

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This Settlement Agreement (“PAGA Agreement” or “Settlement”) is made and entered into between Plaintiffs Trystan Lemus and Austin Burleson (individually, “Lemus” and “Burleson” respectively; together “Plaintiffs”) individually, on behalf of themselves and the Alleged Aggrieved Employees under the Private Attorneys General Act (“PAGA”) on one hand and Defendants On the Ground Transportation, Inc. and Lawrence T. Ciaffone (individually, “On the Ground” and “Ciaffone” respectively; together, “Defendants”) on the other hand. Plaintiffs and Defendants together are collectively referred to herein as the “Parties.” Certain disputes, claims and alleged causes of action have existed by and between the Parties and are alleged to have arisen out of and are related to Plaintiffs’ employment relationship with Defendants.

I. DEFINITIONS

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Action” means the action entitled *Trystan Lemus, et al. v. On the Ground Inc., et al.*, Superior Court of California, County of Los Angeles Case No. 22STCV35369.

2. “Alleged Aggrieved Employees” means all individuals currently or formerly employed by On the Ground as non-exempt employees in the State of California at any time during the period of July 7, 2021 through June 14, 2023. Defendants contend there are approximately 1,012 Alleged Aggrieved Employees who worked 6,194 pay periods during the PAGA Period.

3. “Attorneys’ Expenses” means Plaintiffs’ Counsel’s expenses not to exceed Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00), or such other amount as may be approved by the Court.

4. “Attorneys’ Fees” means Plaintiffs’ Counsel’s fees not to exceed Eight Thousand Three Hundred Thirty-Three Dollars and Zero Cents (\$8,333.00), or such other amount as may be approved by the Court.

5. “Complaint” refers to the Complaint for Damages filed on November 7, 2022 in the Action.

6. “Court” means the Superior Court of California, County of Los Angeles.

7. “Defendants’ Counsel” means Bill J. Parks of Prevolos Lewin, ALC.

8. “Individual PAGA Payment” means the amount to be paid to each of the Alleged Aggrieved Employees out of 25% of the PAGA Payment with such individual shares to be distributed *pro rata* based on the following formula: the number of pay periods during which an individual worked during the PAGA Period shall be divided by the total number of pay periods worked by all Alleged Aggrieved Employees during the PAGA Period, and the resulting number shall be multiplied by the 25% portion of the PAGA Payment allocated to payment of civil penalties to Alleged Aggrieved Employees.

9. “LWDA” means the California Labor and Workforce Development Agency.

10. “Gross Settlement Amount” means the total sum of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) for payment of the Attorneys’ Fees, Attorneys’ Expenses, and the PAGA Payment. The Gross Settlement Amount shall be all-in with no reversion to Defendants.

11. “PAGA” means the Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.*

12. “PAGA Action” means the Eighth Cause of Action asserted in the Complaint.

13. “PAGA Approval Date” means the date that the Court signs the Order approving the settlement of the PAGA Action and entering judgment thereon.

14. “PAGA Payment” means the total amount remaining in the Gross Settlement Amount after payment of Attorneys’ Fees and Attorneys’ Expenses. The PAGA Payment shall be allocated under Labor Code sections 2699, with 75% of the PAGA Payment going to the LWDA and 25% of the PAGA Payment going to the Alleged Aggrieved Employees. The Alleged Aggrieved Employees will each be issued an IRS form 1099 for this portion of the PAGA Payment.

15. “PAGA Period” means the time period from July 7, 2021 through June 14, 2023.

16. “Parties” means Plaintiffs and Defendants.

17. “Plaintiffs’ Counsel” means the Law Office of Kelly Y. Chen.

18. “Released Parties” (individually, “Released Party”) means Defendants and their past, present and future officers, directors, representatives, owners, partners, subsidiaries, parent companies, affiliates, joint venturers, predecessors, managers, shareholders, servants, successors-in-interest, assigns, employees, agents, insurers, attorneys and all persons or entities acting in concert with or affiliated with any of them, including, but not limited to, their dependents, heirs, spouses, and assigns, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and successors-in-interest, whether individual, class, representative, legal, equitable, direct or indirect, or any other type or in any other capacity.

II. RECITALS

1. On or about July 7, 2022, Lemus filed a PAGA letter with the LWDA (“PAGA Letter”) alleging that Defendants (1) failed to pay all wages earned by California workers; (2) failed to indemnify employees for business expenses; (3) failed to pay premium wages associated with late and/or missed breaks; and (4) failed to maintain accurate time records, among other violations. The PAGA Letter further alleged that:

[Defendants’] acts give rise to the following violations, among others ... Cal. Labor Code sections 1194, 1194.2, 1197, 1197.1 [failure to pay all wages; minimum wage violations]; Cal. Labor Code sections 1194, 510 [failure to pay all overtime]; Cal. Labor Code section 2802 [failure to reimburse business expenses]; Cal. Labor Code section 203 [waiting time penalties]; Cal. Labor Code sections 226, 226.2 [inaccurate wage statement]; Cal. Labor Code section 226.7, 512 [meal break violations]; Cal. Labor Code section 204 [failure to pay all wages by the appropriate

pay period]; Cal. Labor Code section 1198 [failure to comply with conditions set forth by the applicable Wage Order]; Cal. Labor Code section 1174 [failure to maintain accurate time records]; and Cal. Labor Code section 2699, et seq. [PAGA].

2. On or about November 1, 2022, Plaintiffs filed a supplemental PAGA letter with the California Labor & Workforce Development Agency (“Supplemental PAGA Letter”) in which Burleson was added as an additional PAGA representative.

3. On or about November 7, 2022, Plaintiffs filed the Complaint in the Los Angeles County Superior Court (22STCV35369) alleging eight causes of action for (i) Failure to Pay Compensation for All Wages Owed and Minimum Wage Violations; (ii) Failure to Pay Overtime Compensation; (iii) Breach of Contract; (iv) Failure to Provide Accurate Itemized Wage Statements; (v) Failure to Pay All Wages by the Appropriate Pay Period; (vi) Waiting Time Penalties; (vii) Failure to Reimburse All Business Expenses; and (viii) Violation of the California Private Attorneys’ General Act, Labor Code sections 2698 et seq.

4. On June 14, 2023, the Parties engaged in an arm’s length mediation session before a well-respected and experienced wage-hour and employment law mediator, James Phillips, which led to a settlement (the “Settlement”). The Settlement is the result of an informed and detailed evaluation of the potential liability of total exposure in relation to the costs and risks associated with continued litigation of the PAGA Action.

5. Prior to the mediation, Plaintiffs’ Counsel conducted formal and informal discovery and investigation during the prosecution of the PAGA Action. The formal and informal discovery and investigation included, among other things: (1) inspection and analysis of employee documents and data, including Plaintiffs’ personnel files, Alleged Aggrieved Employees’ time and payroll records, employment policies and procedures, and other relevant documents; (2) evaluation of legal positions taken by Defendants; (3) evaluation of potential representative-wide damages; and (4) review and research of applicable law with respect to the claims and potential defenses brought by Defendants. Plaintiffs’ Counsel has vigorously prosecuted this PAGA Action, and Defendants have vigorously defended it. The Parties have engaged in sufficient discovery and investigation to assess the relative merits of the claims and contentions of the Parties.

6. Plaintiffs and Plaintiffs’ Counsel recognize the length of continued proceedings necessary to litigate their disputes through approval, trial, and any possible appeal. Plaintiffs and Plaintiffs’ Counsel have also taken into account the uncertainty and risk of the outcome of further litigation, the difficulties and delays inherent in such litigation, including, but not limited to, the risks related to a contested motion regarding manageability, and the risks related to liability raised by the issues in this case. Plaintiffs and Plaintiffs’ Counsel are also aware of the burdens of proof necessary to establish liability for the claims asserted in the PAGA Action and the difficulties in establishing damages for the Alleged Aggrieved Employees. Plaintiffs and Plaintiffs’ Counsel have also taken into account Defendants’ agreement to enter into a settlement that confers substantial relief upon Alleged Aggrieved Employees and the State of California. Based on the foregoing, Plaintiffs and Plaintiffs’ Counsel have determined that this Settlement is fair, adequate, and reasonable, and is in the best interests of the Alleged Aggrieved Employees.

7. Defendants contend that they maintained adequate payroll and time records, that the Alleged Aggrieved Employees were properly and timely paid all wages owed at the correct rates

of pay, including, but not limited to, all straight time and overtime, were provided complaint meal and rest breaks as required under California law, and were properly reimbursed for all business expenses. Defendants further maintain that employees were timely paid all wages due upon termination and were provided at all times with accurate wage statements. Defendants denied and continue to deny each and all of the allegations, claims, and contentions alleged by Plaintiffs in the PAGA Action. Defendants contend that they have complied in good faith with California and federal wage-and-hour laws and have dealt legally and fairly with Plaintiffs and Alleged Aggrieved Employees. Defendants further deny that, for any purpose other than settling the PAGA Action, these claims are appropriate for representative treatment. However, Defendants have concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of time, energy and resources of Defendants have been expended, and unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiffs and Alleged Aggrieved Employees. Defendants have also taken into account the risks of further litigation in reaching their decision to enter into this Settlement. Defendants have concluded that further proceedings in the PAGA Action would be protracted and expensive and that it is desirable that the PAGA Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement in order to dispose of burdensome and protracted litigation, to permit the operation of On the Ground's respective business without further expensive litigation and the distraction and diversion of its personnel with respect to matters at issue in the Action. Defendants have also taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as this PAGA Action. Defendants have therefore determined that it is desirable and beneficial to them that the Action be settled in the manner and upon the terms and conditions set forth in this Settlement. Although Defendants expressly deny that Plaintiffs' claims have any merit, Defendants represent and warrant that any alleged unlawful wage and hour practices alleged by Plaintiffs have been remediated in response to the Action.

8. As a result of the settlement, the Parties have agreed to fully and finally resolve the PAGA Released Claims (defined in Section III, 5, below) as to the Alleged Aggrieved Employees (including Plaintiffs) as alleged in the PAGA Action pursuant to this Settlement Agreement.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement Agreement shall be construed to be an admission by Plaintiffs that their claims do not have merit or by Defendants of any liability or wrongdoing as to Plaintiffs, the Alleged Aggrieved Employees, or any other person, and Defendants specifically disclaim any such liability or wrongdoing, including any obligations under the California Labor Code. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability. Such documents may only be admitted or considered in any action to interpret or enforce the terms of this Settlement Agreement, should the Court order approval thereof.

Nothing in this Settlement Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to this Settlement Agreement, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible

in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, by Defendants or any other Released Party. The Parties themselves agree not to introduce, use, or admit this Settlement Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Settlement Agreement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Settlement Agreement or any orders or judgments of the Court entered in connection with the Settlement Agreement.

None of the documents produced or created by Defendants or any other Released Party, Plaintiffs or the Alleged Aggrieved Employees in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendants or any other Released Party of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

2. **Timing.** No later than December 1, 2024, Defendants will disburse all funds required under this Settlement to the LWDA, Alleged Aggrieved Employees, Plaintiffs, and Plaintiffs' Counsel, as set forth more fully in Section IV, below. Defendants will self-administer the distribution of the PAGA settlement fund at their own expense and pursuant to the terms of this Agreement.

3. **PAGA Demographics.** Defendants have represented that the Alleged Aggrieved Employees consist of approximately 1,012 individuals who worked 6,194 pay periods during the PAGA Period. The actual number of Alleged Aggrieved Employees during the PAGA Period shall not exceed more than 10% of the estimated number of Alleged Aggrieved Employees. If the total number of Alleged Aggrieved Employees increases by more than 10% (i.e., to 101 or more individuals total), then the Gross Settlement Amount shall be increased proportionally to the percentage increase in the number of Alleged Aggrieved Employees in excess of 10%. For example, if the total Alleged Aggrieved Employees increases by 11% to 1,123 individuals, the Gross Settlement Amount shall increase by 1% to \$25,250.00. Any requirement of the Court to comply with this provision shall not be a basis to void this Settlement Agreement.

4. **Payments from the Gross Settlement Amount.** The Parties agree to the following allocations to be paid from the Gross Settlement Amount:

a. **Attorneys' Fees:** Subject to Court approval, Plaintiffs' Counsel shall seek an award of reasonable attorneys' fees of Eight Thousand Three Hundred Thirty-Three Dollars and Zero Cents (\$8,333.00). Plaintiffs assert that this fee constitutes reasonable attorneys' fees based on the contingent risk, delay, novelty, and difficulty of Plaintiffs' counsel's work, together with the skill shown by counsel, the number of hours worked, and the asserted hourly rates. Defendants agree not to oppose or impede a request by Plaintiffs' Counsel of up to \$8,333.00 for their attorneys' fees for pursuing the PAGA claims.

b. **Attorneys' Expenses:** Subject to Court approval, Plaintiffs' Counsel shall be reimbursed for litigation costs and expenses advanced and to be advanced in pursuing the PAGA claims in the total sum of Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00).

Defendants agree not to oppose or impede a request by Plaintiffs' Counsel for reimbursement of litigation costs and expenses of up to \$3,500.00 for pursuing the PAGA claims.

c. **PAGA Payment:** The PAGA Payment is the total of the Gross Settlement Amount, less the payments for the Attorneys' Fees and Attorneys' Expenses, which shall be paid in full settlement of the PAGA Released Claims (defined below in Section III, 5). Should the amount of the PAGA Payment increase or decrease, the amount to be distributed shall be adjusted according to the changes made by the Court. The PAGA Payment will be subject to Court approval consistent with Labor Code § 2699. Upon approval, the PAGA Payment shall be paid as PAGA penalties, with 75% of this amount being paid to the LWDA, and 25% being distributed as Individual PAGA Payments to the Alleged Aggrieved Employees.

e. The Individual PAGA Payments set forth in section 4(c) will be reported on IRS Form 1099. The Parties acknowledge and agree that the Individual PAGA Payments to the Alleged Aggrieved Employees under this Settlement Agreement are attributable as 100% civil penalties. No part of the Individual PAGA Payments are attributable as wages and subject to withholdings or taxes. Accordingly, the Parties acknowledge and agree that Defendants are not responsible for any employer-side taxes in connection with the Individual PAGA Payments under this Settlement Agreement. The Parties acknowledge and agree that (1) no provision of this Settlement Agreement, and no written communication or disclosure between or among the Parties, Plaintiffs' counsel or counsel for Defendants and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Settlement, (b) has not entered into this Settlement based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any other party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement Agreement.

5. **PAGA Released Claims.** Upon entry of the Judgment and full payment of the Gross Settlement Amount, the Released Parties shall be released from all claims for the recovery of civil penalties and attorney's fees and costs recoverable under PAGA as alleged in the PAGA Action including Labor Code §§ 201, 202, 203, 204, 210, 216, 225.5, 226, 226.2, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174(d), 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2699 which occurred during the PAGA Period ("PAGA Released Claims"). This release of PAGA Released Claims does not release any claims outside of the PAGA Period, nor does it release any of the named Plaintiffs' individual non-PAGA claims.

6. **Covenants and Representations by Plaintiffs.**

a. Plaintiffs represent and warrant that they have not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement.

b. Plaintiffs acknowledge that they have read this Settlement Agreement, that they fully understand their rights, privileges, and duties under the Settlement Agreement, and enter into this Settlement Agreement freely and voluntarily. Plaintiffs further acknowledge that they have had the opportunity to consult with their attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

c. Plaintiffs further agree to seek Final Judgment in the Action on the PAGA Released Claims.

7. **Court Approval of the PAGA Payment.** Plaintiffs' Counsel shall be responsible for preparing and filing an Application (or alternatively a motion, if required by the Court) for Approval of the PAGA Payment with the proposed Judgment ("Approval Papers"). Defendants shall be responsible for preparing a declaration under oath which provides the Court with information regarding its present financial condition, along with a representations that all alleged wage and hour deficiencies have been cured, to be filed with the Approval Papers. Plaintiffs' Counsel will provide Defendants' counsel with an opportunity to review the Approval Papers and provide feedback before they are filed. Plaintiffs' Counsel shall have discretion as to whether to incorporate such feedback into the Approval Papers unless Defendants' Counsel determines in good faith that there is a material deviation in such Approval Papers from the terms of this Settlement. Plaintiffs' counsel shall serve a copy of this Agreement on the State of California Labor Development and Workforce Agency, as required by law at the time of filing the Approval Papers for approval of this Settlement.

8. **Court Approval of the PAGA Settlement.** The Settlement Agreement is contingent upon the approval by the Court. If the Court should fail to approve this Settlement Agreement in the form agreed to by the Parties, the Parties agree to coordinate efforts to address the Court's questions or concerns. If after the Parties make at least three (3) good faith efforts, the Court does not approve this Settlement Agreement, or if appellate review is sought and on such review the Court's decision is materially modified or reversed, or if one or more of the terms of the Settlement Agreement is materially modified or found to be invalid and the Parties in good faith do not believe that it would be possible to make non-material modifications that would address any concerns raised by the Court, then each of the Parties by and through Counsel shall have the right within ten (10) calendar days of written notice thereof to elect to terminate the Settlement Agreement, in which event it shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the agreement in principle between the Parties on June 14, 2023. In such a case, the Parties and any funds to be awarded under this Settlement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Settlement, and the Parties shall proceed in all respects as if this Settlement had not been executed. The agreement in principle itself is superseded by this Settlement Agreement, and is of no force or effect, and the termination of the Settlement Agreement under this paragraph does not revive or cause the agreement in principle to have any such force or effect. If the Court approves this Settlement upon submission of the Application for approval of the Settlement, the Parties shall request that the Court enter the Final Judgment.

IV. ADMINISTRATION OF SETTLEMENT

1. After the execution of this Settlement Agreement, Plaintiffs shall file the Approval Papers and will submit the Approval Papers and this Settlement Agreement to the LWDA consistent with Labor Code § 2699(1)(2).

2. No later than December 1, 2024, Defendants shall disburse all payments due from the Gross Settlement Amount of \$25,000.00, as approved by the Court, as follows:

3. One check payable to “Law Office of Kelly Y. Chen” in the amount of Eight Thousand Three Hundred Thirty-Three Dollars and Zero Cents (\$8,333.00), as approved by the Court from the Gross Settlement Amount, representing all amounts owed under the Settlement for Plaintiffs’ Counsel’s attorneys’ fees. Defendants shall issue an IRS Form 1099 to Law Office of Kelly Y. Chen for this payment. This check shall be sent to Plaintiffs’ counsel – Law Office of Kelly Y. Chen at 13200 Crossroads Parkway North, Suite 475, City of Industry, California 91746 by USPS priority mail with delivery tracking but **without** signature requirement. Tracking information will be emailed to Plaintiffs’ counsel at the time of mailing.

4. One check, payable to “Law Office of Kelly Y. Chen” in an amount not to exceed Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00), as approved by the Court from the Gross Settlement Amount, representing all amounts owed under the Settlement for Plaintiffs’ Counsel’s litigation costs. On the Ground will issue an IRS Form 1099 to Law Office of Kelly Y. Chen for this amount. This check shall be sent to Plaintiffs’ counsel – Law Office of Kelly Y. Chen at 13200 Crossroads Parkway North, Suite 475, City of Industry, California 91746 by USPS priority mail with delivery tracking but **without** signature requirement. Tracking information will be emailed to Plaintiffs’ counsel at the time of mailing.

5. The remaining balance of the Gross Settlement Amount (“PAGA Payment”) shall be distributed as follows:

- (a) A check for seventy-five percent (75%) of the PAGA Payment (i.e., \$9,875.25), which represents the civil penalties payable to the LWDA under PAGA shall be sent by UPS, Federal Express, or certified mail, utilizing tracking services and/or delivery confirmation, to the following address: Department of Industrial Relations, Accounting Unit, 455 Golden Gate Avenue, 10th Floor, San Francisco, CA 94102.
- (b) Twenty-five percent (25%) of the PAGA Payment (i.e., \$3,291.75), which represents civil penalties payable to Alleged Aggrieved Employees, shall be disbursed to Alleged Aggrieved Employees for their Individual PAGA Payments *pro rata* based on the total number of pay periods they worked for On the Ground during the PAGA, as set forth in Section I(8), above.

6. Defendants will issue to a separate check to each Alleged Aggrieved Employee for their Individual PAGA Payment at their last known mailing address. Checks for Individual PAGA Payments will remain negotiable for one hundred and eighty (180) calendar days and will specifically indicate that they are void if not negotiated within one hundred and eighty (180) calendar days of their issuance. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, Defendants will promptly attempt to determine the correct address using one (1) skip-trace, or other search using the Personal Information of the Alleged Aggrieved Employee involved and will then perform a single re-mailing via regular First-Class U.S. Mail. Such re-mailing shall be made within five (5) business days of Defendants receiving notice that the respective letter and check was undeliverable. If an Alleged Aggrieved Employee’s letter and check is returned to Defendants more than once as undeliverable,

then it shall not be re-mailed. Nothing further shall be required of, or done by, the Parties, Plaintiffs' Counsel, or Defendants' Counsel to provide notice of the proposed Settlement.

7. Any checks returned as non-deliverable to Defendants for a second time and/or remaining uncashed after one hundred and eighty (180) calendar days shall become void, and the funds associated with such checks shall be deemed "Unclaimed Settlement Funds." Within five (5) court days of the expiration of the time for the last Alleged Aggrieved Employee to cash his or her check, Defendants shall provide to Plaintiffs' Counsel and file with the Court a declaration under oath accounting for and stating: (a) the total amount that was actually paid to Alleged Aggrieved Employees and (b) the total amount of Unclaimed Settlement Funds. Within fifteen (15) court days of filing said declaration with the Court, Defendants shall send the Unclaimed Settlement Funds to the State of California's Unclaimed Property Fund in the name of the employees to whom they were issued. Furthermore, as the PAGA Action is **not** a class action, the Parties agree that California Code of Civil Procedure § 384 shall not be applicable.

8. **Tax Liability.** The Parties understand and agree that Defendants make no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement. The Parties understand and agree that the Parties are not providing tax or legal advice.

V. MISCELLANEOUS PROVISIONS

1. **Drafting.** The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

2. **No Impact on Benefit Plans.** Neither the Settlement Agreement nor any amounts paid to Plaintiffs or any Alleged Aggrieved Employee under the Settlement Agreement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by On the Ground. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under any of On the Ground's sponsored benefit plans, policies, or bonus programs. On the Ground retains the right, if necessary, to modify the language of its benefit plans, policies, and bonus programs to effect this intent.

3. **Successors and Assigns.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

4. **Costs and Fees.** Other than as provided in this Agreement, the Parties shall each bear their own costs, attorneys' fees, mediator fees, and other fees incurred in connection with this Settlement Agreement and in connection with the Action and Plaintiffs' claims, except as otherwise set forth specifically herein.

5. **Authority.** Defendants represent and warrant that the undersigned have the authority to act on behalf of Defendants and to bind Defendants to the terms of this Settlement Agreement. Plaintiffs represent and warrant that they have the capacity to act on their own behalf and on behalf of all who might claim through them to bind them to the terms and conditions of this Settlement Agreement.

6. **Governing Law.** This Settlement Agreement shall be construed under and governed by the laws of the State of California. All questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Los Angeles.

7. **Complete Agreement.** The Parties acknowledge and represent that this Settlement Agreement contains the entire understanding between them with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings between them, written and oral, with respect to the subject matter hereof. This Settlement Agreement cannot be amended or modified except by a writing signed by the Parties hereto or their successors-in-interest.

8. **Judgment and Continued Jurisdiction.** After approval of this settlement, the Court will have continuing jurisdiction pursuant to California Code of Civil Procedure section 664.6 and in accordance with California Rule of Court 3.769(h) solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

9. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties arising out of that other Party's or Parties' breach of this Agreement, the prevailing Party or Parties will be entitled to recover from the non-prevailing Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

10. **Execution and Counterparts.** This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic, facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

11. **Arm's Length Negotiations.** The Parties have arrived at this Settlement Agreement after arm's length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the terms of this Settlement Agreement.

12. **Invalidity of Any Provision.** Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

13. **Waiver.** No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

14. **Severability.** If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be

valid and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

15. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's length negotiations between the Parties, the Parties have contributed to the preparation of this Settlement Agreement.

16. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel and reviewed in full.

17. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement and receive approval from the Court.

18. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully enforceable and binding on the Parties, subject to the terms and conditions hereof and the Court's approval, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

19. **Notice of Settlement.** The Parties agree that upon the signing of this Agreement by the Parties hereto, Plaintiffs will file a Notice of Settlement with the Court within three (3) business days.

20. **Publicity.** Plaintiffs and Plaintiffs' Counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the Action and/or the fact, amount, or terms of the Settlement. However, for marketing purposes, Plaintiffs' Counsel may refer to the settlement amount and the nature of the case without identifying any of the Parties directly or indirectly. Neither Plaintiffs nor Plaintiffs' Counsel shall hold a press conference or otherwise seek to affirmatively contact the media about the Settlement. If contacted by the media regarding the Settlement, Plaintiffs and Plaintiffs' Counsel shall state, "It is a fair settlement, and we are happy with the results." Additionally, no Party or their counsel shall disparage the Settlement. Nothing in this paragraph shall prevent Plaintiffs' Counsel from carrying out their duties. Plaintiffs' Counsel is authorized to make disclosures to the Court and the LWDA, the Alleged Aggrieved Employees, and for any other reason necessary to effectuate obtaining the approval of the settlement. Plaintiffs' Counsel may also include the Settlement (and/or a summary of the settlement) in future declarations filed in support of Plaintiffs' Counsel's experience and/or adequacy in PAGA representative actions and/or class actions.

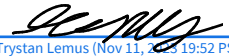
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21. **All Terms Subject to Final Court Approval.** All amounts and procedures described in this Stipulation are subject to final Court approval.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained in this Settlement Agreement and hereby execute it voluntarily and with full understanding of its consequences.

PLAINTIFFS:

Dated: 11/11/2023, 2023


Trystan Lemus (Nov 11, 2023 19:52 PST)

Trystan Lemus

Dated: 11/11/23, 2023


Austin Burleson (Nov 11, 2023 17:05 PST)

Austin Burleson

DEFENDANTS:

Dated: 10/26, 2023


On the Ground, Inc.

Name: Lawrence Ciaffone

Title: CEO

Dated: 10/26, 2023


Lawrence T. Ciaffone

APPROVED AS TO FORM AND CONTENT:

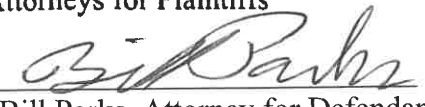
LAW OFFICE OF KELLY Y. CHEN

Dated: 11/11, 2023


Kelly Y. Chen

Attorneys for Plaintiffs

Dated: 10-27, 2023


Bill Parks, Attorney for Defendants