

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Francisco Cervantes (“Plaintiff”) and Defendant Alpha Materials, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “**Action**” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Francisco Cervantes v. Alpha Materials, Inc.*, Case No. CVRI2201967, initiated on May 17, 2022 and pending in Superior Court of the State of California, County of Riverside.
- 1.2 “**Administrator**” means Phoenix Class Action Administration Solutions the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “**Administration Expenses Payment**” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4 “**Aggrieved Employee**” means all non-exempt employees who worked for Defendant in California during the PAGA Period.
- 1.5 “**Class**” means all non-exempt employees who worked for Defendant in California during the Class Period.
- 1.6 “**Class Counsel**” means Zachary Crosner, Jamie Serb, and Nikki Trenner of Crosner Legal, PC.
- 1.7 “**Class Counsel Fees Payment**” and “**Class Counsel Litigation Expenses Payment**” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8 “**Class Data**” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if available), and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9 “**Class Member**” or “**Settlement Class Member**” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10 “**Class Member Address Search**” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of

Address database, skip traces, and direct contact by the Administrator with Class Members.

- 1.11 “**Class Notice**” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- 1.12 “**Class Period**” means the period from May 18, 2018, through the earlier of either (1) the date the Court enters an order granting Preliminary Approval or (2) November 5, 2023.
- 1.13 “**Class Representative**” means the named Plaintiff, Francisco Cervantes, in the operative complaint in the Action seeking Court approval to serve as a Class Representatives.
- 1.14 “**Class Representative Service Payment**” means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.15 “**Court**” means the Superior Court of California, County of Riverside.
- 1.16 “**Defendant**” means named Defendant Alpha Materials, Inc.
- 1.17 “**Defense Counsel**” means Eric H. DeWames and Gregory B. Wilbur of Michael Sullivan & Associates LLP.
- 1.18 “**Effective Date**” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19 “**Final Approval**” or “**Final Approval Order**” means the Court’s Order Granting Final Approval of the Settlement.
- 1.20 “**Final Approval Hearing**” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “**Final Judgment**” means the Judgment entered by the Court upon granting Final Approval of the Settlement.
- 1.22 “**Gross Settlement Amount**” means Two Hundred Ninety-Five Thousand Dollars and No Cents (\$295,000.00), which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 8 below. Defendant is also

responsible for paying, separate and apart from the Gross Settlement Amount, Defendant's share of payroll taxes on the wage portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administrator's Expenses.

- 1.23 **"Individual Class Payment"** means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24 **"Individual PAGA Payment"** means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25 **"Judgment"** means the judgment entered by the Court based upon the Final Approval.
- 1.26 **"LWDA"** means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27 **"LWDA PAGA Payment"** means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28 **"Net Settlement Amount"** means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29 **"Non-Participating Class Member"** means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30 **"Objection"** means a Class Member's written objection to the Settlement, as contained in the form attached as **Exhibit B**.
- 1.31 **"Operative Complaint"** means the First Amended Complaint filed with the Court on July 6, 2022.
- 1.32 **"PAGA Pay Period"** means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.33 **"PAGA Period"** means the period from May 2, 2021 through the earlier of either (1) the date the Court enters an order granting Preliminary Approval or (2) November 5, 2023.
- 1.34 **"PAGA"** means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

- 1.35 **“PAGA Notice”** means Plaintiff’s letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.36 **“PAGA Penalties”** means the total amount of PAGA civil penalties (\$15,000) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$3,750) and 75% to LWDA (\$11,250) in settlement of PAGA claims.
- 1.37 **“Participating Class Member”** means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.38 **“Plaintiff”** means Francisco Cervantes, the named plaintiff in the Action.
- 1.39 **“Preliminary Approval”** means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.40 **“Preliminary Approval Order”** means the proposed Order Granting Preliminary Approval of the Settlement.
- 1.41 **“Released Class Claims”** means the claims being released as described in Paragraph 5.2 below.
- 1.42 **“Released PAGA Claims”** means the claims being released as described in Paragraph 5.3 below.
- 1.43 **“Released Parties”** means Defendant and each of its former and present directors, officers, employees, and owners.
- 1.44 **“Request for Exclusion”** means a Class Member’s written request to be excluded from the Class Settlement, as contained in the form attached as **Exhibit C**.
- 1.45 **“Response Deadline”** means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.46 **“Settlement”** means the disposition of the Action effected by this Agreement and the Judgment.
- 1.47 **“Workweek”** means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

- 2.1 On May 17, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) unpaid minimum wages and liquidated damages; (2) unpaid overtime wages; (3) failure to provide meal periods; (4) failure

to provide rest periods; (5) failure to furnish accurate wage statements; (6) failure to timely pay wages due upon separation of employment; (7) failure to reimburse business expenses; and (8) violations of the Unfair Competition Law. Thereafter, Plaintiff filed a First Amended Complaint adding a cause of action under the PAGA. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3 On August 7, 2023, the Parties participated in an all-day mediation presided over by Louis Marlin which led to this Agreement to settle the Action.
- 2.4 Prior to mediation Plaintiff obtained, through informal discovery, Plaintiff's personnel file, including time and payroll records, the employee handbooks in effect during the Class Period, including policies and procedures regarding the payment of wages, the provision of meal and rest breaks, timekeeping policies (including recording hours), issuance of wage statements, and termination wages, a random sampling of approximately 20% of the payroll and time records for the Class Members, the number of putative Class Members, mix of current versus former employees, and the estimated number of workweeks, among other information. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal. App. 4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-130 ("*Dunk/Kullar*").
- 2.5 The Court has not yet granted class certification.
- 2.6 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1 **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$295,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2 **Payments from the Gross Settlement Amount.** The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval Order:

3.2.1 **To Plaintiff:** A Class Representative Service Payment to the Class Representatives of not more than \$5,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for the Class Representative Service Payment that does not exceed this amount. As part of the Final Approval motion, Plaintiff will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 **To Class Counsel:** A Class Counsel Fees Payment of not more than 33.3%, which is currently estimated to be \$98,333.33 and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendant will not oppose requests for these payments provided that do not exceed these amounts. As part of the Final Approval motion, Plaintiff and/or Class Counsel will request approval of the Class Counsel Fees Payment and Class Litigation Expenses Payment. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment.

3.2.3 **To the Administrator:** An Administrator Expenses Payment not to exceed \$7,750.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than the requested amount, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 **To Each Participating Class Member:** An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number

of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. All Participating Class Members will be credited with at least one Workweek.

3.2.4.1 Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$15,000.00 to be paid from the Gross Settlement Amount, with 75% (\$11,750.00) allocated to the LWDA PAGA Payment and 25% (\$3,250.00) allocated to the Individual PAGA Payments.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$3,250.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. All Aggrieved Employees will be credited with at least one PAGA Period Pay Period.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1 **Class Workweeks.** Based on a review of its records to date, Defendant estimates there are approximately 140 Class Members who collectively worked a total of 12,751 Workweeks.
- 4.2 **Class Data.** Not later than 10 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3 **Funding of Gross Settlement Amount.** Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 10 days after the Effective Date.
- 4.4 **Payments from the Gross Settlement Amount.** Within 10 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.4.1 The Administrator will issue checks for the Individual Class Payments and Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The envelope transmitting a settlement payment to a Participating Class Member or Aggrieved Employee shall bear the notation, "YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED." The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class

Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.4.2 The Administrator must conduct a Class Member Address Search for all other Participating Class Members and Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Participating Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Participating Class Member and/or Aggrieved Employee whose original check was lost or misplaced, requested by the Participating Class Member and/or Aggrieved Employee prior to the void date.
- 4.4.3 **Undeliverable Checks to Current Employees.** If any settlement checks returned as undeliverable belong to Participating Class Members or Aggrieved Employees who are current employees of the Defendant, and the Administrator is unable to locate a valid mailing address for the employees, the Administrator shall arrange with the Defendant to have those settlement checks delivered to the employees at their place of employment.
- 4.4.4 **Reminder Postcard.** The Administrator shall mail a reminder postcard to any Participating Class and/or Aggrieved Employee whose settlement check has not been negotiated within 60 days after the date of mailing.
- 4.4.5 For any Participating Class Member and/or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.6 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Participating Class Members or Aggrieved

Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

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

5.1 **Plaintiff's Release.** As of the Effective Date, Plaintiff shall give the following general release of claims for Plaintiff and his respective spouses, heirs, successors and assigns, and forever release the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, from the beginning of time through the date of their signature on this Agreement, known or unknown, suspected or unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to his employment with Defendant or the remuneration for, or termination of, such employment. This release excludes any release of any claims not permitted to be released by law.

5.2 **Release by Participating Class Members.** As of the Effective Date, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, including, (a) Failure to Pay Minimum Wages (Cal. Lab. Code §1194); (b) Failure to Pay Overtime (Cal. Lab. Code § 510); (c) Failure to Provide Meal Periods (Cal. Lab. Code § 226.7); (d) Failure to Provide Rest Periods (Cal. Lab. Code § 226.7); (e) Failure to Compensate for Non-Productive Time (Cal. Lab. Code § 226.2); (f) Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); (g) Failure to Reimburse Business Expenses (Cal. Lab. Code § 2802); and (h) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.). Participating Class Members' only release these claims for the duration of the Class Period. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 **PAGA Release:** Plaintiff and the State of California release all claims for statutory penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiff's PAGA Notice, as alleged in the Operative Complaint including (a) Failure to Pay Minimum Wages (Cal. Lab. Code §1194); (b) Failure to Pay Overtime (Cal. Lab. Code § 510); (c) Failure to Provide Meal Periods (Cal. Lab. Code

§ 226.7); (d) Failure to Provide Rest Periods (Cal. Lab. Code § 226.7); (e) Failure to Compensate for Non-Productive Time (Cal. Lab. Code § 226.2); (f) Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); (g) Failure to Reimburse Business Expenses (Cal. Lab. Code § 2802); (h) Failure to Adopt a Compliant Sick Pay Policy (Cal. Lab. Code § 246); (i) Record Keeping Violations (Cal. Lab. Code § 1174); (j) Failure to Produce Employment Records (Cal. Lab. Code §§ 226, 432, and 1198.5); (k) Refusal to Make Payment (Cal. Lab. Code § 216); (l) Statutory Wage Violations (Cal. Lab. Code § 223); (m) Standard Conditions of Labor Violations (Cal. Lab. Code §§ 1198-1199); and (n) Background Check Violations (Cal. Lab. Code §§ 432.5, 432.7, and 1024.5). Plaintiff does not release any Aggrieved Employees' claims for wages or damages. This release only releases these claims for the duration of the PAGA Period.

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

6.1 Defendant's and Defense Counsel's Declaration in Support of Preliminary Approval. Prior to filing the Motion for Preliminary Approval, Defendant and Defense Counsel will prepare and deliver to Class Counsel signed Declarations from Defendant and Defense Counsel disclosing (1) the existence of any potential conflicts of interests with the Administrator, (2) all facts relevant to any actual or potential conflicts of interest with the Administrator, (3) whether Defense Counsel is aware of any class, representative or other collective action in any other court in this or any other jurisdiction that asserts claims similar to those asserted in this action on behalf of a class or group of individuals with some or all of whom would also be Class Members in this Action, (4) the name and class number of any such case, the nature of the claims asserted, the definition of the class or other parties on whose behalf the action is brought, and the procedural status of that case, (5) Defendant's Declaration must also include a statement concerning the likely age, education, and experience of the Class Members, and of their ability to read and comprehend English.

6.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval; (iii) a draft proposed Class Notice, including Objection and Request for Exclusion forms; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; whether the fee listed in the bid is (1) fixed, (2) hourly, or (3) hourly with a cap, along with an explanation of how the fee was calculated; experience; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage

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

- 6.3 **Responsibilities of Counsel.** Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Administrator.
- 6.4 **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 **Selection of Administrator.** The Parties have jointly selected to serve as the Administrator and verified that, as a condition of appointment, Phoenix Class Action Administration Solutions agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator

other than a professional relationship arising out of prior experiences administering settlements.

- 7.2 **Employer Identification Number.** The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 **Qualified Settlement Fund.** The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4 **Notice to Class Members.**
 - 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
 - 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit A**, along with the Objection and Request for Exclusion forms, attached to this Agreement as **Exhibits B and C**, respectively. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
 - 7.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
 - 7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

- 7.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). The Request for Exclusion form shall (i) instruct the Class Member seeking exclusion that the exclusion form must be mailed or delivered the Administrator, (ii) state the name and address of the Administrator, and (iii) state the day by which the Request for Exclusion form must be mailed or otherwise delivered. The information required to be provided by a Class Member on the Request for Exclusion form shall not exceed the minimum information necessary to (i) identify the person as a Class Member and (ii) contact the person to clarify any uncertainties. The Request for Exclusion Form shall indicate that exclusion from the class settlement will not result in exclusion from any PAGA settlement. To be valid, a Request for Exclusion must be timely postmarked or otherwise delivered by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of

the Settlement regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Non-Participating Class Members who are Aggrieved Employees will remain eligible for an Individual PAGA Payment.

7.6 **Challenges to Calculation of Workweeks.** Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 **Objections to Settlement.**

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement.

7.7.2 Participating Class Members may send written objections to the Settlement. The Objection form (**Exhibit B**) shall (i) instruct the objection Class Member that the objection must be mailed or delivered to the Administrator, (ii) state the name and address of the Administrator, and (iii) state the Response Deadline. The information required to be provided by an objecting Class member on the Objection Form shall not exceed the minimum information necessary to (i) identify the objector as a person entitled to object to the Settlement, (ii) describe the nature of and basis for the objection, and (iii) contact the objector to clarify any uncertainties. Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

- 7.7.3 **Non-Participating Class Members** have no right to object to any of the class action components of the Settlement.
- 7.8 **Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.
- 7.8.1 **Website, E-Mail Address, and Toll-Free Number.** The Administrator will maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails. The Administrator will post the Court's final judgment on its website, for which the Class Notice will direct Class Members to check, following the hearing on Plaintiff's Motion for Final Approval. The posting of the final judgment on the Administrator's website will satisfy the requirements of Cal. Rules of Court, rule 3.771(b).
- 7.8.2 **Requests for Exclusion and Exclusion List.** The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 7.8.3 **Weekly Reports.** The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 **Workweek and/or Pay Period Challenges.** The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 **Administrator's Declaration.** Not later than 14 days after the Response Deadline, the Administrator will provide to Class Counsel and Defense

Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to: (a) a description of both the administrator's distribution of the Class Notice, Objection Form, Exclusion Form, and the results thereof, distinguishing between valid forms and any invalid forms that are untimely, incomplete, or otherwise invalid; (b) attaching and authenticating copies of the final versions of the Class Notice, Objection form, and Request for Exclusion form; (c) attaching and authenticating copies of every Objection form and Request for Exclusion form received; (d) an English translation of any Objection form or Request for Exclusion from received that is not in English; (d) a description of the services performed by the Administrator to the date of the declaration, including the time and expense incurred to perform those services and the fee charged for the services; (e) a description of the services to be performed by the Administrator after the date of the declaration, including an estimate of the time and expenses needed to perform those services and the estimated fee for those services; and (f) an estimate of the Defendant's payroll taxes that will need to be paid in addition to the Gross Settlement Amount. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6 **Final Report by Settlement Administrator.** Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to (i) the date the checks were mailed, (ii) the total number of checks mailed to Class Members, (iii) the average amount of those checks, (iv) the number of checks that remain uncashed, (v) the total value of those uncashed checks, (vi) the average amount of the uncashed checks, and (vii) the nature and date of the disposition of the uncashed funds.

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.

8.1 Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there are approximately 140 Class Members who worked approximately 12,751 Total Workweeks during the Class Period.

8.2 The Gross Settlement Amount was agreed upon based on Defendant's representations of the total number of Workweeks in the Class Period. If by the time the administrator receives the class data, the workweeks increase by more than

10% (1,275 workweeks) Plaintiff shall have the right to demand a pro-rata increase from Defendant to the GSA and the right, but not obligation, to terminate the Settlement if Defendant refuses to such an increase in the GSA. Alternatively, Defendant has the right, if the amount of workweeks exceeds 12,751, to cut-off the workweeks for settlement purposes at 12,751.

9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel as soon as practicable prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
 - 10.1 **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 10.2 **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members or Aggrieved Employees), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

- 10.3 **Continuing Jurisdiction of the Court.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4 **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 **Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment.** If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Participating Class Members or Aggrieved Employees), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.
11. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.
12. **ADDITIONAL PROVISIONS.**
- 12.1 **No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes.** This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the

Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses.

- 12.2 **Confidentiality Prior to Preliminary Approval.** Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3 **No Solicitation.** The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4 **Integrated Agreement.** Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 **Attorney Authorization.** Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant

to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

- 12.6 **Cooperation.** The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 **No Prior Assignments.** The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 **No Tax Advice.** Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 **Modification of Agreement.** This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 **Confidentiality.** To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 **Use and Return of Class Data.** Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect

to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

- 12.15 **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16 **Calendar Days.** Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.17 **Notice.** All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Zachary Crosner
zach@crosnerlegal.com
Jamie Serb
jamie@crosnerlegal.com
Nikki Trenner
nikki@crosnerlegal.com
Crosner Legal, PC
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210

To Defendant Alpha Materials, Inc.:

Eric H. DeWames (SBN 229745)
edewames@sullivanattorneys.com
Gregory B. Wilbur (SBN 295945)
gwillbur@sullivanattorneys.com
MICHAEL SULLIVAN & ASSOCIATES, LLP
PO Box 85059
San Diego, California 92186-5059

- 12.18 **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.19 **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

[Signatures on Next Page]

Dated: 12 / 21 / 2023

Francisco Cervantes

Plaintiff Francisco Cervantes

Dated: _____

Name: _____

On behalf of Defendant Alpha Materials, Inc.

Dated: December 22, 2023

CROSNER LEGAL, PC

Nikki Trenner

Zachary Crosner, Esq.

Jamie Serb, Esq.

Nikki Trenner, Esq.

Attorneys for Plaintiff and the Class

Dated: _____

MICHAEL SULLIVAN & ASSOCIATES LLP

Eric H. DeWames

Gregory B. Wilbur

Attorneys for Defendant ALPHA MATERIALS,
INC.

Dated: _____

Dated: 12/29/23

Dated: _____

Dated: 1/17/2024

Plaintiff Francisco Cervantes

 PRES.

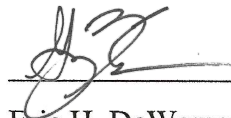
Name: BRIAN OAKS - PRESIDENT

On behalf of Defendant Alpha Materials, Inc.

CROSNER LEGAL, PC

Zachary Crosner, Esq.
Jamie Serb, Esq.
Nikki Trenner, Esq.
Attorneys for Plaintiff and the Class

MICHAEL SULLIVAN & ASSOCIATES LLP



Eric H. DeWames
Gregory B. Wilbur
Attorneys for Defendant ALPHA MATERIALS,
INC.