the Net Settlement Amount that will be available for
15 Class Members is currently estimated to be Six Hundred Ten Thousand One Hundred Sixty-Six
16 Dollars and Sixty-Seven Cents (\$610,166.67). Additionally, 25% of the PAGA Amount ("PAGA
17 Employee Amount"), which is \$12,500.00 out of \$50,000.00 will be fully distributed to all current and
18 former non-exempt employees of Defendant who worked within the State of California during the
19 PAGA Period ("PAGA Employees"). The "PAGA Period" is defined as the period from December
20 3, 2020 through the date on which the Court grants preliminary approval of the Settlement or the date
21 that is sixty (60) calendar days after the date Plaintiff executes the Settlement Agreement, whichever
22 is earlier, subject to Paragraph 13 of the Settlement Agreement.

23 26. Defendant has represented that the Class Members worked a total of 50,032 workweeks
24 during the period from December 3, 2017 through November 28, 2023. If it is determined by the
25 Settlement Administrator that the total number of Workweeks worked by the Class Members during
26 the Class Period actually exceeds 50,032 by more than 10% (i.e., if the Workweeks exceed 55,035),
27 Defendant, at its option, can either choose to: (a) cut off the end date for the Class Period and PAGA
28 Period as of the date on which the number of Workweeks does not exceed 55,025, or (b) increase the

1 Gross Settlement Amount on a *pro rata* basis equal to the percentage increase in the number of
2 Workweeks worked by the Class Members above 10% (i.e., if the number of Workweeks increases by
3 11%, then the Gross Settlement Amount will increase by 1%).

4 27. The Net Settlement Amount will be distributed and paid to all Class Members who do
5 not submit a timely and valid Request for Exclusion (“Settlement Class Members”) on a *pro rata* basis
6 based on the number of weeks each Class Member worked for Defendant as a non-exempt employee
7 within the State of California during the Class Period (“Workweeks”). The *pro rata* share of the Net
8 Settlement Amount that a Class Member may be eligible to receive under the Class Settlement
9 (“Individual Settlement Share”) will be calculated by the Settlement Administrator, in accordance with
10 the Settlement Agreement.

11 28. The PAGA Employee Amount will be distributed and paid to all PAGA Employees on
12 a *pro rata* basis based on the number of weeks each PAGA Employee worked for Defendant as a non-
13 exempt employee within the State of California during the PAGA Period (“PAGA Workweeks”). The
14 *pro rata* share of the PAGA Employee Amount that a PAGA Employee may be eligible to receive
15 under the PAGA Settlement (“Individual PAGA Payment”) will be calculated by the Settlement
16 Administrator, in accordance with the Settlement Agreement.

17 29. Each Individual Settlement Share will be allocated as twenty percent (20%) wages and
18 eighty percent (80%) penalties, interest, and non-wage damages. The portion allocated to wages will
19 be reported on an IRS Form W-2 and the portions allocated to penalties, interest, and non-wage
20 damages will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. The
21 Settlement Administrator will withhold the employee’s share of taxes and withholdings with respect
22 to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class
23 Members for their net payment of their Individual Settlement Share (“Individual Settlement
24 Payment”). The employer’s share of taxes and contributions in connection with the wages portion of
25 Individual Settlement Shares will be paid by Defendant separately and in addition to the Gross
26 Settlement Amount. Each Individual PAGA Payment will be allocated as one hundred percent (100%)
27 penalties and will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator.

28 ///

1 30. The Settlement Agreement is a non-reversionary and non-claims made settlement. The
2 Net Settlement Amount will be fully distributed to Settlement Class Members and the PAGA Amount
3 will be fully distributed to the LWDA and PAGA Employees, in accordance with the Settlement
4 Agreement. No money will revert to Defendant.

5 31. Each Individual Settlement Payment and Individual PAGA Payment check will be
6 valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are
7 issued, and thereafter, shall be canceled. Any funds associated with such canceled checks will be
8 distributed by the Settlement Administrator to Legal Aid at Work (the proposed *cy pres* recipient) in
9 accordance with California Code of Civil Procedure Section 384. The Parties and their counsel have
10 each represented that they do not have any financial interest in, or otherwise have a relationship with,
11 the proposed *cy pres* recipient that could create a conflict of interest.

12 **The Settlement is Reasonable**

13 ***Informed Arms-Length Negotiations***

14 32. The Parties' settlement negotiations were at all times made at arm's-length and were
15 adversarial. The Settlement was reached following a full day of mediation with a highly respected
16 mediator with substantial experience mediating wage and hour cases, and Plaintiff engaged in
17 additional negotiations in order to finalize the long-form agreement presently before the Court.

18 33. The Parties engaged in extensive formal and informal discovery prior to reaching a
19 settlement at the mediation. Prior to mediation, Defendant produced putative class members' time
20 and pay data and records, as well as Defendant's employee handbooks, relevant wage and hour
21 policies, and information regarding the total number of putative class members, the number of current
22 versus former employees, the total workweeks worked by the putative class members, and the average
23 rate of pay for the putative class members.

24 34. This allowed Class Counsel to conduct an informed assessment and analysis of the
25 strengths and weaknesses of the claims and the potential class-wide damages.

26 35. Based on the information exchanged, the Parties extensively briefed issues regarding
27 class certification and liability and provided their analyses to the Mediator who helped the Parties
28 debate the strengths and weakness of their respective positions.

Estimate of Potential Value of Claims

36. My office analyzed all available data and estimated Defendant's maximum potential exposure to be approximately \$15,665,816, assuming the litigation was successful at trial on all claims at issue and every employee had a violation for each claim on every shift worked, and then reduced this exposure analysis based on the challenges facing the likelihood of obtaining class certification, prevailing at trial, and other attendant risks. This estimate is based off an estimated maximum liability for all claims at issue and the total aggregate workweeks during the relevant time period, less interest, and based on the analysis of the data which was extrapolated out for all class members across the entire putative class period, which included: \$1,858,479 for meal period violations less meal period premiums paid; \$5,450,541 for rest period violations; \$2,444,180 for unpaid overtime wages; \$4,166,066 for waiting time penalties; and \$1,746,550 in wage statement penalties. Plaintiff further estimated that Defendant faced an additional exposure of \$1,780,200 in potential, non-stacked (i.e., one penalty, per employee, per pay period during the PAGA statutory period) PAGA penalties. Together with the PAGA penalties, Defendant's maximum potential exposure totaled \$17,446,016 in damages.

Specific Risks Considered

37. Although the investigation and information discovered supports Plaintiff's contentions, Defendant raised potential defenses and other circumstances that impacted the risk of proceeding on a class-wide basis. Consideration of these risks factored into the decision to enter the Settlement.

38. My colleagues and I were aware of Defendant's defenses and arguments and have also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation, including those involved in class and/or representative adjudication. Plaintiff further recognizes the burdens of proof necessary to establish liability for the claims asserted in the Action, Defendant's defenses, and the difficulties in establishing entitlement to monetary recovery. Plaintiff has also considered the Parties' settlement discussions, as well as the evaluations of the Mediator, who is experienced and well-regarded in complex labor and employment matters.

///

///

1 39. Defendant denied and continues to deny any liability and wrongdoing of any kind
2 associated with the claims alleged in the Action, and further denies that class certification is
3 appropriate for any purpose other than the Settlement. Defendant believes that it would ultimately
4 prevail in the Action. Defendant proffered defenses to both certification and to the merits of Plaintiff's
5 claims. Defendant contended that Plaintiff's claims are not suitable for class certification because
6 individual issues would predominate should this case go to trial. As with all class actions, these
7 complex cases raise difficult management and proof issues and, accordingly, there is a significant risk
8 that the Court may deny class certification.

9 40. For example, Plaintiff's meal period claims, which were based on Defendant's alleged
10 failure to provide lawful meal periods, have been increasingly difficult to certify in recent years.
11 Plaintiff's theory of liability for meal period violations was based on allegations that Defendant had
12 failed to implement its policies and that its practices failed to allow Class Members to take meal breaks
13 in the manner required under California law. Defendant contended that its policies and practices at all
14 times during the Class Period were lawful. Defendant further argued that the rate of purported meal
15 period violations reflected in the data would require individualized inquiry and that such inquiry would
16 prohibit a class from being certified. Indeed, the records showed that Defendant had paid meal period
17 premiums for 49.3% of the recorded meal break violations. We also had to consider the risk that the
18 Court would find validity in the individualized proof defense to certification of Plaintiff's meal period
19 claim.

20 41. Additionally, a large portion of Defendant's overall liability lies in Plaintiff's rest
21 period allegations. Plaintiff's damages analysis on this claim was based on an alleged 60% violation
22 rate and on the argument that Defendant's practices failed to provide employees with timely, full, and
23 uninterrupted rest periods. As with the meal period allegations, Defendant contended that it had a
24 lawful written rest period policy, provided compliant rest breaks and relieved Class Members of all
25 duties as required under California law. Additionally, this claim was even more uncertain given the
26 difficulties associated with proving the alleged rest period violations, as Defendant was not required
27 to record these breaks. Given the lack of records demonstrating rest period violations, there were
28 legitimate concerns Plaintiff would not be able to certify these claims or prove substantial damages

1 with requisite certainty, which made the estimated value of this claim subject to much challenge.

2 42. Plaintiff also faced challenges certifying and proving liability for his minimum wage
3 and overtime claims. These claims were largely based on unrecorded, off-the-clock work performed
4 by the Class Members both before and after their shifts and during purported meal and rest periods.
5 However, the individualized nature of why this work was performed and the individualized nature of
6 damages presented substantial concerns regarding the manageability of the case and the risk the Court
7 could find these issues prevented certification, and the estimated damages for this claim were based
8 on an assumption that all class members worked off the clock for at least one hour per week.

9 43. There are also substantial risks associated with Plaintiff's waiting time penalties and
10 wage statement claims. First, these claims were derivative of Plaintiff's claims for unpaid meal period
11 premiums, unpaid rest period premiums, unpaid minimum wages, and unpaid overtime wages, and if
12 certification was denied on those underlying claims, these derivative claims for penalties would also
13 likely fail. Further, even if Plaintiff prevailed on his underlying claims, he would still be required to
14 demonstrate that Defendant's violations of California Labor Code section 203 were *willful* violations.
15 Wage statement claims have also seen varying treatment at the appellate level because such claims
16 have an element of discretion attached to them rather than a pure calculation of damages after liability
17 is proven. Accordingly, these derivative claims, which comprised a substantial portion of Defendant's
18 estimated liability, were therefore uncertain.

19 44. My office also recognized that, even if Plaintiff prevailed at class certification, proving
20 the amount of wages due to each Class Member would be an expensive, time-consuming, and
21 extremely uncertain proposition. In order to prove liability and damages, my office will need to
22 request and analyze thousands of pages of documents, obtain the Class Members' contact information,
23 contact them, and obtain declarations. Obtaining the cooperation of current employees would also be
24 difficult, given the likely reluctance to aid prosecution of a lawsuit against a current employer. On the
25 other hand, Defendant would likely be able to obtain the cooperation of their employees. Moreover,
26 even if Plaintiff prevailed at class certification and trial, possible appeals would substantially delay
27 any recovery by the Class.

28 ///

1 45. Therefore, taking into account how each of the above risks potentially effected
2 Plaintiff's ability to obtain class certification, thereafter prove the underlying violations, and the cost
3 and delay in recovering the alleged potential damages, Class Counsel discounted Defendant's
4 estimated liability by 75% to \$4,316,504. The merits-based risk factors further reduced Defendant's
5 estimated liability by an additional 50%. This resulted in an adjusted estimated liability of \$2,158,252.
6 In light thereof, the settlement amount of \$1,075,000.00 is a significant settlement.

7 46. My office also separately contemplated the risks of proceeding with the PAGA action
8 and potential liability Defendant could face from this claim as part of the global resolution. Existing
9 case law makes PAGA claims subject to the same defenses and risks as Plaintiff's underlying wage
10 claims. Moreover, although California case law clearly states that PAGA actions need not satisfy class
11 action requirements, Class Counsel remained mindful of the fact that some courts have nevertheless
12 held that PAGA claims must meet a threshold "manageability" requirement pursuant to *Wesson v.*
13 *Staples the Office Superstore, LLC*, 68 Cal.App.5th 746 (2021). We also anticipated that even if
14 successful on the merits at trial, the imposition of cumulative civil penalties based on the alleged wage
15 and hour violations could be considered unjust, arbitrary and oppressive, or confiscatory, and that
16 Defendant would argue that it made a good faith attempt to comply with its legal obligations
17 warranting a reduction in penalties. Class Counsel also anticipated Defendant would argue that it
18 made a good faith attempt to comply with its legal obligations and that the violations per pay period
19 were low, warranting an additional reduction in civil penalties. Finally, we were also mindful of the
20 fact that PAGA is fundamentally not intended to be compensatory in nature, but is instead intended to
21 facilitate enforcement of California's labor laws by financing state activities and educating and
22 deterring non-compliance.

23 47. Therefore, after considering this multitude of factors, we concluded that it was in the
24 best interest of the State of California and the PAGA Employees to enter into the Settlement, and to
25 allocate Fifty Thousand Dollars and Zero Cents (\$50,000.00) of the Gross Settlement Amount towards
26 the PAGA claim, which represents approximately 4.65% of the Gross Settlement Amount. This
27 percentage of the settlement is well-within the range of wage and hour settlements regularly approved
28 in both state and federal court for cases that include both a class and PAGA action. Typically, such

1 hybrid cases allocate only 1% of the gross settlement value to resolve PAGA claims, and, indeed,
2 settlements allocations as little as 0.22% of the gross settlement amount have been approved as
3 reasonable by courts. Moreover, the overall relief obtained by the Settlement is significant, not only
4 from a monetary perspective, but also because it fulfills the public policy objectives of PAGA—to
5 promote enforcement of California’s labor laws, provide funds to the state, and deter future non-
6 compliance by the employer.

7 48. I therefore submit that the Settlement is fair, reasonable, and adequate. The Settlement
8 is in the best interest of the Class Members, the PAGA Employees, and the State of California and is
9 within the accepted range of recoveries for this type of litigation given the inherent risk of litigation,
10 the risk of obtaining and maintaining class certification, and the costs of further litigation.

11 ***Enhancement Payment***

12 49. As part of the Settlement Agreement, Plaintiff is requesting a reasonable Enhancement
13 Payment of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff Bobby
14 Birdi. This Enhancement Payment is eminently reasonable given the time and effort Plaintiff spent
15 on this case, and the benefit to the Class Members as a result of Plaintiff’s actions. Notice of the
16 requested Enhancement Payment is disclosed to the Class Members in the Class Notice.

17 ***Attorneys’ Fees and Costs***

18 50. The attorneys’ fees incurred by Class Counsel are in line with the common fund
19 requested. The Settlement Agreement provides for Class Counsel to apply for attorneys’ fees in an
20 amount of up to one-third (1/3) of the Gross Settlement Amount (i.e., \$358,333.33 if the Gross
21 Settlement Amount is \$1,075,000.00) and actual litigation costs and expenses in an amount not to
22 exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00), which will be paid out of the Gross
23 Settlement Amount, subject to approval by the Court. Class Counsel has borne all of the risks and
24 costs of litigation and will not receive any compensation until recovery is obtained.

25 51. The effectiveness of Blackstone Law, APC’s prosecution of this matter has translated
26 into tangible monetary benefits as follows: (1) Class Members, the State of California, and PAGA
27 Employees will obtain monetary recovery over a relatively short period of time, as opposed to waiting
28 additional years for the same, or potentially worse, result; (2) a guaranteed result that compares

1 favorably with other similar class action settlements of this type, given the strengths and weaknesses
2 of the case; and (3) significant savings in Class Counsel's fees and/or costs that would have only
3 increased significantly had the case progress through certification, trial, and/or upon appeal.

4 52. Class Counsel has litigated this matter for over two (2) years and was actively preparing
5 this matter for class certification and trial. The Motion for Final Approval will elaborate on the nature
6 of the legal services provided, the time incurred in performing those services, and Class Counsel's
7 hourly rates. The Motion for Final Approval will also elaborate on the reimbursement costs sought
8 by Class Counsel. Notice of the requested Attorneys' Fees and Costs is disclosed to the Class
9 Members in the Class Notice.

10 *Notice to the Class*

11 53. The Parties have agreed to retain CPT Group, Inc. ("CPT" or "Settlement
12 Administrator") to handle the notice and settlement administration process. The Parties respectfully
13 request that the Court appoint CPT to handle these procedures and to serve as the Settlement
14 Administrator. Defendant will provide CPT with the Class List and CPT will calculate each Class
15 Member's estimated Individual Settlement Share and each PAGA Employee's estimated Individual
16 PAGA Payment. CPT will also receive and process Requests for Exclusion, Notices of Objection,
17 and Workweek Disputes; will provide necessary reports and declarations; will calculate, subtract, and
18 transmit necessary taxes and withholdings with respect to the wages portion of the Individual
19 Settlement Shares; will prepare and submit informational and other tax filings and documents; will
20 issue and transmit all payments provided for by the Settlement, including, but not limited to, mailing
21 Individual Settlement Payment checks to the Settlement Class Members and Individual PAGA
22 Payment checks to the PAGA Employees; and perform any other usual and customary duties for
23 administering a class action settlement.

24 54. I am not aware of an alternative method of providing notice to the Class which would
25 result in a higher likelihood of actual notice. The original source of the mailing addresses is from each
26 Class Member, who provided the information to Defendant. As a fail-safe to this highly reliable
27 method, skip tracing will be performed, if necessary.

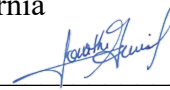
28 ///

Notice of Settlement to the LWDA

55. In accordance with California Labor Code section 2699(1)(2) and concurrently with the filing of this Motion, a copy of the proposed Settlement was submitted to the LWDA via online submission through the LWDA's website.

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

Executed on February 20, 2024, at Beverly Hills, California



Jonathan M. Genish

EXHIBIT 1



December 3, 2021

PAGA Claim Notice Via Online Electronic Submission

California Labor & Workforce Development Agency

800 Capitol Mall, Suite 5000 (MIC-55)

Sacramento, CA 95814

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

RE: *Bobby Birdi v. Lucid USA, Inc.*

Dear Representative:

This office represents Bobby Birdi (“Claimant”) with respect to his claims under the California Labor Code against Lucid USA, Inc. (including any and all affiliates, subsidiaries, parents, directors, and officers thereof) (collectively referred to herein as “Employer”). This letter is being sent simultaneously to Employer by certified mail.

Employer employed Claimant from approximately January 2021 to August 2021 as an hourly-paid, non-exempt employee. During his employment with Employer, Claimant was employed as a Security Guard at Employer’s location at 7373 Gateway Boulevard, Newark, California 94560. Employer is a manufacturer of electric vehicles.

Claimant intends to bring a representative action seeking penalties for violations of the California Labor Code which are recoverable under the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”). Claimant is seeking penalties on behalf of himself and in a representative capacity on behalf of the State of California and all current and former hourly-paid and/or non-exempt employees who worked for Employer in the State of California during the relevant statutory period (“Aggrieved Employees”). This letter is being sent in compliance with California Labor Code section 2699.3, and shall serve as Claimant’s notice of the provisions of the California Labor Code alleged to have been violated, including the facts and theories in support thereof.

As detailed below, Employer violated several of California’s wage and hour laws during Claimant’s employment, including but not limited to California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, and 1198, and the Industrial Welfare Commission Wage Orders (“IWC Wage Order”) including, *inter alia*, IWC Wage Order Nos. 1 and

4. The claims made on behalf of Claimant and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employer has engaged in numerous unlawful practices which resulted in the failure to pay Claimant and other Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.

California Labor Code sections 1194, 1197, and 1197.1 and IWC Wage Order Nos. 1 and 4 require Employer to pay at least the legal minimum wage to their employees. California Labor Code sections 510 and 1198 and IWC Wage Order Nos. 1 and 4 further require Employer to pay no less than one and one-half times the regular rate of pay of the employee for hours worked in excess of eight (8) hours in one workday, for hours worked in excess of forty (40) hours in one workweek, and for the first eight (8) hours worked on the seventh day of work in any one workweek, and to pay no less than twice the regular rate of pay of the employee for hours worked in excess of twelve (12) hours in one workday and for any work in excess of eight (8) hours on any seventh day of a workweek.

Throughout the relevant time period, Employer regularly required Claimant and other Aggrieved Employees to perform work off-the-clock. This off-the-clock work included, amongst other things, requiring Claimant and other Aggrieved Employees to: (1) respond to Employer and work-related requests and perform work while clocked out for purported meal breaks; (2) perform work before clocking in for the start of their shift; and (3) perform work after clocking out for the end of their shift. Employer failed to compensate Claimants and other Aggrieved for any of this off-the-clock work, in violation of California law. In addition, Employer utilized time rounding practices that resulted in the systematic underpayment of wages to Claimant and Aggrieved Employees, including minimum wages, straight time wages and overtime wages. Employer also failed to accurately record the actual time worked by Claimant and Aggrieved Employees. Moreover, the uncompensated work described herein was often performed when Claimant and other Aggrieved Employees had already worked eight (8) hours in a day and/or forty (40) hours in week resulting in a failure to pay overtime compensation. Finally, Employer failed to pay overtime to Claimant and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration

As a result of the foregoing practices, Employer has failed to pay Claimant and other Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employer violated IWC Wage Order Nos. 1 and 4 and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order

Nos. 1 and 4; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

California law requires Employer to provide employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). A second meal period of no less than thirty (30) minutes must be provided before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). When an employer fails to provide a meal or rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

During the relevant time period, Employer failed to provide Claimant and other Aggrieved Employees with legally-compliant 30-minute meal periods. Claimant and other Aggrieved Employees were required by Employer to work more than five (5) hours per day, but were not provided with uninterrupted 30-minute meal periods. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employer regularly required Claimant and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. On the occasions that Claimant and other Aggrieved Employees did take a meal period, their meal periods were frequently interrupted or cut short.

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employer's management at various levels failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employer failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employer failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employer failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employer required Claimant and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during meal periods, which included responding to telephone calls, radios, and in-person verbal interruptions; and (7) Employer's policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on completing job requirements over employees right to receive timely, uninterrupted, and duty-free meal periods.

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law.

Accordingly, Employer violated IWC Wage Order Nos. 1 and 4 and California Labor Code sections 226.7, 512(a) and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 1 and 4; penalties pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

California law requires Employer to authorize and permit employees to take an uninterrupted rest period of no less than ten (10) minutes must for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7. When an employer fails to authorize and permit a rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

Employer failed to authorize and permit Claimant and other Aggrieved Employees to take legally-compliant 10-minute rest periods. Employer required Claimant and other Aggrieved Employees to work through rest periods. Claimant and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimant and other Aggrieved Employees were not completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employer's management at various levels failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employer failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employer failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employer failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employer

required Claimant and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during rest periods, which included responding to telephone calls, pages, radio, and in-person verbal interruptions; and (7) Employer's policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees right to receive rest periods.

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law.

Accordingly, Employer violated IWC Wage Order Nos. 1 and 4 and California Labor Code sections 226.7, and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 1 and 4 California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Employer has failed to timely pay all wages earned because Claimant and other Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, overtime compensation, straight time wages, minimum wages, and meal and rest period premiums. Accordingly, Employer violated California Labor Code section 204(a).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

California Labor Code section 226(a) requires an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, *inter alia*, (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,

provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, and (8) the name and address of the legal entity that is the employer.

As a result of the practices described herein, the wage statements provided to Claimant and other Aggrieved Employees failed to include the actual hours worked (including time spent working off-the-clock), and the actual gross wages earned (including wages owed for time spent working off the clock and meal and rest period premiums). Accordingly, Employer violated California Labor Code section 226(a).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

6. FAILURE TO MAINTAIN ACCURATE RECORDS

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, Employer has failed to maintain accurate records relating to Claimant and other Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employer violated IWC Wage Order Nos. 1 and 4 and California Labor Code sections 1198.5 and 1174(d).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 1 and 4; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

7. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, upon the termination of employment (including but not

limited to when they were temporarily laid off, laid off, discharged, and/or resigned), Claimant and Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employer's practices of requiring Claimant and Aggrieved Employees to work off-the-clock without compensation, failing to pay proper overtime compensation, unlawful rounding practices, and failure to accurately record all hours actually worked, Employer failed to pay Claimant and Aggrieved Employees for all straight time wage, minimum wages and overtime compensation owed to them upon termination of their employment. Employer also failed to pay Claimant and Aggrieved Employees for meal period premiums and rest period premiums they were owed, amongst other wages. Accordingly, Employer violated California Labor Code sections 201 and 202.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 203, 1199, and 2699(f)(2); and attorneys' fees and costs.

Employer is in direct violation of numerous California wage and hour laws including but not limited to said sections stated above. We hereby provide notice under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, et seq., and specifically ask for an investigation, or if the agency does not intend to investigate the alleged violations, a letter confirming the same so that we may allege a cause of action under PAGA against Employer for the violations discussed in this letter.

This letter is sent in compliance with the requirements of California Labor Code section 2699.3. By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of Sections 2699, et seq., by seeking redress in court. Cal. Lab. Code § 2699.3(a)(1). The LWDA must then notify the employer and the employee within 60 calendar days regarding whether it intends to investigate the alleged violation. Cal. Lab. Code § 2699.3(a)(2)(B). If the LWDA advises it will not investigate, or if no notice is provided within 65 calendar days, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. Cal. Lab. Code § 2699.3(a)(2)(A). It is Claimant's intention to file a civil complaint and to bring the appropriate claims under California Labor Code § 2699 on behalf of himself, the State of California and all Aggrieved Employees should your office not address Employer's alleged violations within this time.

If you have any questions or require additional information, please do not hesitate to contact my office. Thank you for your attention to this matter.

BLACKSTONE LAW

A handwritten signature in blue ink, appearing to read "S. Emi Minne".

S. Emi Minne, Esq.

Cc: By U.S. Certified Mail, Return Receipt Requested

Lucid USA, Inc.
7373 Gateway Blvd.
Newark, CA 94560

Lucid USA, Inc.
Attn: CSC – Lawyers Incorporating Service, Agent for Service of Process
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

EXHIBIT 2

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

2 This Joint Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or
3 “Settlement Agreement”) is made and entered into by and between Plaintiff Bobby Birdi (“Plaintiff”
4 or “Class Representative”), individually, and on behalf of all others similarly situated and on behalf
5 of the State of California with respect to aggrieved employees, and Defendant Lucid USA, Inc.
6 (“Defendant”) (together, Plaintiff and Defendant are referred to as “Parties” and individually as
7 “Party”).

8 This Settlement Agreement shall be binding on Plaintiff, Settlement Class Members (as
9 defined herein), the State of California as to the employment of PAGA Employees (as defined herein),
10 and Defendant, subject to the terms and conditions hereof and the approval of the Court.

11 **RECITALS**

12 1. On December 3, 2021, Plaintiff provided written notice to the Labor and Workforce
13 Development Agency (“LWDA”) by online submission and to Defendant by U.S. Certified Mail,
14 pursuant to California Labor Code Section 2699.3, of the specific provisions of the California Labor
15 Code alleged to have been violated by Defendant (“PAGA Letter”). Also on December 3, 2021,
16 Plaintiff filed a Class Action Complaint in the action entitled *Bobby Birdi v. Lucid USA, Inc.*, Alameda
17 County Superior Court Case No. 21CV003541 (“Action”), thereby commencing a putative class action
18 against Defendant. On February 1, 2022, the Court entered an Order, which granted Plaintiff leave to
19 file a First Amended Class Action and Representative Action Complaint (“Operative Complaint”) in
20 the Action, which added a cause of action under the Private Attorneys General Act of 2004 pursuant
21 to California Labor Code Section 2698 *et seq.* (“PAGA”). The Operative Complaint alleges eight (8)
22 causes of action for violations of the California Labor Code for failure to pay overtime wages, failure
23 to provide compliant meal periods and premium payments in lieu thereof, failure to provide compliant
24 rest periods and premiums payments in lieu thereof, failure to pay minimum wages, failure to timely
25 pay wages upon termination, and failure to provide accurate wage statements, for violations of
26 California Business & Professions Code Section 17200, *et seq.* based on the aforementioned California
27 Labor Code violations, and for civil penalties under PAGA based on the aforementioned California
28 Labor Code violations. Pursuant to the Court’s February 1, 2022 Order, the Operative Complaint was

1 deemed filed as of the date of entry of the Order (i.e., February 1, 2022).

2 2. Defendant denies all allegations set forth in the Action and has asserted numerous
3 affirmative defenses. Notwithstanding, in the interest of avoiding further litigation, Defendant desires
4 to fully and finally settle the Action, Plaintiff's Released Claims (as defined herein), Released Class
5 Claims (as defined herein), and Released PAGA Claims (as defined herein).

6 3. Class Counsel diligently investigated the class and PAGA claims against Defendant,
7 including any and all applicable defenses and the applicable law. The investigation included, *inter*
8 *alia*, the exchange of information, data, and documents, and review of corporate policies and practices.
9 The Parties have engaged in sufficient formal and informal discovery and investigation to assess the
10 relative merits of the claims and contentions of the Parties.

11 4. On November 28, 2023, the Parties participated in mediation with Steven J. Rottman,
12 Esq. (the "Mediator"), a respected mediator of complex wage and hour actions, and with the assistance
13 of the Mediator's evaluations, the Parties reached the settlement that is memorialized herein. The
14 Parties' settlement discussions were conducted at arms' length, and the Settlement is the result of an
15 informed and detailed analysis of Defendant's potential liability and exposure in relation to the costs
16 and risks associated with continued litigation. Based on Class Counsel's investigation and evaluation,
17 Class Counsel believes that the settlement with Defendant for the consideration and on the terms set
18 forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the
19 Class Members, State of California, and PAGA Employees in light of all known facts and
20 circumstances, including the risk of significant delay and uncertainty associated with litigation and
21 various defenses asserted by Defendant.

22 5. The Parties expressly acknowledge that this Settlement Agreement is entered into
23 solely for the purpose of compromising disputed claims and that nothing herein is an admission of
24 liability or wrongdoing by Defendant. If for any reason this Settlement Agreement is not approved, it
25 will be of no force or effect, and the Parties shall be returned to their original respective positions.

26 ///

27 ///

28 ///

DEFINITIONS

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

a. “Attorneys’ Fees and Costs” means attorneys’ fees approved by the Court for Class Counsel’s litigation and resolution of the Action and all actual costs and expenses incurred and to be incurred by Class Counsel in connection with the Action, as set forth in Paragraph 9.

b. “Class” or “Class Member(s)” means all current and former non-exempt employees of Defendant who worked within the State of California during the Class Period.

c. “Class Counsel” means Jonathan M. Genish, Miriam L. Schimmel, Joana Fang, and Alexandra Rose of Blackstone Law, APC, who will seek to be appointed counsel for the Class.

d. “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. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet containing the following information for each Class Member: (1) full name; (2) last known mailing address; (3) Social Security number; (4) number of Workweeks; and (5) number of PAGA Workweeks (if applicable).

e. “Class Notice” means the Notice of Class Action Settlement, substantially in the form attached hereto as “**Exhibit A**.”

f. “Class Period” means the period from December 3, 2017 through the date on which the Court grants preliminary approval of the Settlement or the date that is sixty (60) calendar days after the date Plaintiff executes this Settlement Agreement, whichever is earlier, subject to Paragraph 13.

g. “Class Settlement” means the settlement and resolution of all Released Class Claims.

h. “Court” means the Superior Court of the State of California for the County of Alameda.

i. “Defendant’s Counsel” means Derek R. Havel and Ian A. Michalak of Sheppard, Mullin, Richter & Hampton LLP.

///

j. “Effective Date” means the date when all of the following events have occurred:
(1) the Settlement Agreement has been executed by all Parties, Class Counsel, and Defendant’s Counsel; (2) the Court has given preliminary approval to the Settlement; (3) the Class Notice has been mailed to the Class Members, providing them with an opportunity to object to the terms of the Class Settlement or opt out of the Class Settlement; (4) the Court has had a Final Approval Hearing and entered a Final Approval Order and Judgment; (5) sixty-five calendar days have passed since service of a Notice of Entry of Judgment; and (6) in the event there are written objections to the Class Settlement filed prior to the Final Approval Hearing which are not later withdrawn or denied, the later of the following events: five business days after the period for filing any appeal, writ, or other appellate proceeding opposing the Court’s Final Approval Order and Judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed, or, if any appeal, writ, or other appellate proceeding opposing the Court’s Final Approval Order and Judgment has been filed, five business days after any appeal, writ, or other appellate proceedings opposing the Court’s Final Approval Order and Judgment has finally and conclusively dismissed with no right to pursue further remedies or relief.

k. “Employer Taxes” means the employer’s share of taxes and contributions in connection with the wages portion of Individual Settlement Shares, which shall be paid by Defendant in addition to the Gross Settlement Amount.

l. “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 PAGA Employees, and general release of claims, as set forth in Plaintiff’s Released Claims and Paragraph 10.

m. “Final Approval” means the determination by the Court that the Settlement is fair, reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

n. “Final Approval Hearing” means the hearing at which the Court will consider and determine whether the Settlement should be granted Final Approval.

o. “Final Approval Order and Judgment” means the order granting final approval of the Settlement and entering judgment thereon, in a form and content mutually agreed to by the Parties, and subject to approval by the Court.

p. “Gross Settlement Amount” means the amount of One Million Seventy-Five Thousand Dollars and Zero Cents (\$1,075,000.00) to be paid by Defendant in full satisfaction of the Action, Plaintiff’s Released Claims, Released Class Claims, and Released PAGA Claims, which includes all Attorneys’ Fees and Costs, Enhancement Payment, PAGA Amount, Settlement Administration Costs, and Net Settlement Amount to be paid to the Settlement Class Members. Defendant shall pay the Employer Taxes separately and in addition to the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Payment will return to Defendant. The Gross Settlement Amount is subject to increase, as provided in Paragraph 13.

q. “Individual PAGA Payment” means the *pro rata* share of the PAGA Employee Amount that a PAGA Employee may be eligible to receive under the PAGA Settlement, to be calculated in accordance with Paragraph 15.

r. “Individual Settlement Payment” means the net payment of each Settlement Class Member’s Individual Settlement Share, after reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share, as provided in Paragraph 16.

s. “Individual Settlement Share” means the *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under the Class Settlement, to be calculated in accordance with Paragraph 14.

t. “LWDA Payment” means the amount of Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00), i.e., 75% of the PAGA Amount, that the Parties have agreed to pay to the LWDA under the PAGA Settlement, as set forth in Paragraph 11.

u. “Net Settlement Amount” means the portion of the Gross Settlement Amount that is available for distribution to Settlement Class Members, which is the Gross Settlement Amount less the Court-approved Attorneys’ Fees and Costs, Enhancement Payment, PAGA Amount, and Settlement Administration Costs.

///

///

v. “Notice of Objection” means a Settlement Class Member’s written objection to the Class Settlement, which must: (a) contain the case name and number of the Action; (b) contain the objector’s full name, signature, address, telephone number, and the last four (4) digits of the objector’s Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

w. “PAGA Amount” means the allocation of Fifty Thousand Dollars and Zero Cents (\$50,000.00) from the Gross Settlement Amount for the PAGA Settlement. Seventy-five percent (75%) of the PAGA Amount, or \$37,500.00, will be paid to the LWDA (i.e., the LWDA Payment) and the remaining twenty-five percent (25%), or \$12,500.00, will be distributed to the PAGA Employees (i.e., the PAGA Employee Amount).

x. “PAGA Employees” means all current and former non-exempt employees of Defendant who worked within the State of California during the PAGA Period.

y. “PAGA Employee Amount” means the amount of Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00), i.e., 25% of the PAGA Amount, to be distributed to PAGA Employees on a *pro rata* basis based on their PAGA Workweeks.

z. “PAGA Period” means the period from December 3, 2020 through the date on which the Court grants preliminary approval of the Settlement or the date that is sixty (60) calendar days after the date Plaintiff executes this Settlement Agreement, whichever is earlier, subject to Paragraph 13.

aa. “PAGA Settlement” means the settlement and resolution of all Released PAGA Claims.

bb. “PAGA Workweeks” means the number of weeks each PAGA Employee worked for Defendant as a non-exempt employee within the State of California during the PAGA Period. The PAGA Workweeks will be calculated by Defendant based on Defendant’s timekeeping records (excluding weeks while on PTO or leave without any work performed) during the PAGA Period.

1 cc. "Plaintiff's Released Claims" means any and all claims, known and unknown,
2 under federal, state, and/or local law, statute, ordinance, regulation, common law, or other source of
3 law, which Plaintiff, at the time of execution of this Settlement Agreement, had or claimed to have or
4 may have against the Released Parties, including but not limited to claims arising from or related to
5 his employment with Defendant and his compensation while an employee of Defendant.

6 Plaintiff's Released Claims include all claims, whether known or unknown.
7 Even if Plaintiff discovers facts in addition to or different from those that he now knows or believes
8 to be true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain
9 released and forever barred. Thus, Plaintiff expressly waives and relinquishes the provisions, rights,
10 and benefits of Section 1542 of the California Civil Code, which reads:

11 A general release does not extend to claims that the creditor or
12 releasing party does not know or suspect to exist in his or her favor
13 at the time of executing the release and that, if known by him or her,
14 would have materially affected his or her settlement with the debtor
or released party.

15 dd. "Preliminary Approval" means the date on which the Court enters the
16 Preliminary Approval Order.

17 ee. "Preliminary Approval Order" means the order granting preliminary approval
18 of the Settlement, in a form and content mutually agreed to by the Parties, and subject to approval by
19 the Court.

20 ff. "Released Class Claims" means any and all claims, debts, liabilities, demands,
21 obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action which were
22 alleged or which could have been alleged based on the factual allegations in the Operative Complaint,
23 arising during the Class Period, under any federal, state, or local law, and shall specifically include
24 claims for Defendant's alleged failure to: pay overtime and minimum wages, properly calculate the
25 regular rate of pay, pay for all hours worked due to time rounding, provide compliant meal and rest
26 periods and associated premium payments, timely pay wages during employment and upon
27 termination, provide accurate wage statements, and maintain complete and accurate payroll records in
28 violation of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194,

1 1197, 1197.1, and 1198, and Industrial Welfare Commission Wage Orders, and all claims for
2 attorneys' fees and costs, penalties, and statutory interest in connection therewith, California Business
3 and Professions Code sections 17200, *et seq.*, and any other claims, including claims for statutory
4 penalties, pertaining to the Class Members.

5 gg. "Released PAGA Claims" means any and all claims arising from any of the
6 factual allegations in the PAGA Letter and/or the Operative Complaint, arising during the PAGA
7 Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code
8 sections 2698 *et seq.*, including all claims for attorneys' fees and costs related thereto, for Defendant's
9 alleged failure to: pay overtime and minimum wages, properly calculate the regular rate of pay, pay
10 for all hours worked due to time rounding, provide compliant meal and rest periods and associated
11 premium payments, timely pay wages during employment and upon termination, provide complaint
12 wage statements, and maintain complete and accurate payroll records in violation of California Labor
13 Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, and 1198, and
14 Industrial Welfare Commission Wage Orders.

15 hh. "Released Parties" means Defendant and each of its past and present agents,
16 officers, directors, partners, representatives, exempt employees, shareholders, stockholders, attorneys,
17 parents, subsidiaries, divisions, assigns, predecessors, successors, insurers, joint venturers, and joint
18 employers.

19 ii. "Request for Exclusion" means a letter submitted by a Class Member indicating
20 a request to be excluded from the Class Settlement, which must: (a) contain the case name and number
21 of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and
22 last four (4) digits of the Class Member's Social Security number; (c) clearly state that the Class
23 Member does not wish to be included in the Class Settlement; and (d) be returned by mail to the
24 Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

25 jj. "Response Deadline" means the deadline by which Class Members must submit
26 a Request for Exclusion, Notice of Objection, and/or Workweeks Dispute, which shall be the date that
27 is forty five (45) calendar days from the initial mailing of the Class Notice by the Settlement
28 Administrator to Class Members, unless the 45th day falls on a Sunday or Federal holiday, in which

case the Response Deadline will be extended to the next day on which the United States Postal service is open. The Response Deadline may also be extended by express agreement between Class Counsel and Defendant's Counsel. Under no circumstances, however, will the Settlement Administrator have the authority to extend the Response Deadline. In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended fifteen (15) calendar days from the original Response Deadline.

kk. "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 purposes of administering the Settlement. The Parties and their counsel each represent that they do 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.

ll. "Settlement Administration Costs" means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering the Settlement, as set forth in Paragraph 12.

mm. "Settlement Class" or "Settlement Class Member(s)" means all Class Members who do not submit a timely and valid Request for Exclusion.

nn. "Workweeks" means the number of weeks each Class Member worked for Defendant as a non-exempt employee within the State of California during the Class Period. The Workweeks will be calculated by Defendant based on Defendant's timekeeping records (excluding weeks while on PTO or leave without any work performed) during the Class Period.

oo. "Workweeks Dispute" means a letter submitted by a Class Member disputing the number of Workweeks and/or PAGA Workweeks to which they have been credited, which must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and the last four (4) digits of the Class Member's Social Security number; (c) clearly state that the Class Member disputes the number of Workweeks and/or PAGA Workweeks credited to the Class Member and what the Class Member contends is the correct number; and (f) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

1 **CLASS CERTIFICATION**

2 7. For the purposes of this Settlement only, the Parties stipulate to the certification of the
3 Class.

4 8. The Parties agree that certification for the purpose of settlement is not an admission
5 that certification is proper under Section 382 of the California Code of Civil Procedure. Should, for
6 whatever reason, the Court not grant Final Approval, the Parties' stipulation to class certification as
7 part of the Settlement shall become null and void ab initio and shall have no bearing on, and shall not
8 be admissible in connection with, the issue of whether or not certification would be inappropriate in a
9 non-settlement context.

10 **TERMS OF THE AGREEMENT**

11 NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set
12 forth herein, the Parties agree, subject to the Court's approval, as follows:

13 9. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application
14 or motion by Class Counsel for attorneys' fees in the amount up to one-third (1/3) of the Gross
15 Settlement Amount (i.e., \$358,333.33 if the Gross Settlement Amount is \$1,075,000.00) and
16 reimbursement of actual costs and expenses associated with Class Counsel's litigation and settlement
17 of the Action, in an amount not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00),
18 both of which will be paid from the Gross Settlement Amount. These amounts will cover any and all
19 work performed and any and all costs incurred by Class Counsel in connection with the litigation of
20 the Action, including without limitation all work performed and costs incurred to date, and all work
21 to be performed and all costs to be incurred in connection with obtaining the Court's approval of this
22 Settlement Agreement, including any objections raised and any appeals necessitated by those
23 objections. Class Counsel shall be solely and legally responsible for correctly characterizing this
24 compensation for tax purposes and for paying any taxes on the amounts received. The Settlement
25 Administrator shall issue an IRS Form 1099 to Class Counsel for the Attorneys' Fees and Costs. Any
26 portion of the requested Attorneys' Fees and Costs that is not awarded by the Court to Class Counsel
27 shall be reallocated to the Net Settlement Amount for the benefit of the Settlement Class Members.
28 The Court's ruling on the request for Attorneys' Fees and Costs shall not affect the enforceability of

1 this Agreement or the terms contained herein.

2 10. Enhancement Payment. Defendant agrees not to oppose or impede any application or
3 motion by Plaintiff for an Enhancement Payment in the amount up to Seven Thousand Five Hundred
4 Dollars and Zero Cents (\$7,500.00). The Enhancement Payment, which will be paid from the Gross
5 Settlement Amount, subject to Court approval, will be in addition to his Individual Settlement Payment
6 as a Settlement Class Member and Individual PAGA Payment as a PAGA Employee. Plaintiff shall
7 be solely and legally responsible for correctly characterizing this compensation for tax purposes and
8 for paying any taxes on the amounts received. The Settlement Administrator shall issue an IRS Form
9 1099 to Plaintiff for the Enhancement Payment. Any portion of the requested Enhancement Payment
10 that is not awarded by the Court to Plaintiff shall be reallocated to the Net Settlement Amount for the
11 benefit of the Settlement Class Members. The Court's ruling on the request for the Enhancement
12 Payment shall not affect the enforceability of this Agreement or the terms contained herein.

13 11. PAGA Amount. Subject to approval by the Court, the Parties agree that the amount of
14 Fifty Thousand Dollars and Zero Cents (\$50,000.00) shall be allocated from the Gross Settlement
15 Amount toward penalties under the Private Attorneys General Act, California Labor Code Section
16 2698, *et seq.* (i.e., the PAGA Amount), of which seventy-five percent (75%), or \$37,500.00, will be
17 paid to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%), or \$12,500.00, will be
18 distributed to PAGA Employees (i.e., the PAGA Employee Amount) on a *pro rata* basis, based on the
19 total number of PAGA Workweeks worked by each PAGA Employee during the PAGA Period (i.e.,
20 the Individual PAGA Payments).

21 12. Settlement Administration Costs. The Settlement Administrator will be paid for the
22 reasonable costs of administration of the Settlement and distribution of payments under the Settlement,
23 which is currently not to exceed Fourteen Thousand Dollars and Zero Cents (\$14,000.00). These
24 costs, which will be paid from the Gross Settlement Amount, subject to Court approval, will include,
25 *inter alia*, printing, distributing, and tracking Class Notices and other documents for the Settlement,
26 calculating and distributing payments due under the Settlement, issuing of 1099 and W-2 IRS Forms
27 and all required tax reporting, filings, withholdings, and remittances, providing necessary reports and
28 declarations, and other duties and responsibilities set forth herein to process the Settlement, and as

requested by the Parties. To the extent the actual Settlement Administrator's costs are greater than the estimated amount stated herein, such excess amount will be deducted from the Gross Settlement Amount, subject to approval by the Court. Any portion of the estimated, designated, and/or awarded Settlement Administration Costs which are not in fact required to fulfill payment to the Settlement Administrator to undertake the required settlement administration duties shall be reallocated to the Net Settlement Amount for the benefit of the Settlement Class Members.

13. Escalator Clause. Defendant has represented that the Class Members worked a total of 50,032 workweeks during the period from December 3, 2017 through November 28, 2023. If it is determined by the Settlement Administrator that the total number of Workweeks worked by the Class Members during the Class Period actually exceeds 50,032 by more than 10% (i.e., if the Workweeks exceed 55,035), Defendant, at its option, can either choose to: (a) cut off the end date for the Class Period and PAGA Period as of the date on which the number of Workweeks does not exceed 55,035, or (b) increase the Gross Settlement Amount on a *pro rata* basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 10% (i.e., if the number of Workweeks increases by 11%, then the Gross Settlement Amount will increase by 1%).

14. Individual Settlement Share Calculations. Individual Settlement Shares will be calculated and apportioned from the Net Settlement Amount based on the Class Members' number of Workweeks, as follows:

a. After Preliminary Approval, the Settlement Administrator will divide the Net Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek Value," and multiply each Class Member's individual Workweeks by the Estimated Workweek Value to yield each Class Member's estimated Individual Settlement Share that each Class Member may be entitled to receive under the Class Settlement.

b. After Final Approval, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members to yield the "Final Workweek Value," and multiply each Settlement Class Member's individual Workweeks by the Final Workweek Value to yield each Settlement Class Member's final Individual Settlement Share.

///

1 15. Individual PAGA Payment Calculations. Individual PAGA Payments will be
2 calculated and apportioned from the PAGA Employee Amount based on the PAGA Employees’
3 number of PAGA Workweeks, as follows: The Settlement Administrator will divide the PAGA
4 Employee Amount, i.e., 25% of the PAGA Amount, by the PAGA Workweeks of all PAGA
5 Employees to yield the “PAGA Workweek Value,” and multiply each PAGA Employee’s individual
6 PAGA Workweeks by the PAGA Workweek Value to yield each PAGA Employee’s Individual
7 PAGA Payment.

8 16. Tax Treatment of Individual Settlement Shares and Individual PAGA Payments. Each
9 Individual Settlement Share will be allocated as follows: twenty percent (20%) wages and eighty
10 percent (80%) penalties, interest, and non-wage damages. The portion allocated to wages will be
11 reported on an IRS Form W-2 and the portions allocated to penalties, interest, and non-wage damages
12 will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. The Settlement
13 Administrator will withhold the employee’s share of taxes and withholdings with respect to the wages
14 portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their
15 Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes
16 and withholdings). The Employer Taxes will be paid separately and in addition to the Gross
17 Settlement Amount. Each Individual PAGA Payment will be allocated as one hundred percent (100%)
18 penalties and will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator.

19 17. Administration of Taxes by the Settlement Administrator. The Settlement
20 Administrator will be responsible for issuing to Plaintiff, Settlement Class Members, PAGA
21 Employees, and Class Counsel any tax forms (i.e., IRS Forms W-2, IRS Forms 1099, etc.) as may be
22 required by law for all amounts paid pursuant to this Settlement Agreement. The Settlement
23 Administrator will also be responsible for calculating the Employer Taxes and forwarding all payroll
24 taxes and other legally required withholdings to the appropriate government authorities.

25 18. Tax Liability. Plaintiff, Class Counsel, Defendant, and Defendant’s Counsel do not
26 intend anything contained in this Settlement Agreement to constitute advice regarding taxes or
27 taxability, nor shall anything in this Settlement Agreement be relied on as such. Plaintiff, Settlement
28 Class Members, and PAGA Employees are not relying on any statement, representation, or calculation

1 by Defendant, the Settlement Administrator, or Class Counsel in this regard. Plaintiff, Settlement
2 Class Members, and PAGA Employees understand and agree that Plaintiff, Settlement Class
3 Members, and PAGA Employees will be solely responsible for the payment of any taxes and penalties
4 assessed on the payments described in this Settlement Agreement. Plaintiff, Settlement Class
5 Members, and PAGA Employees should consult with their tax advisors concerning the tax
6 consequences of any payment they receive under the Settlement.

7 19. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT
8 (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY
9 TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
10 “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
11 SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
12 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS
13 OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
14 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
15 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART
16 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY
17 UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE
18 (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B)
19 HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE
20 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
21 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
22 DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY
23 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
24 ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
25 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISOR’S TAX
26 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING)
27 UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR
28 TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION

1 CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

2 20. Settlement Awards Do Not Trigger Additional Benefits. All payments made under the
3 Settlement shall be deemed to be paid to the payee solely in the year in which such payments actually
4 are issued to the payee. It is expressly understood and agreed that payments made under this
5 Settlement shall not in any way entitle Plaintiff, Settlement Class Members, or any PAGA Employee
6 to additional compensation or benefits under any new or additional compensation or benefits, or any
7 bonus, contest, or other compensation or benefit plan or agreement in place during the Class Period,
8 nor will it entitle Plaintiff, Settlement Class Members, or any PAGA Employee to any increased
9 retirement, 401K benefits or matching benefits, or deferred compensation benefits (notwithstanding
10 any contrary language or agreement in any benefit or compensation plan document that might have
11 been in effect during the Class Period).

12 21. Duties of the Parties with Respect to Obtaining Preliminary Approval of the Settlement.
13 Upon execution of this Settlement Agreement, Plaintiff will obtain a hearing date from the Court for
14 Plaintiff's motion for preliminary approval of the Settlement, which Plaintiff and Class Counsel will
15 be responsible for drafting, and submit this Settlement Agreement to the Court in support of said
16 motion. Class Counsel will provide Defendant's Counsel a draft of the preliminary approval motion
17 before filing it with the Court. Defendant agrees not to oppose the motion for preliminary approval
18 of the Settlement consistent with this Settlement Agreement. By way of said motion, Plaintiff will
19 apply for the entry of the Preliminary Approval Order seeking the following:

- 20 a. Conditionally certifying the Class for settlement purposes only;
- 21 b. Granting Preliminary Approval of the Settlement;
- 22 c. Preliminarily appointing Plaintiff as the representative of the Class;
- 23 d. Preliminarily appointing Class Counsel as counsel for the Class;
- 24 e. Approving as to form and content, the mutually-agreed upon and proposed
25 Class Notice and directing its mailing by First Class U.S. Mail;
- 26 f. Approving the manner and method for Class Members to request exclusion
27 from or object to the Class Settlement as contained herein and within the Class Notice;

28 ///

g. Scheduling a Final Approval Hearing at which the Court will determine whether Final Approval of the Settlement should be granted.

22. Notice of Settlement to the LWDA. Pursuant to California Labor Code § 2699(1)(2), Class Counsel shall notify the LWDA of the Settlement upon filing the motion for preliminary approval of the Settlement.

23. Delivery of Class List. Within twenty-one (21) calendar days of Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator.

24. Notice by First-Class U.S. Mail.

a. Within seven (7) calendar days after receiving the Class List from Defendant, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail a Class Notice (in the form attached as **Exhibit A** to this Settlement Agreement) to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator.

b. Any Class Notice returned to the Settlement Administrator as undeliverable on or before the Response Deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace or other search, using the name, address, and/or Social Security number of the Class Member, and perform a single re-mailing within five (5) calendar days.

c. Compliance with the procedures described herein above shall constitute due and sufficient notice to Class Members of the Settlement and shall satisfy the requirements of due process. Nothing else shall be required of or done by the Parties, Class Counsel, or Defendant's Counsel to provide notice of the Settlement.

25. Disputes Regarding Workweeks and/or PAGA Workweeks. Class Members will have an opportunity to dispute the number of Workweeks and/or PAGA Workweeks to which they have been credited, as reflected in their respective Class Notices, by submitting a timely and valid

1 Workweeks Dispute to the Settlement Administrator, by mail, on or before the Response Deadline.
2 The date of the postmark on the return mailing envelope will be the exclusive means to determine
3 whether a Workweeks Dispute has been timely submitted. Absent evidence rebutting the accuracy of
4 Defendant's records and data as they pertain to the number of Workweeks and/or PAGA Workweeks
5 to be credited to a disputing Class Member, Defendant's records will be presumed to be correct and
6 determinative of the dispute. However, if a Class Member produces information and/or documents to
7 the contrary, the Settlement Administrator will evaluate the materials submitted by the Class Member
8 and the Settlement Administrator will resolve and determine the number of eligible Workweeks and/or
9 PAGA Workweeks that the disputing Class Member should be credited with under the Settlement.
10 The Settlement Administrator's decision on such disputes will be final and non-appealable.

11 26. Requesting Exclusion from the Class Settlement. Any Class Member wishing to be
12 excluded from the Class Settlement must submit a timely and valid Request for Exclusion to the
13 Settlement Administrator, by mail, on or before the Response Deadline. The date of the postmark on
14 the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion
15 has been timely submitted. The Settlement Administrator will certify jointly to Class Counsel and
16 Defendant's Counsel the number of timely and valid Requests for Exclusion that are submitted, and
17 also identify the individuals who have submitted a timely and valid Request for Exclusion in a
18 declaration that is to be filed with the Court in advance of the Final Approval Hearing. At no time
19 will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to request
20 exclusion from the Class Settlement. Any Class Member who submits a Request for Exclusion is
21 prohibited from making any objection to the Class Settlement. Any Class Member who submits a
22 timely and valid Request for Exclusion will not be bound by the Class Settlement and will not be
23 issued an Individual Settlement Payment. Any Class Member who does not affirmatively request
24 exclusion from the Class Settlement by submitting a timely and valid Request for Exclusion will be
25 bound by all of the terms of the Class Settlement, including and not limited to those pertaining to the
26 Released Class Claims, as well as any judgment that may be entered by the Court if it grants Final
27 Approval to the Settlement. Notwithstanding the above, the LWDA with respect to all PAGA
28 Employees and the State of California with respect to all PAGA Employees will release the Released

PAGA Claims and all PAGA Employees will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

27. Objecting to the Class Settlement. To object to the Class Settlement, Settlement Class Members must submit a timely and complete Notice of Objection to the Settlement Administrator, by mail, on or before the Response Deadline. The date of the postmark on the return mailing envelope will be the exclusive means to determine whether a Notice of Objection has been timely submitted. The Settlement Administrator will certify jointly to Class Counsel and Defendant's Counsel the number of Notices of Objection that are submitted (specifying which ones were timely and complete and which were not), and also attach them to a declaration that is to be filed with the Court in advance of the Final Approval Hearing. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to object to the Class Settlement or appeal from the Final Approval Order and Judgment. Settlement Class Members, individually or through counsel, may also present their objection orally at the Final Approval Hearing, regardless of whether they have submitted a Notice of Objection.

28. Reports by the Settlement Administrator. The Settlement Administrator shall provide weekly reports to counsel for the Parties providing: (a) the number of undeliverable and re-mailed Class Notices; (ii) the number of Class Members who have submitted Workweeks Disputes; (iii) the number of Class Members who have submitted Requests for Exclusion; and (iv) the number of Settlement Class Members who have submitted Notices of Objection. Additionally, the Settlement Administrator will provide to counsel for the Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested, and immediately notify the Parties when it receives a request from an individual or any other entity regarding inclusion in the Class and/or Settlement or regarding a Workweeks Dispute.

29. Defendant's Right to Rescind. If ten percent (10%) or more of the Class Members submit timely and valid Requests for Exclusion, Defendant may elect to rescind the Settlement Agreement. Defendant must exercise this right of rescission in writing that is provided to Class Counsel within fourteen (14) calendar days of the Settlement Administrator notifying the Parties of the number of Class Members who have submitted timely and valid Requests for Exclusion following

1 the Response Deadline. If Defendant exercises this option, Defendant shall pay any costs of settlement
2 administration owed to the Settlement Administrator incurred up to that date.

3 30. Certification of Completion. Upon completion of administration of the Settlement, the
4 Settlement Administrator will provide a written declaration under oath to certify such completion to
5 the Court and counsel for all Parties.

6 31. Duties of the Parties with Respect to Obtaining Final Approval of the Settlement. After
7 the Response Deadline, a Final Approval Hearing will be conducted to determine whether Final
8 Approval of the Settlement should be granted, along with the amounts properly payable for: (a)
9 Individual Settlement Shares; (b) Individual PAGA Payments; (c) LWDA Payment; (d) Attorneys'
10 Fees and Costs; (e) Enhancement Payment; and (e) Settlement Administration Costs. The Final
11 Approval Hearing will not be held earlier than thirty (30) calendar days after the Response Deadline.
12 Plaintiff and Class Counsel will be responsible for drafting the motion seeking Final Approval of the
13 Settlement. Class Counsel will provide Defendant's Counsel a draft of the final approval motion
14 before filing it with the Court. By way of said motion, Plaintiff will apply for the entry of the Final
15 Approval Order and Judgment, which will provide for, in substantial part, the following:

16 a. Approval of the Settlement as fair, reasonable, and adequate, and directing
17 consummation of its terms and provisions;

18 b. Certification of the Settlement Class;

19 c. Approval of the application for Attorneys' Fees and Costs to Class Counsel;

20 d. Approval of the application for Enhancement Payment to Plaintiff;

21 e. Directing Defendant to fund all amounts due under the Settlement Agreement
22 and ordered by the Court; and

23 f. Entering judgment in the Action, while maintaining continuing jurisdiction, in
24 conformity with California Rules of Court 3.769 and the Settlement Agreement.

25 32. Funding of the Gross Settlement Amount. No later than seven (7) calendar days after
26 the Effective Date, Defendant will deposit the Gross Settlement Amount into a Qualified Settlement
27 Fund ("QSF") within the meaning of Treasury Regulation Section 1.468B-1, *et seq.*, to be established
28 by the Settlement Administrator. Defendant shall provide all information necessary for the Settlement

1 Administrator to calculate necessary payroll taxes including its official name, 8-digit state
2 unemployment insurance tax ID number, and other information requested by the Settlement
3 Administrator, no later than seven (7) calendar days after the Effective Date.

4 33. Distribution of the Gross Settlement Amount. Within five (5) business days of the
5 funding of the Gross Settlement Amount, the Settlement Administrator will issue the Individual
6 Settlement Payments to Settlement Class Members, Individual PAGA Payments to PAGA Employees,
7 LWDA Payment to the LWDA, Enhancement Payment to Plaintiff, Attorneys' Fees and Costs to Class
8 Counsel, and Settlement Administration Costs to itself. The Settlement Administrator shall also set
9 aside the Employer Taxes and all employee-side payroll taxes, contributions, and withholding, and
10 timely forward these to the appropriate government authorities.

11 34. Settlement Checks. The Settlement Administrator will be responsible for undertaking
12 appropriate deductions, required tax reporting, and issuing the Individual Settlement Payments by way
13 of check to the Settlement Class Members and the Individual PAGA Payments by way of check to the
14 PAGA Employees in accordance with this Settlement Agreement. When issuing payments, the
15 Settlement Administrator may combine the Individual Settlement Payment and Individual PAGA
16 Payment into one check if the intended recipient for both payments is one individual. Settlement Class
17 Members and PAGA Employees are not required to submit a claim to be issued an Individual
18 Settlement Payment and/or Individual PAGA Payment. Each Individual Settlement Payment and
19 Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180)
20 calendar days from the date the checks are issued, and thereafter, shall be canceled. Any funds
21 associated with such canceled checks shall be distributed by the Settlement Administrator to Legal
22 Aid at Work (the proposed *cy pres* recipient) in accordance with California Code of Civil Procedure
23 Section 384. The Parties and their counsel each represent that they do not have any financial interest
24 in, or otherwise have a relationship with, the proposed *cy pres* recipient that could create a conflict of
25 interest. The Settlement Administrator shall undertake amended and/or supplemental tax filings and
26 reporting required under applicable local, state, and federal tax laws that are necessitated due to the
27 cancelation of any Individual Settlement Payment and/or Individual PAGA Payment checks. To the
28 extent that the Settlement Administrator is able to obtain or receive the return or refund of the amounts
that were transmitted to taxing authorities for the employees' share of taxes, contributions, an/or

withholding associated with canceled Individual Settlement Payments, all such amounts shall also be transmitted to Legal Aid at Work.

35. Plaintiff, Settlement Class Members, LWDA with respect to the PAGA Employees, and State of California with respect to the PAGA Employees Releases. Upon the full funding of the Gross Settlement Amount, Plaintiff will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged Plaintiff's Released Claims; Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims; and Plaintiff, the LWDA with respect to all PAGA Employees, and the State of California with respect to all PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

36. Final Approval Order and Judgment. The Parties shall provide the Settlement Administrator with a copy of the Final Approval Order and Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final Approval Order and Judgment on its website for sixty (60) calendar days. No individualized notice of the Final Approval Order and Judgment to the Class will be required.

37. Continued Jurisdiction. After entry of the judgment pursuant to the Settlement, the Court will have continuing jurisdiction pursuant to Rule 3.769 of the California Rules of Court and Section 664.6 of the California Code of Civil Procedure, 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.

38. Effects of Termination or Rescission of Settlement. Termination or rescission of the Settlement Agreement shall have the following effects:

a. The Settlement Agreement shall be void and shall have no force or effect, and no Party shall be bound by any of its terms;

b. In the event the Settlement Agreement is terminated, Defendant shall have no obligation to make any payments to any Party, Class Member, or attorney, except that the terminating

1 Party shall pay the Settlement Administrator for services rendered up to the date the Settlement
2 Administrator is notified that the Settlement has been terminated;

3 c. The Preliminary Approval Order, Final Approval Order and Judgment,
4 including any order certifying the Class, shall be vacated;

5 d. The Settlement Agreement and all negotiations, statements, and proceedings
6 relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be
7 restored to their respective positions in the Action prior to the execution of the Settlement Agreement;

8 e. Neither this Settlement Agreement, nor any ancillary documents, actions,
9 statements, or filings in furtherance of the Settlement (including all matters associated with the
10 mediation) shall be admissible or offered into evidence in the Action or any other action for any
11 purpose whatsoever; and

12 f. Any documents generated to bring the Settlement into effect, will be null and
13 void, and any order or judgment entered by the Court in furtherance of this Settlement Agreement will
14 likewise be treated as void from the beginning.

15 39. 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
18 of action or right herein released and discharged.

19 40. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set
20 forth in any attached exhibits, which are incorporated by this reference as though fully set forth herein.
21 Any exhibits to this Settlement Agreement are an integral part of the Settlement.

22 41. Limitations on Publicity. Neither Plaintiff nor Class Counsel shall issue any press
23 release or announcement of any kind, including, but not limited to, listing on any firm website, related
24 in any way to this Settlement. Plaintiff and Class Counsel agree that, prior to Preliminary Approval,
25 they will keep the terms of this Settlement confidential except for purposes of communicating with
26 Plaintiff only. Plaintiff shall be informed that the Settlement is confidential and shall be advised to
27 keep the Settlement confidential. Plaintiff further agrees not to disclose the Settlement, or the terms
28 of the Settlement, on any website, app, or otherwise, either in his own name or anonymously. From
and after Preliminary Approval, Plaintiff and Class Counsel agree to limit their statements regarding

1 the terms of this Settlement, whether oral, written, or electronic (including the world wide web), to
2 say the Action has been resolved. Nothing in this Paragraph is intended to interfere with Class
3 Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including but
4 not limited to, communicating with Class Members regarding this Settlement. Nothing herein will
5 restrict Class Counsel from including publicly available information regarding this Settlement in
6 future judicial submissions regarding Class Counsel's qualifications and experience. Furthermore,
7 Plaintiff and Class Counsel will undertake any and all disclosures required to be made to the LWDA
8 in conformity with PAGA.

9 42. Entire Agreement. This Settlement Agreement and any attached exhibits constitute the
10 entirety of the Parties' agreement relating to the settlement and transaction completed thereby, and all
11 prior or contemporaneous agreements, understandings, representations, and statements, whether oral
12 or written and whether by a Party or such Party's legal counsel, are merged herein. No other prior or
13 contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties
14 expressly recognize California Civil Code § 1625 and California Code of Civil Procedure § 1856(a),
15 which provide that a written agreement is to be construed according to its terms and may not be varied
16 or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written
17 representations or terms will modify, vary, or contradict the terms of this Settlement Agreement.

18 43. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in
19 the Action (including with respect to California Code of Civil Procedure § 583.310), except such
20 proceedings necessary to implement and complete this Settlement Agreement, pending the Final
21 Approval Hearing to be conducted by the Court.

22 44. Amendment or Modification. Prior to the filing of the motion for preliminary approval
23 of the Settlement, the Parties may not amend or modify any provision of this Settlement Agreement
24 except by written agreement signed by counsel for all Parties. After the filing of the motion for
25 preliminary approval of the Settlement, the Parties may not amend or modify any provision of this
26 Settlement Agreement except by written agreement signed by counsel for all the Parties and subject
27 to Court approval. A waiver or amendment of any provision of this Settlement Agreement will not
28 constitute a waiver of any other provision.

///

///

1 45. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
2 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
3 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
4 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
5 effectuate the terms of this Settlement Agreement. The Parties warrant that they understand and have
6 full authority to enter into this Settlement Agreement, and further intend that this Settlement
7 Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible
8 and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation
9 confidentiality provisions that otherwise might apply under state or federal law.

10 46. Signatories. The Class Notice will advise all Class Members of the binding nature of
11 the Class Settlement as to the Settlement Class Members and the binding nature of the PAGA
12 Settlement as to the State of California with respect to all PAGA Employees, and the releases provided
13 for by this Settlement Agreement shall have the same force and effect as if this Settlement Agreement
14 were executed by each Settlement Class Member and the State of California.

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

17 48. California Law Governs. All terms of this Settlement Agreement and attached exhibits
18 hereto will be governed by and interpreted according to the laws of the State of California.

19 49. Execution and Counterparts. This Settlement Agreement is subject only to the
20 execution of all Parties. However, this Settlement Agreement may be executed in one or more
21 counterparts. All executed counterparts and each of them, including facsimile, electronic, and scanned
22 copies of the signature page, will be deemed to be one and the same instrument.

23 50. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
24 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at
25 this Settlement after arm's length negotiations and in the context of adversarial litigation, taking into
26 account all relevant factors, present and potential. The Parties further acknowledge that they are each
27 represented by competent counsel and that they have had an opportunity to consult with their counsel
28 regarding the fairness and reasonableness of this Settlement Agreement. In addition, if necessary to
obtain approval of the Settlement, the Mediator may execute a declaration supporting the Settlement

1 and the reasonableness of the Settlement and the Court may, in its discretion, contact the Mediator to
2 discuss the Settlement and whether or not the Settlement is objectively fair and reasonable.

3 51. Invalidity of Any Provision. Before declaring any provision of this Settlement
4 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
5 possible consistent with applicable precedents so as to define all provisions of this Settlement
6 Agreement valid and enforceable.

7 52. Plaintiff's Cooperation. Plaintiff agrees to sign this Settlement Agreement and, by
8 signing this Settlement Agreement, is hereby bound by the terms herein and agrees to fully cooperate
9 to implement the Settlement.

10 53. Non-Admission of Liability. The Parties enter into this Settlement Agreement to
11 resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of
12 continued litigation. In entering into this Settlement Agreement, Defendant does not admit, and
13 specifically denies, it has violated any federal, state, or local law; violated any regulations or guidelines
14 promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements;
15 breached any contract; violated or breached any duty; engaged in any misrepresentation or deception;
16 or engaged in any other unlawful conduct with respect to its employees. Neither this Settlement
17 Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be
18 construed as an admission or concession by Defendant of any such violations or failures to comply
19 with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement
20 Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received
21 as evidence in any action or proceeding to establish any liability or admission on the part of Defendant
22 or to establish the existence of any condition constituting a violation of, or a non-compliance with,
23 federal, state, local or other applicable law.

24 54. Captions. The captions and paragraph numbers in this Settlement Agreement are
25 inserted for the reader's convenience, and in no way define, limit, construe, or describe the scope or
26 intent of the provisions of this Settlement Agreement.

27 55. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
28 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be

1 construed more strictly against one Party than another merely by virtue of the fact that it may have
2 been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length
3 negotiations between the Parties, all Parties have contributed equally to the preparation of this
4 Settlement Agreement.

5 56. Representation By Counsel. The Parties acknowledge that they have been represented
6 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
7 that this Settlement Agreement has been executed with the consent and advice of counsel, and
8 reviewed in full.

9 57. All Terms Subject to Final Court Approval. All amounts and procedures described in
10 this Settlement Agreement herein will be subject to final Court approval.

11 58. Notices. All notices, demands, and other communications to be provided concerning
12 the Settlement Agreement shall be in writing and deemed to have been duly given as of the third
13 business day after mailing by First Class U.S. Mail, or the day sent by email or messenger, addressed
14 as follows:

15 To Plaintiff and Class Counsel:

16 Jonathan M. Genish

17 jgenish@blackstonepc.com

18 Miriam L. Schimmel

19 mschimmel@blackstonepc.com

20 Joana Fang

21 jfang@blackstonepc.com

22 Alexandra Rose

23 arose@blackstonepc.com

24 **BLACKSTONE LAW, APC**

25 8383 Wilshire Boulevard, Suite 745

26 Beverly Hills, California 90211

27 Tel: (310) 622-4278 / Fax: (855) 786-6356

28 To Defendant:

Derek R. Havel

dhavel@sheppardmullin.com

Ian A. Michalak

imichalak@sheppardmullin.com

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

333 South Hope Street, 43rd Floor

Los Angeles, California 90071

Tel: (213) 620-1780 / Fax: (213) 620-1398

59. Cooperation and Execution of Necessary Documents. All Parties and their counsel will cooperate with each other in good faith and use their best efforts to implement the Settlement, including and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement between Plaintiff and Defendant:

IT IS SO AGREED.

PLAINTIFF BOBBY BIRDI

Dated: 01/23/2024


Bobby Birdi

DEFENDANT LUCID USA, INC.

Dated: _____

Full Name: Ross Boughton
Title: Deputy General Counsel
On behalf of Lucid USA, Inc.

APPROVED AS TO FORM ONLY:

BLACKSTONE LAW, APC

Dated: January 23, 2024


Jonathan M. Genish
*Attorneys for Plaintiff Bobby Birdi
and Proposed Class Counsel*

**SHEPPARD, MULLIN, RICHTER &
HAPMTON LLP**

Dated: _____

Derek R. Havel
Ian A. Michalak
Attorneys for Defendant Lucid USA, Inc.

59. Cooperation and Execution of Necessary Documents. All Parties and their counsel will cooperate with each other in good faith and use their best efforts to implement the Settlement, including and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement between Plaintiff and Defendant:

IT IS SO AGREED.

PLAINTIFF BOBBY BIRDI

Dated: _____

Bobby Birdi

DEFENDANT LUCID USA, INC.

Dated: 01/22/2024 | 11:48 AM PST

DocuSigned by:

0E747DB6C647469...

Full Name: Ross Boughton
Title: Deputy General Counsel
On behalf of Lucid USA, Inc.

APPROVED AS TO FORM ONLY:

BLACKSTONE LAW, APC

Dated: _____

Jonathan M. Genish
Attorneys for Plaintiff Bobby Birdi
and Proposed Class Counsel

**SHEPPARD, MULLIN, RICHTER &
HAPMTON LLP**

Dated: January 24, 2024



Derek R. Havel
Ian A. Michalak
Attorneys for Defendant Lucid USA, Inc.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Bobby Birdi v. Lucid USA, Inc.

Superior Court of California for the County of Alameda, Case No. 21CV003541

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because Lucid USA, Inc.'s records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Class Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the Class Settlement, object to the Class Settlement, and/or dispute the number of Workweeks and/or PAGA Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Bobby Birdi ("Plaintiff") and Defendant Lucid USA, Inc. ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the case entitled *Bobby Birdi v. Lucid USA, Inc.*, Alameda County Superior Court, Case No. 21CV003541 ("Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" or "Class Member" means all current and former non-exempt employees of Defendant who worked within the State of California during the Class Period.

"Class Period" means the period from December 3, 2017 through [date of Preliminary Approval or date that is 60 calendar days after the date Plaintiff executes the Settlement Agreement, whichever is earlier, subject to Paragraph 13 of the Settlement Agreement].

"Class Settlement" means the settlement and resolution of all Released Class Claims.

"PAGA Employees" means all current and former non-exempt employees of Defendant who worked within the State of California during the PAGA Period.

"PAGA Period" the period from December 3, 2020 through [date of Preliminary Approval or date that is 60 calendar days after the date Plaintiff executes the Settlement Agreement, whichever is earlier, subject to Paragraph 13 of the Settlement Agreement].

"PAGA Settlement" means the settlement and resolution of all Released PAGA Claims.

II. BACKGROUND OF THE ACTION

On December 3, 2021, Plaintiff provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that Plaintiff contends were violated ("PAGA Letter"). Also on December 3, 2021, Plaintiff filed a Class Action Complaint in the Action, thereby commencing a putative class action against Defendant. On February 1, 2022, Plaintiff filed a First Amended Class Action and Representative Action Complaint ("Operative Complaint") in the Action, which added a cause of action under the Private Attorneys General Act of 2004 pursuant to California Labor Code Section 2698, *et seq.* ("PAGA").

Plaintiff contends that Defendant failed to properly pay minimum and overtime wages, properly calculate the regular rate of pay, pay for all hours worked due to time rounding, provide compliant meal and rest breaks and associated premiums, timely pay wages upon termination of employment and associated waiting-time penalties, provide accurate wage statements, and reimburse business expenses, and thereby engaged in unfair business practices in violation of the California Business and Professions Code section 17200, *et seq.*, and conduct that gives rise to penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution,

penalties, interest, and attorneys' fees and costs.

Defendant denies all of the allegations in the Action and that it violated any law.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into a Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement").

On [Date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed CPT Group, Inc. as the administrator of the Settlement ("Settlement Administrator"), Plaintiff Bobby Birdi as representative of the Class ("Class Representative"), and the following Plaintiff's attorneys as counsel for the Class ("Class Counsel"):

Jonathan M. Genish
Miriam L. Schimmel
Joana Fang
Alexandra Rose
Blackstone Law, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Tel: (310) 622-4278 / Fax: (855) 786-6356

If you are a Class Member, you need not take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks and/or PAGA Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are a PAGA Employee, you do not need to take any action to receive an Individual PAGA Payment; you will not have the opportunity to object or seek exclusion from the PAGA Settlement.

The Settlement represents a compromise and settlement of disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff, Class Members, or PAGA Employees. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, the State of California, and PAGA Employees.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is One Million Seventy-Five Thousand Dollars and Zero Cents (\$1,075,000.00) (the "Gross Settlement Amount"). The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys' fees, in an amount not to exceed one-third (1/3) of the Gross Settlement Amount (i.e., \$358,333.33 if the Gross Settlement Amount is \$1,075,000.00), and reimbursement of litigation costs and expenses, in an amount not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00) to Class Counsel; (2) Enhancement Payment in an amount not to exceed Seven Thousand Five Hundred and Zero Dollars (\$7,500.00) to Plaintiff for his services in the Action; (3) the amount of Fifty Thousand Dollars and Zero Cents (50,000.00) allocated toward civil penalties under the Private Attorneys General Act ("PAGA Amount"), of which the LWDA will be paid 75% (37,500.00) ("LWDA Payment") and the remaining 25% (12,500.00) will be distributed to PAGA Employees ("PAGA Employee Amount"); and (4) Settlement Administration Costs in an amount not to exceed Fourteen Thousand Dollars and Zero Cents (\$14,000.00) to the Settlement Administrator.

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount ("Individual Settlement Share") based on the number of weeks each Class Member worked for Defendant as a non-exempt employee within the State of California during the Class Period ("Workweeks"). The Settlement Administrator has divided the Net Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek Value,"

and multiplied each Class Member's individual Workweeks by the Estimated Workweek Value to yield an estimated Individual Settlement Share that each Class Member may be entitled to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion ("Settlement Class Members") will be issued their final Individual Settlement Payment.

Each Individual Settlement Share will be allocated as twenty percent (20%) as wages, which will be reported on an IRS Form W-2, and eighty percent (80%) as penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099 (if applicable). Each Individual Settlement Share will be subject to reduction for the employee's share of payroll taxes and withholdings with respect to the wages portion of the Individual Settlement Shares resulting in a net payment to the Settlement Class Member ("Individual Settlement Payment"). The employer's share of taxes and contributions in connection with the wages portion of Individual Settlement Shares ("Employer Taxes") will be paid by Defendant separately and in addition to the Gross Settlement Amount.

PAGA Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the PAGA Employee Amount ("Individual PAGA Payment") based on the number of weeks each PAGA Employee worked for Defendant as a non-exempt employee within the State of California during the PAGA Period ("PAGA Workweeks"). The Settlement Administrator had divided the PAGA Employee Amount, i.e., 25% of the PAGA Amount, by the PAGA Workweeks of all PAGA Employees to yield the "PAGA Workweek Value," and multiplied each PAGA Employee's individual PAGA Workweeks by the PAGA Workweek Value to yield each PAGA Employee's Individual PAGA Payment.

Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to PAGA Employees at the address that is on file with the Settlement Administrator. **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks and PAGA Workweeks (if applicable) Based on Defendant's Records

According to Defendant's records:

- From December 3, 2017 through [date of Preliminary Approval or date that is 60 calendar days after the date Plaintiff executes the Settlement Agreement, whichever is earlier, subject to Paragraph 13 of the Settlement Agreement] (i.e., the Class Period), you are credited as having worked [] Workweeks.
- From December 3, 2020 through [date of Preliminary Approval or date that is 60 calendar days after the date Plaintiff executes the Settlement Agreement, whichever is earlier, subject to Paragraph 13 of the Settlement Agreement] (i.e., the PAGA Period), you are credited as having worked [] PAGA Workweeks.

If you wish to dispute the Workweeks and/or PAGA Workweeks credited to you, you must submit your dispute in writing to the Settlement Administrator ("Workweeks Dispute"). The Workweeks Dispute must: (a) contain the case name and number of the Action (*Bobby Birdi v. Lucid USA, Inc.*, Case No. 21CV003541); (b) contain the your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) clearly state that you dispute the number of Workweeks and/or PAGA Workweeks credited to you and what you contend is the correct number; and (f) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked **on or before [Response Deadline]**.

C. Your Estimated Individual Settlement Share and Individual PAGA Payment (if applicable)

As explained above, your estimated Individual Settlement Share and Individual PAGA Payment (if applicable) is based on the number of Workweeks and PAGA Workweeks (if applicable) credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and Individual PAGA Payment (if applicable) reflected in this Class Notice is only an estimate. Your actual Individual Settlement Payment and Individual PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon the full funding of the Gross Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

Upon the full funding of the Gross Settlement Amount, Plaintiff, the LWDA with respect to all PAGA Employees, and the State of California with respect to all PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

"Released Class Claims" means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Operative Complaint, arising during the Class Period, under any federal, state, or local law, and shall specifically include claims for Defendant's alleged failure to: pay overtime and minimum wages, properly calculate the regular rate of pay, pay for all hours worked due to time rounding, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide accurate wage statements, and maintain complete and accurate payroll records in violation of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, and 1198, and Industrial Welfare Commission Wage Orders, and all claims for attorneys' fees and costs, penalties, and statutory interest in connection therewith, California Business and Professions Code sections 17200, *et seq.*, and any other claims, including claims for statutory penalties, pertaining to the Class Members.

"Released PAGA Claims" means any and all claims arising from any of the factual allegations in the PAGA Letter and/or the Operative Complaint, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*, including all claims for attorneys' fees and costs related thereto, for Defendant's alleged failure to: pay overtime and minimum wages, properly calculate the regular rate of pay, pay for all hours worked due to time rounding, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide complaint wage statements, and maintain complete and accurate payroll records in violation of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, and 1198, and Industrial Welfare Commission Wage Orders.

"Released Parties" means Defendant and each of its past and present agents, officers, directors, partners, representatives, exempt employees, shareholders, stockholders, attorneys, parents, subsidiaries, divisions, assigns, predecessors, successors, insurers, joint ventures, and joint employers.

E. Attorneys' Fees and Costs to Class Counsel

Class Counsel will seek attorneys' fees in an amount not to exceed one-third (1/3) of the Gross Settlement Amount (i.e., \$358,333.33 if the Gross Settlement Amount is \$1,075,000.00) and reimbursement of litigation costs and expenses in an amount not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00) (collectively, "Attorneys' Fees and Costs"), subject to approval by the Court. The Attorneys' Fees and Costs granted by the Court will be paid from the Gross

Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, and PAGA Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Payment to Plaintiff

Plaintiff will seek the amount of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) (“Enhancement Payment”), in recognition of his services in connection with the Action. The Enhancement Payment will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Fourteen Thousand Dollars and Zero Cents (\$14,000.00) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Notices of Objection, and Workweeks Disputes, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Class Claims against the Released Parties as described in Section III.D above.

If you are a PAGA Employee, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment.

As a Class Member and PAGA Employee (if applicable), you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

Class Members may request to be excluded from the Class Settlement by submitting a letter (“Request for Exclusion”) to the Settlement Administrator, at the following address:

[Settlement Administrator]
[Mailing Address]

A Request for Exclusion must: (a) contain the case name and number of the Action (*Bobby Birdi v. Lucid USA, Inc.*, Case No. 21CV003541); (b) contain your full name, signature, address, telephone number, and last four (4) digits of your Social Security number; (c) clearly state that you do not wish to be included in the Class Settlement; and (d) be returned by mail to the Settlement Administrator at the specified address above, postmarked **on or before** [Response Deadline].

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. Notwithstanding the above, the LWDA with respect to all PAGA Employees and the State of California with respect to all PAGA Employees will

release the Released PAGA Claims and all PAGA Employees will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

You can object to the Class Settlement as long as you have not submitted a Request for Exclusion by submitting a written objection (“Notice of Objection”) to the Settlement Administrator.

The Notice of Objection must: (a) contain the case name and number of the Action (*Bobby Birdi v. Lucid USA, Inc.*, Case No. 21CV003541); (b) contain your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked **on or before [Response Deadline]**.

You may also appear at the Final Approval Hearing and present your objection orally, regardless of whether you have submitted a Notice of Objection.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department [redacted] of the Alameda County Superior Court, located at Administration Building, 1221 Oak Street, Oakland, California 94612, on [date], at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Attorneys’ Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The Final Approval Hearing may be continued without further notice to the Class Members and PAGA Employees. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers, which are on file with the Court.

The pleadings and other records in this litigation may be examined online on the Alameda County Superior Court’s website, known as “eCourt Public Portal,” at <https://portal.alameda.courts.ca.gov>. After arriving at the website, click the “Searches” tab at the top of the page, then select the Document Downloads link, enter the case number (21CV003541) and click “Submit.” Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

You may also visit the Settlement Administrator’s website at [redacted] for key documents in the Action.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.