

STIPULATION OF SETTLEMENT OF CLASS ACTION AND PAGA CLAIMS AND RELEASE OF CLAIMS

This Stipulation of Settlement ("Settlement Agreement") is reached by and between Plaintiff Gonzalo Lopez ("Plaintiff"), individually and on behalf of all members of the Settlement Class, defined below, and Defendant Gladden Equipment Erectors, Inc. ("Gladden" or "Defendant"). Plaintiff and Defendant are referred to herein collectively as the "Parties." Plaintiff and the Settlement Class are represented by Daniel J. Brown of Stansbury Brown Law, PC ("Class Counsel"). Gladden is represented by James D. McNairy and Andrew M. Ducart of Boutin Jones Inc.

RECITALS

Plaintiff filed a class action complaint ("Complaint" or "Lawsuit") against Gladden on March 2, 2021, in San Joaquin County Superior Court, Case No. STK-CV-UOE-2021-1816 which alleges individual causes of action for: (1) failure to pay all overtime wages; (2) meal period violations; (3) failure to reimburse business expenses; (4) waiting time violations; and, (5) unfair competition.

Plaintiff intends to, simultaneous with filing of the motion to preliminarily approve the settlement, file a First Amended Complaint ("FAC") to add class action claims for rest period violations and for civil penalties under the Private Attorneys General Act ("PAGA") pursuant to Labor Code Sections 2698 *et seq.* and violations of California's "Day of Rest" Laws (Lab. Code, §§ 510, 551 and 552).

On June 16, 2022, the Parties attended and participated in good faith, arms' length settlement discussions at a mediation before Mediator Brandon McKelvey, Esq. Prior to mediation, the Parties conducted significant investigation of the facts and law. This included review and analysis of Defendant's policies and putative class members' time records and payroll records. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff's claims, the defenses thereto, and the damages and penalties claimed by Plaintiff in the Lawsuit. As a result of the Parties thorough investigation of the allegations and defenses thereto, they were able to reach an agreement at the mediation by way of a mediator's proposal after extensive negotiations.

Defendant denies that it has violated any applicable law, committed any wrong against Plaintiff or any other current or former employee, or that it has otherwise damaged Plaintiff or any other current or former employee in any way.

This Settlement Agreement represents a compromise and settlement of highly disputed claims. It replaces and supersedes any other agreements, understandings, or representations between the Parties. Nothing in this Settlement Agreement is intended or will be construed as an admission by Defendant that the claims in the Lawsuit have merit or that Defendant bears any liability to Plaintiff or any other current or former employee on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Lawsuit have merit. If for any reason the settlement does not become effective, Defendant reserves the right to contest

certification of any class action for any reason, and reserves all available defenses to the claims in the Lawsuit.

The Parties believe that the terms of settlement set forth herein are fair, reasonable and adequate. These terms were arrived at through arm's-length negotiations, taking into account all relevant factors. The Parties recognize the uncertainty, risk, expense and delay attendant to continuing the Lawsuit through trial and any appeal. Accordingly, the Parties desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Lawsuit.

TERMS AND CONDITIONS OF SETTLEMENT

1. Certification for Settlement Purposes. For the purposes of this Settlement Agreement only, the Parties stipulate to certification of the following Settlement Class:

1. **Settlement Class** – All individuals who worked for Defendant Gladden Equipment Erectors, Inc. ("Defendant") as non-exempt employees from March 3, 2017 through August 15, 2022 (the "Class Period"). ("Settlement Class" or "Settlement Class Members").

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure or Federal Rule of Civil Procedure Rule 23.

If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. Releases.

- A. **Releases by Settlement Class Members.** As of the Final Effective Date, as defined below, Plaintiff and every member of the Settlement Class (except those who opt out, as described below) will fully release and discharge Defendant, its officers, directors, members, partners, owners, shareholders, agents, managing agents, insurers, assigns, predecessors, successors, parent companies and organizations, and any other entity which Plaintiff, individually on behalf of his self and on behalf of all Settlement Class Members, might claim are responsible for the damages sought in the Lawsuit (collectively, the "Released Parties"), for all claims that were pled or could have been pled based on the factual allegations in the FAC, including: (a) failure to pay all overtime wages; (b) rest period violations; (c) meal period violations; (d) failure to reimburse business expenses; (e) waiting time penalties; (f) violations of California's "Day of Rest" Laws (Lab. Code, §§ 510, 551 and 552); (g) all claims arising out of unfair business practices under Business & Professions Code § 17200, *et seq.* that were premised on the claims that were pled based on the factual allegations in the FAC; and (h) all claims for civil penalties under the PAGA that were premised on the claims that

were pled based on the factual allegations in the FAC (collectively, the “Released Claims”). For members of the Settlement Class who do not validly opt out, the release period shall run March 3, 2017 through August 15, 2022 (“Class Period”). Those who opt out of the Settlement Class will still be subject to the release of the PAGA claims (as they are defined in item (h) of this Paragraph) with regard to the PAGA Period, as defined below (the “PAGA Released Claims”).

- B. **Individual Release by Plaintiff.** As of the Final Effective Date, for the consideration set forth in this Agreement which includes Plaintiff’s Enhancement Payment, Plaintiff waives, releases, acquits and forever discharges the Released Parties from any and all claims, attorneys’ fees and demands, whether known or unknown, which exist or may exist on his behalf as of the date of this Agreement, including but not limited to any and all tort claims, contract claims, wage claims, wrongful termination claims, disability claims, benefit claims, public policy claims, retaliation claims, statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims, defamation claims, fraud claims, quantum meruit claims, and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance, including, but not limited to, claims for violation of the Fair Labor Standards Act, the California Labor Code, the Wage Orders of California’s Industrial Welfare Commission, other state wage and hour laws, the Americans with Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, the California Family Rights Act, the Family Medical Leave Act, California’s Whistleblower Protection Act, California Business & Professions Code Section 17200 *et seq.*, and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance (“Plaintiff’s Released Claims”).
- C. **Parties’ Mutual Release of Unknown Claims.** The Parties have agreed to release, in addition to the Released Claims, PAGA Released Claims, and Plaintiff’s Released Claims described above, all claims, whether known or unknown, under federal law or state law against each other and the Released Parties. Each Party understands that this release includes unknown claims and that he or it is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

However, to the extent that either Party has claims that cannot be released as a matter of law (i.e., workers’ compensation claims), then those claims will not be released.

D. **Plaintiff's Waiver of Rights Under the Age Discrimination in Employment Act.** Plaintiff specifically understands and acknowledges that the Age Discrimination in Employment Act of 1967, as amended (the "ADEA"), provides him the right to bring a claim against Defendant if Plaintiff believes that he has been discriminated against on the basis of age. Defendant specifically denies any such discrimination. Plaintiff understands the rights afforded to him under the ADEA and agrees that he will not file any claim or action against Defendant or any of the Released Parties based on any alleged violations of the ADEA. Plaintiff hereby knowingly and voluntarily waives any right to assert a claim for relief under the ADEA, including but not limited to back pay, front pay, attorneys' fees, damages, reinstatement or injunctive relief. Plaintiff is advised to consult with independent legal counsel prior to executing a waiver of rights under the ADEA. Plaintiff also understands and acknowledges that the ADEA requires Defendant to provide him with at least twenty-one (21) calendar days to consider this Agreement ("Consideration Period") prior to its execution. Plaintiff acknowledges that he was provided with and has used the Consideration Period or, alternatively, that he elected to sign this Agreement within the Consideration Period and waives the remainder of the Consideration Period. Plaintiff also understands that he is entitled to revoke this Agreement at any time during the seven (7) days following his execution of this Agreement ("Revocation Period"). Plaintiff also understands that any revocation of this Agreement must be in writing and delivered to the attention of James D. McNairy, Boutin Jones Inc., 555 Capitol Mall, Suite 1500, Sacramento, CA 95814, prior to the expiration of the Revocation Period.

E. **Amendment to Complaint.** The Parties agree that Plaintiff will stipulate to the filing of a First Amended Complaint ("FAC"), and will submit the Private Attorneys General Act ("PAGA") notice pursuant to Labor Code § 2699.3 to the Labor and Workforce Development Agency ("LWDA") in order to add factual allegations and causes of action related to: (i) failure to provide rest periods; (ii) violations of California's "Day of Rest" Laws (Lab. Code, §§ 510, 551 and 552); and (iii) for civil penalties under the Private Attorneys General Act ("PAGA") pursuant to Labor Code Sections 2698 *et seq.*

3. **Settlement Payment.** In full and complete settlement of the Lawsuit, in exchange for the releases set forth in this Settlement Agreement, and subject to the terms and conditions in this Settlement Agreement, Gladden agrees to pay a common fund of Two Hundred Twenty-Five Thousand Dollars and Zero Cents (\$225,000.00) (the "Maximum Settlement Amount" or "MSA") in full and complete settlement of this matter. This amount is all-inclusive of all payments contemplated in this Settlement Agreement, excluding any employer-share payroll taxes pursuant to Paragraph 3(C) below, and except as may be payable in accordance with the escalator clause in Paragraph 3(D) below. The terms related to payment of the Maximum Settlement Payment are as follows:

A. The MSA shall be deposited with the Settlement Administrator within thirty (30) days after the date the Court enters an order granting final approval of the settlement or, solely in the event that there are any objections to the settlement (the filing of

an objection being a prerequisite to the filing of an appeal), the later of: (i) the last date on which any appeal might be filed or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review (the “Final Effective Date”).

B. This is a non-reversionary settlement. The Maximum Settlement Amount includes:

- (1) All payments to the Settlement Class;
- (2) All fees and expenses of the Settlement Administrator associated with the administration of the settlement, which are anticipated to be no greater than Seven Thousand Four Hundred Thirty-Two Dollars and Eighty Cents (\$7,432.80).
- (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff’s Enhancement Payment, subject to Court approval, in recognition of Plaintiff’s general release of claims, contributions to the Lawsuit, and service to the Settlement Class. In the event that the Court reduces or does not approve the requested Enhancement Payment, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding;
- (4) Up to one-third of the Maximum Settlement Amount in attorneys’ fees, which is currently estimated to be Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00), plus up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. In the event that the Court reduces or does not approve Class Counsel’s requested fees and costs, the Settlement Agreement remains in full force and effect. Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding; and
- (5) Five Thousand Dollars and Zero Cents (\$5,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$3,750.00) will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining twenty-five percent (25%), or One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) will be payable to the Settlement Class as the “PAGA Amount.”

C. Defendant’s share of payroll taxes on any wages portion of the Maximum Settlement Amount shall be paid by Defendant separate and apart from the Maximum Settlement Amount.

D. **Escalator Clause.** Defendant represents that as of June 16, 2022, there were approximately 79 putative class members who worked approximately 6,500 workweeks (“Projected Workweeks”) during the Class Period. If, as of August 16,

2022, or at the time of preliminary approval, whichever is sooner, the number of workweeks during the Class Period has increased by 10% or more beyond the Projected Workweeks (i.e., if there are 7,150 or more workweeks), then Defendant shall have the option to either: (i) increase the Maximum Settlement Amount on a pro-rata basis equal to the percentage that the actual Workweeks are greater than 6,500; or (ii) agree that the Class Period and PAGA period shall only run through the date on which the number of workweeks reached is 6,500.

4. **Settlement Award Procedures.** Settlement Class Members are not required to submit a claim form to receive their Individual Settlement Award. Individual Settlement Awards will be determined and paid as follows:
 - A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for the Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the LWDA's share of the PAGA payment. The remaining amount shall be known as the "Net Settlement Fund."
 - B. From the Net Settlement Fund, the Settlement Administrator will calculate each Settlement Class Member's Individual Settlement Award.

Settlement Awards shall be based on the following formula:

- i. **PAGA Amount:** Each Settlement Class Member, regardless of whether they decide to exclude themselves from the Settlement Class, who was employed by Gladden at any time from March 3, 2020, to August 15, 2022, shall receive a portion of the One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) of the Net Settlement Fund that has been designated as the "PAGA Amount" proportionate to the number of pay periods that he or she worked during the period from March 3, 2020, to August 15, 2022 ("PAGA Period").
- ii. The remainder of the Net Settlement Fund shall be distributed to each participating Settlement Class Member based on their proportionate share of Eligible Workweeks (defined below) during the Class Period, by multiplying the remaining Net Settlement Fund by a fraction, the numerator of which is the participating Settlement Class Member's Eligible Workweeks during the Class Period, and the denominator of which is the total Eligible Workweeks of all participating Settlement Class Members during the Class Period.

An "Eligible Workweek" shall be any workweek in which the Class Member worked based on Gladden's records.
- C. Within ten (10) days following the full funding of the Maximum Settlement Amount with the Settlement Administrator by Gladden, the Settlement Administrator will calculate Individual Settlement Award amounts and will prepare

and mail Individual Settlement Awards to participating Settlement Class Members and transfer to Class Counsel its attorney's fees and verified costs.

- D. For purposes of calculating applicable taxes and withholdings for the Settlement Class Members, twenty percent (20%) of each Individual Settlement Award shall be designated as wages subject to W-2 reporting and normal payroll withholdings; the remaining eighty percent (80%) of each Individual Settlement Award shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings. Notwithstanding the treatment of the payments to each Settlement Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- E. Each Settlement Class Member who receives an Individual Settlement Award must negotiate the settlement check within one hundred eighty (180) days from the date of issuance. The one hundred eighty (180) day expiration of the settlement checks will be pre-printed on the front of the settlement check. Any funds payable to Settlement Class Members whose checks are not negotiated within one hundred eighty (180) days period will not be reissued and will be transferred by the settlement administrator to Justice Gap Fund, administered by the State Bar's Office of Access & Inclusion, provides legal assistance to low-income Californians, including assistance that protects the rights of consumers and workers to avoid fraud and exploitation, and is an appropriate organization to receive the unclaimed funds in this wage and hour case.
- F. Neither Plaintiff nor Gladden shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by his or its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Class Counsel's Attorneys' Fees and Litigation Costs.** Gladden will not object to a request for a total award of attorneys' fees to Class Counsel of approximately one-third of the Maximum Settlement Amount, which is currently estimated to be Seventy-Five Thousand Dollars (\$75,000.00), plus up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised, responses to any intervenors and any appeals necessitated by those objections or intervenors. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when it pays the fee award as approved by the Court.

6. **Plaintiff's Enhancement Payment.** Gladden will not object to a request for a Class Representative Enhancement Payment for Plaintiff of Five Thousand Dollars and Zero Cents (\$5,000.00) in exchange for the general release of his claims, his time and risks in prosecuting this

case, and his service to the Settlement Class. This payment will be in addition to Plaintiff's Individual Settlement Award as a Settlement Class Member and shall be reported on an IRS Form 1099 by the Settlement Administrator. It is the intent of the Parties that the Enhancement Payment to the Plaintiff is for his services in connection with this Lawsuit and is not wages, therefore the Settlement Administrator shall not withhold any taxes from the Enhancement and shall report it on an IRS Form 1099, which shall be provided to Plaintiff and to the pertinent taxing authorities as required by law. Although it is the contemplation of the Parties that the Enhancement does not represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority may take the position that some or all of the Enhancement Payment constitutes wages for income tax and withholding purposes. Plaintiff agrees to assume the responsibility of remitting to the Internal Revenue Service, the California Franchise Tax Board, and any other relevant taxing authority the amounts required by law, if any, to be withheld by Gladden from the Enhancement paid under this Settlement Agreement. In addition, Plaintiff shall hold Gladden, Released Parties and Class Counsel harmless and indemnify Gladden, Released Parties and Class Counsel for all taxes, interest, penalties, other payments and costs, incurred by Gladden by reason of any claims relating to the non-withholding of taxes from the Enhancement.

7. **Settlement Administrator.** Gladden will not object to the appointment of ILYM Group, Inc. as Settlement Administrator, nor to Class Counsel seeking Court approval to pay up to Seven Thousand Four Hundred Thirty-Two Dollars and Eighty Cents (\$7,432.80) from the Maximum Settlement Amount for its services. The Settlement Administrator shall be responsible for sending all required notices, calculating the Net Settlement Fund, calculating each Class Member's Individual Settlement Award amount, preparing all checks and mailings and disbursing all residuals resulting from uncashed settlement checks as set forth in Section 4(E). The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount by Class Counsel only after checks have been mailed to all Settlement Class Members.

8. **Preliminary Approval.** As soon as practicable following execution of this Settlement Agreement, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Daniel J. Brown of Stansbury Brown Law, PC as Class Counsel;
- C. Appointing Gonzalo Lopez as Class Representative for the Settlement Class;
- D. Approving ILYM Group, Inc. Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Class Notice Packet (which is comprised of the Class Notice, Request for Exclusion Form, and Objection Form), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice Procedures.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within thirty (30) days after entry of an order preliminarily approving this Settlement Agreement, Gladden will provide the Settlement Administrator with a class list including the names, last known addresses, and social security numbers (in electronic format) of Settlement Class Members, as well as the total workweeks worked by each member of the Settlement Class during the Class Period.
- B. Within seven (7) days from receipt of the class list information, the Settlement Administrator shall: (i) run the names of all Settlement Class Members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class Members; (ii) update the addresses of any Settlement Class Member for whom an updated address was found through the NCOA search; and (iii) mail the Notice Packet to each Settlement Class Member at their last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. The Settlement Administrator shall use its best professional efforts, including utilizing a "skip trace," to track any Settlement Class Member's mailing returned as undeliverable, and will re-send the Notice Packet promptly upon identifying updated mailing addresses through such efforts. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member.
- D. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline (defined below) shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class Member immediately, and in any event within three (3) business days of obtaining the updated address. Settlement Class Members to whom Notice Packets are re-sent after having been returned as undeliverable to the Settlement Administrator shall have twenty (20) days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to mail a Request for Exclusion, challenge or objection.
- E. **Opt-Out/Request for Exclusion Procedures.** Any Settlement Class Member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within forty (40) days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Request for Exclusion Form must: (1) contain the name, address, telephone number of the Settlement Class Member; (2) contain a statement that the Settlement Class Member wishes to be excluded from the class settlement; (3)

be signed by the Settlement Class Member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form fails to comply with items (1)-(3), it will not be deemed a valid Request for Exclusion from this settlement, except a Request for Exclusion Form not containing a Class Member's telephone number will be deemed valid. The date of the postmark on the Request for Exclusion Form, shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement (although the PAGA settlement and release provisions will apply to each such individual, and such individual shall be entitled to their of the PAGA Amount) or have any right to object, intervene, appeal or comment thereon. Any Settlement Class Member who does not submit a Request for Exclusion Form is automatically deemed a participating Settlement Class Member.

- F. **Objections.** Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel as well as filing them with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to respond. To be valid, any objection must: (1) contain the objecting Settlement Class member's full name and current address; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) Objections must be postmarked on or before the Response Deadline.
- G. **Challenges to Individual Settlement Award Calculations.** Each Notice Packet mailed to a Settlement Class Member shall disclose the amount of the Settlement Class Member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award, including the Settlement Class Member's number of Eligible Workweeks during the Class Period, and the number of pay periods worked during the PAGA Period. Settlement Class Members will have the opportunity, should they disagree with Gladden's records regarding the number of Eligible Workweeks and/or pay periods stated in their Notice Packet, to challenge the data provided. In order to challenge Gladden's data, the Settlement Class Member must provide documentation and/or an explanation demonstrating that Gladden's data is incorrect and evidencing the correct number of Eligible Workweeks and or pay periods that the Settlement Class Member believes they should have been credited with and/or evidence of the correct date their employment ended. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by

the Response Deadline. The Settlement Administrator shall provide a copy of the challenge and any supporting documentation to counsel for the Parties within five (5) days of receipt.

- H. **Dispute Resolution.** The Settlement Administrator shall have the responsibility of resolving all disputes that arise during the settlement administration process, including, without limitation, disputes (if any) regarding the calculation of Settlement Class Member's Individual Settlement Awards, the allocation of W-2 wages, and the number of Eligible Workweeks and/or pay periods. Where the information submitted by Gladden from its records differs from the information submitted by the Settlement Class Member, the Settlement Administrator shall request a conference call between the Settlement Administrator, Class Counsel, and defense counsel to discuss and resolve the dispute. In advance of the conference call, the Settlement Administrator shall email copies of all available information to all counsel. After consulting with the Parties to determine whether an adjustment is warranted, the Settlement Administrator will finally determine the eligibility for and amount of any Settlement Award. Such determination shall be binding upon the Settlement Class Member and the Parties.

10. **Final Approval Process.** Following preliminary approval and the close of Response Deadline under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's application for Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the LWDA's share of the PAGA payment; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

11. **Non-Admission.** Gladden denies that it has engaged in any unlawful activity, that it has failed to comply with the law in any respect, that it has any liability to anyone under the claims asserted in the Lawsuit, and that but for this settlement a class should not be certified in this Lawsuit. Nothing in this Settlement Agreement is intended or shall be construed as an admission of liability or wrongdoing by Gladden. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Amendments or Modifications.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

13. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery or by e-mail at the addresses set forth below, or such other addresses as the Parties may designate in writing from time to time:

if to Gladden:

James D. McNairy, Esq.
Andrew M. Ducart, Esq.
BOUTIN JONES INC.
555 Capitol Mall, Suite 1500
Sacramento, CA 95814
jmcnairy@boutinjones.com
aducart@boutinjones.com

if to Plaintiff:

Daniel J. Brown, Esq.
STANSBURY BROWN LAW, PC
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
dbrown@stansburybrownlaw.com

14. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

15. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]

EXECUTION BY PARTIES:

DATED: August 24, 2022

Gladden Equipment Erectors, Inc.

By: Paul Faia

Its:

DATED:

Gonzalo Lopez

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: August 24, 2022

BOUTIN JONES, INC.

By: James D. McNairy

James D. McNairy
Andrew M. Ducart
Attorneys for Defendant

DATED:

STANSBURY BROWN LAW, PC

By: _____
Daniel J. Brown
Attorneys for Plaintiff

EXECUTION BY PARTIES:

DATED: Gladden Equipment Erectors, Inc.

By: _____

Its:

DATED: 8-12-22 Gonzalo Lopez

By: Gonzalo Lopez 8-12-22
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: BOUTIN JONES, INC.

By: _____

James D. McNairy
Andrew M. Ducart
Attorneys for Defendant

DATED: August 15, 2022

STANSBURY BROWN LAW, PC

By: DB _____

Daniel J. Brown
Attorneys for Plaintiff