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7 Attorneys for Plaintiff Daniel Hunter, on behalf of himself and all "aggrieved employees"
8 pursuant to Labor Code § 2698 *et seq.*

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

12 DANIEL HUNTER, on behalf of himself
13 and all "aggrieved employees" pursuant to
Labor Code § 2698 *et seq.*,

14 Plaintiff,

15 v.

16 UTILITY TRAFFIC CONTROL
17 SERVICES, INC., a California corporation,
18 and DOES 1 through 10, inclusive,

19 Defendants.

CASE NO: CGC-22-601352

*Assigned to the Hon. Anne-Christine Massullo,
Dept. 610*

**SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

*Complaint Filed: August 19, 2022
FAC Filed: September 29, 2022*

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SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

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1 **SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

2 This Settlement Agreement and Release of Claims ("Settlement Agreement") is made and
3 entered into by and between Plaintiff Daniel Hunter ("Plaintiff" or "Class Representative"),
4 individually and on behalf of all others similarly situated, and Defendant Utility Traffic Control
5 Services, Inc., a California corporation ("Defendant"), subject to the terms and conditions herein
6 and the Court's approval.

7 **A. Definitions.**

8 1. Plaintiff, the Settlement Classes (as defined below), and Defendant are collectively
9 referred to herein as "the Parties."

10 2. Daniel F. Gaines and Alex P. Katofsky of Gaines & Gaines, APLC are counsel of
11 record for Plaintiff Daniel Hunter. For purposes of this Settlement Agreement only, the firm of
12 Gaines & Gaines, APLC shall be designated as "Class Counsel."

13 3. The "Action" means the case of *Daniel Hunter v. Utility Traffic Control Services,*
14 *Inc.*, San Francisco County Superior Court Case No. CGC-22-601352 (the "Action").

15 4. The "Exempt Settlement Class" shall be defined as "all exempt-classified
16 employees who worked for Defendant in California during the Settlement Class Period."
17 Defendant estimates, in good faith, that there are no more than 7 members of the Exempt Settlement
18 Class.

19 5. The "Non-Exempt Settlement Class" shall be defined as "all non-exempt employees
20 who worked for Defendant in California during the Settlement Class Period." Defendant estimates,
21 in good faith, that there are no more than 133 members of the Non-Exempt Settlement Class.

22 6. The "Settlement Class Period" is defined as August 19, 2018 through June 30, 2023.

23 7. The "Exempt PAGA Group" shall be defined as "all exempt-classified employees
24 who worked for Defendant in California during the PAGA Period."

25 8. The "Non-Exempt PAGA Group" shall be defined as "all non-exempt employees
26 who worked for Defendant in California during the PAGA Period."

27 9. The "PAGA Period" is defined as June 15, 2021 through June 30, 2023.
28

1 10. Members of the Settlement Classes shall collectively be referred to as a "Class
2 Member" or "Class Members." Any Class Member who files a timely request for exclusion, as
3 detailed below, will be excluded from the final Settlement Class.

4 11. Members of the Exempt PAGA Group or Non-Exempt PAGA Group shall
5 collectively be referred to as a "PAGA Group Member" or "PAGA Member."

6 12. The "Class Representative" refers to Plaintiff Daniel Hunter.

7 13. The "Effective Date" is defined as the date when this Settlement becomes final,
8 which is the date when the Final Approval Order and Judgment in this Action, based on the Second
9 Amended Complaint, is entered, unless there is an appeal. If there is an appeal, the Effective Date
10 will be the date on which (a) all such appeals have been dismissed; or (b) the appropriate Court of
11 Appeals has entered a final judgment affirming the Final Approval Order and Judgment, which (i)
12 is no longer subject to any further appellate challenge, or (ii) has been affirmed by the California
13 Supreme Court, whichever is earlier.

14 **B. General.**

15 1. On June 15, 2022, Plaintiff exhausted the pre-filing requirements of the Labor Code
16 Private Attorneys General Act of 2004 ("PAGA").

17 2. On August 19, 2022, Plaintiff initiated his Action in the San Francisco County
18 Superior Court by filing a representative action complaint, pursuant to PAGA, on behalf of himself
19 and all other similarly situated individuals.

20 3. On or about September 23, 2022, Defendant removed the Action to the United States
21 District Court for the Northern District of California.

22 4. On or about September 29, 2022, Plaintiff filed his first amended representative
23 action complaint which removed references to Labor Code § 510 and allegations related to unpaid
24 wages.

25 5. On or about October 12, 2023, the Parties stipulated to remand the Action back to
26 the San Francisco County Superior Court and on October 18, 2022, the United States District Court
27 entered an Order remanding the Action back to the State Court.

1 6. As part of the approval of this Settlement, Plaintiff will file a Second Amended
2 Complaint substantially in the form attached hereto as **Exhibit 3** which asserts claims against
3 Defendant for (1) failure to pay all minimum wages due (Labor Code §§ 1194, and 1194.2); (2)
4 failure to reimburse all business-related expenses (Labor Code § 2802 and IWC Wage Order 16-
5 2001); (3) failure to comply with itemized employee wage statement provisions (Labor Code §§
6 226(a) and (e)); (4) failure to timely pay wages due at separation of employment (Labor Code §§
7 201-203); (5) violation of Business and Professions Code § 17200 for underlying violations of the
8 Labor Code as set forth in the complaint in the Action; and (6) civil penalties pursuant to PAGA
9 for underlying violations of the Labor Code as set forth in the complaint in the Action.

10 7. Defendant denies any liability or wrongdoing of any kind associated with the claims
11 alleged in the Action, and further denies that the Action is appropriate for class treatment for any
12 purpose other than this settlement. Defendant contends that it has complied at all times with the
13 California Labor Code. It is Defendant's position that, if this case were to be litigated, class
14 certification would be inappropriate because Plaintiff is not an adequate Class Representative,
15 Plaintiff's claims are not typical of putative class members, the class would not be manageable, and
16 individual issues predominate over class issues, among other defenses. The Action, the negotiation
17 and execution of this Settlement Agreement, and all acts performed or documents executed
18 pursuant to or in furtherance of this Settlement Agreement (i) shall not be used as an admission, or
19 as evidence of wrongdoing by the Defendant, or for any other purpose whatsoever; (ii) shall not be
20 an admission or evidence of fault on behalf of Defendant in any action before a civil court, criminal
21 court, administrative agency of any type, or other tribunal; and (iii) shall not be deemed to be, and
22 may not be used as, an admission or evidence of the appropriateness of these or similar claims for
23 class certification in the Action or with respect to any other proceeding whatsoever.

24 8. The Class Representative contends that Defendant violated the California Labor
25 Code and Industrial Welfare Commission Wage Order(s), and that this case is appropriate for class
26 certification.

27 9. Class Counsel conducted a thorough investigation into the facts and law during the
28 prosecution of this case, including the exchange of extensive informal discovery and the review

1 and verification of statistical data and other facts and information provided by Defendant. Counsel
2 for the Parties have investigated the applicable law as applied to the facts discovered regarding the
3 alleged claims of Plaintiff and potential defenses thereto, and the damages and other losses claimed
4 by Plaintiff.

5 10. The Parties agreed to participate in nonbinding mediation of Plaintiff's claims. On
6 May 18, 2023, following their exchange of information and documents regarding the Settlement
7 Classes and the claims and defenses asserted by the Parties, the Parties engaged in arm's-length
8 negotiations with the assistance of an experienced wage and hour mediator, Judge David I. Brown
9 (Ret.), through which they were able to reach the resolution of the Action set forth herein.

10 11. Based on their own independent investigation and evaluation, Class Counsel are of
11 the opinion (and will so represent to the Court) that settlement for the consideration and on the
12 terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best
13 interest of the Settlement Classes in light of all known facts and circumstances, including the risk
14 of significant delay, the risk the Settlement Classes will not be certified by the Court, and the
15 defenses asserted by Defendant. Defendant and its counsel also agree (and will so represent to the
16 Court) that this settlement is fair and in the best interest of the Settlement Classes.

17 12. The Parties agree that the Settlement Classes described herein may be certified for
18 settlement purposes only and that any motion for approval seeking, *inter alia*, certification of the
19 Settlement Classes are for purposes of the settlement only. If for any reason the settlement is not
20 finalized and approved by the Court, or if this Agreement is voided as specified in Section H(1)
21 below, the certification will have no force or effect and will immediately be revoked. The Parties
22 further agree that certification for purposes of the settlement is in no way an admission that class
23 certification is proper under the more stringent standard applied for litigation and that evidence of
24 this limited Settlement Agreement for settlement purposes only will not be admissible for any
25 purpose in this or any other proceeding.

26 **C. Terms of Settlement.**

27 1. The financial terms of the Settlement Agreement are as follows:
28

1 (a) **Gross Settlement Amount:** The Parties agree to settle the Action for a Gross
2 Settlement Amount of Six Hundred Thousand Dollars (\$600,000) (the "Gross Settlement
3 Amount"), subject to any increase based on the escalator provision in paragraph H(16) herein. The
4 Gross Settlement Amount includes the attorney's fees of Class Counsel; litigation costs and
5 expenses (which includes, without limitation, all such fees and costs incurred to date, as well as
6 such fees and costs to be incurred in documenting the settlement, providing any notices required as
7 part of the settlement, securing Court approval of the settlement, and obtaining judgment in the
8 Action); the Incentive Award to the Class Representative, as approved by the Court; the payment
9 to the California Labor and Workforce Development Agency ("LWDA"); and all costs of
10 administration, including, without limitation, settlement administration fees and expenses. All
11 employer payroll tax obligations due on wage payments made from the Net Settlement Amount
12 shall be paid by Defendant separately and apart from, and in addition to, the Gross Settlement
13 Amount.

14 (b) **Net Settlement Amount:** "Net Settlement Amount" is defined as the Gross
15 Settlement Amount less the amounts approved and awarded by the Court for: attorney's fees and
16 documented litigation costs and expenses incurred or advanced by Class Counsel; the Incentive
17 Award to the Class Representative; the payment to the LWDA pursuant to PAGA; and the costs of
18 administering the settlement.

19 (c) **Calculation of the Individual Payment Amounts:** "Individual Payment
20 Amount" means the portion of the Net Settlement Amount distributable to each Class Member who
21 participates in the Class Settlement (i.e., who does not submit a valid request for exclusion form)
22 and each PAGA Member, whether they participate in the Class Settlement or not. As to
23 participating members of the Exempt Settlement Class, the Individual Payment Amount will be
24 determined by dividing five percent of the Net Settlement Amount, by the total number of weeks
25 worked by the entire Exempt Settlement Class in an exempt position in California during the Class
26 Period, net of opt outs, resulting in the class workweek value; and then multiplying the class
27 workweek value by the number of weeks worked by each participating Exempt Settlement Class
28 Member in an exempt position in California during the Class Period. As to participating members

1 of the Non-Exempt Settlement Class, the Individual Payment Amount will be determined by
2 dividing the remaining ninety-five percent of the Net Settlement Amount, by the total number of
3 weeks worked by the entire Non-Exempt Settlement Class in a non-exempt position in California
4 during the Class Period, net of opt outs, resulting in the class workweek value; and then multiplying
5 the class workweek value by the number of weeks worked by each participating Non-Exempt
6 Settlement Class Member in a non-exempt position in California during the Class Period. As to the
7 Exempt and Non-Exempt PAGA Group Members, the PAGA portion of the Individual Payment
8 Amount will be determined by dividing the PAGA Allocation by the total number of weeks worked
9 by all members of the Exempt PAGA Group and the Non-Exempt PAGA Group, resulting in the
10 PAGA workweek value; and then multiplying the PAGA workweek value by the number of weeks
11 worked by each Exempt PAGA Group Member and Non-Exempt PAGA Group Member in
12 California during the PAGA Period. Start and end dates of employment may be used to compute
13 the workweeks for each employee.

14 (d) For tax purposes, the class portion of each Individual Payment Amount will
15 be apportioned as follows:

- 16 • For Exempt Settlement Class Members: 50% penalties (reported on an IRS
17 Form 1099, if required); 50% expense reimbursement (no tax reporting).
- 18 • For Non-Exempt Settlement Class Members: 25% wages (reported on an
19 IRS Form W-2 and subject to applicable withholdings); 25% penalties
20 (reported on an IRS Form 1099, if required); 25% interest (reported on an
21 IRS Form 1099, if required); 25% expense reimbursement (no tax
22 reporting).
- 23 • For Exempt PAGA Group Members: 100% penalties (reported on an IRS
24 Form 1099, if required).
- 25 • For Non-Exempt PAGA Members: 100% penalties (reported on an IRS
26 Form 1099, if required).

27 (e) **PAGA Payments:** The Parties agree that Sixty Thousand Dollars (\$60,000)
28 shall be allocated to settle Plaintiff's claims brought pursuant to PAGA. Of this amount, Seventy-

1 Five percent (75%), or Forty-Five Thousand Dollars (\$45,000), shall be paid to the LWDA, and
2 the remaining Twenty-Five percent (25%), or Fifteen Thousand Dollars (\$15,000), shall be paid to
3 members of the PAGA Groups as part of the Net Settlement Amount.

4 (f) **Incentive Award and General Release Payment to Class Representative:**

5 The amount awarded to the Class Representative as a "Incentive Award" and in exchange for a
6 general release, as set forth in Paragraph D(5), below, will be set by the Court in its discretion, not
7 to exceed Seven Thousand Five Hundred Dollars (\$7,500). This amount will be deducted from the
8 Gross Settlement Amount. An IRS Form 1099 will be issued to the Class Representative for his
9 Incentive Award. Defendant agrees not to dispute or otherwise object to the Incentive Award if
10 Plaintiff requests \$7,500 or less.

11 (g) **Attorney's Fees:** An award to Class Counsel of attorney's fees will be
12 deducted from the Gross Settlement Amount in an amount to be set by the Court taking into account
13 the settlement award that has been made available for the Settlement Classes by the efforts of Class
14 Counsel. The amount awarded shall not exceed one-third of the Gross Settlement Amount (i.e.,
15 Two Hundred Thousand Dollars [\$200,000]). An IRS Form 1099 will be issued to Class Counsel
16 with respect to its award of attorney's fees. Defendant agrees not to dispute or otherwise object to
17 the attorneys' fee award requested by Class Counsel so long as the request does not exceed one-
18 third of the Gross Settlement Amount.

19 (h) **Attorneys' Costs and Expenses:** Class Counsel will be reimbursed from
20 the Gross Settlement Amount in an amount to be set by the Court for documented out-of-pocket
21 litigation costs and expenses, not to exceed Twelve Thousand Dollars (\$12,000). An IRS Form
22 1099 will be issued to Class Counsel with respect to its award of costs and expenses. Defendant
23 agrees not to dispute or otherwise object to the attorneys' cost award requested by Class Counsel
24 so long as the request does not exceed \$12,000.

25 (i) **Settlement Administration Costs:** The fees of the Settlement
26 Administrator to administer the Settlement are expected to total no more than Eight Thousand
27 Dollars (\$8,000) and will be paid from the Gross Settlement Amount. These fees shall include any
28 costs associated with the required tax reporting on any Individual Payment Amounts, and the

1 issuing of any and all W-2 and 1099 forms. Subject to approval of the Court, the Parties have
2 agreed that Phoenix Settlement Administrators will serve as a neutral third-party claims
3 administrator ("Settlement Administrator") to perform all acts related to providing notice to the
4 Settlement Class. Settlement Administrator shall be responsible for (a) printing and distributing
5 the Court-approved Notice of Class Action Settlement ("Class Notice") to all Class Members; (b)
6 administering the settlement; (c) processing exclusions, objections, and field inquiries from Class
7 Members; (d) resolving disputes pertaining to administration matters; (e) calculating the Individual
8 Payment Amount that each Participating Class Member and all PAGA Group Members are eligible
9 to receive; (f) distributing the Gross Settlement Amount as directed by the Court and set forth
10 herein; (g) tax reporting; (h) providing necessary weekly status reports; and (i) other duties and
11 responsibilities set forth herein.

12 (j) **No Warranty by Defendant:** Plaintiff understands and agrees that
13 Defendant is not providing Plaintiff or Class Members with tax or legal advice and that Defendant
14 makes no representations regarding tax obligations or consequences, if any, related to this
15 Settlement Agreement.

16 **D. Release of Claims.**

17 1. Upon the Effective Date, and subject to Defendant's full payment of the Gross
18 Settlement Amount and all associated employer payroll tax obligations, Plaintiff and all Exempt
19 Settlement Class Members who do not timely opt-out of the Settlement will release Utility Traffic
20 Control Services, Inc., all entities affiliated with it, and all officers, directors, representatives,
21 owners, partner, subsidiaries, parent companies, joint venturers, clients, joint employer,
22 predecessors, managers, servants, successors-in-interest, assigns, current and former employees of
23 Defendant, including but not limited to agents, insurers, attorneys and all persons or entities acting
24 in concert with or affiliated with any of them (the "Released Parties") from the applicable claims
25 pled in the Second Amended Complaint, including (1) failure to reimburse all necessary business
26 expenses; (2) wage statement violations; and (3) violation of Business & Professions Code section
27 17200 based on the failure to reimburse all necessary business expenses (the "Exempt Settlement
28

1 Class Release"). The release is limited to the claims above that arose during employment by
2 Defendant in an exempt-classified position in California during the Settlement Class Period.

3 2. Upon the Effective Date, and subject to Defendant's full payment of the Gross
4 Settlement Amount and all associated employer payroll tax obligations, Plaintiff and all Non-
5 Exempt Settlement Class Members who do not timely opt-out of the Settlement will release the
6 Released Parties from all claims pled in the Second Amended Complaint, including (1) failure to
7 pay all minimum wages; (2) failure to reimburse all necessary business expenses; (3) wage
8 statement violations; (4) failure to pay all wages due upon separation of employment; and (5)
9 violation of Business & Professions Code section 17200 based on the allegations in the Second
10 Amended Complaint (the "Non-Exempt Settlement Class Release"). The release is limited to the
11 claims above that arose during employment by Defendant in a non-exempt classified position in
12 California during the Settlement Class Period.

13 3. Upon the Effective Date, and subject to Defendant's full payment of the Gross
14 Settlement Amount and all associated employer payroll tax obligations, Plaintiff and members of
15 the Exempt PAGA Group will release the Released Parties from all applicable claims pled in the
16 Second Amended Complaint for PAGA penalties, including the PAGA claims for (1) failure to
17 reimburse all necessary business expenses; and (2) wage statement violations (the "Exempt PAGA
18 Group Release"). The release is limited to the PAGA claims above that arose during employment
19 by Defendant in an exempt-classified position in California during the PAGA Period.

20 4. Upon the Effective Date, and subject to Defendant's full payment of the Gross
21 Settlement Amount and all associated employer payroll tax obligations, Plaintiff and members of
22 the Non-Exempt PAGA Group will release the Released Parties from all claims pled in the Second
23 Amended Complaint for PAGA penalties, including the PAGA claims for (1) failure to pay all
24 minimum wages; (2) failure to reimburse all necessary business expenses; (3) wage statement
25 violations; and (4) failure to pay all wages due upon separation of employment (the "Non-Exempt
26 PAGA Group Release"). The release is limited to the PAGA claims above that arose during
27 employment by Defendant in a non-exempt classified position in California during the PAGA
28 Period.

1 5. Upon the Effective Date, and subject to Defendant's full payment of the Gross
2 Settlement Amount and all associated employer payroll tax obligations, Plaintiff Daniel Hunter
3 shall be deemed to have fully, finally, and forever released the Released Parties from any and all
4 claims, obligations, demands, Action, rights, causes of action, and liabilities against the Released
5 Parties, of whatever kind and nature, character, and description, whether in law or equity, whether
6 sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common
7 law, or other source of law, whether known or unknown, and whether anticipated or unanticipated,
8 including unknown claims covered by Civil Code Section 1542, arising through the date of his
9 signature hereon, for any type of relief, including, without limitation, claims for wages, damages,
10 unpaid costs, penalties, liquidated damages, punitive damages, interest, attorney's fees, litigation
11 costs, restitution, or equitable relief. These claims include, but are not limited to, the Exempt and
12 Non-Exempt Settlement Class Releases and Exempt and Non-Exempt PAGA Group Releases, as
13 well as any other claims under any provision of the California Labor Code or any applicable
14 California Industrial Welfare Commission Wage Orders, and claims under local, state, or federal
15 discrimination statutes, including, without limitation, the California Fair Employment and
16 Housing Act, California Government Code §§ 12940 *et seq.*; the Unruh Civil Rights Act,
17 California Civil Code §§ 51 *et seq.*; the California Constitution; Title VII of the Civil Rights Act
18 of 1964, 42 U.S.C. §§ 2000 *et seq.*; the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et*
19 *seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.*; and all of
20 their implementing regulations and interpretive guidelines. With respect to these Released Claims
21 as described in this Section, Plaintiff Hunter shall be deemed to have expressly waived and
22 relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits he may
23 otherwise have had pursuant to Section 1542 of the California Civil Code, which provides as
24 follows:

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

Notwithstanding Section 1542, Plaintiff understands and agrees that this Agreement shall

1 act as a release of all future claims that may arise from Plaintiff's employment or separation from
2 employment with Defendant, or any other matters that existed between Plaintiff and the Released
3 Parties through June 30, 2023, whether such claims are currently known or unknown, and that
4 Plaintiff intentionally waives any rights he may have under the provisions of Section 1542, as well
5 as under any other statutes or common law principles of similar effect in the State of California or
6 in any other state.

7 **E. Notice and Exclusion Process.**

8 1. Within ten (10) calendar days after entry of the order granting preliminary approval
9 of this Settlement, Defendant shall provide to the Settlement Administrator a list of all Class
10 Members, including their last known addresses, telephone numbers, social security numbers, and
11 their dates of employment in an exempt and non-exempt position in California during the
12 Settlement Class Period ("Settlement Class Information"). The names, addresses, telephone
13 numbers, and Social Security numbers will only be disclosed to the Settlement Administrator and
14 not to Plaintiff's Counsel. All information provided to the Settlement Administrator will be marked
15 CONFIDENTIAL. This information shall be kept confidential and shall not be disclosed, either in
16 writing or orally, by the Settlement Administrator. The Settlement Administrator shall use due care
17 with respect to the storage, custody, use, and/or dissemination of the confidential information. Such
18 information must be stored in a secure fashion and all persons who access the data must agree to
19 keep it confidential.

20 2. A notice of pendency of class action, proposed settlement, and hearing date for
21 Court approval ("Class Notice") in the form attached hereto as **Exhibit 1**, and as approved by the
22 Court, shall be sent by the Settlement Administrator to the Class Members, by first class mail,
23 within twenty (20) calendar days after entry of the order granting preliminary approval. Attached
24 to the Class Notice will be a request for exclusion form ("Request for Exclusion Form") in the form
25 attached hereto as **Exhibit 2**.

26 3. The Settlement Administrator will make reasonable efforts to ensure that the Class
27 Notice and Request for Exclusion Form are sent to all Class Members. It will conclusively be
28 presumed that if an envelope has not been returned within thirty (30) days of the mailing, that the

1 Class Member received the Class Notice. In the event of returned or non-deliverable notices, the
2 Settlement Administrator will make reasonable efforts to locate Class Members and re-send the
3 notices.

4 4. Each Class Member will be fully advised of the settlement, the ability to object to
5 the settlement, and the ability to submit a Request for Exclusion Form. The Class Notice will
6 inform the Class Members of the Court-established deadlines for filing objections and a Request
7 for Exclusion Form.

8 5. Each Class Notice will contain personalized information setting forth the number of
9 weeks each Class Member worked for Defendant in California in a non-exempt or exempt position
10 during the Settlement Class Period and their estimated Individual Payment Amount. To the extent
11 a Class Member disputes any of the information listed on his or her Class Notice, the Class Member
12 may produce evidence to the Settlement Administrator showing such information the Class
13 Member contends should be reflected in the Class Notice. Defendant's records will be presumed
14 determinative, however, and the Settlement Administrator's decision on these matters will be final.
15 The Class Notice will also set forth IRS W-9 information if required.

16 6. All Class Members who do not submit a Request for Exclusion Form will be eligible
17 to receive an Individual Payment Amount and all members of the PAGA Groups will be eligible to
18 receive a share of the PAGA allocation from the Net Settlement Amount, which shall be mailed to
19 them if and when the Effective Date occurs.

20 7. In order to elect not to participate in the Settlement, a Class Member must submit a
21 Request for Exclusion Form, and mail it to the Settlement Administrator, no later than forty-five
22 (45) calendar days after the initial mailing of the Class Notice and Request for Exclusion Form to
23 Class Members, unless the Court requires a longer period, in which case the Court ordered
24 exclusion period will apply. The date of the postmark shall be deemed the date of submission. The
25 timeliness of submitted Request for Exclusion Forms will be determined by valid postmark. If the
26 45th day falls on a Sunday or federal holiday, the time to request exclusion will be extended to the
27 next day on which the U.S. Postal Service is open.

28

1 8. The deadline for submission of Exclusion Forms shall be extended once by 30 days
2 for those Class Members whose Class Notice and Exclusion Form are returned as "undeliverable."
3 If the 30th day falls on a Sunday or federal holiday, this deadline will be extended to the next day
4 on which the U.S. Postal Service is open.

5 9. The Settlement Administrator will search for additional addresses on returned mail
6 and will re-mail the Class Notice and Exclusion Form to an updated address (if any) within 15 days
7 of receipt of the returned mail. The 30-day extended time limit will run from the date of the second
8 mailing for those Class Members. To the extent a Class Notice from the initial mailing is not
9 returned within 30 days, it shall be deemed to have been sent to a valid address even if it is thereafter
10 returned. It is the intent of the Parties that reasonable, but not extraordinary, efforts be used to
11 locate Class Members. If the initial Class Notice and Request for Exclusion Form is returned, the
12 Settlement Administrator will search using the social security number for a more current address.
13 If no address is found within 10 days, no further action is required.

14 10. The Settlement Administrator will notify the Parties of the total number of valid
15 Request for Exclusion Forms within ten (10) calendar days after the deadline for receipt of the
16 Request for Exclusion Forms (fifty-five (55) days following the initial mailing of the Class Notice
17 and Request for Exclusion Forms to Class Members).

18 11. In order to object to the settlement, a Class Member must mail his or her objection
19 to the Settlement Administrator no later than forty-five (45) calendar days after the mailing of the
20 Class Notice and Request for Exclusion Form to Class Members, unless the Court requires a longer
21 period, in which case the Court ordered objection period will apply. If the 45th day falls on a
22 Sunday or federal holiday, the time to object to the settlement will be extended to the next day on
23 which the U.S. Postal Service is open. Any Class Member may appear at the final approval hearing
24 to raise objections to the Settlement.

25 12. The Settlement Administrator shall provide to the Parties, at least twelve (12)
26 calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a declaration
27 of due diligence and proof of mailing with regard to the mailing of the Class Notice and Request
28 for Exclusion Forms. The Settlement Administrator will also provide to the Parties, at least twelve

1 (12) calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a report
2 listing the amount of all payments to be made to each Class Member without names or personal
3 identifying information.

4 13. Defendant shall deposit the Gross Settlement Amount and all employer payroll tax
5 obligations with the Settlement Administrator no later than ten (10) calendar days after the Effective
6 Date.

7 14. The Settlement Administrator shall disburse the Gross Settlement Amount within
8 fifteen (15) calendar days after its receipt thereof. Class Members and PAGA Group Members
9 must cash each of their Individual Payment Amount checks within one hundred eighty (180)
10 calendar days after they are mailed by the Settlement Administrator. The value of any checks
11 uncashed more than one hundred eighty (180) days after mailing shall be paid to the State of
12 California Controller's Office – Unclaimed Property Fund, to be held in the name of the respective
13 Class Member or PAGA Member.

14 **F. Duties of the Parties Prior to Court Approval.**

15 1. Promptly after execution of this Settlement Agreement, Plaintiff shall move the
16 Court for preliminary approval of this settlement and entry of an order accomplishing the
17 following:

18 (a) scheduling a fairness hearing on the question of whether the proposed
19 settlement should be finally approved as fair, reasonable, and adequate as to the Class Members;

20 (b) approving as to form and content the proposed Class Notice;

21 (c) approving as to form and content the proposed Request for Exclusion
22 Form;

23 (d) preliminarily certifying the Settlement Classes for purposes of approving
24 the Settlement Agreement;

25 (e) preliminarily approving the PAGA payment of \$60,000;

26 (f) preliminarily setting attorney's fees and costs payable to Class Counsel;

27 (g) preliminarily setting the Incentive Award to the Class Representative;
28

1 (h) preliminarily approving Phoenix Settlement Administrators as the
2 Settlement Administrator and its estimated fees and costs of \$8,000; and

3 (i) permitting Plaintiff to file the Second Amended Complaint attached hereto
4 as **Exhibit 3**.

5 2. The Parties shall submit this Settlement Agreement to the Court and the LWDA
6 in support of Plaintiff's unopposed motion for preliminary approval of the settlement.

7 **G. Duties of the Parties in Connection with and Following Final Court Approval.**

8 1. In connection with the hearing on final approval of the settlement, the Parties will
9 submit a proposed final order no later than ten (10) calendar days prior to the scheduled date of
10 the hearing on final approval (unless otherwise ordered by the Court):

11 (a) approving the settlement, adjudging the terms thereof to be fair, reasonable
12 and adequate, and directing consummation of its terms and provisions;

13 (b) approving Class Counsel's application for an award of attorney's fees and
14 reimbursement of documented litigation costs and expenses, the Incentive Award to the Class
15 Representative, the PAGA payment to the LWDA, and the costs of administering the settlement;
16 and

17 (c) Entering judgment in the Action in accordance with this Settlement
18 Agreement, pursuant to Cal. Rules of Court, Rule 3.769(h).

19 2. Class Counsel shall file an application for attorney's fees and reimbursement of
20 costs and expenses no later than ten (10) calendar days prior to the scheduled date of the hearing
21 on final approval (unless otherwise ordered by the Court).

22 **H. Miscellaneous Provisions:**

23 1. **Voiding the Agreement.**

24 A failure of the Court to approve any material condition of this Settlement Agreement which
25 effects "a fundamental change of the Parties' settlement," or if the settlement is reversed or
26 materially modified on appellate review, shall render the entire Settlement Agreement voidable and
27 unenforceable as to all Parties herein at the option of any Party. Defendant may, in its discretion,
28 withdraw from this Settlement if more than 10% of the members of the Settlement Classes opt out

1 of the Settlement. In this event, the Settlement shall be considered void *ab initio* and shall be of no
2 force or effect whatsoever, and shall not be referred to or utilized for any purpose whatsoever. The
3 Parties agree not to encourage members of the Settlement Classes to opt out of the Settlement.

4 **2. Parties' Authority.**

5 The signatories hereto represent that they are fully authorized to enter into this Settlement
6 Agreement and bind the Parties hereto to the terms and conditions hereof.

7 **3. Mutual Full Cooperation.**

8 The Parties agree to fully cooperate with each other to accomplish the terms of this
9 Settlement Agreement, including but not limited to, execution of such documents and such other
10 action as may reasonably be necessary to implement the terms of this Settlement Agreement. The
11 Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated
12 by this Settlement Agreement and any other efforts that may become necessary by order of the
13 Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As
14 soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the
15 assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the
16 Court's preliminary and final approval of the settlement.

17 **4. No Prior Assignments.**

18 The Parties hereto represent, covenant, and warrant that they have not directly or indirectly,
19 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
20 entity any portion of any liability, claim, demand, action, cause of action or rights released and
21 discharged by this Settlement Agreement.

22 **5. No Admission.**

23 Nothing contained herein, nor the consummation of this Settlement Agreement, is to be
24 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
25 of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
26 Settlement Agreement with the intention of avoiding further disputes and litigation with the
27 attendant inconvenience and expenses. This Settlement Agreement is a settlement document and
28 shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408

1 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action or
2 proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement.

3 **6. Construction.**

4 The Parties hereto agree that the terms and conditions of this Settlement Agreement are the
5 result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement
6 Agreement shall not be construed in favor of or against any Party by reason of the extent to which
7 any Party or her or its counsel participated in the drafting of this Settlement Agreement.

8 **7. Captions and Interpretations.**

9 Paragraph titles or captions contained herein are inserted as a matter of convenience and for
10 reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement
11 or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a
12 recital.

13 **8. Modification.**

14 This Settlement Agreement may not be changed, altered, or modified, except in writing and
15 signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be
16 discharged except by performance in accordance with its terms or by a writing signed by each of
17 the Parties hereto on their attorneys.

18 **9. Integration Clause.**

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

24 **10. Binding on Assigns.**

25 This Settlement Agreement shall be binding upon and insure to the benefit of the Parties
26 hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

27 **11. Governing Law.**

28 All terms of this Settlement Agreement and its exhibits shall be governed by and interpreted

1 according to the laws of the State of California, without giving effect to any conflict of law
2 principles or choice of law principles.

3 **12. Signatures of All Class Members Unnecessary to be Binding.**

4 It is agreed that, because the members of the Settlement Class are numerous, it is impossible
5 or impractical to have each Class Member execute this Settlement Agreement. The Class Notice,
6 attached hereto as Exhibit 1, will advise all Class Members of the binding nature of the release
7 provided herein and such shall have the same force and effect as if this Settlement Agreement was
8 executed by each Class Member.

9 **13. Counterparts.**

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

14 **14. Confidentiality**

15 Until Plaintiff files his motion for preliminary approval of the class action settlement of the
16 Action, the Parties and Counsel agree to maintain confidentiality as to the Settlement, including the
17 amount and terms of the Settlement, except as to spouses, tax or financial advisors, attorneys, taxing
18 agencies, or as otherwise required by law.

19 **15. No Publicity**

20 Neither side Plaintiff nor Defendant shall publicize the settlement, including but not limited
21 to communications through any social media, unless so ordered by the Court.

22 **16. Representation Regarding Class Size.**

23 Defendant represents, in good faith, that there are an estimated 140 Class Members who
24 will have worked approximately 12,030 workweeks in California during the Settlement Class
25 Period through June 30, 2023. Should the total number of workweeks exceed these estimates by
26 10% or more, the Gross Settlement Amount shall increase proportionately for each additional
27 workweek in excess of the 10% threshold or the Defendant has the option of shortening the class
28

1 period end date to where total workweeks do not exceed 110% of the estimate of 12,030
2 workweeks.

3 **17. Continuing Jurisdiction.**

4 The Parties agree that upon the occurrence of the entry of judgment in this case pursuant to
5 the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code
6 of Civil Procedure Section 664.6 and all other applicable law, and the Court shall retain exclusive
7 and continuing equity jurisdiction of this Action over all Parties and Class Members to interpret
8 and enforce the terms, conditions and obligation of the Agreement.

9 **18. Default; Notice; Cure; Acceleration; Time is of the Essence.**

10 Time is of the essence with respect to all provisions of this Agreement. If Defendant fails
11 to timely make the payment due hereunder, it shall be in default of its obligations. Plaintiff shall
12 thereafter give notice of default and Defendant must cure said default within ten (10) calendar days
13 thereof. In the event of an uncured default, all unpaid amounts shall be due and payable with interest
14 at the legal rate from the date of default.

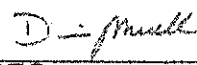
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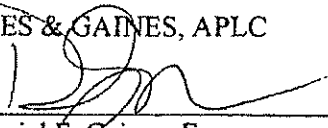
By: 
DANIEL HUNTER
Plaintiff and Class Representative

Dated: _____

UTILITY TRAFFIC CONTROL SERVICES,
INC.
By: 
Its: CFO

APPROVED AS TO FORM AND CONTENT:

Dated: 8/7/2023

GAINES & GAINES, APLC
By: 
Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Counsel for Plaintiff and Class
Representative

Dated: 8/14/2023

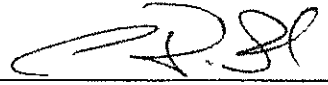
MURPHY AUSTIN ADAMS SCHOENFELD
LLP
By: 
Aaron B. Silva, Esq.
Charles R. Hellstrom, Esq.
Counsel for Defendant

EXHIBIT 1

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

DANIEL HUNTER, on behalf of himself and all
“aggrieved employees” pursuant to Labor Code
§ 2698 *et seq.*,

Plaintiffs,

v.

UTILITY TRAFFIC CONTROL SERVICES,
INC., a California corporation, and DOES 1
through 10, inclusive,

Defendants.

CASE NO: CGC-22-601352

*Assigned to the Hon. Anne-Christine Massullo,
Dept. 610*

**NOTICE OF PENDENCY OF PROPOSED
CLASS ACTION SETTLEMENT AND
FINAL HEARING**

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT.
PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.**

A California court authorized this notice. This is not a solicitation from a lawyer.

- A settlement will provide \$600,000 to pay claims to all individuals who worked for Utility Traffic Control Services, Inc. (“Defendant”) in California at any time between August 19, 2018 and June 30, 2023.
- The settlement resolves a lawsuit alleging that Defendant failed to pay all minimum wages due; reimburse all business-related expenses; timely issue final wages upon separation of employment; and issue accurate and complete itemized wage statements. The Settlement avoids costs and risks of continuing the lawsuit, pays money to employees and former employees, and releases Defendant from liability from the claims asserted in this lawsuit.
- Lawyers for the employees will ask the Court to award them up to \$200,000 as attorney’s fees and \$12,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.
- Defendant denies liability and believes all appropriate wages were paid, employees were properly reimbursed for business expenses, final wages upon separation were timely paid, accurate pay stubs were issued, and that it otherwise complied with any Labor Code obligations. The Parties disagree on how much money could have been awarded if employees won at trial.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Settlement Administrator. If your address has changed, you must notify the Settlement Administrator of your new address. In exchange for the settlement payment, you will release claims against the Defendant, as detailed below.
Exclude Yourself	To exclude yourself, you must send a written Request for Exclusion to the Settlement Administrator by the applicable deadline, as detailed below. If you request exclusion, you will receive no money from the class settlement. This is the only option that allows you to ever be part of any other lawsuit against Utility Traffic Control Services, Inc. about the legal claims that were brought in this case. Even if you exclude yourself, you will still be a PAGA Group Member subject to the PAGA settlement.
Object	Write to the Settlement Administrator about why you don't like the settlement by the applicable deadline, as detailed below, and/or appear at the Final Approval Hearing to make an oral objection. Any Class Member may appear at the final approval hearing to raise objections to the Settlement.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement, as detailed below.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a class action and PAGA lawsuit, and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of the Classes on whose behalf this class action lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

On June 15, 2022, Plaintiff Daniel Hunter ("Plaintiff"), a former employee of Defendant Utility Traffic Control Services, Inc., filed this lawsuit in the San Francisco County Superior Court. The lawsuit alleges violations of the California Labor Code and California Business and Professions Code. The lawsuit seeks to certify classes comprising of all current and former California employees of Defendant at any time between August 19, 2018 and June 30, 2023 ("Class Period"). Specifically, the lawsuit alleges that members of the Classes were not paid all minimum wages due; reimbursed for all business-related expenses; timely issued final wages upon separation of employment; or issued accurate and complete itemized wage statements. The Settlement seeks recovery of wages, liquidated damages, damages, interest, statutory and civil penalties, restitution, attorney's fees and costs. Defendant denies all of the material allegations in the lawsuit and denies that it owes Class Members any remedies. The Court has not made a ruling on the merits of the case.

The lawyers for the parties are:

Plaintiff's Attorneys

Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Gaines & Gaines, APLC
4550 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Phone: (866) 550-0855

Defendant's Attorneys

Aaron B. Silva, Esq.
Charles B. Hellstrom, Esq.
Murphy Austin Adams & Schoenfeld LLP
555 Capitol Mall, Suite 850
Sacramento, CA 95814

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Plaintiff believes he would have prevailed on his claims at a trial. Defendant does not believe that Plaintiff would have won anything from a trial. There has been no trial. Instead, both sides agreed to a settlement, which is memorialized in the Settlement Agreement and Release of Claims ("Settlement" or "Settlement Agreement"), in order to avoid the further costs, risks, and uncertainty of a trial. Plaintiff and Plaintiff's Attorneys believe the settlement is fair, reasonable, adequate, and in the best interests of all Class Members.

B. Who is in the Settlement Classes? Who is in the PAGA Groups?

The Settlement encompasses: (1) the Exempt Settlement Class composed of all exempt-classified employees who worked for Defendant in California between August 19, 2018 and June 30, 2023 (the "Settlement Class Period"); (2) the Non-Exempt Settlement Class composed of all non-exempt employees who worked for Defendant in California during the Settlement Class Period; (3) the Exempt PAGA Group composed of all exempt-classified employees who worked for Defendant in California between June 15, 2021 and June 30, 2023 (the "PAGA Period"); and (4) the Non-Exempt PAGA Group composed of all non-exempt employees who worked for Defendant in California during the PAGA Period.

C. What does the Settlement provide?

1. Gross Settlement Amount.

The Settlement provides that Defendant will pay \$600,000 (the "Gross Settlement Amount") to settle the lawsuit.

2. Net Settlement Amount.

The "Net Settlement Amount" is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts that will be requested at the Final Approval Hearing and are subject to comment or objection by Participating Class Members. The Court will set these amounts at the Final Approval Hearing.

- (a) **Class Counsel's Attorney's Fees** in an amount set by the Court, not to exceed \$200,000;
- (b) **Class Counsel's Documented Litigation Costs/Expenses** in an amount set by the Court, not to exceed \$12,000;
- (c) **Incentive Award Payment to the Class Representative** in an amount set by the Court, not to exceed \$7,500 to Plaintiff for his service in the lawsuit;
- (d) **Settlement Administration Costs** which are currently estimated to not exceed \$8,000, for administering the settlement; and
- (e) **PAGA Payment** in the total amount of \$60,000 for the settlement of claims arising under the California Private Attorneys General Act ("PAGA"). Of that amount, 75% or \$45,000, shall be paid to the California Labor and Workforce Development Agency ("LWDA"). The remaining 25%, or \$15,000, shall be included in the Net Settlement Amount for payment to members of the PAGA Groups.

3. Individual Payment Amount.

Your share of the Net Settlement Amount will be determined by the formula detailed in section E below.

D. What Are You Giving Up To Get A Payment Or Stay In The Class?

Upon the Effective Date (i.e. when the Settlement is final), and subject to Defendant's full payment of the Gross Settlement Amount and all associated employer payroll tax obligations, Plaintiff and all Exempt Settlement Class Members who do not timely opt-out of the Settlement will release Utility Traffic Control Services, Inc., all entities affiliated with it, and all officers, directors, representatives, owners, partner, subsidiaries, parent companies, joint venturers, clients, joint employer, predecessors, managers, servants, successors-in-interest, assigns, current and former employees of Defendant, including but not limited to agents, insurers, attorneys and all persons or entities acting in concert with or affiliated with any of them (the "Released Parties") from the applicable claims pled in the Second Amended Complaint, including (1) failure to reimburse all necessary business expenses; (2) wage statement violations; and (3) violation of Business & Professions Code section 17200 based on the failure to reimburse all necessary business expenses (the "Exempt Settlement Class Release"). The release is limited to the claims above that arose during employment by Defendant in an exempt-classified position in California during the Settlement Class Period.

Upon the Effective Date, and subject to Defendant's full payment of the Gross Settlement Amount and all associated employer payroll tax obligations, Plaintiff and all Non-Exempt Settlement Class Members who do not timely opt-out of the Settlement will release the Released Parties from all claims pled in the Second Amended Complaint, including (1) failure to pay all minimum wages; (2) failure to reimburse all necessary business expenses; (3) wage statement violations; (4) failure to pay all wages due upon separation of employment; and (5) violation of Business & Professions Code section 17200 based on the allegations in the Second Amended Complaint (the "Non-Exempt Settlement Class Release"). The release is limited to the claims above that arose during employment by Defendant in a non-exempt classified position in California during the Settlement Class Period.

Upon the Effective Date, and subject to Defendant's full payment of the Gross Settlement Amount and all associated employer payroll tax obligations, Plaintiff and members of the Exempt PAGA Group

will release the Released Parties from all applicable claims pled in the Second Amended Complaint for PAGA penalties, including the PAGA claims for (1) failure to reimburse all necessary business expenses; and (2) wage statement violations (the "Exempt PAGA Group Release"). The release is limited to the PAGA claims above that arose during employment by Defendant in an exempt-classified position in California during the PAGA Period.

Upon the Effective Date, and subject to Defendant's full payment of the Gross Settlement Amount and all associated employer payroll tax obligations, Plaintiff and members of the Non-Exempt PAGA Group will release the Released Parties from all claims pled in the Second Amended Complaint for PAGA penalties, including the PAGA claims for (1) failure to pay all minimum wages; (2) failure to reimburse all necessary business expenses; (3) wage statement violations; and (4) failure to pay all wages due upon separation of employment (the "Non-Exempt PAGA Group Release"). The release is limited to the PAGA claims above that arose during employment by Defendant in a non-exempt classified position in California during the PAGA Period.

E. How Is My Share Of The Settlement Calculated?

Each participating Class Member (those who do not opt out of the Settlement) and all PAGA Group Members shall receive an "Individual Payment Amount," which is distributable to each Class Member who participates in the Settlement (i.e., who does not submit a valid request for exclusion form) and each PAGA Group Member regardless of whether they participate in the Settlement (PAGA Group Members will receive the PAGA portion of the Individual Payment Amount even if they exclude themselves from the Settlement).

"Individual Payment Amount" means the portion of the Net Settlement Amount distributable to each Class Member who participates in the Class Settlement (i.e., who does not submit a valid request for exclusion form) and each PAGA Member, whether they participate in the Class Settlement or not. As to participating members of the Exempt Settlement Class, the Individual Payment Amount will be determined by dividing five percent of the Net Settlement Amount, by the total number of weeks worked by the entire Exempt Settlement Class in an exempt position in California during the Class Period, net of opt outs, resulting in the class workweek value; and then multiplying the class workweek value by the number of weeks worked by each participating Exempt Settlement Class Member in an exempt position in California during the Class Period. As to participating members of the Non-Exempt Settlement Class, the Individual Payment Amount will be determined by dividing the remaining ninety-five percent of the Net Settlement Amount, by the total number of weeks worked by the entire Non-Exempt Settlement Class in a non-exempt position in California during the Class Period, net of opt outs, resulting in the class workweek value; and then multiplying the class workweek value by the number of weeks worked by each participating Non-Exempt Settlement Class Member in a non-exempt position in California during the Class Period. As to the Exempt and Non-Exempt PAGA Group Members, the PAGA portion of the Individual Payment Amount will be determined by dividing the PAGA Allocation by the total number of weeks worked by all members of the Exempt PAGA Group and the Non-Exempt PAGA Group, resulting in the PAGA workweek value; and then multiplying the PAGA workweek value by the number of weeks worked by each Exempt PAGA Group Member and Non-Exempt PAGA Group Member in California during the PAGA Period. Start and end dates of employment may be used to compute the workweeks for each employee.

For tax purposes, each Individual Payment Amount will be apportioned as follows:

- For Exempt Settlement Class Members: 50% penalties (reported on an IRS Form 1099, if required); 50% expense reimbursement (no tax reporting).

- For Non-Exempt Settlement Class Members: 25% wages (reported on an IRS Form W-2 and subject to applicable withholdings); 25% penalties (reported on an IRS Form 1099, if required); 25% interest (reported on an IRS Form 1099, if required); 25% expense reimbursement (no tax reporting).
- For Exempt PAGA Group Members: 100% penalties (reported on an IRS Form 1099, if required).
- For Non-Exempt PAGA Members: 100% penalties (reported on an IRS Form 1099, if required).

Exempt Settlement Class Payment: According to the records of Defendant, you worked [] weeks while employed as an exempt employee in California from August 19, 2018 through June 30, 2023. Based on these weeks worked, you are entitled to an Individual Payment Amount of approximately \$[]. This amount is subject to change based on the final ruling of the Court.

Non-Exempt Settlement Class Payment: According to the records of Defendant, you worked [] weeks while employed as a non-exempt employee in California from August 19, 2018 through June 30, 2023. Based on these weeks worked, you are entitled to an Individual Payment Amount of approximately \$[]. This amount is subject to change based on the final ruling of the Court.

Exempt PAGA Member Payment: According to the records of Defendant, you worked [] weeks while employed as an exempt employee in California from June 15, 2021 through June 30, 2023. Based on these weeks worked, you are entitled to a PAGA Payment Amount of approximately \$[]. This amount is subject to change based on the final ruling of the Court.

Non-Exempt PAGA Member Payment: According to the records of Defendant, you worked [] weeks while employed as a non-exempt employee in California from June 15, 2021 through June 30, 2023. Based on these weeks worked, you are entitled to a PAGA Payment Amount of approximately \$[]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit an explanation and evidence in support of your position to the Settlement Administrator no later than _____, 2023. In the event of a dispute, the Settlement Administrator will resolve the challenge with input from the Defendant and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the "Final Settlement Hearing") on _____, at 8:30 a.m., in the Courtroom of Judge Anne-Christine Massullo of the San Francisco County Superior Court, Department 610, located at 400 McAllister St., San Francisco, CA 94102. The Court will determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court's final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) whether the Settlement Class Members should be bound by the terms of the settlement; (iv) the amount of the attorney's fees and costs to be awarded to Plaintiff's Attorneys; and (v) the amount that should be awarded to Plaintiff as an incentive award payment. At the Final Settlement Hearing, the Court will hear all properly filed objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT**

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. **YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE.** If you move, you must update your address with the Settlement Administrator. If you disagree with pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position, postmarked no later than _____. The Settlement Administrator's address is [Settlement Administrator address].

- **OPTION 2 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Settlement Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Settlement Hearing, you may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator at [Settlement Administrator address]. Written objections must be postmarked no later than _____. Any Class Member may appear at the final approval hearing to raise objections to the Settlement.

- **OPTION 3 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself ("opt out") from the Settlement Classes, but if you choose to do so, you will **not receive any benefits from the proposed settlement except you will participate in the PAGA portion thereof and be paid a share of the PAGA settlement.** With that exception, you will not be bound by a judgment in this case and you will have the right to file your own lawsuit against the Defendant and pursue your own claims in a separate suit. You can opt out of the Classes by completely filling out and mailing the enclosed Request for Exclusion Form to the Settlement Administrator at the above-stated address, such that it is postmarked no later than _____.

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed "Settlement Agreement and Release of Claims" which is on file with the Clerk of the Court. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the San Francisco County Superior Court, located at 400 McAllister St., San Francisco, CA 94102.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at [address], [telephone number].

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE SUPERIOR COURT OF
THE STATE OF CALIFORNIA**

EXHIBIT 2

REQUEST FOR EXCLUSION

ONLY COMPLETE THIS REQUEST FOR EXCLUSION FORM IF YOU WANT TO OPT OUT OF (NOT PARTICIPATE IN) THE SETTLEMENT OF THE ACTION KNOWN AS *Daniel Hunter v. Utility Traffic Control Services, Inc.*, San Francisco County Superior Court Case. No. CGC-22-601352. IF YOU OPT OUT OF THE SETTLEMENT, YOU WILL NOT RECEIVE ANY PORTION OF THE SETTLEMENT AMOUNT.

I confirm that I was employed by Defendant Utility Traffic Control Services, Inc. in California between August 19, 2018 and June 30, 2023.

I do not wish to receive any payment under the terms of the proposed class action settlement or to otherwise participate in the proposed settlement.

Date: _____

Signature: _____

Print Name: _____

Residence Street Address: _____

City, State and Zip Code: _____

IN ORDER TO BE VALID, THIS REQUEST FOR EXCLUSION FORM MUST BE COMPLETED, SIGNED, MAILED BY FIRST CLASS MAIL, AND POSTMARKED ON OR BEFORE [45 days after mailing of Notice]. Send this signed request for exclusion form to the Settlement Administrator:

Utility Traffic Control Services, Inc. Claims Administrator

c/o _____

