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

JOHN KELLEY, an individual and on behalf
of all others similarly situated,

Plaintiff,

v.

APPLUS TECHNOLOGIES, INC., a
Delaware corporation; APPLUS IDIADA
KARCO ENGINEERING, LLC, a California
limited liability corporation; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: CIVSB2204889

[Assigned to the Hon. David Cohn in Dept.
S-26]

**JOINT STIPULATION RE: CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT**

ACTION FILED: March 8, 2022
TRIAL DATE: None set

1 This Joint Stipulation re: Class Action and Representative Action Settlement
2 (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between plaintiff
3 JOHN KELLEY (“Plaintiff”), on behalf of himself and all others similarly situated, and
4 defendant APPLUS IDIADA KARCO ENGINEERING, LLC (“Defendant”), in the lawsuit
5 entitled *Kelley v. Applus Technologies, Inc., et al.*, filed in San Bernardino County Superior
6 Court, Case No. CIVSB2204889 (the “Action”). Plaintiff and Defendant shall be, at times,
7 collectively referred to as the “Parties”. This Agreement is intended by the Parties to fully,
8 finally and forever resolve the claims as set forth herein, based upon and subject to the terms
9 and conditions of this Agreement.

10 **1. DEFINITIONS**

11 **A. “Action” or “Class Action”** means the class action lawsuit, entitled as *Kelley v.*
12 *Applus Technologies, Inc., et al.*, filed in San Bernardino County Superior Court, Case No.
13 CIVSB2204889.

14 **B. “Aggrieved Employees”** means Class Members working as hourly-paid, non-
15 exempt employees during the PAGA Period in the State of California.

16 **C. “Class Counsel”** means: David D. Bibiyan, Jeffrey D. Klein, and Vedang J.
17 Patel of Bibiyan Law Group, P.C. The term “Class Counsel” shall be used synonymously with
18 the term “Plaintiff’s Counsel.”

19 **D. “Class Period” or “Settlement Period”** means the period from March 8, 2018
20 through November 17, 2022. This is not the same class period as applied to the
21 FCRA/ICRAA/CCRAA/BTB Settlement Class (see definition below), which will run from the
22 period of March 8, 2020 through November 17, 2022 (defined as
23 “FCRA/ICRAA/CCRAA/BTB Class Period” below).

24 **E. “Class Notice”** means and refers to the notice sent to Class Members after
25 preliminary approval of the Settlement in the manner described in Paragraph 9(A) of this
26 Agreement.

27 **F. “Court”** means the Superior Court of the State of California for the County of
28 San Bernardino.

1 **G. “Final Approval Date”** means the latest of: (1) the date the Court signs an
2 Order granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there
3 is an objector, 60 days from the date the Final Approval and Judgment; or (3) to the extent any
4 appeals have been filed, the date on which they have been resolved or exhausted.

5 **H. “Defendant”** means Applus Idiada Karco Engineering, LLC.

6 **I. “FCRA/ICRAA/CCRAA/BTB”** means, collectively, the Fair Credit Reporting
7 Act (“FCRA”), the California Investigative Consumer Reporting Agencies Act (“ICRAA”), the
8 California Consumer Credit Reporting Agencies Act (“CCRAA”) and the California Fair
9 Chance Act (“Ban the Box” or “BTB”).

10 **J. “FCRA/ICRAA/CCRAA/BTB Class Period”** means the period from March 8,
11 2020 through November 17, 2022.

12 **K. “FCRA/ICRAA/CCRAA/BTB Settlement Class”** or
13 **“FCRA/ICRAA/CCRAA/BTB Settlement Class Members”** or
14 **“FCRA/ICRAA/CCRAA/BTB Class Members”** means all persons currently or formerly
15 employed by Defendant, either directly or through any subsidiary, staffing agency, or
16 professional employer organization as non-exempt, hourly-paid employees during the
17 FCRA/ICRAA/CCRAA/BTB Class Period in the State of California.

18 **L. “FCRA/ICRAA/CCRAA/BTB Settlement Payments”** means a payment to a
19 Participating Class Member (defined below) of their share of the FCRA/ICRAA/CCRAA/BTB
20 Settlement Amount relating to disputed violations of FCRA/ICRAA/CCRAA/BTB during the
21 FCRA/ICRAA/CCRAA/BTB Class Period. The Parties have agreed that the
22 FCRA/ICRAA/CCRAA/BTB Settlement Amount will be divided equally among the
23 Participating Class Members working during the FCRA/ICRAA/CCRAA/BTB Class Period
24 from the FCRA/ICRAA/CCRAA/BTB allocation (defined below).

25 **M. “FCRA/ICRAA/CCRAA/BTB Settlement Amount”** means the non-
26 reversionary allocation of Ten Thousand Dollars and Zero Cents (\$10,000.00) from the Net
27 Settlement Amount toward FCRA/ICRAA/CCRAA/BTB Settlement Payments, as penalties,
28 which will be divided equally among the Participating Class Members working during the

1 FCRA/ICRAA/CCRAA/BTB Class Period (hereinafter “FCRA/ICRAA/CCRAA/BTB
2 Allocation”).

3 **N. “Employer Taxes”** means employer-funded taxes and contributions imposed on
4 the wage portions of the Individual Settlement Payments under the Federal Insurance
5 Contributions Act, the Federal Unemployment Tax Act, and any similar state and federal taxes
6 and contributions required of employers, such as for unemployment insurance.

7 **O. “General Release”** means the broader release of claims by Plaintiff, which is in
8 addition to Plaintiff’s limited release of claims as a Participating Class Member.

9 **P. “Gross Settlement Amount” or “Gross Fund Value”** means a non-
10 reversionary fund in the sum of Two Hundred Five Thousand Dollars and Zero Cents
11 (\$205,000.00),¹ which shall be paid by Defendant, from which all payments for the Individual
12 Settlement Payments and FCRA/ICRAA/CCRAA/BTB Settlement Payments to Participating
13 Class Members, the Court-approved amounts for attorneys’ fees and reimbursement of
14 litigation costs and expenses to Class Counsel, Settlement Administration Costs, the Incentive
15 Award, the PAGA Payment, and the LWDA Payment shall be paid. It expressly excludes
16 Employer Taxes, which shall be paid by Defendants separate, apart, and in addition to the
17 Gross Settlement Amount.

18 **Q. “Incentive Award”** means monetary amounts to be paid to Plaintiff of up to
19 Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00), which, subject to Court
20 approval, will be paid out of the Gross Settlement Amount.

21 **S. “Individual PAGA Payment”** means a payment made to an Aggrieved
22 Employee for their share of the PAGA Payment, which may be in addition to their Individual
23 Settlement Share whether they are also a Participating Class Member and their
24 FCRA/ICRAA/CCRAA/BTB Settlement Payment if they worked during the
25 FCRA/ICRAA/CCRAA/BTB Class Period.

26 **T. “Individual Settlement Payment”** means a payment to a Participating Class
27 Member of their share of the Net Settlement Amount resulting from the settlement of the non-
28

¹ As the same may be increased in accordance with Paragraph 17, below.

1 FCRA/ICRAA/CCRAA/BTB claims.

2 **U. “Individual Settlement Share”** means the gross amount of the Net Settlement
3 Amount that a Participating Class Member is projected to receive from the non-
4 FCRA/ICRAA/CCRAA/BTB portion of the Settlement based on the number of Workweeks
5 that they worked as a Settlement Class Member during the Class Period, which shall be
6 reflected in their Class Notice.

7 **V. “LWDA Payment”** means the payment to the State of California Labor and
8 Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the total
9 amount allocated toward penalties under the PAGA, all of which is to be paid from the Gross
10 Settlement Amount. The Parties have agreed that Twenty Thousand Dollars and Zero Cents
11 (\$20,000.00) shall be allocated toward PAGA penalties, of which Fifteen Thousand Dollars and
12 Zero Cents (\$15,000.00) will be paid to the LWDA (*i.e.*, the LWDA Payment) and Five Thousand
13 Dollars and Zero Cents (\$5,000.00) will be paid to Aggrieved Employees on a *pro rata* basis
14 based on the Workweeks worked for Defendant as a non-exempt, hourly-paid employee in
15 California during the PAGA Period (*i.e.* the PAGA Payment).

16 **W. “Net Settlement Amount”** means the portion of the Gross Settlement Amount
17 that is available for distribution to the Participating Class Members after deductions for the
18 Court-approved allocations for FCRA/ICRAA/CCRAA/BTB Settlement Amount, Settlement
19 Administration Costs, an Incentive Award to Plaintiff, an award of attorneys’ fees,
20 reimbursement of litigation costs and expenses to Class Counsel, the LWDA Payment, and the
21 PAGA Payment.

22 **X. “Operative Complaint” or “Complaint”** means the First Amended Complaint
23 to be filed with the Court.

24 **Y. “PAGA Payment”** is the 25% portion of the Twenty Thousand Dollars and Zero
25 Cents (\$20,000.00) that is allocated toward PAGA penalties. Five Thousand Dollars and Zero
26 Cents (\$5,000.00) of which will be paid to Aggrieved Employees on a *pro rata* basis based on
27 the Workweeks worked as non-exempt, hourly-paid employees in California during the PAGA
28

Period, which would be in addition to their Individual Settlement Payment if they are Participating Class Members, as well.

Z. “PAGA Period” means the period from June 15, 2021, through November 17, 2022.

AA. “Participating Class Members” means all Settlement Class Members and FCRA/ICRAA/CCRAA/BTB Settlement Class Members who do not submit a timely and valid Request for Exclusion.

BB. “Participating Individual Settlement Share” means the gross amount of the Net Settlement Amount that a Participating Class Member is eligible to receive based on the number of Workweeks that they worked as a Settlement Class Member during the Class Period once all opt-outs have been factored in, excluding any Individual PAGA Payment to which they may be entitled if they are also an Aggrieved Employee, and any amounts they may be eligible to receive as a FCRA/ICRAA/CCRAA/BTB Settlement Class Member.

CC. “Plaintiff,” “Named Plaintiff” or “Class Representative” shall refer to Plaintiff John Kelley.

DD. “Preliminary Approval Date” means the date on which the Court enters an Order granting preliminary approval of the Settlement.

EE. “Released Parties” shall mean Defendant, its affiliates, parents, subsidiaries, officers, directors, shareholders, employees and managing agents.

FF. “Response Deadline” means the deadline for Settlement Class Members to mail any Requests for Exclusion, Objections or Workweek Disputes to the Settlement Administrator, which is forty-five (45) calendar days from the date that the Class Notice is first mailed in English and Spanish by the Settlement Administrator, unless a Class Member’s notice is re-mailed. In such an instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing, or forty-five (45) calendar days from the date of the initial mailing, whichever is later, in which to postmark a Request for Exclusion, Workweek Dispute or Objection. The date of the postmark shall be the exclusive means for determining whether a

1 Request for Exclusion, Objection or Workweek Dispute was submitted by the Response
2 Deadline.

3 **GG. “Request for Exclusion”** means a written request to be excluded from the
4 Settlement Class pursuant to Paragraph 9(C) below.

5 **HH. “Settlement Administration Costs”** means all costs incurred by the Settlement
6 Administrator in administration of the Settlement, including, but not limited to, translating the
7 Class Notice to Spanish; distributing the Class Notice to the Settlement Class in English and
8 Spanish; calculating Individual Settlement Shares, Individual Settlement Payments,
9 FCRA/ICRAA/CCRAA/BTB Settlement Payments, Individual PAGA Payments and
10 Participating Individual Settlement Shares, as well as associated taxes and withholdings;
11 providing declarations; generating Individual Settlement Payment checks and
12 FCRA/ICRAA/CCRAA/BTB Settlement Payment checks and related tax reporting forms;
13 doing administrative work related to unclaimed checks; transmitting payment to Class Counsel
14 for the Court-approved amounts for attorneys’ fees and reimbursement of litigation costs and
15 expenses, to Plaintiff for his Incentive Award, and to the LWDA for the LWDA Payment;
16 providing weekly reports of opt-outs, objections and related information; and any other actions
17 of the Settlement Administrator as set forth in this Agreement, all pursuant to the terms of this
18 Agreement. The Settlement Administration Costs are estimated not to exceed \$5,500.00. If the
19 actual amount of the Settlement Administration Costs is less than \$5,500.00, the difference
20 between \$5,500.00 and the actual Settlement Administration Costs shall be a part of the Net
21 Settlement Amount. If the Settlement Administration Costs exceed \$5,500.00, then such excess
22 will be paid solely from the Gross Settlement Amount and Defendant will not be responsible
23 for paying any additional funds in order to pay these additional costs.

24 **II. “Settlement Administrator”** means the Third-Party Administrator mutually
25 agreed upon by the Parties that will be responsible for the administration of the Settlement
26 including, without limitation, translating the Class Notice to Spanish; the distributing the
27 Individual Settlement Payments and FCRA/ICRAA/CCRAA/BTB Settlement Payments to be
28

made by Defendant from the Gross Settlement Amount; and related matters under this Agreement.

JJ. “Settlement Class,” “Settlement Class Members” or “Class Members” means all persons currently or formerly employed by Defendant, either directly or through any subsidiary, staffing agency, or professional employer organization as non-exempt, hourly-paid employees during the Class Period in the State of California.

KK. “Workweeks” means the number of weeks that a Settlement Class Member was employed by the Defendant in a non-exempt, hourly-paid position during the Class Period in California, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

2. BACKGROUND

A. On March 8, 2022, Plaintiff filed a class action complaint against Defendant alleging, among other things, claims for: (1) violation of the Fair Credit Reporting Act (FCRA); (2) violation of the California Investigative Consumer Reporting Agencies Act (ICRAA); (3) violation of the Consumer Credit Reporting Agencies Act (CCRAA); (4) failure to comply with “Ban the Box” Law (BTB); (5) failure to pay overtime wages; (6) failure to pay minimum wages; (7) failure to provide meal periods; (8) failure to provide rest periods; (9) waiting time penalties; (10) wage statement violations; (11) failure to indemnify; and (12) unfair competition (the “Class Action”).

B. On June 15, 2022, Plaintiff submitted to the State of California Labor and Workforce Development Agency (“LWDA”) and served on Defendant a notice under Labor Code section 2699.3, stating Plaintiff intended to serve as a proxy of the LWDA to recover civil penalties, on behalf of Aggrieved Employees, for alleged Labor Code violations (“PAGA Notice”).

C. Thereafter, the Parties agreed to exchange informal discovery and attend an early mediation, in which Defendant agreed to provide Plaintiff with, among other things: (1) time and payroll records for approximately 50 putative class members during the Class Period; (2) putative class members’ data points, including the number of employees terminated during the

1 relevant statutory period and average rate of pay; and (3) all relevant policy documents,
2 including Defendant's employee handbooks in effect during the Class Period, containing
3 Defendant's meal and rest periods, overtime pay and/or any other wage and hour issue.

4 **D.** On November 17, 2022, the Parties attended a full-day mediation before Eve
5 Wagner, Esq., a well-regarded mediator experienced in mediating complex labor and
6 employment matters. With the aid of the mediator's evaluation, the Parties reached the
7 Settlement to resolve the Action. As part of the Agreement, Plaintiff agreed to file a First
8 Amended Complaint in the Class Action, adding causes of action under PAGA for the Labor
9 Code violations alleged in the PAGA Notice (hereinafter, the "Action").

10 **E.** Class Counsel has conducted significant investigation of the law and facts
11 relating to the claims asserted in the Class Action and the PAGA Notice, and has concluded
12 that the Settlement set forth herein is fair, reasonable, adequate and in the best interests of the
13 Settlement Class, FCRA/ICRAA/CCRAA/BTB Settlement Class and Aggrieved Employees,
14 taking into account the sharply contested issues involved, the expense and time necessary to
15 litigate the Action through trial and any appeals, the risks and costs of further litigation of the
16 Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information
17 learned through informal discovery regarding Plaintiff's allegations, and the substantial
18 benefits to be received by Settlement Class Members, FCRA/ICRAA/CCRAA/BTB Settlement
19 Class Members and Aggrieved Employees.

20 **F.** Defendant has concluded that, because of the substantial expense of defending
21 against the Action, the length of time necessary to resolve the issues presented herein, the
22 inconvenience involved and the concomitant disruption to its business operations, it is in its
23 best interest to accept the terms of this Agreement. Defendant denies each of the allegations
24 and claims asserted against it in the Action and the PAGA Notice. However, Defendant
25 nevertheless desires to settle the Action for the purpose of avoiding the burden, expense, and
26 uncertainty of continuing litigation, and for the purpose of putting to rest the controversies
27 engendered by the Action.
28

1 **G.** This Agreement is intended to and does effectuate the full, final, and complete
2 resolution of all Class Released Claims and all FCRA/ICRAA/CCRAA/BTB Released Claims
3 of Plaintiff and Participating Class Members, and all PAGA Released Claims of Plaintiff and,
4 to the extent permitted by law, of the State of California and Aggrieved Employees.

5 **3. JURISDICTION**

6 The Court has jurisdiction over the Parties and the subject matter of the Action. The
7 Action includes claims that, if proven, would authorize the Court to grant relief pursuant to the
8 applicable statutes. After the Court has granted Final Approval of the Settlement and entered
9 judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the
10 judgment pursuant to California Rule of Court, rule 3.769, subdivision (h).

11 **4. STIPULATION OF CLASS CERTIFICATION**

12 The Parties stipulate to the certification of the Settlement Class and
13 FCRA/ICRAA/CCRAA/BTB Settlement Class under this Agreement for purposes of
14 settlement only. If the Court does not grant both Preliminary and Final Approval of the Class
15 Action and Representative Settlement, the parties will not stipulate to Class Certification and
16 this settlement stipulation will have no legal effect.

17 **5. AMENDMENT OF PLEADING AND MOTIONS FOR APPROVAL**
18 **OF SETTLEMENT**

19 The Parties hereby stipulate to the filing of a First Amended Complaint in the Class
20 Action that includes all the allegations in the PAGA Notice.

21 After full execution of this Agreement, Plaintiff will move for an order granting
22 preliminary approval of the Settlement, approving, and directing the mailing of the proposed
23 Notice of Class Action Settlement (“Class Notice”) attached hereto as **Exhibit “A,”**
24 conditionally certifying the Settlement Class and FCRA/ICRAA/CCRAA/BTB Settlement
25 Class for settlement purposes only, and approving the deadlines proposed by the Parties for the
26 submission of Requests for Exclusion, Workweek Disputes and Objections. If and when the
27 Court preliminarily approves the Settlement, and after administration of the Class Notice in a
28 manner consistent with the Court’s Preliminary Approval Order, Plaintiff will move for an

order finally approving the Settlement and seek entry of a Judgment in line with this Settlement. The Parties may both respond to any Objections lodged to final approval of the Settlement up to five (5) court days before the Final Approval Hearing.

6. STATEMENT OF NO ADMISSION

Defendant denies any wrongdoing of any sort and further denies any liability to Plaintiff, the Settlement Class, the FCRA/ICRAA/CCRAA/BTB Settlement Class, or the Aggrieved Employees with respect to any claims or allegations asserted in the Action and the PAGA Notice. This Agreement shall not be deemed an admission by Defendant of any claims or allegations asserted in the Action or the PAGA Notice. Except as set forth elsewhere herein, in the event that this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to have waived, limited or affected in any way any claims, rights or remedies, or defenses in the Action or the PAGA Notice, and Defendant will not be deemed to have waived, limited or affected in any way any of its objections or defenses in the Action and the PAGA Notice. Moreover, in such event, the Parties agree to share the Settlement Administration Costs. Payment of wages does not extend or alter the Class Member's period of employment for any purpose. Except as specified in this Agreement, the Parties shall be restored to their respective positions in the Action prior to the entry of this Settlement.

7. RELEASE OF CLAIMS

A. Release by All Participating Class Members

Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, Plaintiff and all Participating Class Members release all claims asserted in the Operative Complaint Action, or any and all claims that could have been asserted based on the factual allegations in the Operative Complaint, as follows:

1. FCRA/ICRAA/CCRAA/BTB: For the duration of the

FCRA/ICRAA/CCRAA/BTB Class Period, the release includes, for applicable

1 Participating Class Members, all claims that were asserted or could have been asserted
2 in the Operative Complaint pursuant to the Fair Credit Reporting Act (15 U.S.C. § 1681,
3 *et seq.*), the California Investigative Consumer Reporting Agencies Act (California
4 Civil Code section 1786, *et seq.*), the Consumer Credit Reporting Agencies Act
5 (California Civil Code section 1785.1, *et seq.*), and the “Ban the Box” Law (California
6 Labor Code sections 432.7 and 432.8, and California Government Code section 12952)
7 (the “FCRA/ICRAA/CCRAA/BTB Released Claims”).

8 **2. Class Claims:** For the duration of the Class Period, the release includes,
9 for applicable Participating Class Members all claims that were asserted or could have
10 been asserted in the Operative Complaint, including: (1) all claims for failure to pay
11 overtime wages; (2) all claims for failure to pay minimum wages; (3) all claims for
12 failure to provide meal periods; (4) all claims for failure to provide rest periods; (5) all
13 claims for waiting time penalties; (6) all claims for wage statement violations; (7) all
14 claims for failure to indemnify for business expenses; and (8) all claims for unfair
15 competition (the “Class Released Claims”).

16 **B. Release by All Aggrieved Employees**

17 For Aggrieved Employees, and, to the extent permitted by law the State of California,
18 the release includes, for the duration of the PAGA Period, all claims for PAGA penalties
19 asserted in the PAGA Notice or in the Operative Complaint pursuant to claims under California
20 Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210, 212, 213, 221, 223, 226,
21 226.3, 226.7, 227.3, 232, 232.5, 246 (*et seq.*), 404, 432, 432.3, 432.5, 432.6, 432.7, 432.8, 510,
22 512, 558, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.5, 1198.5, 1527,
23 2699 (*et seq.*), 2802, 2810.3, 2810.5, 3366, 3457, 6401, 6402, 6403, 6409.6, 6432, 8397.4,
24 12952; the applicable Wage Order(s); and California Business and Professions Code sections
25 16600, 16700, 17200 (*et seq.*); among others (the “PAGA Released Claims”).

26 The FCRA/ICRAA/CCRAA/BTB Released Claims, Class Released Claims and
27 PAGA Released Claims shall be referred to herein collectively as the “Released Claims”.

28 **C. Claims Not Released**

1 The releases above expressly exclude all other claims, including claims for
2 vested benefits, wrongful termination, unemployment insurance, disability, social security,
3 workers' compensation, and any other claims outside of the Released Claims.

4 **D. Plaintiff's General Release.**

5 Effective only upon the entry of an Order granting Final Approval of the Settlement,
6 entry of Judgment and payment by Defendant to the Settlement Administrator of the full Gross
7 Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, Plaintiff
8 makes the following General Release, in addition to his Released Claims as a Participating
9 Class Member: Plaintiff releases the Released Parties from all claims, demands, rights,
10 liabilities and causes of action of every nature and description whatsoever, known or unknown,
11 asserted or that might have been asserted, whether in tort, contract, or for violation of any state
12 or federal statute, rule, law or regulation arising out of, relating to, or in connection with any
13 act or omission of the Released Parties through the date of full execution of this Agreement in
14 connection with Plaintiff's employment with Defendant or termination thereof, except for any
15 and all other claims that may not be released as a matter of law through this Agreement. To the
16 extent of the General Release provided herein, Plaintiff stipulates and agrees that, upon entry of
17 an Order granting Final Approval of the Settlement, entry of Judgment and payment by
18 Defendants to the Settlement Administrator of the full Gross Settlement Amount and
19 Employer's Taxes necessary to effectuate the Settlement, he shall have expressly waived and
20 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of
21 Section 1542 of the California Civil Code, or any other similar provision under federal or state
22 law, which provides:

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

28 **8. SETTLEMENT ADMINISTRATOR**

A. Plaintiff and Defendant, through their respective counsel, have selected ILYM
Group, Inc. to administer the Settlement, which includes, but is not limited to, translating the

1 Class Notice to Spanish, distributing and responding to inquiries about the Class Notice, and
2 calculating all amounts to be paid from the Gross Settlement Fund. Charges and expenses of
3 the Settlement Administrator, currently estimated to be \$5,500.00, will be paid from the Gross
4 Settlement Fund. If the actual amount of the Settlement Administration Costs is less than
5 \$5,500.00, the difference between \$5,500.00 and the actual Settlement Administration Costs
6 shall be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed
7 \$5,500.00, then such excess will be paid solely from the Gross Settlement Amount and
8 Defendant will not be responsible for paying any additional funds in order to pay these
9 additional costs.

10 **9. NOTICE, WORKWEEK DISPUTE, OBJECTION AND EXCLUSION**
11 **PROCESS**

12 **A. Notice to the Settlement Class Members**

13 (1) Within seven (7) calendar days after the Preliminary Approval Date,
14 Defendant's Counsel shall provide the Settlement Administrator with information with respect
15 to each Settlement Class Member and FCRA/ICRAA/CCRAA/BTB Settlement Class Member,
16 including their: (1) name; (2) last known address(es) currently in Defendant's possession,
17 custody or control; (3) last known telephone number(s) currently in Defendant's possession,
18 custody or control; (4) last known Social Security Number(s) in Defendant's possession,
19 custody or control; and (5) the dates of employment (*i.e.*, hire dates, and, if applicable, re-hire
20 date(s) and/or separation date(s)) for each Settlement Class Member and
21 FCRA/ICRAA/CCRAA/BTB Settlement Class Member ("Class List"). The Settlement
22 Administrator shall perform an address search using the United States Postal Service National
23 Change of Address ("NCOA") database and update the addresses contained on the Class List
24 with the newly found addresses, if any. Within seven (7) calendar days or soon thereafter of
25 receiving the Class List from Defendant, the Settlement Administrator shall mail the Class
26 Notice in English and Spanish to the Settlement Class Members and
27 FCRA/ICRAA/CCRAA/BTB Settlement Class Members via first-class regular U.S. Mail using
28 the most current mailing address information available. The Settlement Administrator shall

1 maintain the Class List and digital copies of all the Settlement Administrator's records
2 evidencing the giving of notice to any Settlement Class Member and
3 FCRA/ICRAA/CCRAA/BTB Settlement Class Member, for at least four (4) years from the
4 Final Approval Date.

5 (2) The Class Notice will set forth:

- 6 (a) the Settlement Class Member's estimated Individual
7 Settlement Payment, estimated
8 FCRA/ICRAA/CCRAA/BTB Settlement Payment,
9 and Individual PAGA Payment, as applicable, and the
10 basis for each;
- 11 (b) the information required by California Rule of Court,
12 rule 3.766(d);
- 13 (c) the material terms of the Settlement;
- 14 (d) the proposed Settlement Administration Costs;
- 15 (e) the definitions of the Settlement Class, the
16 FCRA/ICRAA/CCRAA/BTB Settlement Class, and
17 the Aggrieved Employees;
- 18 (f) a statement that the Court has preliminarily approved
19 the Settlement;
- 20 (g) how the recipient can obtain additional information,
21 including contact information for Class Counsel;
- 22 (h) information regarding opt-out and objection
23 procedures;
- 24 (i) the date and location of the Final Approval Hearing;
25 and
- 26 (j) that the recipient must notify the Settlement
27 Administrator no later than the Response Deadline if
28 the recipient disputes the accuracy of the number of

Workweeks as set forth on their Class Notice (“Workweek Dispute”). If the recipient fails to timely dispute the number of Workweeks attributed to them in conformity with the instructions in the Class Notice, then they shall be deemed to have waived any objection to its accuracy and any claim to any additional settlement payment based on different data.

(3) If a Class Notice from the initial notice mailing is returned as undeliverable, the Settlement Administrator will attempt to obtain a current address for the intended recipient to whom the returned Class Notice had been mailed, within five (5) calendar days of receipt of the returned Class Notice, by: (1) contacting the intended recipient by phone, if possible, and (2) undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new address, it will promptly re-mail the Class Notice to the new address. Further, any Class Notices that are returned to the Settlement Administrator with a forwarding address before the Response Deadline shall be promptly re-mailed to the forwarding address affixed thereto.

(4) No later than seven (7) calendar days from the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the completion of the notice process, including the number of attempts to obtain valid mailing addresses for and re-sending of any returned Class Notices, as well as the identities, number of, and copies of all Requests for Exclusion and Objections received by the Settlement Administrator.

B. Objections

Only Participating Class Members may object to the Settlement. In order for any Settlement Class Member and/or FCRA/ICRAA/CCRAA/BTB Settlement Class Member to object to this Settlement in writing, or any term of it, they must do so by mailing a written objection to the Settlement Administrator at the address or phone number provided on the Class Notice no later than the Response Deadline. The Settlement Administrator shall email a copy of

1 the Objection forthwith to Class Counsel and Defendant's counsel and attach copies of all
2 Objections to the Declaration they provide Class Counsel, which Class Counsel shall file in
3 support of Plaintiff's Motion for Final Approval. The Objection should set forth in writing: (1)
4 the Objector's name; (2) the Objector's address; (3) the last four digits of the Objector's Social
5 Security Number; (4) the Objector's signature; (5) a statement of whether the Objector plans to
6 appear at the Final Approval Hearing; and (6) the reason(s) for the Objection, along with
7 whatever legal authority, if any, the Objector asserts in support of the Objection. If a Settlement
8 Class Member and/or FCRA/ICRAA/CCRAA/BTB Settlement Class Member objects to the
9 Settlement, the individual will remain a member of the respective settlement class(es) and, if
10 the Court approves this Agreement, the individual will be bound by the terms of the Settlement
11 in the same way and to the same extent as a Settlement Class Member and/or
12 FCRA/ICRAA/CCRAA/BTB Settlement Class Member (as applicable) who does not object.
13 The date of mailing of the Class Notice to the objecting Settlement Class Member and/or
14 FCRA/ICRAA/CCRAA/BTB Settlement Class Member shall be conclusively determined
15 according to the records of the Settlement Administrator. Settlement Class Members and/or
16 FCRA/ICRAA/CCRAA/BTB Settlement Class Members need not object in writing to be heard
17 at the Final Approval Hearing; they may object or comment in person at the hearing at their
18 own expense. Class Counsel and Defendant's Counsel may respond to any objection lodged
19 with the Court up to five (5) court days before the Final Approval Hearing.

20 **C. Requesting Exclusion**

21 Any Settlement Class Member and/or FCRA/ICRAA/CCRAA/BTB Settlement Class
22 Member may request exclusion from (*i.e.*, "opt out" of) the Settlement by mailing a written
23 request to be excluded from the Settlement ("Request for Exclusion") to the Settlement
24 Administrator, postmarked on or before the Response Deadline. To be valid, a Request for
25 Exclusion must include: (1) the Class Member's name; (2) the last four digits of the Class
26 Member's Social Security Number; (3) the Class Member's signature; and (4) any statement of
27 similar meaning standing for the proposition that the Class Member does not wish to participate
28 in the Settlement. The Settlement Administrator shall immediately provide copies of all

1 Requests for Exclusion to Class Counsel and Defendants' Counsel and shall report the
2 Requests for Exclusions that it receives, to the Court, in its declaration to be provided in
3 advance of the Final Approval Hearing. Any Settlement Class Member and/or
4 FCRA/ICRAA/CCRAA/BTB Settlement Class Member who requests exclusion using this
5 procedure will not be entitled to receive any payment from the Settlement and will not be
6 bound by the Settlement Agreement or have any right to object to, appeal, or comment on the
7 Settlement. Any Settlement Class Member and/or FCRA/ICRAA/CCRAA/BTB Settlement
8 Class Member who does not opt out of the Settlement by submitting a timely and valid Request
9 for Exclusion will be bound by all terms of the Settlement, including those pertaining to the
10 Released Claims, as well as any Judgment that may be entered by the Court if Final Approval
11 of the Settlement is granted. A Settlement Class Member and/or FCRA/ICRAA/CCRAA/BTB
12 Settlement Class Member cannot submit both a Request for Exclusion and an objection. If a
13 Settlement Class Member and/or FCRA/ICRAA/CCRAA/BTB Settlement Class Member
14 submits an Objection and a Request for Exclusion, the Request for Exclusion will control, and
15 the Objection will be overruled. Settlement Class Members and/or
16 FCRA/ICRAA/CCRAA/BTB Settlement Class Members who worked during the PAGA Period
17 as Aggrieved Employees that submit a valid Request for Exclusion will still be deemed
18 Aggrieved Employees, will still receive their Individual PAGA Payments, and will be bound by
19 the release of the PAGA Released Claims.

20 **D. Disputes Regarding Settlement Class Members' Workweek Data**

21 Each Settlement Class Member and Aggrieved Employee may dispute the number of
22 Workweeks attributed to them on their Class Notice ("Workweek Dispute"). Any such disputes
23 must be mailed to the Settlement Administrator by the Settlement Class Member or Aggrieved
24 Employee, postmarked on or before the Response Deadline. The Settlement Administrator shall
25 immediately provide copies of all disputes to Class Counsel and counsel for Defendant and
26 shall immediately attempt to resolve all such disputes directly with the relevant Settlement
27 Class Member or Aggrieved Employee, with the assistance of Defendant's and Class Counsel.
28 If the dispute cannot be resolved in this manner, the Court shall adjudicate the dispute.

1 **E. Defendant’s Right to Withdraw from the Settlement**

2 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds
3 10% of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the
4 Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab
5 initio, have no force or effect whatsoever, and that neither Party will have any further
6 obligation to perform under this Agreement, however, Defendant will remain responsible for
7 paying all settlement administration expenses incurred through withdrawal Defendant must
8 notify Class Counsel and the Court of its election to withdraw not later than seven (7) calendar
9 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections
10 will have no effect.

11 **10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL**
12 **PAGA PAYMENTS**

13 **A. FCRA/ICRAA/CCRAA/BTB Settlement Payments to Participating Class**
14 **Members.** The Parties agree to allocate Ten Thousand Dollars and Zero Cents (\$10,000.00) of
15 the Net Settlement Amount toward FCRA/ICRAA/CCRAA/BTB Settlement Payment as
16 penalties which will be divided equally among the FCRA/ICRAA/CCRAA/BTB Settlement
17 Class Members (“FCRA/ICRAA/CCRAA/BTB Allocation”).

18 **B. Individual Settlement Payments for Remaining Claims.** Individual
19 Settlement Payments will be calculated and distributed to Participating Class Members from
20 the Net Settlement Amount on a *pro rata* basis, based on each Participating Class Member’s
21 respective number of Workweeks during the Class Period. Individual PAGA Payments to
22 Aggrieved Employees will be calculated and distributed to Aggrieved Employees from the
23 PAGA Payment on a *pro rata* basis based on Aggrieved Employees’ respective number of
24 Workweeks during the PAGA Period. Specific calculations of the Individual Settlement
25 Shares and Individual PAGA Payments to Aggrieved Employees will be made as follows:

26 1. The Settlement Administrator will determine the total number of
27 Workweeks worked by each Settlement Class Member during the Class Period (“Class
28 Member’s Workweeks”), as well as the aggregate number of Workweeks worked by all

Settlement Class Members during the Class Period (“Class Workweeks”). Additionally, the Settlement Administrator will determine the total number of Workweeks worked by each Aggrieved Employee during the PAGA Period (“Aggrieved Employee’s Workweeks”), as well as the aggregate number of Workweeks worked by all Aggrieved Employees during the PAGA Period (“PAGA Workweeks”).

2. To determine each Participating Class Member’s Participating Individual Settlement Share, the Settlement Administrator will determine the aggregate number of Workweeks worked by all Participating Class Members during the Class Period (“Participating Class Workweeks”) and use the following formula: Individual Settlement Share = (Participating Class Member’s Workweeks ÷ Participating Class Workweeks) × Net Settlement Amount).

3. To determine each Aggrieved Employee’s Individual PAGA Payment, the Settlement Administrator will use the following formula: Aggrieved Employee’s Individual PAGA Payment = (Aggrieved Employee’s Workweeks ÷ PAGA Workweeks) x \$5,000.00 [the PAGA Payment].

6. Individual Settlement Payments and Individual PAGA Payments shall be paid to Participating Class Members and/or Aggrieved Employees by way of check. When a Participating Class Member is also an Aggrieved Employee, one check may be issued that aggregates both the Individual Settlement Payment and the Individual PAGA Payment

11. DISTRIBUTION OF PAYMENTS

A. Distribution of Individual Settlement Payments

Participating Class Members will receive an Individual Settlement Payment and/or FCRA/ICRAA/CCRAA/BTB Settlement Payment, and Aggrieved Employees will receive an Individual PAGA Payment. Individual Settlement Payment, FCRA/ICRAA/CCRAA/BTB Settlement Payment and Individual PAGA Payment checks shall remain valid and negotiable for one hundred and eighty (180) calendar days after the date of their issuance. Within seven (7) calendar days after expiration of the 180-day period, checks for such payments shall be

1 canceled and funds associated with such checks shall be considered unpaid, unclaimed, or
2 abandoned cash residue pursuant to Code of Civil Procedure section 384 (“Unpaid Residue”).
3 The Unpaid Residue plus accrued interest, if any, as provided in Code of Civil Procedure
4 section 384, shall be transmitted to Legal Aid at Work, the *cy pres* recipient, for use in San
5 Bernardino County. The Settlement Administrator shall prepare a report regarding the
6 distribution plan pursuant to Code of Civil Procedure section 384 and the report shall be
7 presented to the Court by Class Counsel along with a proposed amended judgment that is
8 consistent with the provisions of Code of Civil Procedure section 384.

9 **B. Funding of Settlement.**

10 Funding shall occur within 30 calendar days of the Final Approval Date, provided that
11 there were no objections to the Settlement. If there were objections to the Settlement, the
12 funding shall occur 30 days after the date the later of the following events occurs: (a) the period
13 for filing any appeal, writ, or other appellate proceeding opposing the Judgment has elapsed
14 without any appeal, writ, or other appellate proceeding having been filed; (b) any appeal, writ,
15 or other appellate proceeding opposing the Judgment has been dismissed finally and
16 conclusively with no right by any appellant or objector to pursue further remedies or relief; or
17 (c) any appeal, writ, or other appellate proceeding has upheld the Judgment with no right by
18 any appellant or objector to pursue further remedies or relief. In this regard, it is the intention of
19 the Parties that the Settlement shall not become effective until the Court’s Judgment granting
20 final approval of the Settlement is completely final, and no further recourse exists by an
21 appellant or objector who seeks to contest the Settlement. Defendant, per instructions of the
22 Settlement Administrator, make payment of the Gross Settlement Amount (as the same may be
23 escalated pursuant to Paragraph 17 of this Agreement) and Employer Taxes to the Settlement
24 Administrator pursuant to Internal Revenue Code section 1.468B-1 for deposit in an interest-
25 bearing qualified settlement account (“QSA”) with an FDIC insured banking institution, for
26 distribution in accordance with this Agreement and the Court’s Orders, and subject to the
27 conditions described herein.

28 ///

1 **C. Time for Distribution.**

2 Within seven (7) calendar days after payment of the full Gross Settlement Amount and
3 Employer Taxes by Defendant or as soon thereafter as practicable, the Settlement
4 Administrator shall distribute Payments from the QSA for: (1) the Incentive Award to Plaintiff
5 as specified in this Agreement and approved by the Court; (2) the Attorneys' Fees and Cost
6 Award to be paid to Class Counsel, as specified in this Agreement and approved by the Court;
7 (3) the Settlement Administrator Costs, as specified in this Agreement and approved by the
8 Court; (4) the LWDA Payment, as specified in this Agreement and approved by the Court; and
9 (5) Individual PAGA Payments as specified in this Agreement and approved by the Court. The
10 balance remaining shall constitute the funds from which Individual Settlement Payments and
11 FCRA/ICRAA/CCRAA/BTB Settlement Payments shall be made to Participating Class
12 Members, less applicable taxes and withholdings. All interests accrued shall be for the benefit
13 of the Class Members and distributed on a *pro rata* basis to Participating Class Members based
14 on the amount of their Individual Settlement Payment, FCRA/ICRAA/CCRAA/BTB
15 Settlement Payment, and Individual PAGA Payment compared to the total amount to be
16 distributed to Participating Class Members and Aggrieved Employees.

17 **12. ATTORNEYS' FEES AND LITIGATION COSTS**

18 Class Counsel shall apply for, and Defendant shall not oppose, an award of attorneys'
19 fees of up to 35% of the Gross Settlement Amount, which, unless escalated pursuant to
20 Paragraph 17 of this Agreement, amounts to Seventy-One Thousand Seven Hundred Fifty
21 Dollars and Zero Cents (\$71,750.00). Class Counsel shall further apply for, and Defendant
22 shall not oppose, an application or motion by Class Counsel for reimbursement of actual costs
23 associated with Class Counsel's prosecution of this matter as set forth by declaration testimony
24 in an amount up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Awards of
25 attorneys' fees and costs shall be paid out of the Gross Settlement Amount, for all past and
26 future attorneys' fees and costs necessary to prosecute, settle and obtain Final Approval of the
27 settlement in Action. The "future" aspect of the amounts stated herein includes, without
28 limitation, all time and expenses expended by Class Counsel (including any appeals therein).

1 There will be no additional charge of any kind to either the Settlement Class Members or
2 request for additional consideration from Defendant, unless Defendant fails to fully fund the
3 settlement and further efforts are necessary for Class Counsel to remedy said breach, including,
4 without limitation, moving the Court to enforce the Agreement. Should the Court approve
5 attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts
6 provided for herein, then the unapproved portion(s) shall be distributed to Participating Class
7 Members as part of the Net Settlement Amount.

8 **13. INCENTIVE AWARD TO PLAINTIFF**

9 Named Plaintiff shall seek, and Defendant shall not oppose, an Incentive Award in an
10 amount not to exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to
11 Plaintiff, for participation in and assistance with the Action. Any Incentive Award awarded to
12 Plaintiff shall be paid from the Gross Settlement Amount and shall be reported on an IRS Form
13 1099. If the Court approves the Incentive Award to Plaintiff in less than the amount sought
14 herein, then the unapproved portion(s) shall be distributed to Participating Class Members as
15 part of the Net Settlement Amount.

16 **14. TAXATION AND ALLOCATION**

17 a. Each Individual Settlement Share shall be allocated as follows: 10% as wages (to
18 be reported on an IRS Form W2); and 90% as interest and penalties (to be reported on an IRS
19 Form 1099). Each Individual PAGA Payment and FCRA/ICRAA/CCRAA/BTB Settlement
20 Payment shall be allocated entirely as penalties. The Parties agree that the employee's share of
21 taxes and withholdings with respect to the wage-portion of the Individual Settlement Share will
22 be withheld from the Individual Settlement Share in order to yield the Individual Settlement
23 Payment. Income tax withholding will also be made pursuant to applicable federal, state and/or
24 local withholding codes or regulations.

25 b. Forms W-2 and/or Forms 1099 will be distributed by the Settlement
26 Administrator at times and in the manner required by the Internal Revenue Code of 1986 (the
27 "Code") and consistent with this Agreement. If the Code, the regulations promulgated
28 thereunder, or other applicable tax law, is changed after the date of this Agreement, the

processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

c. All Employer Taxes shall be paid by Defendant separate, apart, and in addition to the Gross Settlement Amount. Defendant shall remain liable to pay the employer's share of payroll taxes as described above.

d. Neither Counsel for Plaintiff nor Defendant intend anything contained in this Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Agreement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

e. Any Incentive Award approved by the Court will result in the issuance of a Form 1099 to Plaintiff as a class representative, who shall assume full responsibility and liability for the payment of taxes due on such award.

15. PRIVATE ATTORNEYS GENERAL ACT ALLOCATION

The Parties agree to allocate Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five percent (75%) of the amount allocated toward PAGA (\$15,000.00) will be paid to the LWDA and twenty-five percent (25%) (\$5,000.00) will be distributed to Aggrieved Employees on a *pro rata* basis based upon their respective Workweeks worked as Aggrieved Employees during the PAGA Period.

16. COURT APPROVAL

This Agreement is contingent upon an order by the Court granting Final Approval of the Settlement, and that the LWDA does not intervene and object to the Settlement. In the event it becomes impossible to secure approval of the Settlement by the Court and the LWDA, the Parties shall be restored to their respective positions in the Action prior to entry of this Settlement. If this Settlement Agreement is voided, not approved by the Court or approval is reversed on appeal, it shall have no force or effect and no Party shall be bound by its terms except to the extent the Court reserves any authority to issue any appropriate orders when denying approval.

1 **17. INCREASE IN WORKWEEKS**

2 Defendant represents that, as of the date of the Parties' mediation, there were no more
3 than 4,066 Workweeks worked by Class Members during the Class Period. In the event the
4 number of Workweeks worked increases by more than 5% or 203 Workweeks worked, then the
5 Gross Settlement Amount shall be increased proportionally by the Workweeks worked in the
6 Class Period in excess of 4,066 multiplied by the Workweek Value. The Workweek Value shall
7 be calculated by dividing the originally agreed-upon Gross Settlement Amount (\$205,000) by
8 4,066 Workweeks. The Parties agree that the Workweek Value amounts to and the settlement
9 amounts to \$50.00 per Workweek ($\$205,000 / 4,066 \text{ Workweeks}$). Thus, for example, should
10 there be 5,000 Workweeks worked by Class Members in the Class Period, then the Gross
11 Settlement Amount shall be increased by \$46,700. $((5,000 \text{ Workweeks} - 4,066 \text{ Workweeks}) \times$
12 $\$50.00 \text{ per Workweek.})$

13 **18. NOTICE OF JUDGMENT**

14 In addition to any duties set out herein, the Settlement Administrator shall provide
15 notice of the Final Judgment entered in the Action by posting the same on its website for a
16 period of no less than four (4) years.

17 **19. MISCELLANEOUS PROVISIONS**

18 **A. Interpretation of the Agreement**

19 This Agreement constitutes the entire agreement between the Parties with respect to its
20 subject matter. Except as expressly provided herein, this Agreement has not been executed in
21 reliance upon any other written or oral representations or terms, and no such extrinsic oral or
22 written representations or terms shall modify, vary or contradict its terms. In entering into this
23 Agreement, the Parties agree that this Agreement is to be construed according to its terms and
24 may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and
25 enforced under the laws of the State of California, both in its procedural and substantive
26 aspects, without regard to its conflict of law provisions. Any claim arising out of or relating to
27 the Agreement, or the subject matter hereof, will be resolved solely and exclusively in the
28 Superior Court of the State of California for the County of San Bernardino, and Plaintiff and

1 Defendant hereby consent to the personal jurisdiction of the Court in the Action over it solely
2 in connection therewith. The foregoing is only limited to disputes concerning this Agreement.
3 The Parties, and each of them, participated in the negotiation and drafting of this Agreement
4 and had available to them the advice and assistance of independent counsel. As such, neither
5 Plaintiff nor Defendant may claim that any ambiguity in this Agreement should be construed
6 against the other. The Agreement may be modified only by a writing signed by counsel for the
7 Parties and approved by the Court.

8 **B. Further Cooperation**

9 The Parties and their respective attorneys shall proceed diligently to prepare and
10 execute all documents, to seek the necessary approvals from the Court, and to do all things
11 reasonably necessary to consummate the Settlement as expeditiously as possible. The Parties
12 agree that they will not take any action inconsistent with this Agreement, including, without
13 limitation, encouraging Class Members to opt out of the Settlement Class.

14 **C. Confidentiality**

15 Class Counsel shall refrain from issuing any press release, speaking to the media, and/or
16 displaying electronic news alerts or web banners on its firm's website, regarding this
17 Settlement.

18 **D. Counterparts**

19 The Agreement may be executed in one or more actual or non-original counterparts, all
20 of which will be considered one and the same instrument and all of which will be considered
21 duplicate originals.

22 **E. Authority**

23 Each individual signing below warrants that they have the authority to execute this
24 Agreement on behalf of the Party for whom or which that individual signs.

25 **F. No Third-Party Beneficiaries**

26 Plaintiff, Participating Class Members, Aggrieved Employees, the State of California,
27 Class Counsel, and Defendants are direct beneficiaries of this Agreement, but there are no
28 third-party beneficiaries.

1 **G. Deadlines Falling on Weekends or Holidays**

2 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,
3 or legal holiday, that deadline shall be continued until the following business day.

4 **H. Jurisdiction of the Court**

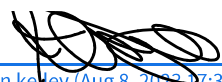
5 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
6 jurisdiction with respect to the interpretation, implementation and enforcement of the terms
7 of this Settlement Agreement and all orders and judgments entered in connection therewith,
8 and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of
9 interpreting, implementing and enforcing the settlement embodied in this Settlement
10 Agreement and all orders and judgments entered in connection therewith.

11 **I. Severability**

12 In the event that one or more of the provisions contained in this Agreement shall for any
13 reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or
14 unenforceability shall in no way effect any other provision if Defendant's Counsel and Class
15 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed
16 as if such invalid, illegal or unenforceable provision had never been included in this
17 Agreement.

18
19 **IT IS SO AGREED:**

20 Dated: Aug 8, 2023


john kelley (Aug 8, 2023 17:33 PDT)

JOHN KELLEY
Plaintiff and Class Representative

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24 Dated: _____

APPLUS IDIADA KARCO ENGINEERING,
LLC
Defendant
By: _____
Its: _____

1 **PRESENTED TO THE COURT BY:**

Vedang J. Patel

2 Dated: 8/14/2023

DAVID D. BIBIYAN

VEDANG J. PATEL

Counsel for Plaintiff JOHN KELLEY

6 Dated: _____

AMY R. PATTON

TAYLOR B. BROWN

**Counsel for Defendant APPLUS IDIADA
KARCO ENGINEERING, LLC**

1 **G. Deadlines Falling on Weekends or Holidays**

2 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,
3 or legal holiday, that deadline shall be continued until the following business day.

4 **H. Jurisdiction of the Court**

5 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
6 jurisdiction with respect to the interpretation, implementation and enforcement of the terms
7 of this Settlement Agreement and all orders and judgments entered in connection therewith,
8 and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of
9 interpreting, implementing and enforcing the settlement embodied in this Settlement
10 Agreement and all orders and judgments entered in connection therewith.

11 **I. Severability**

12 In the event that one or more of the provisions contained in this Agreement shall for any
13 reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or
14 unenforceability shall in no way effect any other provision if Defendant's Counsel and Class
15 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed
16 as if such invalid, illegal or unenforceable provision had never been included in this
17 Agreement.

18
19 **IT IS SO AGREED:**

20 Dated: Aug 8, 2023


john kelley (Aug 8, 2023 07:33 PDT)

JOHN KELLEY
Plaintiff and Class Representative

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22
23 Dated: August 14, 2023



APPLUS IDIADA KARCO ENGINEERING,
LLC
Defendant
By: Carlos Garcia
Its: CEO

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PRESENTED TO THE COURT BY:

Dated: _____

DAVID D. BIBIYAN
VEDANG J. PATEL
Counsel for Plaintiff JOHN KELLEY

Dated: August 14, 2023



AMY R. PATTON
TAYLOR B. BROWN
**Counsel for Defendant APPLUS IDIADA
KARCO ENGINEERING, LLC**