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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

HARRISON BOMTEMPO, individually,
and on behalf of other members of the
general public similarly situated and on
behalf of other aggrieved employees
pursuant to the California Private Attorneys
General Act;

Plaintiff,

vs.

K1 SPEED, INC., a Delaware corporation;
and DOES 1 through 100, inclusive,

Defendant.

Case No. 22-CIV-03134

Honorable Nicole S. Healy
Department 28

CLASS ACTION

**DECLARATION OF ELIZABETH
PARKER-FAWLEY IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: September 11, 2024
Time: 2:00 p.m.
Department: 28

Complaint Filed: August 2, 2022
FAC Filed: June 28, 2024
Trial Date: None Set

DECLARATION OF ELIZABETH PARKER-FAWLEY

I, Elizabeth Parker-Fawley, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Harrison Bomtempo (“Plaintiff”). The facts set forth in this declaration are within my personal knowledge or based on information and belief and, if called as a witness, I could and would competently testify thereto.

LITIGATION AND REPRESENTATIVE AND CLASS ACTION EXPERIENCE

2. For over a decade, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment representatives and class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, Lawyers *for* Justice, PC is the attorney of record in dozens of employment-related putative class actions and representative actions in both state and federal courts in the State of California. Lawyers *for* Justice, PC has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, Lawyers *for* Justice, PC has recovered millions of dollars on behalf of thousands of individuals in California.

3. Edwin Aiwarzian is a Managing Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from Pepperdine University in April of 1999 and earned a Juris Doctor degree from Pepperdine University School of Law in May of 2004. He has extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, he has previously served as a pro bono mediator for the Los Angeles County Superior Court. In October of 2000, he obtained a Litigation Paralegal Certificate from the UCLA Extension Program. During the summer of 2000, he studied Legal Writing at Harvard University. From approximately September 2002 to approximately December 2002, he served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the United States Court of Appeals for the Ninth Circuit. From approximately June 2002 to approximately August 2002, he served as a Judicial

Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District. In December of 2004, he obtained a license to practice law from the California State Bar. For over a decade, through his work at Lawyers *for* Justice, PC, he has almost exclusively focused on the prosecution of consumer and employment class actions. While employed by Lawyers *for* Justice PC, he has argued over one hundred (100) motions, taken or defended over one hundred fifty (150) depositions, prepared dozens of expert witnesses for deposition or trial, and attended over one hundred seventy-five (175) mediations. Together with other attorneys at the firm, and in some cases in conjunction with co-counsel, he has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. Under his supervision, Lawyers *for* Justice, PC has successfully obtained class certification by contested motion practice in approximately fifteen (15) cases in the last decade and litigated over 1,000 class action or representative action cases.

4. Arby Aiwazian is a Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from University of California, Los Angeles and graduated magna cum laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School. From approximately May 2007 to approximately July 2007, he served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District. From approximately August 2008 to approximately December 2008, he served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the United State Court of Appeals for the Ninth Circuit. He was admitted to practice law in California in 2010. He is admitted to practice before all courts of the State of California and all United States District Courts in the State of California. He has worked on many wage-and-hour class action and representative action cases, taking the lead in taking and defending depositions, arguing motions, and attending mediations. He has played an integral role in preparing matters for class certification, including and not limited to, successful certification of a class in *Upson v. Sur La Table* (Los Angeles County Superior Court Case No. BC424012), *Montazemi v. Regus Management* (Los Angeles County Superior Court Case No. BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County

Superior Court Case No. RG13680477). Under his supervision, dozens of class action or representative cases have resulted in settlements that have been granted court approval, including and not limited to, those listed in paragraph 6 herein. He has handled over one hundred and fifty (150) mediations and worked on over two hundred and fifty (250) class action or representative action cases which have resulted in settlement.

5. Joanna Ghosh is a Managing Member of Lawyers for Justice, PC. She received a Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of Science degree from the London School of Economics in 2007, and a Juris Doctor degree from Georgetown University Law Center in 2010. She is admitted to practice in California (since 2010) and in New York (since 2013), and she is admitted to practice in all U.S. District Courts in California, the U.S. Bankruptcy Court for the Central District of California, and the U.S. Supreme Court. She has taken and defended dozens of depositions and successfully handled motion practice in class action cases regarding discovery (including and not limited to, regarding class contact information), class certification (both contested class certification and stipulated class certification), arbitration agreements, coordination, and intervention. She has successfully handled briefing and oral argument on appeal and obtained notable decisions regarding the Private Attorneys General Act and employer efforts to compel arbitration, e.g., *Betancourt v. Prudential Overall Supply*, 9 Cal.App.5th 439 (Cal. Ct. App., Mar. 7, 2017), cert. denied (Cal., May 24, 2017), cert. denied (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior Court*, 8 Cal.5th175 (2019). She has significant experience with class actions, including and not limited to working on cases to obtain class certification through contested motion practice and working on cases in the post-certification stage (e.g., post-certification discovery, appeal, statistical sampling and pilot study, and trial preparation in conjunction with co-counsel in a case involving a certified class consisting of approximately 2,600 individuals). She also has extensive experience with class action and/or representative action settlements, and she has handled this process in over three hundred (300) cases. Under her, Edwin Aiwarzian and Arby Aiwarzian, Lawyers for Justice, PC has handled the class certification and court approval process for hundreds of class action

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1 and/or representative action matters that have successfully resolved. She is a member of the
2 California Employment Lawyers Association.

3 6. I am the Director of Legal Operations at Lawyers for Justice, PC. I earned my
4 Bachelor of Arts in History at Chapman University in 2011 and my Juris Doctor from the UCLA
5 School of Law in 2014. In December 2014, I obtained a license to practice law from the
6 California State Bar. I am admitted to practice in all courts in the State of California, as well as
7 the Central, Southern, Northern, and Eastern District Courts of California and the Ninth Circuit
8 Court of Appeal. Since December 2014, I have worked at Lawyers for Justice, PC, and my
9 practice has almost exclusively focused on the prosecution of employment class actions and
10 representative actions, handling cases in all stages of litigation from initial pleadings to assisting
11 with class action trial matters, attending mediations, and preparing class action settlements.
12 Previously, I was in the role of Manager of Litigation, in which I oversaw approximately twenty-
13 five attorneys working on hundreds of employment class actions and representative actions and
14 provided internal training for our litigation practice group and post-bar law clerks. In my current
15 role, I oversee the legal operations of the firm, review and advise attorneys on work product and
16 practices, provide training, and supervise cases from their inception to final accounting. I am a
17 member of the California Lawyers Association Labor & Employment Group and the California
18 Employment Lawyers Association.

19 **EXAMPLES OF RESULTS IN REPRESENTATIVE AND CLASS ACTION CASES**

20 7. What follows are just a few examples of the type of results Lawyers *for* Justice,
21 PC (“LFJ”) has achieved on behalf of its clients:

22 a) LFJ, in association with co-counsel therein, represented the plaintiffs in a
23 wage-and-hour class action against a major property management company involving allegations
24 of misclassification of various “manager” positions. On September 20, 2010, the court granted
25 final approval of the class action settlement. The Los Angeles County Superior Court Case
26 Number is BC400414.

27 b) LFJ, in association with co-counsel therein, represented the plaintiffs in a
28 wage-and-hour class action against a national retailer of household items involving allegations of

misclassification of the “Assistant Store Manager” position. On October 28, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC413498.

c) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national property management company involving allegations of misclassification of the “Property Manager” position. On May 23, 2012, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC430918.

d) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer involving allegations of misclassification of the “Store Manager” position. On June 10, 2011, the court granted plaintiffs’ motion for class certification. On August 26, 2013, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC424012.

e) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a bank, involving allegations of misclassification of the “Assistant Branch Manager” position. On August 27, 2013, the court granted final approval of the class and PAGA representative action settlement. The Kern County Superior Court Case Number is S-1500-CV-273194-LHB.

f) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a national wholesale distributor of plumbing and builder supplies, involving allegations of misclassification of multiple salaried “manager” positions. On May 22, 2014, the court granted final approval of the class and PAGA representative action settlement. The Sacramento County Superior Court Case Number is 34-2012-00136285.

g) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class action against a multinational corporation that provides global workplace solutions, involving allegations of misclassification of the “Operations Manager” position. On

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September 16, 2014, the court granted plaintiff's motion for class certification. The Los Angeles County Superior Court Case Number is BC478769.

h) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a national retailer of household items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the court granted final approval of the class and PAGA representative action settlement. The San Francisco County Superior Court Case Number is CGC-13-532344.

i) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action involving allegations of misclassification of the salaried residential "Property Manager" position. On September 17, 2015, the court granted plaintiff's motion for class certification. On October 20, 2017, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC474784.

j) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a national retailer of upscale hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Numbers are BC516795 and JCCP4794, and the Judicial Council Coordination Proceeding Number is 4794.

k) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of apparel and fashion accessories, on behalf of non-exempt employees. On August 5, 2016, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC488069.

l) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of apparel, accessories, and home products, involving allegations of misclassification of the "Department Manager" position. On August 12, 2016, the court granted the plaintiffs' motion for class certification in part and certified a class.

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On August 6, 2019, the court granted final approval of the class action settlement. The Alameda County Superior Court Case Number is RG13680477.

m) LFJ represented the plaintiff in a PAGA representative action against a real estate and property management company, on behalf of non-exempt employees. On November 4, 2016, the court granted approval of the PAGA representative action settlement. The Orange County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

n) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a full-service bank, on behalf of non-exempt employees. On November 18, 2016, the court granted final approval of the class and PAGA representative action settlement. The San Francisco County Superior Court Case Number is CJC-13-004839 and the Judicial Council Coordination Proceeding Number is 4839.

o) LFJ represented the plaintiffs in a wage-and-hour class and PAGA representative action against a foodservice distributor, on behalf of non-exempt employees. On January 26, 2017, the court granted final approval of the class and PAGA representative action settlement. The San Bernardino County Superior Court Case Number is CIVDS1507260.

p) LFJ, on behalf of the plaintiff and respondent in a PAGA representative action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the employer's motion to compel arbitration, which resulted in a published opinion by the California Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall Supply* (Cal. App. 4th Dist., Mar. 7, 2017) 9 Cal.App.5th 439, review denied, cert. denied (U.S. Supreme Court Docket No. 17-254). The Riverside County Superior Court Case Numbers are RIC1503952 and RICJCCP5046, and the Judicial Council Coordination Proceeding Number is 5046.

q) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a consumer packaging company, on behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC590429.

1 r) LFJ, in association with co-counsel therein, represented the plaintiffs in a
2 wage-and-hour class and PAGA representative action against a manufacturer of food service
3 industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final
4 approval of the class and PAGA representative action settlement. The Orange County Superior
5 Court Case Number is 30-2015-00810013-CU-OE-CXC.

6 s) LFJ, in association with co-counsel therein, represented the plaintiffs in a
7 wage-and-hour class and PAGA representative action against a lumber and hardware company
8 on behalf of non-exempt employees. On April 26, 2017, the court granted final approval of the
9 class and PAGA representative action settlement. The Orange County Superior Court Case
10 Number is 30-2014-00747750-CU-OE-CXC.

11 t) LFJ represented the plaintiff in a wage-and-hour class and PAGA
12 representative action against a property management company, on behalf of non-exempt
13 employees. On June 14, 2017, the court granted final approval of the class and PAGA
14 representative action settlement. The Los Angeles County Superior Court Case Number is
15 BC586234.

16 u) LFJ represented the plaintiff in a wage-and-hour class and PAGA
17 representative action against a food company on behalf of non-exempt employees. On June 30,
18 2017, the court granted final approval of the class and PAGA representative action settlement.
19 The Sacramento County Superior Court Case Number is 34-2015-00175871.

20 v) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
21 representative action against a chocolate company on behalf of non-exempt employees. On July
22 19, 2017, the court granted final approval of the class and PAGA representative action
23 settlement. The Alameda County Superior Court Case Number is RG15764300.

24 w) LFJ firm represented the plaintiff in a PAGA representative action, against
25 the parent company of several restaurants, on behalf of hourly-paid, non-exempt employees. On
26 October 18, 2017, the court granted approval of the PAGA representative action settlement. The
27 Los Angeles County Superior Court Case Number is BC569664.

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1 x) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
2 representative action against a manufacturer of plastic containers on behalf of non-exempt
3 employees. On October 31, 2017, the court granted final approval of the class and PAGA
4 representative action settlement. The Los Angeles County Superior Court Case Number is
5 BC577233.

6 y) LFJ, in association with co-counsel therein, represented the plaintiffs in a
7 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
8 employees. On December 11, 2017, the court granted final approval of the class and PAGA
9 representative action settlement. The Los Angeles County Superior Court Case Number is
10 BC569646.

11 z) LFJ, in association with co-counsel therein, represented the plaintiffs in a
12 wage-and-hour class and PAGA representative action against a property management company
13 on behalf of hourly-paid and non-exempt employees. On January 4, 2018, the court granted final
14 approval of the class and PAGA representative action settlement. The Los Angeles County
15 Superior Court Case Number is JCCP4819 and the Judicial Council Coordination Proceeding
16 Number is 4819.

17 aa) LFJ, in association with co-counsel therein, represented the plaintiffs in a
18 wage-and-hour class and PAGA representative action against a global provider of flexible office
19 space solutions. On February 15, 2018, the court granted final approval of the class and PAGA
20 representative action settlement. The Los Angeles County Superior Court Case Number is
21 BC498401.

22 bb) LFJ, in association with co-counsel therein, represents the plaintiff in a
23 wage-and-hour class action against a container manufacturer, on behalf of non-exempt
24 employees. On October 15, 2018, the court granted the plaintiff's motion for class certification.
25 The Tulare County Superior Court Case Number is VCU264528.

26 cc) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
27 representative action against a behavioral health service provider on behalf of non-exempt
28 employees. On November 13, 2018, the court granted final approval of the class and PAGA

1 representative action settlement. The Alameda County Superior Court Case Number is
2 RG16811450.

3 dd) LFJ, in association with co-counsel therein, represented the plaintiff in a
4 PAGA representative action against a global provider of products and services to the energy
5 industry, on behalf of hourly-paid and non-exempt employees. On November 19, 2018, the court
6 granted approval of the PAGA representative action settlement. The Kern County Superior
7 Court Case Number is S-1500-CV-280215-SDC.

8 ee) LFJ, in association with co-counsel therein, represents the plaintiff in a
9 wage-and-hour class action against a parking company on behalf of non-exempt employees. On
10 September 3, 2019, the court granted the plaintiff's motion for class certification and certified a
11 class. The Santa Clara County Superior Court Case Number is 16CV292208 and the Judicial
12 Council Coordination Proceeding Number is 4886.

13 ff) LFJ, in association with co-counsel therein, represents the plaintiffs in a
14 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
15 employees. On September 27, 2019, the court granted the plaintiffs' motion for class
16 certification in part and certified a class. The Alameda County Superior Court Case Number is
17 RG15757606 and the Judicial Council Coordination Proceeding Number is 4921.

18 gg) LFJ, in association with co-counsel therein, represented the plaintiffs in a
19 wage-and-hour class and PAGA representative action against a national retailer of apparel and
20 fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court granted
21 the plaintiffs' motion for class certification in part and certified a class. On May 14, 2021, the
22 court granted final approval of the class and PAGA representative action settlement. The
23 Sacramento County Superior Court Case Number is 34-2015-00175330-CU-OE-GDS.

24 hh) LFJ, in association with co-counsel therein, represents the plaintiff in a
25 wage-and-hour class and PAGA representative action against a medical equipment supplier on
26 behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion
27 for class certification and certified a class. The San Bernardino County Superior Court Case
28 Number is CIVDS1505744.

1 ii) LFJ, in association with co-counsel therein, on behalf of the plaintiff and
2 respondent in a PAGA representative action, successfully opposed in the trial court, and briefed
3 and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a
4 notable decision from the California Supreme Court clarifying the law regarding PAGA claims,
5 *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175. On February 21, 2020, the court granted
6 approval of the PAGA representative action settlement. The San Diego County Superior Court
7 Case Number is 37-2016-00005578-CU-OE-CTL.

8 jj) LFJ, in association with co-counsel therein, represents the plaintiff in a
9 wage-and-hour class and PAGA representative action against a medical equipment supplier on
10 behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion
11 for class certification and certified a class. The San Bernardino County Superior Court Case
12 Number is CIVDS1505744.

13 kk) LFJ, in association with co-counsel therein, represented the plaintiff in a
14 wage-and-hour class and PAGA representative action against a large national drug testing
15 laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the
16 plaintiff's motion for class certification and certified a class. On October 28, 2022, the court
17 granted final approval of the class and PAGA representative action settlement. The San Diego
18 County Superior Court Case Number is 37-2018-00019611-CU-OE-CTL.

19 ll) LFJ, in association with co-counsel therein, represents the plaintiffs in a
20 wage-and-hour class and PAGA representative action against a national retailer of sportswear,
21 footwear, and camping equipment on behalf of non-exempt employees. On March 16, 2020, the
22 court granted in part the plaintiff's motion for class certification and certified a class. The
23 Riverside County Superior Court Case Numbers are RIC1507504 and RICJCCP4930, and the
24 Judicial Council Coordination Proceeding Number is 4930.

25 mm) LFJ, in association with co-counsel therein, represented the plaintiffs in a
26 wage-and-hour class action against manufacturer and supplier of power products and services on
27 behalf of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs'
28 motion for class certification and certified a class. On August 27, 2021, the court granted final

1 approval of the class action settlement. The San Diego County Superior Court Case Number is
2 37-2015-00025968-CU-OE-CTL.

3 nn) LFJ represents the plaintiff in a wage-and-hour class action against a
4 nutritional products manufacturer on behalf of non-exempt production line employees. On
5 December 13, 2021, the court granted the plaintiff's motion for class certification in part and
6 certified a class. The Solano County Superior Court Case Number is FCS051001.

7 oo) LFJ represents the plaintiffs in a wage-and-hour class action against a
8 manufacturer and distributor of commercial dish and glass cleaning machines and supplies for
9 the restaurant and hospitality industries, on behalf of hourly-paid or non-exempt employees. On
10 July 13, 2023, the court granted the plaintiffs' motion for class certification and certified a class.
11 The Los Angeles County Superior Court Case Number is BC707670.

12 pp) LFJ, in association with co-counsel therein, represented the plaintiffs in a
13 wage-and-hour class and PAGA representative action against a plastic packaging company on
14 behalf of non-exempt employees. On June 8, 2020, the court granted in part the plaintiffs'
15 motion for class certification and certified a class. On November 8, 2021, the court granted
16 approval of the partial settlement of the action. On April 22, 2024, the court granted approval of
17 the PAGA settlement and entered an order dismissing the action. The San Bernardino County
18 Superior Court Case Number is CIVDS1507361.

19 qq) LFJ represents the plaintiffs in a wage-and-hour class action against a
20 chain of restaurants on behalf of non-exempt employees. On July 22, 2024, the court granted in
21 part the plaintiffs' motion for class certification and certified a class. The San Francisco Superior
22 Court Case Number is CGC-20-582809.

23 **THE SETTLEMENT REACHED IN THE ACTION**

24 8. Marked and attached hereto as "**EXHIBIT 1**" is a true and correct copy of the
25 fully executed Joint Stipulation of Class Action and PAGA Settlement Agreement and Release
26 ("Settlement") entered into by and between Plaintiff Harrison Bomtempo, individually and on
27 behalf of all others similarly situated and other aggrieved employees, on the one hand, and
28 Defendant K1 Speed, Inc. ("Defendant"), on the other hand (together, the "Parties"). The Parties

1 and their counsel have approved the proposed Notice of Class Action Settlement (“Class
2 Notice”), which is attached to the Settlement Agreement as “Exhibit A,” and respectfully request
3 that the Court approve it as well.

4 9. Based on information provided by Defendant, as of April 5, 2024, the Class is
5 estimated to consist of approximately 2,381 individuals.

6 10. The effectiveness of Lawyers for Justice, PC (“Class Counsel”) in prosecuting
7 this matter has translated into tangible monetary benefits in the following respects: (1) Class
8 Members, the State of California, and PAGA Employees recover over a reasonably short period
9 of time as opposed to waiting additional years for the same, or possibly worse, result; (2) a
10 guaranteed result that compares favorably with other similar complex wage-and-hour class
11 action and/or representative action settlements of this type, given the strengths and weaknesses
12 of the case; and (3) significant savings in attorneys’ fees and/or costs that would have only
13 increased substantially had the case progressed through certification, trial, and/or appeals.

14 11. Class Counsel has litigated the case for two (2) years and was actively preparing
15 the matter for class certification and trial. The Parties have engaged in extensive settlement
16 negotiations and participated in a formal, full-day mediation on August 7, 2023, conducted by
17 Jeffery Krivis, Esq., a well-respected mediator experienced in mediating complex labor and
18 employment matters. Prior to and during the mediation and settlement discussions, the Parties
19 exchanged extensive information and engaged in discussions regarding their evaluations of the
20 case and various aspects of the case, including but not limited to, the risks and delays of further
21 litigation, the risks to the Parties of proceeding with class certification and/or representative
22 adjudication, the law relating to off-the-clock theory, meal and rest periods, regular rate of pay,
23 PAGA representative actions, and wage-and-hour law and enforcement, as well as the evidence
24 produced and analyzed, and the possibility of appeals, among other things. During all settlement
25 discussions, the Parties conducted their negotiations at arm’s length in an adversarial position.
26 Arriving at a settlement that was acceptable to both Parties was not easy. Defendant and its
27 counsel felt strongly about its ability to prevail on the merits and at certification, and Plaintiff
28 and Class Counsel believed that they would be able to obtain class certification and prevail at

trial. After conducting extensive investigations, formal and informal discovery, exchange of information, and extensive settlement negotiations, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation. The Settlement is a fair, reasonable, and adequate resolution of the Released Class Claims of Plaintiff and Participating Class Members, and of the Released PAGA Claims of the PAGA Employees and the State of California, against the Released Parties.

12. Prior to reaching the Settlement, Class Counsel investigated the veracity, strength, and scope of the claims, and were preparing the matter for class certification and trial. Class Counsel conducted significant investigation and formal and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis of a large volume of information, documents, and data obtained from Defendant, Plaintiff, and other sources. On August 17, 2023, Plaintiff served Special Interrogatories (Sets One and Two), Form Interrogatories—General (Set One) and Request for Document Production (Set One) and reviewed Defendant's responses thereto. Additionally, Plaintiff noticed the deposition of Defendant's persons most knowledgeable. The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiff's employment records, Plaintiff's time and pay data, time and pay data for a sampling of approximately 75% of other Class Members, company policy acknowledgments, forms, procedures and policies (including, but not limited to, Employee Handbook, Meal Break Waiver, Meal Expense Policy, Meal and Rest Break Policy, Expense Reimbursement Request Form, Track Associate Training Manual, Cashier Commission Agreement, Bonus Program Definitions, K1 Race Gear – Sales Commission Agreement, Corporate Customer Service/Sales Representative Commission Agreement, Sales Manager Commission Agreement, and Corrective Action Form) among other information and documents. Class Counsel had the opportunity to interview Plaintiff and other Class Members to gather facts and to identify potential witnesses. Counsel for the Parties met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, formal and informal discovery, and the production of documents and data prior to the mediation. Class

Counsel also drafted Plaintiff's pleadings and mediation brief and prepared for and attended court proceedings, settlement negotiations, and the mediation, among other tasks.

13. Counsel for the Parties have also invested time researching and investigating the applicable law, which is constantly evolving as it relates to certification, representative PAGA claims, off-the-clock theory, meal and rest periods, regular rate of pay, wage-and-hour law and enforcement, Plaintiff's claims and damages, and Defendant's defenses thereto, as well as facts discovered. Based on Class Counsel's analysis, the result achieved in this litigation is fair, adequate, and reasonable.

14. The Settlement provides for a Maximum Settlement Amount of \$1,495,000.00 on a non-reversionary basis. The Net Settlement Amount is the Maximum Settlement Amount less the following amounts, subject to approval by the Court: Class Counsel Fees and Expenses to Class Counsel, Class Representative Service Award to Plaintiff, Settlement Administration Costs to the Settlement Administrator, and PAGA Penalties to the LWDA and PAGA Employees. Assuming that the amounts allocated under the Settlement toward these payments are awarded by the Court, the Net Settlement Amount that will be available for distribution to the Participating Class Members is currently estimated to be \$763,250.00. Additionally, 75% of the PAGA Penalties (i.e., the LWDA Payment), which is \$112,500.00, will be distributed to the Labor and Workforce Development Agency ("LWDA") and 25% of the PAGA Penalties, which is \$37,500.00 ("PAGA Employee Fund"), will be distributed to PAGA Employees on a *pro rata* basis. The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement, and there is no reversion to Defendant.

15. The Parties have agreed to retain ILYM Group, Inc. ("ILYM" or "Settlement Administrator") to handle the notice and settlement administration process. The Parties respectfully request that the Court appoint ILYM to handle these procedures and serve as the Settlement Administrator. Defendant will provide the Settlement Administrator with a list of Class Members that Defendant will compile from its records, which will include each Class Member's full name, mailing address, telephone number, Social Security number, start and end dates of employment during the Class Period and during the PAGA Period ("Class Data List").

The Settlement Administrator will calculate each Class Member's estimated *pro rata* share of the Net Settlement Amount ("Settlement Share") and each PAGA Employee's estimated *pro rata* share of the PAGA Employee Fund ("Individual PAGA Settlement Share"). The Settlement Administrator will be responsible for the following: printing, distributing, and tracking Class Notices and other documents for this settlement; calculating and distributing payments due under the Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances; providing necessary reports and declarations; and other duties and responsibilities as set forth in the Settlement. Settlement Administration Costs are currently estimated not to exceed \$22,000.00 and will be paid out of the Maximum Settlement Amount, subject to approval of the Court.

16. Based on investigation and information discovered, Class Counsel believes that there is sufficient evidence to support the allegations made in the lawsuit, including the allegations that Defendant, with respect to Plaintiff and the Class Members, *inter alia*, failed to properly pay overtime and minimum wages, failed to provide compliant meal and rest periods and to pay associated premium pay, failed to timely pay wages during employment and upon termination of employment, failed to provide compliant wage statements, failed to maintain requisite payroll records, and failed to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.* and conduct giving rise to penalties recoverable under the Private Attorneys General Act of 2004 (California Labor Code sections 2698, *et seq.*). Plaintiff also asserted that he and the other Class Members and PAGA Employees were expected to perform similar job duties and were subject to the same or similar operations and employment policies, practices, and procedures. Plaintiff also contends that Defendant's payroll and recordkeeping practices with respect to Plaintiff, the Class Members, and PAGA Employees were substantially the same during the time period at issue. As a result of the alleged uniform practices, Plaintiff claims that he and the Class Members and PAGA Employees were uniformly not paid all compensation due to them from Defendant during the time period at issue. Thus, in Class Counsel's view, it is clear that the outcome of this litigation would be determined by Defendant's

uniform operations and employment practices, policies, and procedures that Plaintiff alleges applied across its hourly-paid or non-exempt employees in California during the relevant time period.

17. Class Counsel is aware of the defenses and position of Defendant but believes that Plaintiff could potentially obtain class certification despite many obstacles. Class Counsel has also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation, including those involved in class certification and/or representative adjudication. Class Counsel further recognizes the burdens of proof necessary to establish liability, Defendant's defenses, and the difficulties in establishing entitlement to monetary recovery. Class Counsel has also considered the Parties' settlement discussions, as well as the evaluations of the mediator, who is experienced and well-regarded in complex labor and employment matters.

18. Defendant, on the other hand, denied and continues to deny any liability and wrongdoing of any kind associated with the claims alleged in the lawsuit, and further deny that the lawsuit is appropriate for class treatment or representative adjudication for any purpose other than this Settlement. Defendant believes that it would ultimately succeed in the matter. Both sides have also had the opportunity to conduct investigations and gather documents and information relating to Plaintiff's, Class Members', and PAGA Employees' employment with Defendant, and Defendant's operations and employment policies, practices, and procedures. Counsel for the Parties also reviewed and analyzed a large volume of information, documents and data, including but not limited to a sampling of approximately 75% of Class Members' time and pay information, to determine the potential value and strength of the claims. The available information enabled Class Counsel to assess the value of the class and PAGA claims and prepare violation, damages, and penalties analyses and models. Accordingly, counsel for the Parties have conducted adequate investigation and discovery to be sufficiently informed of the nature and extent of the class and PAGA claims, and to enable both sides to fully evaluate the Settlement for its fairness, adequacy, and reasonableness. The Settlement takes into account the strengths and

///

1 weaknesses of each side's position and the uncertainty of how the case might have concluded at
2 certification, trial, and/or appeals.

3 19. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees
4 in an amount of up to 35% of the Maximum Settlement Amount (i.e., \$523,250.00), and
5 reimbursement of litigation costs and expenses in an amount not to exceed \$19,000.00, which
6 will be paid out of the Maximum Settlement Amount, subject to approval by the Court. It should
7 be noted that Class Counsel has borne all of the risks and costs of litigation and will not receive
8 any compensation until recovery is obtained.

9 20. The Settlement Agreement provides for payment of up to \$17,500.00 to Plaintiff
10 as a Class Representative Service Award to be paid out of the Maximum Settlement Amount
11 subject to approval by the Court. Plaintiff spent considerable time and effort to produce relevant
12 documents and past employment records and to provide the facts and evidence necessary to
13 attempt to prove the allegations. Plaintiff was available whenever Class Counsel needed him and
14 actively tried to obtain information and documents that would facilitate the prosecution of this
15 matter. Accordingly, it is appropriate and just for Plaintiff to receive a Class Representative
16 Service Award, in addition to his individual settlement payment, for services performed in this
17 matter on behalf of the Class, State of California, and PAGA Employees.

18 21. On May 26, 2022, Plaintiff provided notice by electronic upload to the Labor and
19 Workforce Development Agency and written notice by certified mail to Defendant of his intent
20 to pursue civil penalties under California Labor Code section 2698, et seq for Defendant's
21 alleged violations of the California Labor Code ("PAGA Notice). A true and correct copy of the
22 PAGA Notice is attached hereto as "**EXHIBIT 2.**"

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


Elizabeth Parker-Fawley

EXHIBIT 1

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Attorneys for Defendant K1 Speed, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

HARRISON BOMTEMPO, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

vs.

K1 SPEED, INC., a Delaware corporation; and
DOES 1 through 100, inclusive,

Defendants.

HARRISON BOMTEMPO, individually, and on
behalf of other aggrieved employees pursuant to
the California Private Attorneys General Act;

Plaintiff,

vs.

K1 SPEED, INC., a Delaware corporation; and
DOES 1 through 100, inclusive,

Defendants

Case No.: 22-CIV-03134;
Case No. 22-CIV-03135

ASSIGNED FOR ALL PURPOSES
TO JUDGE MARIE S. WEINER

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

Trial Date: None Set
Complaints Filed: August 2, 2022

W

1 Subject to the approval of the Court, this Joint Stipulation of Class Action and Private Attorney
2 General Act (“PAGA”) Settlement and Release (“Settlement”) is made and entered into by and
3 between Plaintiff Harrison Bomtempo (“Plaintiff”), individually and as representatives of the
4 Participating Class Members, as defined below, on the one hand, and Defendant K1 Speed, Inc.
5 (“Defendant”), on the other hand. The Class (as defined below) and Defendant are jointly referred to
6 herein as the “Settling Parties” and individually referred to herein as a “Settling Party.”

7 DEFINITIONS

8 In addition to the other terms defined elsewhere in this Settlement, the terms below have the
9 following meanings in this Settlement:

10 I. DEFINITIONS

11 A. “Action” means the civil actions, which will be consolidated, entitled *Harrison*
12 *Bomtempo v. K1 Speed, Inc.*, San Mateo Superior Court Case Number 22-CIV-03134 (“Class
13 Action”), and *Harrison Bomtempo v. K1 Speed, Inc.*, San Mateo Superior Court Case Number 22-
14 CIV-03135 (“PAGA Action”).

15 B. “Class Counsel” means Arby Aiwazian, Joanna Ghosh and Ryan Slinger of
16 LAWYERS *for* JUSTICE, P.C.

17 C. “Class Counsel Fees and Expenses” means the total amount of attorneys’ fees,
18 litigation costs, and expenses awarded to Class Counsel by the Court to compensate Class Counsel for
19 their representation of the Class in the Action, including pre-filing investigation, filing of the Action,
20 all related litigation activities including discovery, mediation, the motion for class certification, this
21 Settlement, and all post-Settlement compliance procedures, including, but not limited to, any counsel
22 costs and fees association with any objections or appeals regarding the Settlement.

23 D. “Class” or “Class Member(s)” means all current and former non-exempt employees
24 in California of Defendant during the Class Period.

25 E. “Class Period” means from August 2, 2018 through February 24, 2024.

26 F. “Class Representative Service Award” means the amount awarded by the Court to the
27 Class Representative pursuant to Section III (D).

28 G. “Class Representative” or “Plaintiff” means Harrison Bomtempo.

1 **H.** “Class Settlement” means the settlement and resolution of the Released Class Claims.

2 **I.** “Court” means the Superior Court of California for the County of San Mateo.

3 **J.** “Defendant’s Counsel” means James D’Ambrosio of Stark and D’Ambrosio and Jody

4 A. Landry of Littler Mendelson, PC.

5 **K.** “Effective Date” means the date by which all of the following have occurred: the

6 Court has finally approved the Settlement and entered Judgment thereon pursuant to California Rules

7 of Court 3.769(h); and the Judgment has become Final, as defined herein below.

8 **L.** “Employer Taxes” means the employer’s share of payroll taxes in connection with the

9 wages portion of Settlement Shares, which shall be paid by Defendant in addition to the Maximum

10 Settlement Amount.

11 **M.** “Final” means that the Settlement has been finally approved by the Court without

12 material modification and means the later of: (i) 61 days from the date the order for final approval

13 and Judgment are both issued; or (ii) if objections are made, and an appeal is filed, the day after the

14 Judgment is affirmed or the appeal, review or writ is dismissed or denied, and the Judgment is no

15 longer subject to further judicial review.

16 **N.** “Final Approval Hearing” means the hearing to be conducted by the Court to

17 determine whether to finally approve and implement the terms of this Settlement.

18 **O.** “Judgment” means the judgment entered by the Court after it grants final approval of

19 this Settlement.

20 **P.** “Maximum Settlement Amount” means the maximum amount Defendant can be

21 required to pay under this Settlement, which is One Million and Four Hundred and Ninety-Five

22 Thousand Dollars (\$1,495,000.00), and covers all of the following: (1) Payments to the Class Members

23 for their share of the Net Settlement Amount (defined below); (2) penalties under the Private

24 Attorney’s General Act (“PAGA”); (3) Class Counsel Fees and Expenses; (4) Settlement

25 Administration Costs; and (5) payment of the Class Representative Service Award to Plaintiff;

26 Defendant shall pay the Employer Taxes on the amount designated as wages separately and in addition

27 to the Maximum Settlement Amount.

28 **Q.** “Net Settlement Amount” means the Maximum Settlement Amount *minus* the sum

of: (1) Class Counsel Fees and Expenses; (2) the Settlement Administration Costs; (3) Plaintiff's Class Representative Service Award; and (4) PAGA Penalties. The Net Settlement Amount will be paid to the Participating Class Members as outlined below in Section III(F)(1).

R. "Participating Class Member(s)" means Class Members who do not submit a timely and valid request to opt-out of the Settlement.

S. "Parties" means the Plaintiff and Defendant.

T. "PAGA Employees" means all current and former non-exempt employees of Defendant in the State of California employed at any time during the PAGA Period.

U. "PAGA Pay Periods" means the total number of pay periods based on pay checks issued during the PAGA Period.

V. "PAGA Period" is the time period from May 26, 2021 through February 24, 2024.

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

X. "Pay Periods" means the total number of pay periods based on pay checks issued during the Class Period.

Y. "PAGA Pay Period Value" is established by dividing the PAGA Employee Fund by all the PAGA Pay Periods for PAGA Employees.

Z. "PAGA Penalties" means the \$150,000.00, of which 75% will be distributed to the Labor and Workforce Development Agency ("LWDA") \$112,500.00 ("LWDA Payment") and the remaining 25% (i.e. \$37,500.00) ("PAGA Employee Fund") will be paid to PAGA Employees as set forth below in Section III(F)(3).

AA. "Pay Period Value" is established by dividing the Net Settlement Amount by all the Pay Periods for the Participating Class Members as explained in Section III(F).

BB. "Preliminary Approval" means the Court's order granting preliminary approval of the Settlement.

CC. "Released Parties" means Defendant, its parent, affiliates and subsidiaries, and each of their company-sponsored employee benefit plans, and their respective successors and predecessors in interest, all of their respective officers, directors, employees, administrators, fiduciaries, trustees

1 and agents, and each of their past, present and future officers, directors, shareholders, employees,
2 agents, principals, heirs, representatives, accountants, auditors, consultants, and attorneys.

3 **DD.** “Settlement Administrator” means the third-party administrator appointed by the Court
4 to administer the settlement of this Action under the terms of this Settlement. ILYM Group, Inc. shall
5 serve as the Settlement Administrator, subject to the Court’s approval.

6 **EE.** “Settlement Administration Costs” means all fees and costs owed to the Settlement
7 Administrator in connection with administering the settlement in this Action under the terms of this
8 Settlement.

9 **FF.** “Settlement Share” means each Class Member’s *pro rata* share of the Net Settlement
10 Amount which is determined by converting the Net Settlement Amount into a bi-weekly/pay period
11 value as described below in Section III(F).

12 **II. RECITALS**

13 **A.** On August 2, 2022, Plaintiff filed a Class Action Complaint for Damages in the
14 Superior Court of San Mateo. On May 26, 2022, Plaintiff provided notice to the Labor and Workforce
15 Development Agency (“LWDA”) and Defendant of the specific provisions of the California Labor
16 Code that were violated (“LWDA Notice”). On August 2, 2022, Plaintiff Complaint for Enforcement
17 Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* The Parties agree
18 that the Class Action and PAGA Action will be consolidated, and that Plaintiff will file a First
19 Amended Consolidated Complaint. Prior to filing the First Amended Consolidated Complaint Plaintiff
20 will provide the First Amended Consolidated Complaint to Defendant’s counsel for review and
21 approval. The Parties agree that the First Amended Consolidated Complaint will include all claims in
22 the Class Complaint and the PAGA Complaint. Once filed, said First Amended Consolidated
23 Complaint will be referred to as the “Operative Complaint”. Plaintiff contends, by way of the Action,
24 that Defendant violated California’s wage and hour laws with respect to Plaintiff and Class Members
25 by, *inter alia*, failure to pay the required minimum wage and overtime for all time worked, failing to
26 properly provide meal periods or pay a premium in lieu thereof, failing to properly authorize and
27 permit rest breaks or pay a premium in lieu thereof, failure to timely pay wages at termination or
28 during employment, failing to provide compliant wage statements, failure to reimburse expenses,

thereby also violated California Business & Professions Code section 17200, et seq. and seeks penalties under PAGA.

B. On August 7, 2023, the Settling Parties attended mediation with Jeffrey Krivis, Esq., an experienced wage and hour class action and PAGA mediator. After lengthy negotiations that occurred during and after the mediation, during which the Settling Parties, through their counsel, recognized the burdens and risk of continuing with the litigation, and follow up negotiations thereafter the Settling Parties reached an agreement to settle and resolve the Action, Released Class Claims and Released PAGA Claims (as defined in Section III(I))

C. The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended, or may be construed, as an admission by Defendant that any of the claims alleged in the Action have merit, or that Defendant bears any liability to the Class Members on those claims, nor as an admission by the Class Members that Defendant's defenses in the Action have merit.

Based on these Recitals, the Settling Parties hereby agree as follows.

III. SETTLEMENT TERMS AND CONDITIONS

A. Maximum Settlement Amount. In order to settle the Action, Released Class Claims and Released PAGA Claims, Defendant agrees to pay the Maximum Settlement Amount of \$1,495,000.00. This Maximum Settlement Amount is inclusive of all payments described in Section I(N). Under no circumstances shall Defendant be required to pay more than the Maximum Settlement Amount other than the Employer Taxes.

B. Class Counsel Fees And Expenses. Defendant and its counsel shall not oppose the application to the Court for an attorney's fees award of up to \$523,250, which is 35% of the Maximum Settlement Amount and reimbursement of litigation costs and expenses of up to Nineteen Thousand Dollars and No Cents (\$19,000.00). The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel with respect to the attorneys' fees and costs awarded to them. Defendant's agreement not to oppose a motion for attorneys' fees or a bill of costs for the aforementioned amounts should not be construed as approval or endorsement by Defendant of the amount sought. Whatever amount of Class Counsel Fees and Expenses that the Court approves shall be paid from the Maximum Settlement

Amount. Should the Court approve and award less than the amount provided for herein, the difference shall be included in the Net Settlement Amount.

C. LWDA Payment. Settling Parties agree that the amount of \$150,000 of the Maximum Settlement Amount is deemed payment for penalties under PAGA (“PAGA Penalties”), of which 75% (i.e. \$112,500.00) shall be paid to the Labor and Workforce Development Agency (“LWDA Payment”) and the remaining 25% (i.e. \$37,500.00) shall be distributed to the PAGA Employees pursuant to the formula in Section III(F)(3).

D. Class Representatives Service Award.

1. Plaintiff shall request, and Defendant shall not oppose, an incentive payment not to exceed \$17,500.00 for the Class Representative. The Class Representative’s Service Award is intended as reasonable compensation for the time and effort expended by him as Class Representative and in connection with the initiation and maintenance of this Action. The Class Representative’s Service Award shall be paid from the Maximum Settlement Amount, and shall be paid in addition to whatever payment Plaintiff is otherwise entitled to as a Participating Class Member. The Class Representative’s Service Award shall be reported to the taxing authorities by means of an IRS Form 1099. The amount of the Class Representative’s Service Award is left to and within the Court’s sole discretion. Should the Court approve and award less than the amount provided for herein, or not at all, the difference shall be included in the Net Settlement Amount. The Settling Parties agree that the approval, and amount, of any Class Representative Incentive Award in this Action shall be in the Court’s sole discretion and not subject to any appeal by Plaintiff who is the sole recipients of any approved Class Representative’s Service Award. The Class Representative will provide a full release, with a 1542 waiver, in exchange for this payment as further discussed below. This Settlement is not contingent on Plaintiff’s receipt of any Service Award out of the Maximum Settlement Amount.

2. Plaintiff acknowledges and agrees that Defendant and its attorneys have made no representations or warranties regarding the tax consequences of payment of the Class Representative’s Service Award, and Plaintiff has not relied on any such representations or warranties. Plaintiff further agrees to pay and bear sole responsibility for all taxes, liens, levies, encumbrances, interest, and penalties that may be due or payable to any taxing authority as a result of payment of any

1 Class Representative's Service Award. Furthermore, Plaintiff agrees to defend and indemnify
2 Defendant in connection with any taxes, fines, interest or penalties incurred as a result of any failure
3 by Plaintiff to pay taxes due, if any, on the Class Representative Service Award paid pursuant to this
4 Agreement.

5 **E. Settlement Administration Costs.** Settling Parties selected ILYM Group, Inc. to act
6 as the Settlement Administrator and it is estimated that the fees, expenses, and costs for administration
7 of the terms of this Settlement shall not exceed \$22,000.00. All of the Settlement Administration Costs
8 shall be paid from the Maximum Settlement Amount upon completion of all duties required to be
9 performed by the Claims Administrator under the terms of this Settlement, or as otherwise required
10 by the Court, subject to the "not to exceed" quote from the agreed upon Settlement Administrator.
11 Should the Court approve, and award less than the amount provided for herein, or not at all, the
12 difference shall be included in the Net Settlement Amount.

13 **F. Settlement Shares to Class Members.**

14 1. Under the Settlement, each Participating Class Member shall be entitled to
15 payment of a *pro rata* portion of the Net Settlement Amount (i.e., his or her Settlement Share). The
16 amount that each Class Member shall be eligible to receive under the Settlement shall be determined
17 by converting the Net Settlement Amount into a Pay Period Value. The Pay Period Value will be
18 established by dividing the Net Settlement Amount by all Pay Periods for the Participating Class
19 Members based on pay checks issued during the Class Period. The Individual Settlement Share for
20 each Participating Class Member will be determined by multiplying the Pay Period Value by each
21 Participating Class Member's individual number of Pay Periods. Meaning, for example, if the pay
22 period value is \$15, and an employee has 30 Pay Periods during the Class Period, the Class Member
23 is entitled to \$450.

24 2. Each Settlement Share for Participating Class Members shall be apportioned as
25 follows: 15% as wages (the "Wage Component") and 85% for interest, penalties, and other non-wage
26 damages (the "Non-Wage Component"). Each Settlement Share shall be subject to reduction for all
27 employee's share of taxes and withholdings on the Wage Component and shall be reported on IRS W-
28 2 forms, and the net payment will be referred to as "Individual Settlement Payment(s)." No reductions

1 will be made to Settlement Shares for any taxes or withholding in connection with the Non-Wage
2 Component, and the Non-Wage Component shall be reported on IRS 1099 forms. All Class Members
3 covered by this Settlement agree that they are not relying on any representations regarding the tax
4 allocation or treatment of any amounts paid to them under the terms of this Settlement and agree to
5 hold Defendant and the other Released Parties harmless for any and all tax consequences relating to
6 the allocation of the payments made under this Settlement. Defendant will pay the Employer Taxes,
7 separately and in addition to the Maximum Settlement Amount.

8 3. Each PAGA Employees' *pro rata* share of the PAGA Employee Fund
9 ("Individual PAGA Settlement Share") will be determined by the PAGA Pay Period Value. The
10 PAGA Pay Period Value will be established by dividing the PAGA Employee Fund by all PAGA Pay
11 Periods for the PAGA Employees. The Individual PAGA Settlement Share for each PAGA Employee
12 will be determined by multiplying the PAGA Pay Period Value by each PAGA Employee's individual
13 PAGA Pay Periods. All payments are for penalties and will be reported to the PAGA Employees on
14 IRS Form 1099.

15 **G. Funding Of Settlement and Distributions.**

16 1. Defendant will pay the Maximum Settlement Amount to the Administration as
17 follows: forty-five (45) calendar days after the Effective date or May 31, 2025, whichever is later.

18 2. Within thirty (30) calendar days of the Effective Date, the Settlement
19 Administrator shall provide Class Counsel and Defendant's Counsel with the account information so
20 that Defendant can wire the payment outlined above.

21 3. The Settlement Administrator shall distribute the payments as outlined above
22 within fourteen (14) calendar days of receipt of payment from Defendant.

23 4. Individual Settlement Payment checks issued to Participating Class Members
24 shall remain valid for a period of one hundred twenty (120) calendar days after they issue and shall be
25 cancelled thereafter. Uncashed checks will be sent to the Controller of the State of California to be
26 held pursuant to the Unclaimed Property Law, California Code of Civil Procedure Section 1500 et seq.
27 in the name of the individual to whom the uncashed check was addressed, and in the same amount as
28

1 each such individual's uncashed check, for the benefit of those individuals who did not cash their
2 checks until such time as they claim their property.

3 **H. Payments To Class Do Not Trigger Additional or Derivative Payments.** It is
4 expressly understood and agreed that the receipt of payments under the Settlement shall not entitle
5 Plaintiff or any Participating Class Member to additional or derivative compensation or benefits under
6 any of Defendant's compensation or benefit plans or agreement in place during the period covered by
7 the Settlement, nor shall it entitle Plaintiff or any Class Member to any increased retirement, 401k
8 benefits or matching benefits, or deferred compensation benefits. It is the intent of this Settlement that
9 the payments provided for in this Agreement are the sole payments to be made by Defendant to
10 Plaintiff and Participating Class Members, and that Plaintiff and Participating Class Members are not
11 entitled to any additional or derivative compensation or benefits as a result of having received said
12 payments (notwithstanding any contrary language or agreement in any benefit or compensation plan
13 document that might have been in effect during the period covered by this Settlement).

14 **I. Release of Claims.**

15 1. Release of Class Claims By Participating Class Members. Upon the Effective
16 Date, and full funding of the Maximum Settlement Amount, Plaintiff and all Participating Class
17 Members waive, release and discharge the Released Parties of any and all Released Class Claims for
18 the Class Period. "Released Class Claims" means all claims for violations of the following Labor Code
19 sections, that were actually alleged or that could have been alleged in the Action, including the
20 Operative Complaint, on behalf of the Class Members for the entire Class Period, as well as any and
21 all wage and hour claims and that were asserted or could have been asserted based on the factual or
22 legal allegations contained in Plaintiff's Operative Complaint in the consolidated actions, arising at
23 any time during the Class Period, including: (a) failure to pay wages including overtime and minimum
24 wage for all hours worked; (b) failure to provide meal periods or pay a premium in lieu thereof; (c)
25 failure to provide rest periods or pay a premium in lieu thereof; (d) failure to timely pay wages during
26 employment and at termination; (e) failure to provide accurate wage statements; (f) failure to
27 indemnify for necessary business expenses; (g) failure to keep required records; (h) unfair business
28 practices (Business and Professions Code section 17200 et seq.); (i) claims for violation of the

1 provisions of Wage Order 10 regarding the same; (j) claims for the attorney's fees and costs incurred
2 in the prosecution of this Action on behalf of the Class Members; (k) any other claims, remedies,
3 penalties, or interest that could have been plead based on the facts alleged in the Complaints filed in
4 the Action; and (l) all claims that Plaintiff, the Class Members may have against the Released Parties
5 relating to: (i) the payment, taxation, and allocation of attorney's fees and costs to Plaintiff's Counsel
6 pursuant to this Settlement Agreement; and (ii) the payment, taxation, and allocation of Plaintiff's
7 Payment pursuant to this Settlement Agreement. The release of the Released Class Claims shall be
8 effective as to the entire Class Period. Participating Class Members do not release any other claims,
9 including claims for vested benefits, wrongful termination, violation of the Fair Employment and
10 Housing Act, unemployment insurance, disability, social security, workers' compensation, and
11 California class claims outside of the Class Period. Participating Class Members may discover facts
12 in addition to those they now know or believe to be true with respect to the subject matter of the
13 Released Class Claims, but upon the Effective Date, Participating Class Members shall be deemed to
14 have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any
15 and all of the Released Class Claims, without regard to the subsequent discovery or existence of such
16 different or additional facts. Participating Class Members agree not to sue or otherwise make a claim
17 against any of the Released Parties that seeks recovery for any of the Released Class Claims. It is the
18 intent of the Parties that the Judgment entered by the Court shall have full *res judicata* effect and be
19 final and binding upon Participating Class Members regarding the Released Class Claims.

20 2. Complete And General Release By Class Representative. Plaintiff understands
21 that he may hereafter discover facts in addition to or different from those Plaintiff now knows or
22 believes to be true with respect to the subject matter of the Released Class Claims, but upon the
23 Effective Date, shall be deemed to have, and by operation of the contemplated final judgment shall
24 have, fully, finally, and forever settled and released any and all of the Released Class Claims, as well
25 as any other known or unknown, suspected or unsuspected, contingent or non-contingent claims,
26 which now exist, or heretofore have existed, upon any theory of law or equity now existing, including,
27 but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any
28 duty, law or rule, without regard to the subsequent discovery or existence of such different or

1 additional facts. In exchange for the consideration provided to Plaintiff under the Settlement, he shall,
2 waive any and all rights Plaintiff may have under Civil Code section 1542. Section 1542 reads as
3 follows: “A general release does not extend to claims that the creditor or releasing party does not know
4 or suspect to exist in his or her favor at the time of executing the release and that, if known by him or
5 her, would have materially affected his or her settlement with the debtor or released party.” Plaintiff
6 understands that he is providing a general release of known and unknown claims to Defendant that is
7 effective when the Court grants final approval of the Settlement and Defendant funds the Settlement.

8 3. Release of PAGA Claims By State of California and PAGA Employees. Upon
9 the Effective Date and full funding of the Maximum Settlement Amount, Plaintiff, the State of
10 California, and all PAGA Employees waive, release and discharge the Released Parties of any and all
11 Released PAGA Claims for the PAGA Period. “Released PAGA Claims” means all claims for the
12 recovery of civil money penalties for violations of the following Labor Code sections alleged in the
13 Operative Complaint, and/or Plaintiff’s PAGA letter: 201-203, 204, 226, 226.3, 226.7, 510, 512, 516,
14 551, 552, 558, 1174, 1194, 1197, 1197.1, 1198, 2698 et. seq., 2800, 2802, sections 3, 4, 7, 11 and 12
15 of Wage Order 10 or any other applicable Wage Order. The release of the Released PAGA Claims
16 shall be effective as to the entire PAGA Period. It is the intent of the Parties that the Judgment entered
17 by the Court shall have full *res judicata* effect and be final and binding upon Plaintiff, the state of
18 California and the PAGA Employees regarding the Released PAGA Claims.

19 **J. Motion For Preliminary Approval.**

20 1. Class Counsel will file an unopposed motion with the Court (the “Preliminary
21 Approval Motion”) seeking an order approving the Settlement; setting a date for the Final Approval
22 Hearing; approving the distribution of the Notice of Class Action Settlement (the “Class Notice”) in
23 substantively the form attached hereto as “**Exhibit A**” (which will be translated into Spanish); and
24 approving the procedures and deadlines for disputing Pay Periods, opting-out of the Settlement, and
25 objecting to the Settlement. Defendant’s Counsel will either not respond or will file a notice of non-
26 opposition to the motion.

27 2. At the hearing on the Preliminary Approval Motion, the Settling Parties will
28 jointly appear, and support the granting of the motion, and submit a proposed order granting

1 preliminary approval of the Settlement, approving the Class Notice, and setting a Final Approval
2 Hearing (the “Proposed Order”). The Proposed Order to be submitted to the Court in substantially the
3 form that is attached hereto as “**Exhibit B.**”

4 3. Should the Court, after a reasonable opportunity to cure and remedy any stated
5 deficiencies, ultimately decline to grant preliminary approval of the Settlement as proposed by the
6 Settling Parties, then the Settlement is void for lack of a condition precedent of the Settlement and the
7 Settling Parties will revert to their respective positions as further discussed below.

8 **K. Mailing Of Class Notice To Class Members.**

9 After the Court enters its order granting preliminary approval of the Settlement, all Class
10 Members will be provided with the Class Notice by the Settlement Administrator as follows:

11 1. Within fourteen (14) calendar days after the Court grants preliminary approval
12 of the Settlement, Defendant shall provide to the Settlement Administrator the last-known contact
13 information that it has for the Class Members, including their full name, mailing addresses, telephone
14 numbers, Social Security numbers, start and end dates of employment, and the number of Pay Periods
15 based on dates of employment during the Class Period and during the PAGA Period (“Class Data
16 List”). A redacted version of the Class Data List, without any personal contact information or Social
17 Security numbers, shall be provided to Class Counsel, and this list shall be used for no purpose other
18 than to monitor the administration of the Settlement. All data and information provided to the
19 Settlement Administrator and Class Counsel by way of the Class Data List shall be treated as
20 confidential and shall not be disclosed to anyone, except as may be required to applicable tax
21 authorities, pursuant to Defendant’s express written consent, by order of the Court, or to carry out the
22 reasonable steps described in this Settlement to locate missing Class Members.

23 2. Within fourteen (14) calendar days after receiving the Class Data List from
24 Defendant, the Settlement Administrator shall mail the Class Notice to all identified Class Members
25 via first-class U.S. Mail, using the last known address information provided by Defendant, unless such
26 address is modified by any updated address information that the Settlement Administrator obtains in
27 the course of administration of the Settlement. Prior to completing this mailing, the Settlement
28 Administrator shall perform a National Change of Address (“NCOA”) search to confirm the validity

1 of and update Class Members' mailing addresses.

2 3. If any Class Notice is returned as undeliverable with a forwarding address
3 within thirty (30) calendar days of the mailing of the Class Notice, the Settlement Administrator shall
4 have five (5) calendar days to re-mail the Class Notice to the forwarding address. If any Class Notice
5 is returned as undeliverable without a forwarding address within thirty (30) calendar days of the
6 mailing of the Class Notice, the Settlement Administrator shall have five (5) calendar days from receipt
7 of the returned Class Notice to search for a more current address for the Class Member and to re-mail
8 the Class Notice to the Class Member. This inquiry shall include a skip-trace search. The Settlement
9 Administrator shall be responsible for taking all reasonable steps, consistent with its agreed upon job
10 parameters, Court orders and fee, according to the deadlines set forth in this Settlement, to administer
11 the Settlement, including, *inter alia*, to tracking all undelivered mail, performing an address search for
12 all mail returned without a forwarding address, and promptly re-mailing the Class Notice to Class
13 Members as set forth herein. If the Class Notice is re-mailed, the Claims Administrator shall note for
14 its own records the date and address of each such re-mailing and so notify Class Counsel and
15 Defendants' counsel. The obligation to trace and resend returned Class Notices shall cease after two
16 mailings or thirty (30) calendar days after the initial mailing, whichever occurs first. The Response
17 Deadline shall be either the original Response Deadline or fifteen (15) calendar days after the
18 remailing of a Class Notice in accordance with the Agreement, whichever is later.

19 4. The Settlement Administrator shall provide weekly status reports to counsel for
20 the Settling Parties, including: (a) the number of Class Notices that it has mailed; (b) the number of
21 objections, if any are received; (c) the number of disputes of pay periods, if any are received; and (c)
22 the number of requests to opt-out of the Settlement, if any are received.

23 5. No later than fourteen (14) calendar days after the Response Deadline, the
24 Settlement Administrator shall provide Class Counsel and Defendant' counsel, a declaration for filing
25 with the Court in support of Plaintiff's motion for final approval of the Settlement, setting forth its due
26 diligence and compliance with its obligations under this Settlement.

L. Opt-Outs and Objections To Settlement.

Class Members are not required to sign a claim form to participate in the Settlement. Class Members may opt out of the Settlement or submit objections to the Settlement pursuant to the following procedures:

1. The Class Notice shall provide that Class Members who do not want to participate in the Settlement may exclude themselves by submitting a written request seeking to opt-out of the Settlement (“Opt-Out Notice”) to the Settlement Administrator not later than sixty (60) calendar days after the date that the Settlement Administrator first mails the Class Notice (“Response Deadline”). An Opt-Out Notice must: (a) contain the full name, address, and last four digits of the Social Security number of the person requesting to opt-out; (b) be signed by the person requesting to opt-out; (c) reference the Action by its name; and (d) contain a statement clearly indicating that the person submitting the request seeks to be excluded from the Settlement. If the Opt-Out Notice does not contain the information listed in (a)-(d) or is not returned to the Settlement Administrator postmarked by the Response Deadline, it shall not be deemed timely and valid. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether the Opt-Out Notice has been timely submitted. Any Class Member who submits a timely and valid Opt-Out Notice shall not be entitled to any recovery under the Settlement and shall not be bound by the terms of the Class Settlement, and shall not have any right to object, appeal, or comment thereon. The submission of an Opt-Out Notice shall not impact a PAGA Employee’s entitlement to their Individual PAGA Settlement Share as there is no right to opt out of a PAGA settlement. Class Members who fail to submit a timely and valid Opt-Out Notice shall be Class Members bound by all terms of the Settlement and the contemplated Judgment if the Settlement is granted final approval by the Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide Class Counsel and Defendant’s Counsel with a complete list of all Class Members who have submitted timely and valid Opt-Out Notices, including their full names. All PAGA Employees will be issued an Individual PAGA Payment, irrespective of whether they submit an Opt-Out Notice and the Final Approval Order and Judgment will have claim preclusive impact on the PAGA Employees with respect to the Released PAGA Claims.

2. The Class Notice shall provide that Participating Class Members who wish to object to the Settlement may submit a written objection to the Settlement ("Objection") to the Settlement Administrator by the Response Deadline. An Objection must: (a) contain the full name, address, and last four digits of the Social Security number of the person objecting; (b) be signed by the person objecting; (c) reference the Action by its name; and (d) contain a statement clearly indicating that the person objects to the Settlement. If the Objection does not contain the information listed in (a)-(d) or is not returned to the Settlement Administrator postmarked by the Response Deadline, it shall not be deemed timely and valid. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether the Objection has been timely submitted.

3. A Class Member who does not make an oral objection at the Final Approval Hearing or does not submit a written objection in the manner and by the Response Deadline specified above shall be deemed to have waived all objections and shall be foreclosed from making any objections to the Settlement, whether by appeal or otherwise.

4. If a Class Member who has timely filed an objection to the Settlement files a Notice of Appeal of the contemplated Judgment within the time period prescribed by law, Defendant shall not be required to fund any portion of the Maximum Settlement Amount, and the Settlement Administrator shall not distribute or pay any monies until the appeal(s) are finally resolved in favor of the Settlement or dismissed with prejudice.

5. The Parties agree that there is no statutory right for any PAGA Employee to object, opt out or otherwise exclude himself or herself from the PAGA part of the Settlement. If a Class Member opts out, and is also a PAGA Employee, s/he is still covered by the PAGA portion of the Settlement. Except as otherwise stated, Plaintiff shall vigorously defend against any attempt by any PAGA Employee or by any entity or agency to intervene in this matter or object to/opt-out of this settlement. Further, there is no right or opportunity for any PAGA Employee to appeal the approval of the Settlement by the Court. The Parties shall jointly defend against any appeal filed with respect to the Final Order as it pertains to the PAGA part of the Settlement.

1 **M. Resolution of Class Member Disputes Over Work Weeks or Pay Periods.**

2 1. If a Class Member disputes the number of Pay Periods credited to him or her,
3 which will be stated in the Class Notice, the Class Member must submit a written dispute to the
4 Settlement Administrator, postmarked no later than the Response Deadline. The dispute must: (a)
5 contain the full name, address, and last four digits of the Social Security number of the Class Member;
6 (b) be signed by the Class Member; (c) reference the Action by its name and case number; (d) contain
7 a statement clearly indicating that the Class Member disputes the number of Pay Periods that are
8 credited to him or her and the number of Pay Periods that the Class Member claims should be credited
9 to him or her; and (e) attach supporting documentation, if any, that they may have. If such a dispute
10 arises with respect to a Class Member, the Settlement Administrator shall inform Class Counsel and
11 Defendant's Counsel. Defendant shall manually review its payroll and personnel records to verify the
12 correct number of pay Periods for the disputing Class Member. Defendant's records shall have a
13 rebuttable presumption of correctness, and Defendant's Counsel and Class Counsel shall jointly
14 determine how the dispute should be resolved. If they are unable to jointly resolve the dispute, the
15 Settlement Administrator shall present the dispute for resolution by the Court, by way of declaration
16 to be filed in advance of the Final Approval Hearing. The decision on the dispute shall be non-
17 appealable.

18 **N. No Solicitation of Objections or Opt-Outs.** Neither the Settling Parties nor their
19 respective counsel or management shall solicit or otherwise encourage any Class Member, directly or
20 indirectly, to seek to opt-out from the Settlement, object to the Settlement, and/or appeal from the
21 Judgment.

22 **O. Additional Briefing and Final Approval.**

23 1. As soon as practicable following the Response Deadline, Plaintiff shall move
24 the Court for final approval of the Settlement. Defendant agrees it shall not oppose so long as the
25 motion is in all respects consistent with the terms of this Settlement. Not later than five (5) court days
26 before the Final Approval Hearing, the Settling Parties may file, jointly or separately, a reply in support
27 of the motion or such other papers as may be necessary or helpful to the Court regarding the subject
28 matter of the motion.

2. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, the Settling Parties shall present a Judgment for the Court's approval and entry, which shall provide that the Court shall have continuing jurisdiction over the Action and the Settlement solely for purposes of: (i) enforcing this Settlement, (ii) addressing any claims administration matters that may arise; and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

P. Escalator Clause. As of the time that the parties reached a tentative settlement on October 30, 2023, the estimated Pay Periods were 39,958. Should the number of Pay Periods exceed that number by more than 10%, which means they must exceed 43,953.8, Defendant has the option to either increase the Maximum Settlement Amount proportionally for the Pay Periods that exceed the 10%, or to shorten the release period so that there is no increase in the amount above the 10% threshold. That means, for example, that if the actual Pay Periods as of February 24, 2024, are 45,000, and Defendant were to elect option (a) and increase the Gross Settlement Amount, then Defendant would need to pay an additional \$35,931.24 ($\$1,495,000$ divided by $43,943.8 = \$34.02 \times 1,056.2$ excess Pay Periods) to have a release through that date.

Q. Options to Terminate Settlement.

1. Any reduction in the Class Counsel Fees and Expenses, and/or any reduction to the requested Class Representative's Service Award, does not constitute grounds to terminate or void the Settlement.

2. Defendant has the right to cancel the Settlement if more than ten percent (10%) of the Class Members submit timely and valid Opt-Out Notices from the Settlement. This option to cancel the Settlement must be exercised by Defendant by providing written notice to Class Counsel within fourteen (14) calendar days of Defendant's Counsel receiving notification from the Settlement Administrator that more than ten percent (10%) of the Class Members have submitted timely and valid Opt-Out Notices from the Settlement. If Defendant exercises the option to terminate the Settlement, then Defendant shall be responsible for paying all Settlement Administration Costs.

3. Either Settling Party may terminate this Settlement by giving written notice to the other Settling Party (through its counsel) no later than twenty (20) calendar days after receiving

1 notice that one of the following has occurred: (i) the Court declines to enter the Preliminary Approval
2 Order or the Final Approval Order in substantially the form submitted by the Parties; (ii) the Settlement
3 does not become final because of any appellate court action; or (iii) the Court's final approval of the
4 Settlement is reversed or materially modified on appellate review.

5 4. In the event of termination of this Settlement as provided above, this Settlement
6 shall become and be considered null and void, and it shall have the following effects: (i) the Settling
7 Parties shall have no further obligations under the Settlement; (ii) Defendant shall have no obligation
8 to make any payments to any person, party, Class Member or attorney that otherwise would have been
9 owed under this Settlement, except that in case of termination under Section III (P)(2), Defendant shall
10 pay the Settlement Administrator's reasonable fees and expenses incurred as of the date that the
11 Settlement is terminated; (iii) in case of termination under Section III (P)(3), the Parties shall split the
12 Settlement Administrator's reasonable fees and expenses incurred as of the date that the Settlement is
13 terminated; (iv) the Settlement and all negotiations, statements and proceedings relating thereto shall
14 be without prejudice to the rights of any of the Settling Parties, all of whom shall be restored to their
15 respective positions in the Action prior to the Settlement; and (v) neither this Settlement nor any
16 ancillary documents, actions, statements or filings in furtherance of settlement (including all matters
17 associated with the mediation) shall be admissible or offered into evidence in the Action or any other
18 case or proceeding for any purpose whatsoever.

19 5. Notice of the termination of the Settlement by a Settling Party must be provided
20 to counsel for the other Settling Party in writing.

21 **R. Dispute Resolution.** Any disputes not resolved by the Settlement Administrator or the
22 Settling Parties shall be resolved by the Court. Before any such resort to the Court, counsel for the
23 Settling Parties shall confer in good faith in an attempt to resolve the dispute.

24 **S. Publicity.** Neither Plaintiff nor Class Counsel will publicize this Settlement by
25 Defendant's name or location, through a press release, posting on the website of Class Counsel, in
26 social media or by any other public means, other than in necessary Court filings and proceedings
27 associated with the Settlement. Nothing in this provision is intended to prohibit (i) Plaintiff from
28 discussing this Settlement with his respective spouse or partner, attorneys or tax advisor; or (ii) Class

1 Counsel from communicating with putative class members in this case or with the Court in which the
2 Action is pending or the LWDA.

3 **T. Fair, Adequate, And Reasonable Settlement.** This Settlement was reached after
4 extensive negotiations. The Settling Parties believe and agree that this Settlement is a fair, adequate,
5 and reasonable resolution of the Action and have arrived at this Settlement in arms-length negotiations,
6 considering all relevant factors, present and potential, and shall so represent it to the Court.

7 **U. No Admission Of Liability.** Defendant and the Released Parties deny any and all
8 alleged wrongdoing or the violation of any rights of Plaintiff and/or Class Members. By entering into
9 this Settlement, Defendant does not admit, and in fact specifically disclaims, the violation of any law
10 or regulation. This Settlement is entered into solely for the purpose of compromising highly disputed
11 claims. Nothing in this Settlement is intended or shall be construed as an admission of any liability or
12 wrongdoing by Defendant, or as an admission by the Class Members that any of their claims were
13 non-meritorious or that any defense asserted by Defendant was meritorious. This Settlement and the
14 fact that the Settling Parties are willing to settle the Action and have entered into this Settlement shall
15 have no bearing on, and shall not be admissible in connection with, any litigation, other than as is
16 necessary to enforce the terms of this Settlement.

17 **V. Miscellaneous Terms.**

18 1. Integrated Agreement. After it is signed and delivered by all Settling Parties
19 and their counsel, this Settlement and its exhibits shall constitute the entire agreement between the
20 Settling Parties relating to the terms of Settlement, and shall supersede any prior or contemporaneous
21 oral representations, warranties, covenants, or inducements made to any Settling Party concerning this
22 Settlement or its exhibits, including the Settlement Terms.

23 2. Execution in Counterparts. This Settlement may be executed in one or more
24 counterparts either with a properly authenticated electronic signature or regular signature. All executed
25 counterparts, and each of them, shall be deemed to be one and the same instrument. Any executed
26 counterpart shall be admissible in evidence to prove the existence and contents of this Settlement.

27 3. Modification of Settlement. This Settlement, and any and all parts of it, may be
28 amended, modified, changed, or waived only by an express written instrument signed by all Settling

Parties or their successors-in-interest, subject to approval by the Court.

4. Settlement Binding on Successors. This Settlement shall be binding upon, and inure to the benefit of, the successors of each of the Settling Parties and Participating Class Members.

5. Applicable Law. All terms and conditions of this Settlement and its exhibits shall be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law or choice of law principles.

6. Interim Stay of Proceedings. The Parties shall stay all proceedings in the Action, subject to necessary compliance with the Court's orders, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.

7. Authorization to Enter Into Settlement Agreement. Counsel for all Settling Parties warrant and represent they are expressly authorized by the Settling Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by such Settling Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Settling Parties and their counsel shall cooperate with each other and use their best effort to effectuate the implementation of the Settlement. In the event the Settling Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Settling Parties may seek the assistance of the Court to resolve such disagreement. The persons signing this Agreement on behalf of Defendant represents and warrants that they are authorized to sign this Agreement on behalf of Defendant. The Class Representatives represent and warrant that they are authorized to sign this Agreement and that they have not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

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

To Class Counsel:

Arby Aiwazian
Joanna Ghosh
Ryan Slinger
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

To Defendant:

Jody A. Landry, Esq.
jlandry@littler.com
LITTLER MENDELSON, P.C.
501 West Broadway, Suite 900
San Diego, California 921

9. Cooperation in Drafting. The Settling Parties have cooperated in the drafting and preparation of this Settlement. This Settlement shall not be construed against any Settling Party on the basis that the Settling Party was the drafter or participated in the drafting.

IT IS SO AGREED.

Dated: 07/15/2024

Electronically Signed
HIS
2024-07-15 17:59:08 UTC - 107.77.214.2
d12a4f8d-a0a0-4810-aa0d-b1ae0121b225

Harrison Bomtempo
Plaintiff

K1 Speed, Inc.

Dated: Aug 5, 2024

Joshua Boxer (Aug 5, 2024 08:03 PDT)
Josh Boxer, CFO

Approved as to form:

LAWYERS for JUSTICE, P.C.

Dated: July 15, 2024

Ryan Slinger
Ryan Slinger
Attorneys for Plaintiff and the Settlement Class

STARK & D'AMBROSIO

Dated: August 5, 2024

James D'Ambrosio
James D'Ambrosio
Attorney for Defendant

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LITTLER MENDELSON, P.C.



Dated: August 5, 2024

Jody A. Landry
Attorney for Defendant

4877-1372-0015.1 / 120745-1001

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Harrison Bomtempo v. K1 Speed, Inc.
Superior Court of California for the County of San Mateo, Case No. 22-CIV-03134
Harrison Bomtempo v. K1 Speed, Inc.
Superior Court of California for the County of San Mateo, Case No. 22-CIV-03135

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because K1 Speed, Inc.'s ("Defendant") records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the class settlement, your legal rights may be affected.

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

YOU ARE NOTIFIED THAT: A class action and Private Attorneys General Act ("PAGA") settlement has been reached between Plaintiff Harrison Bomtempo ("Plaintiff") and Defendant K1 Speed, Inc. ("Defendant") (together, the "Parties") in the cases entitled *Harrison Bomtempo v. K1 Speed, Inc.*, San Mateo County Superior Court, Case No. 22-CIV-03134 ("Class Action") and *Harrison Bomtempo v. K1 Speed, Inc.*, San Mateo County Superior Court, Case No. 22-CIV-03135 ("PAGA Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the Settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" means all current and former non-exempt employees in California of Defendant during the Class Period.

"Class Member" means a member of the Class.

"Class Period" means the time period from August 2, 2018 through February 24, 2024.

"Class Settlement" means the settlement and resolution of the Released Class Claims (described in Section III.D below).

"PAGA Employees" means all current and former non-exempt employees of Defendant in the State of California employed at any time during the PAGA Period.

"PAGA Settlement" means the settlement and resolution of the Released PAGA Claims (described in Section III.D below).

"PAGA Period" means the time period from May 26, 2021 through February 24, 2024.

II. BACKGROUND OF THE ACTION

On May 26, 2022, Plaintiff provided written notice to the Labor and Workforce Development Agency ("LWDA") and Defendants of the specific provisions of the California Labor Code that he contends were violated ("PAGA Letter").

On August 2, 2022, Plaintiff filed a Class Action Complaint for Damages in the San Mateo County Superior Court, Case No. 22-CIV-03134 against Defendant.

On August 2, 2022, Plaintiff also filed a separate Complaint for Enforcement Under the Private Attorneys General Act ("PAGA"), California Labor Code 2698, Et Seq. in San Mateo County Superior Court, Case No. 22-CIV03135.

On [redacted], 2024, Plaintiff filed a First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("Operative Complaint"),

consolidating the Class Action and the PAGA Action.

Plaintiff alleges that Defendant violated the California Labor Code by failing to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide accurate wage statements, keep requisite payroll records, and reimburse business expenses, and thereby engaged in unfair business practices in violation of California Business & Professions Code section 17200, *et seq.*, and engaged in conduct that gives rise to civil penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys' fees and costs.

Defendant denies all the allegations in the Operative Complaint or that they violated any law.

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

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

Arby Aiwarzian, Esq.
Joanna Ghosh, Esq.
Ryan Slinger, Esq.
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

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

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Operative Complaint have merit or that Defendant has any liability to Plaintiff, Class Members, the State of California, and/or PAGA Employees. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, PAGA Employees, and the State of California. The Court has made no ruling on the merits of the claims asserted in the Operative Complaint and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The maximum settlement amount is One Million Four Hundred Ninety-Five Thousand Dollars (\$1,495,000.00) (the "Maximum Settlement Amount"). The portion of the Maximum Settlement Amount that is available for payment to Class Members is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Maximum Settlement Amount, less the following payments which are subject to approval by the Court: (1) Class Counsel fees in an amount not to exceed 35% of the Maximum Settlement Amount (i.e., \$523,250.00) and reimbursement of litigation costs and expenses, in an amount not to exceed Nineteen Thousand Dollars and No Cents (\$19,000.00) (together, "Class Counsel Fees and Expenses") to Class Counsel; (2) Class Representative Service Award in an amount not to exceed Seventeen Thousand Five Hundred Dollars and No Cents (\$17,500.00) to Plaintiff for his services in the Actions ("Class Representative Service Award"); (3) Settlement Administration Costs in an amount not to exceed Twenty Thousand Nine Hundred and Fifty Dollars

and No Cents (\$20,950.00) to the Settlement Administrator (“Settlement Administration Costs”); and (4) the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) allocated toward civil penalties under the Private Attorneys General Act (“PAGA Penalties”). The PAGA Penalties will be distributed 75% (i.e., \$112,500.00) to the Labor and Workforce Development Agency (“LWDA”) (“LWDA Payment”) and the remaining 25% (i.e., \$37,500.00) will be distributed to PAGA Employees.

Class Members shall be entitled to payment of a *pro rata* portion of the Net Settlement Amount (“Settlement Share”). The amount that each Class Member shall be eligible to receive under the Settlement shall be determined by converting the Class Employee Fund into a Pay Period Value. The Pay Period Value will be established by dividing the Class Employee Fund by all Pay Periods for the Participating Class Members based on pay checks issued during the Class Period. The Estimated Individual Settlement Share for each Class Member will be determined by multiplying the Pay Period Value by each Class Member’s individual number of Pay Periods. (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion (“Participating Class Members”) will be issued their payment of their final Individual Settlement Payment. PAGA Employees shall be issued payment of their Individual PAGA Settlement Share regardless of whether they request exclusion from (opt out of) the Class Settlement.

Each Individual Settlement Share will be allocated as fifteen percent (15%) wages, which will be reported on an IRS Form W-2, and eighty-five percent (85%) penalties, interest, and non-wage damages, which will be reported by the Settlement Administrator on an IRS Form 1099. Each Settlement Share shall be subject to reduction for the employee’s share of payroll taxes due on the wages portion of Settlement Share. The employer’s share of payroll taxes and contributions in connection with the wages portion of the Settlement Shares will be paid by Defendant separately and in addition to the Maximum Settlement Amount.

PAGA Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the PAGA Employee Fund (“Individual PAGA Settlement Share”). The amount that each PAGA Employee shall be eligible to receive will be determined by the PAGA Pay Period Value. The PAGA Pay Period Value will be established by dividing the PAGA Employee Fund by all PAGA Pay Periods for the PAGA Employees. The Individual PAGA Settlement Share for each PAGA Employee will be determined by multiplying the PAGA Pay Period Value by each PAGA Employee’s individual PAGA Pay Periods. (which is listed in Section III.C below).

Each Individual PAGA Settlement Share will be allocated as one hundred percent (100%) penalties, which will be reported by the Settlement Administrator on an IRS Form 1099 (if applicable).

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

B. Your Pay Periods Based on Defendant's Records

According to Defendants’ records:

During the Class Period (i.e., from August 2, 2018 to February 24, 2024), you are credited as having worked [_____] Pay Periods, as a Class Member.

During the PAGA Period (i.e., from May 26, 2021 to February 24, 2024), you are credited as having worked [_____] Pay Periods, as a PAGA Employee.

If you wish to dispute the Pay Periods credited to you, you may submit a written dispute that must: (a) contain your full name, address, and the last four (4) digits of your Social Security number; (b) be signed by you (c) reference the Class Action by its name and case number; (d) contain a statement clearly indicating that you dispute the number of Pay Periods credited to you and what you contend is the correct number to be credited to you; (e) attach supporting documentation, if any, that you may have. The Pay Period dispute must be postmarked **no later than [Response Deadline]**.

C. Your Estimated Settlement Share and/or Individual PAGA Settlement Share

As explained above, your estimated Settlement Share and/or Individual PAGA Settlement Share is based on the number of Pay Periods credited to you.

Under the terms of the Settlement, your Settlement Share is estimated to be \$ [REDACTED]. The Settlement Share is subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Settlement Share.

Under the terms of the Settlement, your Individual PAGA Settlement Share is estimated to be \$ [REDACTED].

The settlement approval process may take multiple months. Your Settlement Share and/or Individual PAGA Settlement Share (if applicable) reflected in this Class Notice is only an estimate. Your actual Settlement Share and/or Individual PAGA Settlement Share (if applicable) may be higher or lower. Payments will be distributed only after the Court grants final approval of the Settlement, and after the Settlement goes into effect.

D. Released Claims

Upon the Effective Date and full funding of the Maximum Settlement Amount, Plaintiff and all Participating Class Members waive, release and discharge Released Parties of any and all Released Class Claims for the Class Period.

Upon the Effective Date and full funding of the Maximum Settlement Amount, Plaintiff, the State of California with respect to PAGA Employees, and all PAGA Employees, waive, release and discharge Released Parties of any and all Released PAGA Claims for the PAGA Period.

“Class Released Claims” means means all claims for violations of the following Labor Code sections, that were actually alleged or that could have been alleged in the Action, including the Operative Complaint, on behalf of the Class Members for the entire Class Period, as well as any and all wage and hour claims and that were asserted or could have been asserted based on the factual or legal allegations contained in Plaintiff’s Operative Complaint in the consolidated actions, arising at any time during the Class Period, including: (a) failure to pay wages including overtime and minimum wage for all hours worked; (b) failure to provide meal periods or pay a premium in lieu thereof; (c) failure to provide rest periods or pay a premium in lieu thereof; (d) failure to timely pay wages during employment and at termination; (e) failure to provide accurate wage statements; (f) failure to indemnify for necessary business expenses; (g) failure to keep required records; (h) unfair business practices (Business and Professions Code section 17200 et seq.); (i) claims for violation of the provisions of Wage Order 10 regarding the same; (j) claims for the attorney’s fees and costs incurred in the prosecution of this Action on behalf of the Class Members; (k) any other claims, remedies, penalties, or interest that could have been plead based on the facts alleged in the Complaints filed in the Action; and (l) all claims that Plaintiff, the Class Members may have against the Released Parties relating to: (i) the payment, taxation, and allocation of attorney’s fees and costs to Plaintiff’s Counsel pursuant to this Settlement Agreement; and (ii) the payment, taxation, and allocation of Plaintiff’s Payment pursuant to this Settlement Agreement.

“PAGA Released Claims” means all claims for the recovery of civil money penalties for violations of the following Labor Code sections alleged in the Operative Complaint, and/or the LWDA Notice: 201-203, 204, 226, 226.3, 226.7, 510, 512, 516, 551, 552, 558, 1174, 1194, 1197, 1197.1, 1198, 2698 et. seq., 2800, 2802, sections 3, 4, 7, 11, and 12 of Wage Order 10 or any other applicable Wage Order.

“Released Parties” means Defendant, its parent, affiliates and subsidiaries, and each of their company-sponsored employee benefit plans, and their respective successors and predecessors in interest, all of their respective officers, directors, employees, administrators, fiduciaries, trustees and agents, and each of their past, present and future officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and attorneys.

E. Class Counsel Fees and Expenses to Class Counsel

Class Counsel will seek attorneys’ fees in an amount of up to thirty five percent (35%) of the Maximum Settlement Amount (i.e., an amount of up to \$523,250.00) and reimbursement of litigation costs and expenses in an amount of up to Nineteen Thousand Dollars (\$19,000.00) (together “Class Counsel Fees and Expenses”), subject to approval by the Court. The Class Counsel Fees and Expenses awarded by the Court will be paid from the Maximum Settlement Amount. Class Counsel has

been prosecuting the cases on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Class Representative Service Award to Plaintiff

Plaintiff will seek the amount of Seventeen Thousand Five Hundred Dollars (\$17,500.00), in recognition of his services in connection with the Action (“Class Representative Service Award”). The Class Representative Service Award will be paid from the Maximum Settlement Amount, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to his individual settlement payments that he may be entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Costs of administering the Settlement are estimated not to exceed Twenty Thousand Nine Hundred and Fifty Dollars (\$20,950) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members and PAGA Employees of the Settlement, processing Opt-Out Notices, objections, and Disputes of Pay Periods, calculating Settlement Shares, Individual Settlement Payments, and Individual PAGA Settlement Shares, and distributing payments and tax forms under the Settlement, and shall be paid from the Maximum Settlement Amount, subject to approval by the Court.

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

A. Participate in the Settlement

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

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

If you are a PAGA Employee, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Settlement Share. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the PAGA Released Claims described in Section III.D above. Class Members who opt-out of the Class Settlement, and who are also PAGA Employees, shall still be bound to the PAGA Settlement and Judgment with respect to the PAGA Released Claims.

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

B. Opt-Out from the Class Settlement

If you do not wish to participate in the Class Settlement, you may exclude yourself from the Class Settlement by submitting a written request (“Opt-Out Notice”), which must: (a) contain your full name, address, and the last four (4) digits of your Social Security number; (b) be signed by you; (c) reference the Class Action by its name; and (d) contain a statement clearly indicating that you seek to be excluded from the Class Settlement. The Opt-Out Notice must be postmarked by **no later than [Response Deadline]** at the following address:

[Settlement Administrator]
[Address]

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Opt-Out Notice will not be entitled to receive an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Class Released Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do *not* submit an Opt-Out Notice will be deemed Participating Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of Class Released Claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. All PAGA Employees will be bound by the PAGA Settlement (and the release PAGA Released Claims described in Section III.D

above) and will still be issued an Individual PAGA Settlement Share, regardless of whether they submit an Opt-Out Notice from the Class Settlement.

C. Object to the Class Settlement

You can object to the terms of the Class Settlement, as long as you have not submitted an Opt-Out Notice, by submitting a written objection to the Settlement Administrator (“Objection”) or presenting your objection at the Final Approval Hearing.

An Objection must: (a) contain the full name, address, and last four digits of the Social Security number of the person objecting; (b) be signed by the person objecting; (c) reference the Action by its name; and (d) contain a statement clearly indicating that the person objects to the Settlement. The Objection must be postmarked by **no later than [Response Deadline]**.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 28 of the San Mateo Superior Court, located at the Central Courthouse, 800 North Humboldt Street, San Mateo, California 94401, on **[date]**, at **[time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award Class Counsel Fees and Expenses, Class Representative Service Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear either remotely or in person if you wish to.

VI. ADDITIONAL INFORMATION

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

You may view the Settlement Agreement and documents filed in the Action for a fee by visiting the civil clerk’s office, located at 800 North Humboldt Street, San Mateo, California 94401, during business hours, or by online by visiting the following website: <https://www.sanmateo.courts.ca.gov>.

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

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

EXHIBIT B

Arby Aiwarzian (SBN 269827)
Joanna Ghosh (SBN 272479)
Ryan Slinger (SBN 351297)
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Attorneys for Defendant K1 Speed, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

HARRISON BOMTEMPO, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other aggrieved
employees pursuant to the California Private
Attorneys General Act;

Plaintiff,

vs.

K1 SPEED, INC., a Delaware corporation; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: 22-CIV-03134

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Complaint Filed: August 2, 2022
FAC Filed: June 28, 2024
Trial Date: None Set

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the wage portions of the Settlement Shares to the Participating Class Members.

3. The Court finds on a preliminary basis that: (1) the settlement amount is fair and reasonable to the Class Members when balanced against the probable outcome of further litigation relating to class certification, liability and damages issues, and potential appeals; (2) significant formal and informal discovery, investigation, research, and litigation have been conducted such that counsel for the respective Parties at this time are able to reasonably evaluate their respective positions; (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented by the further prosecution of the litigation; and (4) the proposed Settlement has been reached as the result of serious, informed, adversarial, and arms-length negotiations between the Parties. Accordingly, the Court preliminarily finds that the Settlement was entered into in good faith and meets the requirements for preliminary approval.

4. A final approval hearing on the question of whether the proposed Settlement, Class Counsel Fees and Expenses, Settlement Administration Costs, the PAGA Penalties, and the Class Representative Service Award is hereby set in accordance with the Implementation Schedule set forth below.

5. The Court provisionally certifies, for settlement purposes only, the following class (“Class Members”): All current and former non-exempt employees in California of Defendant during the Class Period. The “Class Period” means the period from August 2, 2018 through February 24, 2024. Excluded from the Class will be any Class Member who sends the Settlement Administrator a timely and valid written request seeking to opt-out of the Settlement.

6. Further, the Court provisionally certifies, for settlement purposes only, the following “PAGA Employees”: All current and former non-exempt employees of Defendant in the state of California employed at any time during the PAGA Period. The “PAGA Period” means the period from May 26, 2021 through February 24, 2024.

7. Release of Claims.

The release provisions of the settlement, as set forth below, are provisionally approved:

- a. Released Parties. “Released Parties” means Defendant, its parent, affiliates and subsidiaries, and each of their company-sponsored employee benefit plans, and their

1 respective successors and predecessors in interest, all of their respective officers, directors,
2 employees, administrators, fiduciaries, trustees and agents, and each of their past, present
3 and future officers, directors, shareholders, employees, agents, principals, heirs,
4 representatives, accountants, auditors, consultants, and attorneys.

5 b. Release of Class Claims by Participating Class members. Upon the Effective Date, and
6 full funding of the entire Maximum Settlement Amount, Plaintiff and all Participating
7 Class Members waive, release and discharge the Released Parties of any and all Released
8 Class Claims for the Class Period. “Released Class Claims” means all claims for violations
9 of the following Labor Code sections, that were actually alleged or that could have been
10 alleged in the Action, including the Operative Complaint, on behalf of the Class Members
11 for the entire Class Period, as well as any and all wage and hour claims and that were
12 asserted or could have been asserted based on the factual or legal allegations contained in
13 Plaintiff’s Operative Complaint in the consolidated actions, arising at any time during the
14 Class Period, including: (a) failure to pay wages including overtime and minimum wage
15 for all hours worked; (b) failure to provide meal periods or pay a premium in lieu thereof;
16 (c) failure to provide rest periods or pay a premium in lieu thereof; (d) failure to timely pay
17 wages during employment and at termination; (e) failure to provide accurate wage
18 statements; (f) failure to indemnify for necessary business expenses; (g) failure to keep
19 required records; (h) unfair business practices (Business and Professions Code section
20 17200 et seq.); (i) claims for violation of the provisions of Wage Order 10 regarding the
21 same; (j) claims for the attorney’s fees and costs incurred in the prosecution of this Action
22 on behalf of the Class Members; (k) any other claims, remedies, penalties, or interest that
23 could have been plead based on the facts alleged in the Complaints filed in the Action; and
24 (l) all claims that Plaintiff, the Class Members may have against the Released Parties
25 relating to: (i) the payment, taxation, and allocation of attorney’s fees and costs to
26 Plaintiff’s Counsel pursuant to this Settlement Agreement; and (ii) the payment, taxation,
27 and allocation of Plaintiff’s Payment pursuant to this Settlement Agreement. The release
28 of the Released Class Claims shall be effective as to the entire Class Period. Participating

1 Class Members do not release any other claims, including claims for vested benefits,
2 wrongful termination, violation of the Fair Employment and Housing Act, unemployment
3 insurance, disability, social security, workers' compensation, and California class claims
4 outside of the Class Period. Participating Class Members may discover facts in addition to
5 those they now know or believe to be true with respect to the subject matter of the Released
6 Class Claims, but upon the Effective Date, Participating Class Members shall be deemed
7 to have, and by operation of the Judgment shall have, fully, finally, and forever settled and
8 released any and all of the Released Class Claims, without regard to the subsequent
9 discovery or existence of such different or additional facts. Participating Class Members
10 agree not to sue or otherwise make a claim against any of the Released Parties that seeks
11 recovery for any of the Released Class Claims. It is the intent of the Parties that the
12 Judgment entered by the Court shall have full *res judicata* effect and be final and binding
13 upon Participating Class Members regarding the Released Class Claims.

- 14 c. Complete and General Release by Class Representative. Plaintiff understands that he may
15 hereafter discover facts in addition to or different from those Plaintiff now knows or
16 believes to be true with respect to the subject matter of the Released Class Claims, but upon
17 the Effective Date, shall be deemed to have, and by operation of the contemplated final
18 judgment shall have, fully, finally, and forever settled and released any and all of the
19 Released Class Claims, as well as any other known or unknown, suspected or unsuspected,
20 contingent or non-contingent claims, which now exist, or heretofore have existed, upon
21 any theory of law or equity now existing, including, but not limited to, conduct that is
22 negligent, intentional, with or without malice, or a breach of any duty, law or rule, without
23 regard to the subsequent discovery or existence of such different or additional facts. In
24 exchange for the consideration provided to Plaintiff under the Settlement, he shall, waive
25 any and all rights Plaintiff may have under Civil Code section 1542. Section 1542 reads as
26 follows: "A general release does not extend to claims that the creditor or releasing party
27 does not know or suspect to exist in his or her favor at the time of executing the release and
28 that, if known by him or her, would have materially affected his or her settlement with the

debtor or released party.” Plaintiff understands that he is providing a general release of known and unknown claims to Defendant that is effective when the Court grants final approval of the Settlement and Defendant funds the Settlement.

d. Release of PAGA Claims by State of California and PAGA Employees. Upon the date Defendant fully funds the Maximum Settlement Amount, Defendant and the other Released Parties shall be entitled to a release from the Plaintiff, the State of California, and all PAGA Employees with respect to the PAGA Released Claims which occurred during the PAGA Period. “PAGA Released Claims” means all claims for the recovery of civil money penalties for violations of the following Labor Code sections alleged in the Operative Complaint, and/or Plaintiff’s PAGA letter: 201-203, 204, 226, 226.3, 226.7, 510, 512, 516, 551, 552, 558, 1174, 1194, 1197, 1197.1, 1198, 2698 et. seq., 2800, 2802, sections 3, 4, 7, 11 and 12 of Wage Order 10 or any other applicable Wage Order. The release of the Released PAGA Claims shall be effective as to the entire PAGA Period. It is the intent of the Parties that the Judgment entered by the Court shall have full *res judicata* effect and be final and binding upon Plaintiff, the state of California and the PAGA Employees regarding the Released PAGA Claims.

8. The Court, for purposes of this Preliminary Approval Order, hereby refers to and adopts all terms and definitions as set forth in the Settlement.

9. The Court finds, for settlement purposes only, that the Class meets the requirements for certification under California Code of Civil Procedure section 382 in that: (1) the Class is so numerous that joinder is impractical; (2) there are questions of law and fact that are common, or of general interest, to all Class Members, which predominate over individual issues; (3) Plaintiff’s claims are typical of the claims of the Class Members; (4) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class Members; and (5) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

10. The Court appoints, for settlement purposes only, Plaintiff as the “Class Representative.” The Court approves, on a preliminary basis, payment of a Class Representative Service Award to Plaintiff of up to \$17,500.00 from the Maximum Settlement Amount, in addition to the

1 amount he is eligible to receive as a Class Member, for his contributions and participation in the
2 litigation, for the risks and duties attendant to his role as the Class Representative, and for his general
3 release of claims against the Released Parties. To the extent the final amount awarded is less, the
4 remainder will be retained in the Net Settlement Amount for distribution to Participating Class
5 Members.

6 11. The Court appoints, for settlement purposes only, Plaintiff's Counsel Arby Aiwarzian,
7 Joanna Ghosh and Ryan Slinger of Lawyers for Justice, PC as "Class Counsel." The Court approves,
8 on a preliminary basis, Class Counsel's ability to request attorneys' fees of thirty-five percent of the
9 Maximum Settlement Amount (currently estimated to be \$523,250.00), as well as reimbursement for
10 actual costs not to exceed \$19,000.00, payable from the Maximum Settlement Amount. To the extent
11 actual costs are less and/or the final amounts awarded for fees and/or costs are less, the remainder will
12 be retained in the Net Settlement Amount for distribution to Participating Class Members.

13 12. The Court appoints ILYM Group, Inc. as the "Settlement Administrator" with payment,
14 payable from the Maximum Settlement Amount, for settlement administration costs not to exceed
15 \$22,000.00, except upon a showing of good cause and as approved by the Court. To the extent
16 settlement administration costs are less, the remainder will be retained in the Net Settlement Amount
17 for distribution to Participating Class Members.

18 13. The Settlement Administrator shall perform services and duties as provided for in the
19 Settlement, including, but not limited to, mailing the Class Notice via first-class U.S. Mail, in English
20 and Spanish, to Class Members. Class Members shall not be required to submit a claim form to receive
21 individual settlement payments.

22 14. The Court approves the Class Notice in substantially similar form and content as is
23 attached to the Settlement Agreement as **Exhibit A**. The Court finds, on a preliminary basis, that the
24 plan for distribution of the Class Notice satisfies due process, provides the best notice practicable under
25 the circumstances, and constitutes due and sufficient notice to all persons entitled thereto.

26 15. The obligations set forth in the Settlement are deemed part of this Preliminary
27 Approval Order, and the Parties and Administrator are ordered to carry out the Settlement according
28 to its terms and provisions.

1 16. The Court orders the following Implementation Schedule:

2 Defendant to provide the Settlement 3 Administrator with the Class Data List	Within 14 calendar days after entry of this Preliminary Approval Order
4 Settlement Administrator to mail the Class 5 Notice	Within 14 calendar days after receiving the Class Data List from Defendant
6 Response Deadline for Class Members	Within 60 calendar days after the Settlement Administrator mails the Class 7 Notice (extended by 15 calendar days for 8 any re-mailed initial Class Notices)
9 Last Day to File a Motion For Final 10 Settlement Approval	At least 16 court days before the Final Approval Hearing:
11 Final Approval Hearing	

13
14 17. The Court reserves the right to continue the date of the Final Approval Hearing without
15 further notice to Class Members.

16 18. The Settlement is preliminarily approved but is not an admission by Defendant of the
17 validity of any claims in this class action, or of any wrongdoing by Defendant or of any violation of
18 law. Neither the Settlement nor any related document shall be offered or received in evidence in any
19 civil, criminal, or administrative action or proceeding other than as may be necessary to consummate
20 or enforce the Settlement.

21 **IT IS SO ORDERED.**

22
23 DATED: _____

24 THE HONORABLE NICOLE HEALY
25 Judge of the Superior Court, San Mateo County
26
27
28

EXHIBIT 2



May 26, 2022

BY ONLINE SUBMISSION

California Labor & Workforce Development Agency
PAGAfilings@dir.ca.gov

Re: K1 SPEED, INC.

Dear Representative:

We have been retained to represent Harrison Bomtempo against K1 Speed Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, agents, and executive employees) (collectively referred to as "K1 Speed") for violations of California wage-and-hour laws. Mr. Bomtempo seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") and all other remedies available under PAGA.

Mr. Bomtempo seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

K1 Speed employed Mr. Bomtempo as an hourly-paid, non-exempt employee from approximately September 2021 to approximately November 2021, in the State of California.

The "aggrieved employees" that Mr. Bomtempo may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, K1 Speed has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 4-2001, 5-2001, and 7-2001.

K1 Speed required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Such work included, but was not limited to, completing COVID screening tasks, responding to work related inquiries, filing air in tires, and completing closing procedures.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours

in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Bomtempo and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Mr. Bomtempo and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, K1 Speed required Mr. Bomtempo and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, K1 Speed failed to pay Mr. Bomtempo and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, K1 Speed failed to pay Mr. Bomtempo and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, K1 Speed did not provide Mr. Bomtempo and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from K1 Speed were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Bomtempo and other aggrieved employees, including time spent working off-the-clock and during meal and rest periods as discussed above.

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause

his employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Mr. Bomtempo and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Mr. Bomtempo and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Mr. Bomtempo and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Mr. Bomtempo and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, K1 Speed failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Bomtempo and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, K1 Speed did not provide Mr. Bomtempo and other aggrieved employees with the minimum wages to which they were entitled for work performed "off-the-clock."

California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001, 5-2001, and 7-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, K1 Speed failed to pay Mr. Bomtempo and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Mr. Bomtempo and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, K1 Speed failed to pay Mr. Bomtempo and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Mr. Bomtempo and the other aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Bomtempo and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by K1 Speed. These costs include, but are not limited to, the use of a personal phone for work-related tasks, and the purchasing and maintenance of clothing in compliance with the dress code.

Therefore, on behalf of all aggrieved employees, Mr. Bomtempo seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA, including civil penalties pursuant to Labor Code section 558.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,

A handwritten signature in blue ink, appearing to read "Edwin Aiwazian".

Edwin Aiwazian, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

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