

**SETTLEMENT AGREEMENT AND RELEASE OF INDIVIDUAL CLAIMS AND
PRIVATE ATTORNEYS GENERAL ACT CLAIM**

This Settlement Agreement and Release of Individual Claims and Private Attorneys General Act Claim ("Settlement Agreement") is made by and between, on the one hand, Carlos Salcido ("Plaintiff"), individually, and on behalf of all other similarly situated PAGA Members and the State of California, and on the other hand, NCRC, Inc. d/b/a Nationwide Construction and Repair Company ("Defendant"). Plaintiff and Defendant are collectively referred to herein as the "Parties" and may be individually referred to as a "Party."

A. Definitions

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. "Action" or "Lawsuit" means and refers to *Carlos Salcido, et al. v. NCRC, Inc. d/b/a Nationwide Construction and Repair Company*, Kern County Superior Court Case No. BCV-22-101027. The operative complaint in the Action is the Representative Action Complaint filed on April 28, 2022.
2. "Arbitration" means and refers to *Carlos Salcido v. NCRC, Inc., d/b/a Nationwide Construction and Repair Company*, JAMS Ref. No. 5220002437.
3. "Active Date" means the latest of: (i) the Effective Date, if no objection is made or filed to the Settlement Agreement; (ii) if an objection is made or filed, but no appeal is filed, the expiration of the deadline for any appeals; and (iii) if an objection is made or filed, and an appeal is filed, the date that an appeal is resolved resulting in a court order approving this Settlement Agreement.
4. "Agreement" or "Settlement Agreement," shall mean this Settlement Agreement and Release of Individual Claims and Private Attorneys General Act Claim, together with all attached Exhibits.
5. "Attorneys' Fees and Costs" means the sum for which Plaintiff's Counsel shall make application to the Court, that shall not exceed one-third of the Gross Settlement Amount (estimated to be \$23,750), and actual litigation costs, not to exceed \$1,000, which shall be paid out of the Gross Settlement Amount.
6. "Court" shall mean the Superior Court of the State of California, County of Kern.
7. "Defendant's Counsel" means and refers to Keegan & Baker, LLP.
8. "Effective Date" means the date the Court approves the terms of the Settlement set forth in this Agreement and has entered the Final Order.
9. "Eligible Pay Period" means any pay period worked by a PAGA Member in California in a non-exempt position for Defendant at any time during the PAGA Period. Defendant represents there are 1,207 Eligible Pay Periods worked by PAGA Members from February 15, 2021 through September 1, 2023. If the actual number of pay periods increases by more than ten percent (10%) (i.e., if the total number of pay periods exceeds 1,327), Defendant will increase the Gross Settlement Amount proportionately for each pay period in excess of 1,327 (the "Escalator Payment").

10. "Final Order" means the Court's Order granting the Stipulation or Motion for Approval of the PAGA Settlement set forth in this Agreement, and dismissing the Action with prejudice.
11. "Funding Date" means fifteen (15) calendar days after the Active Date.
12. "Gross Settlement Amount" or "GSA" means the maximum settlement amount that Defendant will pay in connection with the Settlement of the Action. The GSA is Seventy-One Thousand Two Hundred Fifty Dollars (\$71,250), subject to the Escalator Payment memorialized in Paragraph 9, above. No part of the GSA shall revert to Defendant under any circumstances. Defendant shall pay no more and no less than the GSA to resolve the Action as described herein.
13. "LWDA Payment" means seventy-five percent (75%) of the PAGA Penalty Fund that shall be paid to the California Labor & Workforce Development Agency ("LWDA") pursuant to the PAGA for civil penalties.
14. "Net Settlement Amount" or "PAGA Penalty Fund" is the amount that remains after deduction of Plaintiff's Counsel's Attorneys' Fees and Costs, Plaintiff's General Release Payment, and the Settlement Administrator's fees and costs from the Gross Settlement Amount.
15. "Notice" means the written notice to be mailed to all PAGA Members with their settlement payment checks, once the Court enters its Final Order, and the Active Date occurs, in a form substantially similar to **Exhibit A**, and as approved by the Court.
16. "PAGA Member(s)" means any and all individuals who were employed by Defendant in a non-exempt position for at least one Eligible Pay Period in California during the PAGA Period.
17. "PAGA Settlement" or "Settlement" means the settlement of the Action memorialized in this Agreement.
18. "PAGA Period" or "Statutory Period" means the time period from February 15, 2021 through January 17, 2024.
19. "Plaintiff's Counsel" means Gaines & Gaines, APLC.
20. "Individual Claims" means all claims for wages, damages, penalties, interest, attorneys' fees and claims for individual PAGA penalties that were brought or could be brought by Plaintiff in Arbitration arising out of or related to his employment.
21. "Plaintiff's General Release Payment" means and refers to the individual settlement payment to Plaintiff in the amount of up to Fifteen Thousand Dollars (\$15,000) as consideration for Plaintiff's execution of this Agreement, including his general release of Individual Claims as to the Released Parties.
22. "Released Parties" means Defendant, and each and all of its past, present, and future subsidiaries, officers, directors, members, partners, owners, shareholders, employees, former employees, agents, servants, attorneys, assigns, affiliates, independent contractors, volunteers, predecessors, successors, parent companies and organizations, dual employers, service providers, contracting partners, subcontractors, employee benefit plans and

fiduciaries thereof, and all other persons and/or entities acting under, by, through, or in concert with any of them.

23. “Sanctions Award” refers to the Court’s award of attorneys’ fees in the amount of \$19,280 and costs in the amount of \$469.25 set forth in the Court’s December 12, 2023 Minute Order which granted Plaintiff’s motion to terminate the arbitration, lift the litigation stay, and awarded sanctions. The Sanctions Award is not a part of the Gross Settlement Amount.
24. “Settlement Administrator” means Phoenix Class Action Administration Solutions, or a different third-party administrator agreed to by the Parties and approved by the Court.

B. General

25. On or about February 15, 2022, Plaintiff sent a PAGA Notice to the LWDA, with a copy to Defendant via U.S. Certified Mail, alleging the following claims against Defendant: (1) failure to pay all wages due; (2) failure to pay proper premium wages to employees who were denied proper meal and rest periods; (3) failure to issue accurately itemized wage statements; (4) failure to reimburse business expenses; (6) failure to provide fully and accurately itemized wage statements; and (7) failure to timely pay wages during and upon separation of employment.

26. Without indication from the LWDA it intended to investigate the claims, on April 28, 2022, Plaintiff filed the Action in the Superior Court of California, County of Kern, which alleged the claims identified in Plaintiff’s PAGA Notice.

27. Defendant denies all of Plaintiff’s claims and allegations, as referenced in the Action and the PAGA Notice, and further denies any liability or wrongdoing of any kind associated with the claims alleged in the Action (or otherwise).

28. On or about August 12, 2022, Defendant successfully petitioned the Court to compel Plaintiff’s Individual Claims to arbitration and stay the Action.

29. On or about January 18, 2023, Plaintiff filed a Complaint in Arbitration for damages and individual penalties under PAGA.

30. Defendant denies all of Plaintiff’s claims and allegations, as referenced in the Arbitration, and further denies any liability or wrongdoing of any kind associated with the claims alleged in the Arbitration or otherwise.

31. On or about December 12, 2023, the Court granted Plaintiff’s motion to terminate the Arbitration, lift the stay, and issued the Sanctions Award to Plaintiff’s Counsel.

32. Defendant filed an appeal of the Sanction Award and the Court’s order terminating the arbitration, Court of Appeal, Fifth Appellate District of California, case number F087369, which is pending as of the date the Parties have executed this Agreement.

33. The Parties have conducted a thorough investigation into the facts of the Action and Arbitration. This included, among other things, informal discovery and exchanging extensive information and key documents relating to the underlying alleged violations. After engaging in several months of protracted settlement negotiations, the Parties reached the proposed Settlement described in this Agreement, and believe it is fair, reasonable, and adequate. The Parties understand,

acknowledge, and agree this Agreement constitutes a compromise of claims alleged by Plaintiff on behalf of both himself and the State of California and the LWDA, and the Individual Claims, and it is the desire and intention of the Parties to effect a final and complete resolution of the Individual Claims and representative claims Plaintiff has alleged against Defendant and/or any of the Released Parties. The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability by Defendant.

34. Under California Law, the State may assess and collect civil penalties from employers for violations of certain provisions of the Labor Code. Labor Code §§ 2698, *et seq.* Under PAGA, however, if an “aggrieved employee” “give[s] written notice by certified mail to the [State] and the employer of the specific provision of the [Labor Code] alleged to have been violated,” and the State thereafter decides not to investigate, as is the case here, or does investigate and determines a citation against the employer should not issue, the employee may, “as an alternative” to enforcement by the State, act as a proxy or agent of the state’s labor law enforcement agencies and bring a civil action under PAGA to recover civil penalties “on behalf of himself or herself and other current or former employees.” *Id.* “[C]ivil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the state and 25 percent to the aggrieved employees.” *Id.*

35. California Labor Code § 2699(1)(2) provides “[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part.”

36. In consideration of the promises and agreements contained herein, the Parties agree and covenant as follows:

C. **Terms of Settlement**

37. Subject to the Court’s approval of the Settlement pursuant to Labor Code § 2699(1)(2), which counsel and the Parties agree to recommend in good faith to the Court, the Parties agree to the following binding settlement of the Action.

38. No later than seven (7) days after this Agreement is fully executed by the Parties, Defendant shall pay the Sanctions Award to Plaintiff’s Counsel and dismiss the appeal with prejudice. Payment of the Sanctions Award and the dismissal of the appeal are not conditioned on the occurrence of the Active Date or Effective Date of this Agreement.

39. Upon the Court entering the Final Order and the Active Date occurring, Defendant shall pay the non-reversionary Gross Settlement Amount in the total sum of Seventy-One Thousand Two Hundred Fifty Dollars (\$71,250), subject to the Escalator Payment memorialized in Paragraph 9, above. The Gross Settlement Amount will be distributed in the following manner:

- a. **Settlement Administration Costs:** The costs associated with settlement administration will be paid from the Gross Settlement Amount, and shall not exceed \$4,000. The Administrator’s services will include, but not be limited to the following: updating PAGA Members’ mailing addresses through a search of the National Change of Address database maintained by the U.S. Post Office, and skip-tracing bad addresses on the return of the PAGA Members’ Notice and settlement payment checks; formatting and printing the Notice to be mailed to the PAGA Member with their settlement payment checks; calculating, issuing and mailing payments to LWDA and PAGA Members; performing tax reporting to the appropriate authorities, among other things called for by this Agreement. Subject to Court approval, the

Parties agree to use Phoenix Class Action Administration Solutions as the Settlement Administrator.

- b. **Attorneys' Fees and Costs:** The Parties agree that, subject to the Court's review and approval, Plaintiff's Counsel will be paid up to one-third of the GSA (\$23,750) from the GSA, as reasonable Attorneys' fees, plus actual litigation costs of up to \$1,000, also to be paid from the GSA, incurred to litigate the Action and to obtain Court approval of the Settlement. The Settlement Administrator will issue an IRS Form 1099 to Plaintiff's counsel for the Attorneys' Fees and Costs awarded. In no circumstance(s) shall Defendant be liable for any payment(s) of Attorneys' Fees and Costs separate from the GSA. Any lesser amount awarded by the Court shall not invalidate this Settlement Agreement.
- c. **Plaintiff's General Release Payment:** The Parties agree that, subject to the Court's review and approval, Plaintiff will be paid up to Fifteen Thousand Dollars (\$15,000), which is Plaintiff's General Release Payment and inclusive of release of his Individual Claims. Any lesser amount awarded by the Court shall not invalidate this Settlement Agreement.
- c. **PAGA Penalty Fund:** After deducting the Attorneys' Fees and Costs, Plaintiff's General Release Payment, and Settlement Administration Costs from the Gross Settlement Amount, the remaining net settlement amount, the PAGA Penalty Fund, will be apportioned as required by the PAGA, Labor Code section 2699(i), with distribution of 75% to the LWDA, (the "LWDA Payment") and 25% to the PAGA Members. The PAGA Penalty Fund shall encompass all payments to the LWDA and to the PAGA Members.
- e. **PAGA Penalty Fund Allocation:** The PAGA Penalty Fund, estimated at \$27,500 shall be allocated \$20,625 (75%) for the LWDA Payment, and \$6,875 (25%) to the PAGA Members, to be distributed on a proportionate basis, using the number of Eligible Pay Periods each PAGA Member was employed during the PAGA Period, as detailed in Paragraph 50, herein.
- f. **Taxes and Reporting:** Each PAGA Member's individual share will be treated as non-wage income for which the Administrator shall issue an IRS Form 1099 to be mailed together with the PAGA Member's settlement check, and reported to the applicable governmental authorities, if required by law as determined by the Settlement Administrator.

D. Release as to the PAGA Representative Claims

40. Upon approval by the Court of this Settlement, and subject to Defendant's payment of the GSA and the Sanctions Award, Plaintiff, individually and in his representative capacity on behalf the State of California and the PAGA Members will fully and finally release and discharge the Released Parties from all claims, rights, demands, liabilities, costs, Attorneys' fees, and causes of action for civil penalties under the PAGA, arising during employment by Defendant in California in a non-exempt position during the PAGA Period, based on the factual and legal allegations pled in the operative Representative Action Complaint that support or relate to the following alleged violations of law asserted by Plaintiff in the Action pursuant to PAGA: (1) failure to pay all wages due under Labor Code §§ 510, 558, 1194 and 1194.2 and IWC Wage Order 16-2001; (2) failure to pay premium wages to Plaintiff and other non-exempt Aggrieved Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 16-2001; (3) failure to pay

premium wages to Plaintiff and other non-exempt Aggrieved Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, 558 and IWC Wage Order 16-2001; (4) failure to reimburse Plaintiff and other Aggrieved Employees for necessary business expenses incurred in direct consequence of the discharge of their duties, in violation of Labor Code § 2802; (5) failure to timely pay Plaintiff and other Aggrieved Employees all wages due during their employment, in violation of Labor Code §§ 204 and 210; (6) failure to provide Plaintiff and other non-exempt Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a); and (7) failure to pay Plaintiff and other Aggrieved Employees all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202 (the “Released PAGA Claims”).

41. In accordance with *Arias v. Superior Court* (2009) 46 Cal.4th 969, a judgment in “a representative action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of 2004 ... is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding,” which the Final Order shall so reflect. The Final Order shall not bind or release the PAGA Members’ individual wage claims (or other individual claims), other than Plaintiff. However, in accordance with *Arias*, the Final Order shall be binding on the PAGA Members as to the Released PAGA Claims. A statement to this effect shall be included in the Notice sent to the PAGA Members mailed together with their Settlement payment checks and IRS 1099 Forms.

E. Release by Plaintiff

42. Upon approval by the Court of this Settlement, and subject to Defendant’s payment of the GSA and the Sanctions Award, except for claims created or preserved by this Agreement, Plaintiff, for himself and his heirs, executors, beneficiaries, successors, assignees, immediate family members, and any other person or entity who could now or hereafter assert a claim in his name or on his behalf, hereby releases and forever discharges the Released Parties from the Individual Claims and any and all past, present, or future claims, lawsuits, demands, actions, or causes of action (collectively “Claims”), which Plaintiff now has, owns, or holds, or claims to have, own, or hold, or which Plaintiff at any time heretofore had owned or held, or claimed to have had, owned, or held, up to the date of execution of this Agreement, including but not limited to any and all Claims relating to Plaintiff’s employment with NCRC and any other Released Parties, and/or the cessation of such employment, and/or any alleged mistreatment of Plaintiff of any kind and/or relating to any aspect of any relationship or dealing or interaction or communication of any kind involving Plaintiff or any of the other Released Parties. The scope of what Plaintiff releases in this Agreement includes, but is not limited to, a full general release by Plaintiff of any and all Claims or potential Claims that Plaintiff may have against NCRC and/or against any of the other Released Parties for any and all injunctive relief, declaratory relief, physical injury, personal injury, and/or injury of any and all other kinds, and/or any and all other kinds of alleged damages, or other monetary obligation, or obligation of any other sort, including but not limited to any and all compensatory damages, emotional distress damages, punitive damages, costs, attorneys’ fees, and any and all other kinds of damages that are based in whole or in part on any act or omission occurring before this Agreement becomes effective.

43. This Agreement does not release any rights or claims that arise after the date of execution of this Agreement, including any claim for breach of this Agreement. It is expressly stipulated by the Parties that neither Plaintiff nor NCRC is to be considered a prevailing party for any purpose.

44. **Waiver of Section 1542.** The Parties hereby state that their intention in executing this Agreement is that the same shall be effective as a bar to each and every claim, demand, cause of action, obligation, damage, liability, charge, attorneys' fees and costs released herein. The Parties hereby expressly waive and relinquish all rights and benefits, if any, arising under the provisions of Section 1542 of the Civil Code of the State of California, which provides:

Section 1542. [Certain Claims Not Affected By General Release.]

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

F. Settlement Approval and Implemental Procedures

45. Plaintiff's Counsel shall prepare a stipulation or motion for approval of the Settlement pursuant to California Labor Code § 2699(1)(2). Defendant shall not oppose any such motion or stipulation provided (a) Plaintiff's Counsel sends a draft of the motion or stipulation for approval to Defendant's Counsel at least seven (7) calendar days before it is filed and Defendant's Counsel agrees, in writing, to the filing of the motion or stipulation; and (b) the motion is consistent with the terms of this Settlement Agreement. Defendant's Counsel will work with Plaintiff's Counsel to provide Plaintiff's Counsel with, and allow Plaintiff's Counsel to submit to the Court, adequate information related to the Released PAGA Claims to obtain approval of the Settlement pursuant to a reasonable request by Plaintiff's Counsel. As required by Labor Code, at the time the motion for approval of the Settlement is filed with the Court, Plaintiff's Counsel shall submit the stipulation or motion, together with its exhibits, to the LWDA.

46. Within three (3) business days after the Active Date, the Settlement Administrator shall send Defendant's Counsel electronic wiring instructions to fund the Gross Settlement Amount.

47. No later than the Funding Date, Defendant will send to the Settlement Administrator a list which shall provide for each PAGA Member, the following information: (1) full name; (2) last known address; (3) social security number; and (4) the number of Eligible Pay Periods (the "Data List"). The fact that Defendant may not possess/maintain/know any or all of the PAGA Members' last known contact information shall not constitute a breach of this Agreement or be grounds for enforcement; however, Defendant will conduct a reasonable search and diligent inquiry to obtain such information and provide to the Settlement Administrator. The Data List shall be treated as and remain confidential and be used solely to manage the notice and payment process described herein, and for no other purpose, and shall not be disclosed to anyone other than the Settlement Administrator, except as may be required by applicable taxing authorities, or pursuant to express written authorization of Defendant, the PAGA Members or by order of the Court.

48. No later than the Funding Date, Defendant shall wire the Gross Settlement Amount, i.e., \$71,250 to the Settlement Administrator. Upon receipt of payment from Defendant, the Administrator will distribute the Gross Settlement Amount as ordered by the Court. If additional payments are required to fund the GSA pursuant to the of the Escalator Payment clause memorialized in Paragraph 9, above, Defendant shall fund that payment no later than ten (10) calendar days after the Settlement Administrator confirms the additional amount due. The Gross Settlement Amount must be fully funded before any disbursements will be made. Should Defendant fail to fund the Gross Settlement Amount at the time and in the amounts as provided for by this Agreement, and unless otherwise agreed upon by the Parties or ordered by the Court, Plaintiff may elect to enforce this Agreement or, at his option, this Agreement and the settlement described within

it, shall be rescinded, and the Parties shall be restored to their respective positions as of January 17, 2024.

49. The Settlement Administrator will perform all settlement administration duties, including (i) a National Change of Address (“NCOA”) database search, (ii) skip trace to update PAGA Member addresses on the return of undelivered Notices and checks; , (iii) issuing the Notice and payments to Plaintiff and all PAGA Members, (iv) issuing all required IRS forms, and reporting same to the applicable taxing authorities; and (v) issuing payment to the LWDA, PAGA Members, Plaintiff’s Counsel and to itself, with payment coming from the Gross Settlement Amount.

50. The Administrator shall have the authority and obligation to calculate the amounts of the PAGA Members' Settlement payments in accordance with the methodology set forth in this Agreement and orders of the Court. Each PAGA Member will be eligible to receive a Settlement payment based on the total number of his/her Eligible Pay Periods worked during the PAGA Period in relation to the aggregate number of Eligible Pay Periods worked by all PAGA Members during the PAGA Period, e.g.

$$\text{PAGA Member Payment} = \$ \text{____} \times \frac{\text{PAGA Member's Number of Eligible PAGA Pay Periods}}{\text{All PAGA Members' Eligible PAGA Pay Periods}}$$

51. All disbursements to the PAGA Members, Plaintiff, the LWDA, the Settlement Administrator, and Plaintiff's Counsel required under this Settlement Agreement shall be made within ten (10) business days after Defendant fully funds the GSA. Prior to disbursement, the Settlement Administrator will forward its calculations of the PAGA Members' Settlement payments to all counsel, and receive approval from all counsel as to such amounts. Any Party's failure to respond to the Settlement Administrator's request for approval within five (5) business days shall be deemed approval of the calculations.

52. PAGA Members shall have 180 calendar days after mailing to cash their individual settlement checks. If any PAGA Member's check is not cashed within that period, the check will be voided and a stop-payment will be issued. Any funds in the Settlement Administrator's account as a result of a failure to timely cash a settlement check shall be transmitted to the California State Controller's Unclaimed Property Fund in the name of each respective PAGA Member whose check was uncashed and voided. Neither Defendant, Defendant's Counsel, Plaintiff's Counsel, nor Plaintiff will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Settlement will be paid out to PAGA Members whether or not they all cash their settlement checks. Therefore, Defendant will not be required to pay any interest on said amount. In no circumstance(s) shall Defendant be liable for any interest payment(s).

53. By no later than 240 days after mailing Settlement payment checks to all PAGA Members, the Settlement Administrator shall provide Plaintiff's Counsel and Defendant's Counsel with a declaration setting forth the disbursements made to the PAGA Members, the LWDA, Plaintiff's Attorneys for attorneys' fees and litigation costs, and to itself, and shall include information regarding the number of uncashed checks as of that date, the aggregate sum of uncashed checks, and the timeline for transmittal of sum represented by all uncashed checks to California's Controller, Unclaimed Property Division, (if applicable).

G. Miscellaneous Provisions

54. **Eligible Pay Periods:** Defendant has represented there are approximately 1,207 Eligible Pay Periods worked by the PAGA Members between February 15, 2021 and September 1, 2023.

55. **Voiding the Agreement:** With the sole exception of the Sanctions Award and the dismissal of the appeal, the Settlement Agreement shall be voidable and unenforceable as to all Parties herein at the option of either Party if (a) the Court should for any reason fail to grant final approval of this Settlement, or (b) the Court should for any reason fail to enter a dismissal with prejudice of the Action, or (c) the approval of the Settlement and dismissal is reversed or declared or rendered void by a court of competent jurisdiction. In that event, then neither the Settlement nor any of the related negotiations or proceedings shall be of any force or effect, and all Parties to the Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Notwithstanding the foregoing, the Parties may attempt in good faith to cure any perceived defects in the Settlement to facilitate approval. For the avoidance of doubt, in the event the Court reduces or modifies the award of Attorneys' Fees and Costs or award of Plaintiff's General Release Payment provided in this Settlement Agreement, such reduction or modification shall not render this Settlement Agreement voidable or unenforceable.

56. **Waiver:** The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

57. **Parties' Authority:** The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

58. **Mutual Full Cooperation:** The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Plaintiff's Counsel shall, with the assistance and cooperation of Defendant and Defendant's counsel, take all necessary steps to secure the Court's approval of the Settlement, and the Final Order.

59. **No Prior Assignments:** The Parties hereto represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights released and discharged by this Settlement Agreement.

60. **No Admission:** Defendant denies any and all liability to Plaintiff and/or the PAGA Members in this Action, as to any and all causes of action that were asserted or that might have been asserted in this Action based on the facts set forth in the Representative Action Complaint. Nonetheless, Defendant wishes to settle and compromise the matters at issue in the Action to avoid further substantial expense and the inconvenience and distraction of protracted and burdensome litigation. Defendant also has taken into account the uncertainty and risks inherent in litigation, and without conceding any infirmity in the defenses that it has asserted or could assert against Plaintiff,

have determined that it is desirable and beneficial that Plaintiff's claims be settled in the manner and upon the terms and conditions set forth in this Agreement.

61. **Binding Settlement:** Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document and shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement.

62. **Enforcement Actions:** This Agreement is binding and enforceable under California Code of Civil Procedure section 664.6, and the Court shall retain jurisdiction to enforce this Agreement. Except as otherwise provided in this Settlement Agreement, in the event that one or more of the Parties to this Settlement Agreement institutes any action or proceeding in this case under Section 664.6 or otherwise or separate legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs incurred in connection with any enforcement actions.

63. **Notices:** Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff:

Daniel F. Gaines
Alex P. Katofsky
Gaines & Gaines, APLC
4550 E Thousand Oaks Blvd, Suite 100
Westlake Village, CA 91362

To Defendant:

John J. Weber
Keegan & Baker, LLP
5820 Oberlin Drive, Suite 205
San Diego, California 92121

64. **Construction:** The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Settlement Agreement.

65. **Captions and Interpretations:** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or

describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

66. **Modification**: This Settlement Agreement may not be materially changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. Non-material changes requested by the Court may be made upon stipulation signed by all counsel. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

67. **Choice of Law**: This Settlement Agreement shall be governed by and construed, enforced and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

68. **Integration Clause**: This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

69. **Continuing Jurisdiction**: After entry of the Final Order, the Court will have continuing jurisdiction under California Code of Civil Procedure § 664.6 and as otherwise allowed by law solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters; and (iii) such post-Final Order matters as may be appropriate under court rules or as set forth in this Settlement.

70. **Waiver of Appeals**: The Parties waive all appeals from the Court's approval of the Agreement, unless the Court materially modifies the Agreement and/or unless a non-Party files an appeal.

71. **Binding On Assigns**: This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

72. **Counterparts**: This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic delivery shall be deemed an original.

IN WITNESS WHEREOF, the parties knowingly and voluntarily executed this Settlement Agreement and Release of PAGA Claim as of the date set forth below.

Dated: 01 / 28 / 2024

By: 
Plaintiff, Carlos Salcido

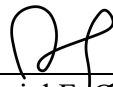
Dated: _____

By: _____
Defendant, NCRC, Inc. d/b/a Nationwide
Construction and Repair Company

AS TO FORM:

Gaines & Gaines, APLC

Dated: 01/29/2024

By: 
Daniel F. Gaines, Attorney for Plaintiff
Carlos Salcido

Keegan & Baker, LLP

Dated: _____

By: _____
John J. Weber, Attorneys for Defendant
NCRC, Inc. d/b/a Nationwide Construction
and Repair Company

IN WITNESS WHEREOF, the parties knowingly and voluntarily executed this Settlement Agreement and Release of PAGA Claim as of the date set forth below.

Dated: _____

By: _____
Plaintiff, Carlos Salcido

Dated: 1/29/2024

By: _____
Defendant, NCRC, Inc. d/b/a Nationwide
Construction and Repair Company
By: David Marabella
Its: CEO

AS TO FORM:

Gaines & Gaines, APLC

Dated: _____

By: _____
Daniel F. Gaines, Attorney for Plaintiff
Carlos Salcido

Keegan & Baker, LLP

Dated: 1/29/2024

By: _____
John J. Weber, Attorneys for Defendant
NCRC, Inc. d/b/a Nationwide Construction
and Repair Company

EXHIBIT A

«DATE»

«FIRST_NAME» «LAST_NAME»

«ADDRESS 1»

«ADDRESS 2»

Re: Settlement Payment from *Carlos Salcido, et al. v. NCRC, Inc. d/b/a Nationwide Construction and Repair Company*

Dear «FIRST_NAME» «LAST_NAME»

By order of the Kern County Superior Court, enclosed is your payment from the settlement of the *Carlos Salcido, et al. v. NCRC, Inc. d/b/a Nationwide Construction and Repair Company*, litigation filed in the Kern County Superior Court, Case No. BCV-22-101027 (the “Lawsuit”).

The Lawsuit was filed against NCRC, Inc. d/b/a Nationwide Construction and Repair Company (referred to as “Defendant”) under the California Private Attorneys General Act of 2004, Cal. Labor Code §§ 2698, *et seq.* (abbreviated “PAGA”) for alleged violations of the California Labor Code. The claim was brought on behalf of the State of California and all non-exempt individuals employed by Defendant in California at any time from February 15, 2021 through January 17, 2024 (“PAGA Members”). You have been identified as a PAGA Member, on whose behalf the case was brought.

The plaintiff in the Lawsuit claimed Defendant owed civil penalties under PAGA for violating certain provisions of the California Labor Code. The provisions of the California Labor Code that were alleged to have been violated are: (1) failure to pay all wages due; (2) failure to proper premium wages to employees who were denied proper meal and rest periods; (3) failure to issue accurately itemized wage statements; (4) failure to reimburse business expenses; (6) failure to provide fully and accurately itemized wage statements; and (6) failure to timely pay wages during and upon separation of employment. Defendant vigorously denies it did anything wrong or owes any PAGA penalties to the State of California or to PAGA Members.

The Kern County Superior Court has not ruled on the merits of the Lawsuit but it has approved the settlement between the Parties, including the civil penalties settlement amount to be paid by Defendant. Pursuant to California law, a portion of that settlement amount goes to the State of California’s Labor and Workforce Development Agency, (“LWDA”). Another portion of the settlement amount goes to the PAGA Members. In agreeing to this settlement, Defendant does not admit that it is liable in any way to any individuals for the alleged violations. The settlement of this Lawsuit and Final Approval Order does not in any way release a PAGA Member’s individual claims, to the extent a PAGA Member may have any individual claims.

You are receiving this payment as your share of the settlement. You have 180 days to cash the settlement check. If you do not cash your check by this date, the money will be transferred to the State of California Unclaimed Property Fund, from which you may recover the money at a future time. You will receive an IRS Form 1099 form for the amount of your settlement check, if required by law. If you have lost or misplaced your settlement check, you should contact the Administrator at the toll-free number shown at the top of this letter. It is strongly recommended that all checks be cashed immediately upon receipt. Defendant will not in any manner retaliate against any individual who cashes their settlement check.

You are not a party to the Lawsuit, but you and the State of California will be bound by the order in this matter approving the settlement in the Lawsuit, as well as to the release of

claims in this Lawsuit, stated below, only as to civil penalties under PAGA.

The Court-approved settlement contains the following release of claims, to which you are bound:

Upon approval by the Court of this Settlement, and subject to Defendant's payment of the GSA and the Sanctions Award, Plaintiff, individually and in his representative capacity on behalf the State of California and the PAGA Members will fully and finally release and discharge the Released Parties from all claims, rights, demands, liabilities, costs, attorney's fees, and causes of action for civil penalties under the PAGA, arising during employment by Defendant in California in a non-exempt position during the PAGA Period, based on the factual and legal allegations pled in the operative Representative Action Complaint that support or relate to the following alleged violations of law asserted by Plaintiff in the Action pursuant to PAGA: (1) failure to pay all wages due under Labor Code §§ 510, 558, 1194 and 1194.2 and IWC Wage Order 16-2001; (2) failure to pay premium wages to Plaintiff and other non-exempt Aggrieved Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 16-2001; (3) failure to pay premium wages to Plaintiff and other non-exempt Aggrieved Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, 558 and IWC Wage Order 16-2001; (4) failure to reimburse Plaintiff and other Aggrieved Employees for necessary business expenses incurred in direct consequence of the discharge of their duties, in violation of Labor Code § 2802; (5) failure to timely pay Plaintiff and other Aggrieved Employees all wages due during their employment, in violation of Labor Code §§ 204 and 210; (6) failure to provide Plaintiff and other non-exempt Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a); and (7) failure to pay Plaintiff and other Aggrieved Employees all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202 (the "Released PAGA Claims").

The "Released Parties" means Defendant, and each and all of its past, present, and future subsidiaries, officers, directors, members, partners, owners, shareholders, employees, former employees, agents, servants, attorneys, assigns, affiliates, independent contractors, volunteers, predecessors, successors, parent companies and organizations, dual employers, service providers, contracting partners, subcontractors, employee benefit plans and fiduciaries thereof, and all other persons and/or entities acting under, by, through, or in concert with any of them.

If you have any questions, you can contact the settlement administrator (whose contact information is at the top of this letter), or Plaintiff's Counsel as follows:

Attorneys for Plaintiff Carlos Salcido:

Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
GAINES & GAINES, APLC
4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Telephone: (866) 550-0855

**PLEASE DO NOT CONTACT THE COURT OR THE JUDGE WITH ANY
QUESTIONS ABOUT THE LAWSUIT OR THE SETTLEMENT**