

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between Plaintiffs Justin Ridgway ("Plaintiff Ridgway") and Martin Aguilar ("Plaintiff Aguilar") (collectively, "Plaintiffs") and Defendant Ensign United States Drilling (California), Inc. ("Defendant"). The Agreement refers to Plaintiffs and Defendant collectively as "Parties," or individually as "Party."

This Settlement Agreement is subject to the approval of the Court, pursuant to California Rules of Court, Rule 3.769(c), (d) and (e), and is made for the sole purpose of attempting to consummate settlement of the Action on a class-wide basis subject to the following terms and conditions. As detailed below, in the event the Court does not enter an order granting final approval of the Class Settlement, as defined below, or the conditions precedent are not met for any reason, this Agreement is void and of no force or effect whatsoever.

1. DEFINITIONS.

As used in this Agreement, the following terms shall have the meanings specified below. To the extent terms or phrases used in this Agreement are not specifically defined below, but are defined elsewhere in this Agreement, they are incorporated by reference into this definition section.

- 1.1. "Action" means the Plaintiffs' lawsuits alleging wage and hour violations against Defendant. Plaintiff Ridgway's lawsuit was initiated on November 17, 2021, in the County of Los Angeles and pending in Superior Court of the State of California, titled *Justin Ridgway v. Ensign United States Drilling (California) Inc., et al.*, Case No. 21STCV42310 (the "Ridgway Action"). Plaintiff Aguilar's lawsuit was initiated on June 20, 2022, in the County of Kern and pending in Superior Court of the State of California, titled *Martin Aguilar v. Ensign United States Drilling (California) Inc., et al.*, Case No. BCV-22-101531 (the "Aguilar Action").
- 1.2. "Administrator" means Simpluris, Inc., 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 Class Members who worked for Defendant during the PAGA Period.
- 1.5. "Class" means all non-exempt, hourly employees who were employed by Defendant in the State of California who worked at any time during the Class Period.
- 1.6. "Class Counsel" means Fitapelli & Schaffer, LLP, Bruckner Burch PLLC, Gilbert Saucedo, the Law Offices of Sahag Majarian II, Lavi & Ebrahimian, LLP, and all lawyers affiliated with this firm.

- 1.7. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. "Class Data" means Class Member identifying information in Defendant's possession including the Class Member's name, last-known mailing address, Social Security number, and number of Class Pay Periods 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 and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. "Class Pay Period" means any pay period during the Class Period in which a Class Member worked for Defendant for at least one day.
- 1.13. "Class Period" means the period from June 19, 2020, through the date of preliminary approval.
- 1.14. "Class Representative" means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as a Class Representatives.
- 1.15. "Class Representative Service Payment" means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.16. "Court" means the Superior Court of California, County of Kern.
- 1.17. "Defendant" means named Defendant Ensign United States Drilling (California) Inc.
- 1.18. "Defense Counsel" means Klein, DeNatale, Goldner, Cooper, Rosenlieb & Kimball, LLP.
- 1.19. "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, which is as of the latest of the following occurrences: (i) the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Settlement and Judgment without any appeal, writ, or other appellate proceeding having been filed; (ii) the dismissal of any appeal, writ, or other appellate proceeding opposing the Settlement with no right to pursue further

remedies or relief; or (iii) upon the expiration of time to file a petition for rehearing and the expiration of time to file any petition in the California Supreme Court or the Supreme Court of the United States following a final appellate opinion or order upholding the Court's final order with no right to pursue further remedies or relief. In the event there is a remittitur, motion to set aside the judgment filed within 15 days after notice to Class Members pursuant to California Rules of Court, rule 3.771(b), or a motion to intervene filed within 60 days after notice to Class Members pursuant to California Rules of Court, rule 3.771(b), "the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Settlement" (as that phrase is used in (b)(i)-(iii), above) will be based on the later of the court's ruling or order on any such motion or entry of final order and judgment certifying the class and approving this Settlement. In this regard, it is the intention of the Parties that the Settlement shall not become effective until the Court's order approving the Settlement is completely final and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

- 1.20. "Employer Taxes" means employer-funded taxes and contributions imposed on the wage portions of the Individual Class Payments under the Federal insurance Contributions Act, the Federal Unemployment Tax Act, and any similar state and federal taxes and contributions required of employers, such as for unemployment insurance.
- 1.21. "Employee's Taxes and Required Withholding" means the employee's share of any and all applicable federal, state or local payroll taxes, inclusion those collected under authority of the FICA, FUTA, or SUTA on the portion of any Individual Class Payment that constitutes wages. The Employee's Taxes and Required Withholdings will be withheld from the Individual Class Payments paid to Participating Class Members.
- 1.22. "Final Approval" means the Court's order granting final approval of the Settlement.
- 1.23. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.
- 1.24. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.25. "Gross Settlement Amount" means \$1,960,000.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Employee's Taxes and Required Withholdings, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses. The Gross Settlement Amount does not include Employer Taxes.
- 1.26. "Individual Class Payment" means the Participating Class Member's pro rata share .

of the Net Settlement Amount calculated according to the number of Class Pay Periods worked during the Class Period, less Employee's Taxes and Required Withholding.

- 1.27. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.28. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.29. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.30. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.31. "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.
- 1.32. "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.
- 1.33. "Operative Complaint" means the operative complaint in the Action, which will be the consolidated complaints in the *Ridgway* Action and the *Aguilar* Action and will encompass any claims articulated and alleged therein.
- 1.34. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.35. "PAGA Notice" means Plaintiff Ridgway's and Plaintiff Aguilar's December 28, 2021, and April 12, 2022, respectively, letters to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.36. "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.37. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$18,750.00) and 75% to the LWDA (\$56,250.00) in settlement of PAGA claims.
- 1.38. "PAGA Period" means the period from December 23, 2020, through the date of preliminary approval.
- 1.39. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.40. "Plaintiffs" means Justin Ridgway and Martin Aguilar, the named Plaintiffs in the Action.

- 1.41. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.42. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.43. "Released Class Claims" means the claims being released as described in Paragraph 5.1 below.
- 1.44. "Released PAGA Claims" means the claims being released as described in Paragraph 5.2 below.
- 1.45. "Released Parties" means: Defendant and all its present, former, and future parent companies, subsidiaries, divisions, joint venturers, affiliated companies, corporations and partnerships, related or affiliated companies, shareholders, officers, directors, owners, members, managers, partners, customers, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims, as defined below.
- 1.46. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.47. "Response Deadline" means 45 calendar days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.48. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS.

- 2.1. On November 17, 2022, Plaintiff Ridgway filed a wage and hour class action complaint in the *Ridgway* Action, which he amended on March 3, 2022 to dismiss the class claims and add a cause of action pursuant to the Private Attorneys General Act of 2004, Labor Code Sections 2698, et seq. ("PAGA").
- 2.2. On June 20, 2022, Plaintiff Aguilar filed a Complaint alleging causes of action against Defendant for Civil Penalties Pursuant to PAGA in the *Aguilar* Action.
- 2.3. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs each purport to have given timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.4. On October 13, 2022, the Court in the *Ridgway* Action granted Defendant's motion to compel arbitration of individual PAGA claims and stayed Ridgway's representative PAGA claims pending the outcome of arbitration.
- 2.5. On December 7, 2022, the Court in the *Aguilar* Action signed a stipulated order

directing Plaintiff Aguilar to submit his individual PAGA claims to arbitration and staying the remaining non-individual PAGA claims pending completion of arbitration.

- 2.6. The Parties agreed to stay arbitration proceedings in order to mediate Plaintiffs' wage claims and representative PAGA claims.
- 2.7. On June 19, 2024, Plaintiffs and Defendant participated in an all-day mediation presided over by Tagore Subramaniam, Esq., which led to this Agreement to settle the Action.
- 2.8. Prior to mediation, Plaintiffs obtained, through informal discovery, time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiffs to fully understand the nature and scope of the allegations in the Complaint, including approximately 90% of time and wage records which were analyzed by Plaintiffs' counsel. Plaintiffs' 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*").
- 2.9. Pursuant to the settlement and for the sole purpose of this Settlement only, the Parties stipulate to consolidate the Action in Kern County Superior Court by permitting Plaintiffs to file a First Amended Complaint in the *Aguilar* Action adding Plaintiff Ridgeway as a named Plaintiff and also alleging causes of action against Defendant for (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to authorize or permit meal periods and/or pay meal premiums, (4) failure to authorize or permit rest periods and/or failure to pay rest period premiums, (5) failure to timely pay earned wages during employment, (6) failure to provide accurate wage statements, (7) failure to pay accrued and vested vacation wages upon termination, (8) failure to pay final wages upon separation of employment, (9) engaging in unfair business practices, and (10) Civil Penalties Pursuant to PAGA (the "Operative Complaint"); and dismiss the *Ridgeway* Action without prejudice. The First Amended Complaint in the *Aguilar* Action will become the Operative Complaint in the Action once the First Amended Complaint is filed in the *Aguilar* action and the *Ridgeway* Action is dismissed. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.10. The Court has not granted class certification.
- 2.11. The Parties agree that this Agreement is for settlement purposes only and if, for any reason, the Agreement is not approved, the Agreement will be of no force or effect. In such event, nothing in this Agreement shall be used or construed by or against any party.
- 2.12. If this Settlement is not finally approved, terminated, or is otherwise rendered null or void for any reason, Plaintiffs agree to promptly dismiss all the class claims in the

First Amended Complaint without prejudice and stay the remaining consolidated representative PAGA action pending arbitration of Plaintiffs' respective individual claims. Plaintiffs agree that the Settlement, in whole or any term thereof, shall not constitute, in this or any other proceeding, an admission of any kind by Defendant, or that Defendant waived the right to compel arbitration.

- 2.13. The Parties represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.
- 2.14. The Agreement set forth herein intends to achieve the following: (1) an entry of an order approving the Settlement; (2) entry of judgment in the Action; (3) discharge of Released Parties from liability for any and all of the Released Claims; and (4) discharge of Defendant from liability for any and all claims arising out of the Action.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$1,960,000.00 and no more as the Gross Settlement Amount and to separately pay any and all Employer 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:
 - 3.2.1 To Plaintiffs: Class Representative Service Payment of not more than \$5,000.00 to each Class Representative (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee

taxes owed on the Class Representative Service Payments.

- 3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than One-Third of the Gross Settlement, which is currently estimated to be \$653,333.33, and a Class Counsel Litigation Expenses Payment of not more than \$27,500.00. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties will have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion of 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 Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$12,500.00 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 \$12,500.00, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Class Pay Periods worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Class Pay Periods.

3.2.4.1. Tax Allocation of Individual Class Payments. 10% 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 Parties agree that the Employee's Taxes and Required Withholdings with respect to the wage portion of the Individual Class Payment will be withheld from the Individual Class Payment. The other 90% 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 \$75,000.00 to be paid from the Gross Settlement Amount, with 75% (\$56,250.00) allocated to the LWDA PAGA Payment and 25% (\$18,750.00) 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 \$18,750.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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.

3.2.6 In the event that the Court reduces or does not approve the requested Class Counsel Fees Payment and/or Class Litigation Expenses Payment, Class Counsel reserve their right to appeal such order, however, Plaintiff and/or Class Counsel will not request or demand an increase to the Gross Settlement Amount on that basis.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Pay Periods and Aggrieved Employee PAGA Pay Periods. Based on a review of its records through June 19, 2024, Defendant estimates there are 779 Class Members who collectively worked a total of 30,598 Class Pay Periods, and 748 Aggrieved Employees who worked a total of 27,478 PAGA Pay Periods.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Class Counsel

shall not receive a copy of the Class Data or any content thereof. 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 14 days after the Effective Date. At least five (5) business days prior to Defendant's deadline for funding of the Gross Settlement Amount, the Administrator shall calculate the total Employer Taxes due on the wage portion of the Individual Class Payments and issue Defendant instructions and the amount of the Employer Taxes.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all 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 Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, within 10 calendar days of the check void date, the Administrator shall transmit the funds represented by such checks pursuant to the requirements of California Code of Civil Procedure Section 384, to Court Appointed Special Advocates of Kern as *cy pres*, subject to court approval. The Parties represent that they will identify an alternative *cy pres* recipient if necessary to meet court approval and have no interest or relationship, financial or otherwise, with the intended *Cy Pres* Recipient.
- 4.4.4 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 Class Members (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 Taxes, Plaintiffs and Class Members will release claims against all Released Parties as follows:

- 5.1. Release by Participating Class Members, Including Plaintiffs: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, dependents, administrators, devisees, legatees, executors, trustees, conservators, guardians, personal representatives, successors, and assigns, whether individual, class representative, legal, equitable, direct or indirect, or any other type of any capacity, shall and do hereby forever release, discharge, and agree to hold harmless the Released Parties from all claims during the Class Period that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, and ascertained in the course of the Action including any and all claims for: (1) failure to pay minimum wages (including, but not limited to, due to alleged off-the-clock work, rounding, travel, improper calculation of wages, and otherwise underpaid wages), (2) failure to pay overtime wages (including, but not limited to, due to alleged off-

the-clock work, rounding, travel, and otherwise underpaid wages), (3) failure to authorize or permit meal periods and/or pay meal premiums at the regular rate of pay (including, but not limited to, alleged non-compliant first and second meal breaks, remaining on premises or on-duty during meal periods, off-the-clock work, rounding, traveling to designated areas during breaks), (4) failure to authorize or permit rest periods and/or failure to pay rest period premiums at the regular rate of pay (alleged non-compliant rest breaks, insufficient or interrupted rest breaks, remaining on premises or on-duty during rest breaks, off-the-clock work, rounding, traveling to designated areas during breaks), (5) failure to timely pay earned wages during employment, (6) failure to provide accurate wage statements and maintain required records, (7) failure to pay accrued and vested vacation wages upon termination, and (8) failure to pay final wages upon separation of employment ("Released Class Claims"). To the extent based on facts alleged on the Operative Complaint or the PAGA Letter, the Released Class Claims encompass, but are not limited to, all claims pursuant to IWC Wage Order (including Wage Order 16-2001), and Labor Code §§ 201, 202, 203, 204, 210, 218.5, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and Business and Professions Code section 17200, et seq. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

- 5.2. Labor Code 206.5 Not Applicable: Each Participating Class Member will be bound to the release of Released Class Claims as a result of this Class Settlement and to the terms of the final judgment and the satisfaction of such judgment. Participating Class Members will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Action are disputed, and that their Individual Class Payments constitute payment of all sums allegedly due to them. Participating Class Members will be deemed to have acknowledged and agreed that California Labor Code section 206.5 is not applicable to the Individual Class Payment. That section provides in pertinent parts as follows:

"Any employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made."

- 5.3. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties

from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice, rights, demands, liabilities, and causes of action for civil penalties under PAGA, that Aggrieved Employees have had, no have, or may have in the future against Released Parties based on any acts or omissions occurring during the PAGA Period and based on the PAGA Period facts pleaded in the Operative Complaint or the PAGA Notice, including, but not limited to all claims for PAGA penalties pursuant to Wage Order 16-2001 and Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 266, 227.3, 510, 512, 558, 1194, 1197, 1197.1, and 1198. Any Aggrieved Employees who submit a valid and timely Request for Exclusion are still entitled to their Individual PAGA Payment and have no right or ability to opt-out of the portion of this Agreement releasing the Released PAGA Claims.

6. MOTION FOR PRELIMINARY APPROVAL. Plaintiffs will prepare and file a motion for preliminary approval ("Motion for Preliminary Approval").

- 6.1. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel 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 and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs 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)), the Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2))).
- 6.2. Responsibilities of Counsel. Class Counsel is 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. Plaintiffs are responsible for delivering the Court's Preliminary Approval to the Administrator. Defense Counsel agrees to not oppose Class Counsel's Motion for Preliminary Approval so long as Defense Counsel has three (3) business days to review it before filing and it is consistent with this Settlement Agreement.

- 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, the Parties will expeditiously work together, by and through their respective Counsel, 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, the Parties, by and through their respective Counsel, will expeditiously work together 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 Simpluris, Inc. ("Simpluris") to serve as the Administrator and verified that, as a condition of appointment, Simpluris 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, Aggrieved Employees, Class Pay Periods and PAGA 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; and post a copy of the Class Notice on its website through at least the date of the Final

Approval Hearing. 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 Class 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. If the Class Data includes the phone number for any Class Member whose Class Notice is deemed undeliverable, the Administrator will attempt to reach the Class Member by telephone to verify his or her addresses. Outside this Section and Section 7.8.3, 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 Class Pay Periods and PAGA 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, Defense Counsel 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, whichever 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). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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, though the Court may make any final determination of any dispute. 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, except by the Court.

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, including the Participating Class Members' Release under Paragraph 5.1 of this Agreement, 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. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.2 of this Agreement and are eligible for an Individual PAGA Payment

7.6. Challenges to Calculation of Pay Periods. 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 Pay Periods 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 Class Pay Periods and PAGA Pay Periods 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 Class Pay Periods and PAGA 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 Class Pay Periods or PAGA Pay Periods to Defense Counsel and redacted copies to Class Counsel and the Administrator's determination of 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, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 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, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and

a toll-free telephone number to receive Class Member calls, faxes and emails. If Final Approval is granted, the Administrator will post the above listed information of interest for at least 180 days after the date of mailing Individual Class Payments and Individual PAGA Payments.

- 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to (a) Class Counsel and Defense Counsel containing the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"), along with copies of all valid and timely Requests for Exclusion; (b) Defense Counsel containing the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion, along with copies of all Requests for Exclusion from Settlement submitted.
- 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 Class Pay Periods or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received. The Administrator must, on a weekly basis, provide Defense Counsel the names and identifying information of Class Members whose Class Notices have been returned as undeliverable for the purposes of determining if Defendant can provide any additional information successfully mail the Class Notice and/or contact the Class Member.
- 7.8.4 Class Pay Period or PAGA 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 Class Pay Periods and PAGA Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Employer's Share of Payroll Taxes. The Administrator shall handle all tax document preparation and reporting, including W-2 and/or 1099 Forms, and any other state and federal tax forms. The Administrator

shall calculate the amount of the Employer's Taxes and shall remit and report the applicable portions of the payroll tax payment to the appropriate taxing authorities in a timely manner.

7.8.6 Administrator's Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Plaintiffs are responsible for filing the Administrator's declaration(s) in Court.

7.8.7 Posting Final Judgment. Within 10 days after the Court has held a Final Approval Hearing and entered the Judgment certifying the Class for settlement purposes only and approving the Settlement, the Administrator will give notice of judgment to Class Members pursuant to California Rules of Court, rule 3.771(b) by posting a copy of said Judgment on its website at a web address to be included in the Class Notice.

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

8. **CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**. Based on its records, Defendant estimates that, as of the date of the date of mediation, (1) there are 779 Class Members and 30,598 Total Class Pay Periods during the Class Period and (2) there were 748 Aggrieved Employees who worked 27,478 PAGA Pay Periods during the PAGA Period. If the total number of Class Pay Periods as of the end of the Class Period exceeds the above figure by greater than 10%, then the Gross Settlement Amount shall increase pro rata based on the number of additional Class Pay Periods above 10% (i.e., if the number of Class Pay Periods is

11% greater than the above figure, then the Gross Settlement Amount shall increase by 1%). If the number of Class Pay Periods exceeds 10% of the estimated amount (i.e. exceeds 33,657 Class Pay Periods), Defendant can elect to either have the Class Period end on the date that the Class Pay Periods exceed 33,657 or increase the Gross Settlement Amount by a pro-rata dollar value equal to the number of Class Pay Periods in excess of 33,657, provided that such election must be made prior to the mailing of notices by the Administrator.

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 any Class Members for whom the Notice is deemed "undeliverable" by the Administrator are to be included as Participating Class Members. In the event the Court deems such individuals to be excluded from this Settlement and the resulting judgment, Defendant retains the right, in its sole discretion, to nullify the Settlement within ten (10) days after any such Court ruling if the total number of Class Members excluded from the Settlement (either by submitting valid Requests for Exclusion or by court order) exceeds 5% of the Settlement Class. 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 7 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, Plaintiffs 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"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. The Parties, by and through their respective 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 5 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 Class Members), 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 as 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 Class Members), 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 a proposed amended judgment.

12. **ADDITIONAL PROVISIONS.**

12.1. No Effect on Employee Benefit Plans. Neither this Agreement nor any amounts paid

under the Settlement will modify any previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies or bonus programs. The payments made under the terms of this Settlement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendant's benefit plan, policy or bonus program. Defendant retains the right to modify the language of its benefits plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for "weeks worked," "weeks paid," "weeks of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement. Defendant does not consider the Individual Class Payments "compensation" for purposes of determining eligibility for, or benefit accrual within, any benefit plans, policies, or bonus programs, or any other plan sponsored by Defendant.

- 12.2. 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 Plaintiffs 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 Plaintiffs reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 12.3. Confidentiality Prior to Preliminary Approval. The Parties 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 Administrator and 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. This confidentiality clause extends to the parties' use of social media people often use to communicate during their daily lives, such as X (formerly Twitter), Facebook, blogs, Instagram, and the like. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. The Parties separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any 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.

- 12.4. 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.
- 12.5. 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.
- 12.6. Attorney Authorization. The Parties separately warrant and represent that they have authorized their respective Counsel to take all appropriate action required or permitted to be taken 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.
- 12.7. 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.
- 12.8. 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.

- 12.9. No Tax Advice. The Parties are not 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.
- 12.10. 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.
- 12.11. Authority of Signatories. The respective signatories to the Agreement represent that they are fully authorized to enter into this Agreement and bind the respective Parties to its terms and conditions.
- 12.12. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.13. 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.
- 12.14. Attorneys' Fees and Costs. Except as otherwise specifically provided for herein, each party shall bear her or its own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by them or arising out of the Action and shall not seek reimbursement thereof from any other party in this Agreement. In any suit or court action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover her or its reasonable attorneys' fees and costs.
- 12.15. 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.
- 12.16. 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.
- 12.17. 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, Plaintiffs 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.

- 12.18. 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.
- 12.19. 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.
- 12.20. 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, to the other Party's respective counsel of record.
- 12.21. 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.
- 12.22. 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.
- 12.23. Bankruptcy. In the event that any Defendant files for bankruptcy prior to the final disbursement of the Gross Settlement Amount, Plaintiffs shall be permitted to file the claims asserted in the Action in the bankruptcy proceedings, and such claims are not limited by the amount of the Gross Settlement Amount as set forth in this Settlement Agreement. If any settlement funds have been disbursed as provided in this agreement as of the date Defendant files for bankruptcy, Defendant shall not be entitled to a return of such funds from the recipients. However, Defendant will be entitled to claim a credit for any previously disbursed funds in the bankruptcy proceedings.
- 12.24. Enforcement Action. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorney's fees and costs, including expert witness fees in connection with any enforcement actions.

Dated: _____

JUSTIN RIDGWAY
Justin Ridgway
FF3408DCB41E412...

Dated: 12/27/2024

MARTIN AGUILAR
Martin Aguilar

Dated: _____

**ENSIGN UNITED STATES DRILLING
(CALIFORNIA) INC.**

By: Robert H. Geddes, as
Title: President and Chief Operating Officer

By: Michael Gray, as
Title: Chief Financial Officer

APPROVED AS TO FORM:

Dated: 01/04/2025

LAVI & EBRAHIMIAN, LLP
JOSEPH LAVI
Joseph Lavi, Esq.
Vincent Granberry, Esq.
Cassandra Castro, Esq.
Attorneys for MARTIN AGUILAR, on behalf of
himself and all others similarly situated

Dated: 12/28/2024

LAW OFFICE OF SAHAG MAJARIAN II
Sahag Majarian II
Sahag Majarian II, Esq.
Attorneys for MARTIN AGUILAR, on behalf of
himself and all others similarly situated

Dated: _____

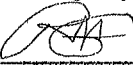
JUSTIN RIDGWAY

Dated: _____

MARTIN AGUILAR

Dated: 12/31/2024

**ENSIGN UNITED STATES DRILLING
(CALIFORNIA) INC.**

Docusign by:


E16BB5C293E9745...
By: Robert H. Geddes, as
Title: President and Chief Operating Officer


B06CDDF894B0455...

By: Michael Gray, as
Title: Chief Financial Officer

APPROVED AS TO FORM:

Dated: _____

LAVI & EBRAHIMIAN, LLP

Joseph Lavi, Esq.
Vincent Granberry, Esq.
Cassandra Castro, Esq.
Attorneys for MARTIN AGUILAR, on behalf of
himself and all others similarly situated

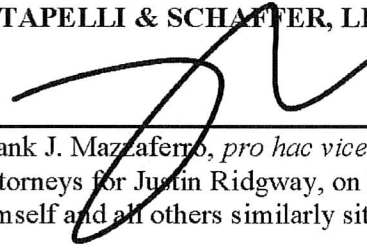
Dated: _____

LAW OFFICE OF SAHAG MAJARIAN II

Sahag Majarian II, Esq.
Attorneys for MARTIN AGUILAR, on behalf of
himself and all others similarly situated

Dated: 12/20/2024

FITAPELLI & SCHAFER, LLP



Frank J. Mazzaferro, *pro hac vice*
Attorneys for Justin Ridgway, on behalf of
himself and all others similarly situated

Dated: 12/20/2024

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