

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Settlement Agreement is between Plaintiffs Moises Nava, Devin Vester, and Evan Harding (“Plaintiffs”), on behalf of the Class (as defined below) and Defendant Countywide Mechanical Systems, Inc. (“Defendant”) (Plaintiffs and Defendant are collectively referred to as the “Parties.”)

I. DEFINITIONS

In addition to the other terms defined in this Agreement, the terms below have the following meaning:

- A. **Administration Costs**: The costs incurred by the Settlement Administrator to administer this Settlement is \$15,000 via a “not to exceed” quote and shall be paid from the Qualified Settlement Fund.
- B. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
- C. **Attorney Fee Award**: The amount, not to exceed thirty-five percent (35%) of the Gross Settlement Amount or \$700,000, finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant.
- D. **Class**: All current and former hourly-paid or non-exempt employees of Defendant within the State of California at any time during the Class Period.
- E. **Class Action**: The putative class action lawsuit originally filed by Plaintiffs Moises Nava and Devin Vester on November 19, 2021, entitled *Nava v. Countywide Mechanical Systems, Inc.*, Case No. 37-2021-00049164-CU-OE-CTL in the State of California, San Diego County Superior Court.
- F. **Class Counsel**: Douglas Han, Shunt Tatavos-Gharajeh and Lizette Rodriguez of Justice Law Corporation.
- G. **Class Data**: The Class Data means information regarding Class Members that Defendant will compile from its available, existing, electronic records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: (i) each Class Member’s full name; (ii) each Class Member’s last-known address; (iii) each Class Member’s Social Security and Employee ID number, if any; and (iv) the Class Member’s relevant dates of employment; and (v) any information in Defendant’s possession that the Settlement Administrator may reasonably need to calculate workweeks, pay periods, Participating Class Members’ Individual Settlement Shares, and Eligible Aggrieved Employees’ Individual PAGA Payments.

- H. **Class Member:** Each person eligible to participate in this Settlement who is a member of the Class as defined above.
- I. **Class Notice:** The Notice of Class Action Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.
- J. **Class Period:** The time period from November 17, 2017 to November 25, 2022.
- K. **Class Representatives or Plaintiffs:** Moises Nava, Devin Vester, and Evan Harding.
- L. **Class Representative Enhancement Payments:** The amount the Court awards to Plaintiffs for their services as Class Representatives, which will not exceed \$10,000 to each Plaintiff. This payment shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. This enhancement is subject to approval of the Court.
- M. **Complaints:** The class action complaint filed by Plaintiff Moises Nava and Plaintiff Devin Vester on November 19, 2021 along with the First Amended Complaint filed by Plaintiffs on January 17, 2023.
- N. **Cost Award:** The amount that the Court awards Class Counsel for payment of actual litigation costs subject to proof, which shall not exceed \$25,000. The Cost Award will be paid from the Qualified Settlement Fund and will not be opposed by Defendant.
- O. **Counsel for Defendant:** Attorneys Danielle Hultenius Moore and Lauren M. Bushman of Fisher & Phillips LLP.
- P. **Court:** The State of California, San Diego County Superior Court.
- Q. **Defendant:** Countywide Mechanical Systems, Inc., a California corporation.
- R. **Effective Final Settlement Date:** The effective date of this Settlement will be when the Defendant fully funds the Gross Settlement Amount.
- S. **Eligible Aggrieved Employees:** The aggrieved employees eligible to recover the PAGA payment shall consist of all hourly-paid or non-exempt employees employed by Defendant within the State of California during the PAGA Period.
- T. **Judgment or Final Approval:** The final order entered by the Court finally approving this Agreement.

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- U. **Gross Settlement Amount or GSA:** The total value of the Settlement is a non-reversionary Two Million Dollars (\$2,000,000). This is the maximum gross amount Defendant can be required to pay under this Settlement Agreement, which includes: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payments paid to the Class Representatives, as approved by the Court; (4) Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Eligible Aggrieved Employees, as approved by the Court. Defendant's portion of payroll taxes as the Class Members' current or former employer is not included in the GSA and will be the sole separate obligation of Defendant. No portion of the Gross Settlement Amount will revert to Defendant for any reason. Under no circumstances will Defendant be required to pay more than the non-reversionary Two Million Dollars (\$2,000,000) with the sole exception of Defendant's portion of payroll taxes.
- V. **Individual PAGA Payment(s):** The amount payable to each Eligible Aggrieved Employee from the portion of the PAGA Payment allocated to the Eligible Aggrieved Employee under the terms of this Settlement Agreement. Eligible Aggrieved Employees are not required to submit a claim form to receive their Individual PAGA Payment.
- W. **Individual Settlement Share(s):** The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement.
- X. **LWDA:** California Labor and Workforce Development Agency.
- Y. **Net Settlement Amount or NSA:** The total amount of money available from the GSA for distribution to Participating Class Members, which is the GSA less the Attorney Fee Award, Cost Award, Class Representative Enhancement Payments, the PAGA Payment, and Administration Costs.
- Z. **Notice Packet:** The Class Notice.
- AA. **PAGA:** The California Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*).
- BB. **PAGA Notice:** The PAGA Notice refers to the notice of Labor Code violations served by Plaintiff on the LWDA on September 16, 2022.
- CC. **PAGA Payment:** The PAGA Payment consists of \$100,000 of the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the Class Action. Seventy-five percent (75%) of the PAGA Payment (\$75,000) shall be paid to the LWDA, and twenty-five percent (25%) (\$25,000) of the

PAGA Payment shall be distributed to Eligible Aggrieved Employees, on a pro rata basis, as set forth below.

- DD. PAGA Period:** The period between September 16, 2021, and November 25, 2022, or the date of preliminary approval, whichever is sooner.
- EE. PAGA Released Claims:** PAGA Released Claims means any and all allegations and claims for civil penalties pursuant to PAGA based on any and all Labor Code violations alleged in the Complaints or that could have been alleged in the Complaints or in the PAGA Notice or that could have arisen during the PAGA Period, which includes, inter alia, alleged violations of California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226, 226.3, 226.7, 246(1), 510, 512, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802. The period of the PAGA release extends to the limits of the PAGA period.
- FF. Participating Class Members:** All Class Members who do not submit a valid and timely request to exclude themselves from the class action Settlement.
- GG. Parties:** Plaintiffs as individuals and as Class Representatives, and Defendant Countywide Mechanical Systems, Inc., a California corporation.
- HH. Preliminary Approval or Preliminary Approval Order:** The Court's order preliminarily approving the proposed Settlement.
- II. Qualified Settlement Fund or QSF:** A fund within the meaning of Treasury Regulation § 1.468B-1, 26 C.F.R. § 1.468B-1 et seq., that is established by the Settlement Administrator for the benefit of Participating Class Members, Plaintiffs and Class Counsel.
- JJ. Released Claims:** The released claims means any and all claims asserted in the Complaints or any other claims that could have been asserted in the Complaints based on the facts alleged, including but not limited to, unpaid minimum wages, unpaid overtime and double time wages (including, but not limited to, any claims for additional wages owed due to "rounding," "off the clock work," and/or not factoring bonuses, shift differentials or other wages into the regular rate of pay); failure to provide meal and rest breaks; failure to maintain accurate employment records; wage statement violations; separation pay violations; failure to pay wages timely during employment; failure to keep requisite payroll records; failure to reimburse business expenses; unfair business practices; and the PAGA (collectively, the "Released Claims"). The period of the Release shall extend to the limits of the Class Period.

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- KK. Released Parties:** Defendant as well as its present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, assigns, as well as any individual or entity that could be alleged to be jointly liable with Defendant.
- A. Response Deadline:** Ninety (90) calendar days from the initial mailing of the Notice Packet.
- B. Settlement Administrator:** The third-party administrator agreed upon by Parties to administer this Settlement is Phoenix Class Action Administration Solutions (“Phoenix”).

II. RECITALS

- A. Discovery and Investigations.** Prior to the mediation, the Parties conducted significant investigation and discovery of the facts and law both before and after the Class Action was filed. Prior to mediation, Defendant produced hundreds of documents relating to its policies, practices, and procedures regarding reimbursement of business expenses, paying non-exempt and hourly employees for all hours worked, meal and rest period policies, and payroll and operational policies. As part of Defendant’s production, Plaintiffs also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiffs to understand the number of workweeks in the Class Period. Plaintiffs also interviewed multiple Class Members who worked for Defendant throughout the Class Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the respective Parties’ positions and to compromise the issues on a fair and equitable basis.
- B. Benefits of Settlement to Class Members.** Plaintiffs and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiffs and Class Counsel also have taken into account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiffs and Class Counsel have conducted extensive settlement negotiations, including a formal mediation on September 20, 2022. Based on the foregoing, Plaintiffs and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.
- C. Defendant’s Reasons for Settlement.** Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of Defendant’s has been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by

Plaintiffs. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.

D. Defendant's Denial of Wrongdoing. Defendant, generally and specifically, denies any and all liability or wrongdoing of any sort with regard to any of the claims alleged, make no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the Class Action is not appropriate for class or representative treatment. Defendant asserts a number of defenses to the claims, and have denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Class Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiffs can serve as an adequate Class Representatives. There has been no determination by any court as to the merits of the claims asserted by Plaintiffs against Defendant or as to whether a class or classes should be certified, other than for settlement purposes only.

E. Plaintiffs' Claims. Plaintiffs assert that Defendant's defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiffs, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Class Action. However, in the event that this Settlement is finally approved by the Court, none of the Plaintiffs, Class Members, or Class Counsel will oppose Defendant's efforts to use this Agreement to prove that Plaintiffs and Class Members have resolved and are forever barred from re-litigating the Released Claims.

III. SETTLEMENT TERMS AND CONDITIONS

A. Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount, excluding the employer's share of payroll taxes, that Defendant is obligated to pay under this Settlement Agreement is Two Million Dollars (\$2,000,000).

B. Class Certification. Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that for this Settlement to occur, the Court must certify the Class as defined in this Agreement.

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- C. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiffs and Class Members for purposes of this Settlement only. If the Settlement does not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with the question of whether the Court should certify any claims in a non-settlement context in this Class Action or in any other lawsuit or venue. If the Settlement does not become effective, Defendant reserves the right to contest any issues relating to class certification, liability and damages.
- D. Appointment of Class Representatives.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiffs shall be appointed as the representatives for the Class.
- E. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Class.
- F. Settlement Disbursement.** Subject to the terms and conditions of this Agreement, and the approval of the Court, the Settlement Administrator will disburse the Gross Settlement Amount as follows:
- 1. To the Plaintiffs Moises Nava, Devin Vester, and Evan Harding.** In addition to their respective Individual Settlement Shares, and subject to the Court's approval, Plaintiffs will each receive up to \$10,000 as Class Representative Enhancement Payments. The Settlement Administrator will pay the Class Representative Enhancement Payments out of the Qualified Settlement Fund. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payments. An IRS Form 1099 will be issued to Plaintiffs with respect to their Class Representative Enhancement Payments. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on the Class Representative Enhancement Payments and shall hold harmless Defendant, Class Counsel and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payments. In the event the Court does not approve the entirety of the application for the Class Representative Enhancement Payments, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiffs, the difference shall become part of the NSA and will be distributed to Participating Class Members. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payments, Plaintiffs shall not have the right to revoke the

Settlement, and it will remain binding, nor will Plaintiffs seek, request, or demand an increase in the GSA on that basis or any basis.

- 2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendant agrees not to oppose, a total Attorney Fee Award not to exceed thirty-five percent (35%) or \$700,000 of the GSA and a Cost Award not to exceed \$25,000. The Settlement Administrator will pay the Court-approved amounts for the Attorney Fee Award and Cost Award out of the Gross Settlement Fund. The Settlement Administrator may purchase an annuity to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the Fee and Cost Awards. In the event the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the NSA and will be distributed to Participating Class Members.
- 3. To the Responsible Tax Authorities.** The Settlement Administrator will withhold the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each person's Individual Settlement Share. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendant's portion of payroll withholding taxes. The Settlement Administrator will submit Defendant's portion of payroll withholding tax calculation to Defendant for additional funding and forward those amounts along with each person's Individual Settlement Share withholdings to the appropriate taxing authorities.
- 4. To the Settlement Administrator.** The Settlement Administrator will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed \$15,000. This will be paid out of the Qualified Settlement Fund. If the actual amount of Administration Costs is less than the amount estimated and/or requested, the difference shall become part of the NSA and will be distributed to Participating Class Members.
- 5. To Participating Class Members.** The Settlement Administrator will pay each Participating Class Member an Individual Settlement Share from the NSA.

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- a. **Individual Settlement Share Calculation.** The Individual Settlement Share is calculated based on each Participating Class Member's pro rata share of the Net Settlement Amount based on workweeks during the Class Period as follows: (i) the number of weeks he or she worked as a hourly-paid or non-exempt employee during the Class Period, divided by (ii) the total number of weeks worked by all Participating Class Members collectively during the Class Period, which is then multiplied by the Net Settlement Amount. The Settlement Administrator will use the Class Data to calculate the number of workweeks worked by each Class Member based on their dates of employment for purposes of this calculation.
- b. **Tax Treatment for Individual Settlement Shares.** Each Participating Class Member's Individual Settlement Share will be apportioned as follows: ten percent (10%) wages and ninety percent (90%) interest, penalties, and reimbursements. The portion paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. The employees' share of payroll tax withholdings shall be withheld from each persons' Individual Settlement Share. Participating Class Members will be responsible for the payment of any taxes and penalties assessed on the Individual Settlement Shares and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual Settlement Shares.

6. To Eligible Aggrieved Employees. The Settlement Administrator shall pay each Eligible Aggrieved Employee according to their proportional share, which will be based upon the total number of pay periods he or she was employed during the PAGA Period.

- a. **Individual PAGA Payment Calculation.** The Individual PAGA Payment is calculated based on each Eligible Aggrieved Employee's pro rata share of the PAGA Payment allocated to the Eligible Aggrieved Employees based on pay periods during the PAGA Period as follows: (i) the number of pay periods he or she worked as an Eligible Aggrieved Employee during the PAGA Period, divided by (ii) the total number of pay periods worked by all Eligible Aggrieved Employees collectively during the PAGA Period, which is then multiplied by the PAGA Payment allocated to the Eligible Aggrieved Employees. The Settlement

Administrator will use the Class Data to calculate the number of periods worked by each Eligible Aggrieved Employee based on their dates of employment for purposes of this calculation.

- b. **Tax Treatment for Individual PAGA Payments.** Each Eligible Aggrieved Employee's Individual PAGA Payments will be apportioned as 100% penalties and shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Eligible Aggrieved Employees will be responsible for the payment of any taxes and penalties assessed on the Individual PAGA Payments and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual PAGA Payments

- G. **Appointment of Settlement Administrator.** The Settlement Administrator shall be responsible for: (a) preparing, translating into Spanish, printing, and mailing the Notice Packet to the Class Members; (b) maintaining confidentiality of the Class Member identity and contact information from the public, including Plaintiffs and Class Counsel and is only permitted to share any information regarding Class Member contact information and identity with Counsel for Defendant; (c) keeping track of any objections or requests for exclusion from Class Members; (d) performing skip traces and re-mailing Notice Packets and Individual Settlement Shares to Class Members; (e) calculating any and all payroll tax deductions as required by law; (f) calculating each Class Member's Individual Settlement Share; (g) calculating Eligible Aggrieved Employees' Individual PAGA Payment; (h) providing weekly status reports to Defendant's Counsel and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received without disclosing Class Member identity and contact information; (i) providing a due diligence declaration for submission to the Court prior to the Final Approval Hearing; (j) mailing Individual Settlement Shares to Participating Class Members; (k) mailing Individual PAGA Payments to Eligible Aggrieved Employees; (l) mailing the portion of the PAGA Payment to the LWDA; (m) distributing the Attorney Fee Award and Cost Award to Class Counsel; (n) printing and providing Class Members, Eligible Aggrieved Employees and Plaintiff with W-2s and 1099 forms as required under this Agreement and applicable law; (o) providing a due diligence declaration for submission to the Court upon the completion of the Settlement; (p) providing any funds remaining in the QSF as a result of uncashed checks to the *cy pres* recipient Voices for Children; (q) providing for the administration of related tax reimbursements; and (r) performing such other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in Phoenix or otherwise have a relationship with Phoenix that could create a conflict of interest.

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H. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a. Plaintiffs will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval hearing, and approving the Notice Packet.
- b. At the Preliminary Approval hearing, Plaintiffs will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representatives, Class Counsel, and Settlement Administrator; approving the Notice Packet; and setting the Final Approval hearing.
- c. Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement with prejudice, the Settlement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payments shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for the Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payments shall not operate to terminate or cancel this Settlement Agreement.

2. Notice to Class Members. After the Court enters its Preliminary Approval Order, every Class Member will be provided with the Notice Packet in accordance with the following procedure:

- a. Within fifteen (15) business days after entry of the Preliminary Approval Order, Defendant shall deliver to the Class Data to the Settlement Administrator.
- b. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. The Settlement Administrator shall maintain the Class Data as private and confidential and take reasonable and necessary

precautions to maintain the confidentiality of the Class Data. The Settlement Administrator shall not distribute or use the Class Data or any information contained therein for any purpose other than to administer this Settlement.

- c. Within fourteen (14) calendar days after Defendant's deadline to provide the Class Data to the Settlement Administrator, the Settlement Administrator will mail the Notice Packet to all identified Class Members via first-class regular U.S. Mail.
- d. If a Notice Packet is returned because of an incorrect address, within ten (10) days from receipt of the returned Notice Packet, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Notice Packet to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Notice Packet is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Settlement Administrator is unable to locate a better address, the Notice Packet shall be re-mailed to the original address. If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip-trace or forwarded mail, will have an additional twenty-one (21) calendar days to postmark an Exclusion Form, file and serve an objection to the Settlement, or dispute the information provided in their Notice Packet. The Settlement Administrator shall mark on the envelope whether the Notice Packet is a re-mailed notice.
- e. Class Members may dispute the information provided in their Notice Packet, but must do so in writing, via first-class regular U.S. Mail, and it must be postmarked by the Response Deadline. To the extent Class Members dispute the number of weeks to which they have been credited or the amount of their Individual Settlement Share, Class Members must produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Settlement Administrator will evaluate the evidence submitted by the Class

Member and will make the final and binding decision as to the number of eligible weeks that should be applied and/or the Individual Settlement Share to which the Class Member may be entitled.

- f. If any Request for Exclusion received is incomplete or deficient, the Settlement Administrator shall send a letter informing the Class Member of the deficiency and allow fourteen (14) days to cure the deficiency. If after the cure period the Exclusion Form is not cured, it will be determined that the Class Member did not exclude himself or herself from the Settlement and will be bound by the Settlement.
- g. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Counsel for Defendant of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, and the number of Exclusion Forms received.
- h. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel no later than ten (10) calendar days before the Final Approval hearing. Before the Final Approval hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

3. Objections to Settlement.

- a. **Notice Packet.** The Notice Packet will provide that the Class Members who wish to object to the Settlement may do so in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline.
- b. **Format.** Any written objections shall state: (a) the objecting person's full name, address, and telephone number; (b) the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing.

- c. **Objector Appearances.** Participating Class Members may (though are not required to) appear at the Final Approval hearing, either in person or through the objector's own counsel. The failure to file and serve a written objection does not waive a Participating Class Member's right to appear at and make an oral objection at the Final Approval hearing.

4. Request for Exclusion from the Settlement ("Opt-Out").

- a. **Notice Packet.** The Notice Packet will provide that Class Members who wish to exclude themselves from the class action Settlement must mail to the Settlement Administrator an Request for Exclusion. The written request for exclusion must: (a) state, "I wish to be excluded from the case entitled *Moises Nava, et al., v. Countywide Mechanical Systems, Inc.*, Case No. 37-2021-00049164-CU-OE-CTL)." (a) include the Class Member's name, address, telephone number, and last four digits of the social security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member; and (d) be mailed by first-class regular U.S. Mail and postmarked no later than the Response Deadline.
- b. **No Opt Out From PAGA.** Eligible Aggrieved Employees will not be able to exclude themselves from receiving their portion of the PAGA Payment. The Notice Packet will inform Eligible Aggrieved Employees that they cannot opt out of the PAGA portion of the settlement and explain that they will not be permitted to pursue any action under PAGA against the Released Parties for any claim that arose during the PAGA Period and that they will still be entitled to their Individual PAGA Payments, even if they submit a valid and timely request for exclusion thereby electing to opt out of the class portion of the Settlement.
- c. **Validity and Effect.** Any Class Member who returns a timely, valid, and executed Request for Exclusion will not participate in or be bound by the Settlement and Judgment and will not receive an Individual Settlement Share. A Class Member who does not complete and mail a timely Request for Exclusion will be included in the Settlement, will receive an Individual Settlement Share, and be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement.

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- d. **Report.** No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notices mailed to Class Members, the number of Notices returned as undeliverable, the number of Notices re-mailed to Class Members, the number of re-mailed Notices returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.
- e. **Defendant's Option to Terminate.** If more than fifteen percent (15%) of the Class Members submit Requests for Exclusion, Defendant may, in its sole option, unilaterally withdraw from the Settlement no later than five (5) business days after to the Response Deadline, and this Agreement will become null and void. If Defendant exercises its right to withdraw from the Settlement under this provision, Defendant will be responsible for paying all Administration Costs incurred up to the point of Defendant's withdrawal from and termination of the Settlement. In the event Defendant withdraws, no party may use the fact that the parties agreed to the Settlement for any reason.

5. No Solicitation of Objection or Requests for Exclusion. Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Judgment.

6. Motion for Final Approval.

- a. Class Counsel will file unopposed motions and memoranda in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorney Fee Award; (2) the Cost Award; (3) Administrative Costs; (4) the Class Representative Enhancement Payments; (5) PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Participating Class Members and the PAGA Released Claims of the Eligible Aggrieved Employees. Class Counsel's motion for Final Approval of the Settlement, including Final Approval of the (1) Attorney Fee Award, (2) Cost Award, (3) Administrative Costs, (4) Class Representative Enhancement, and (5) PAGA Payment, shall be filed at least sixteen (16) Court days before the Final Approval Hearing.

- b. If the Court denies Final Approval of the Settlement with prejudice, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree they shall be equally responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiffs and Class Counsel for the Class Representative Enhancement Payments, the Attorney Fee Award, and/or the Cost Award, will not constitute a material modification to the Settlement within the meaning of this paragraph.
 - c. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the Class Action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law sent via first-class regular U.S. Mail to the Class Members.
7. **Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount.
8. **Disbursement of Individual Settlement Shares and Payments.** Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Superior Court's Final Approval Order and Judgment. The maximum amount Defendant can be required to pay under this Settlement for any purpose is the Gross Settlement Amount. The Settlement Administrator shall keep Counsel for Defendant and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Counsel for Defendant and Class Counsel. No person shall have any claim against Defendant, Counsel for Defendant, Plaintiffs, Class Counsel, or the Settlement Administrator

based on the distributions and payments made in accordance with this Agreement.

- a. **Funding the Settlement:** No later than fifteen (15) business days after the date the Final Approval of the Settlement can no longer be appealed or, if there are no objectors and no Plaintiffs in intervention at the time the Court grants Final Approval of the Settlement, the date the court enters judgment granting Final Approval of the Settlement, Defendant shall deposit the Gross Settlement Amount of Two Million Dollars (\$2,000,000) needed to pay the entire GSA by wiring the funds to the Settlement Administrator. Defendant shall also at this time provide any tax information that the Settlement Administrator may need to calculate each Participating Class Members' Individual Settlement Shares.
 - b. **Disbursement:** Within fourteen (14) calendar days after the deadline to fund the Settlement, the Settlement Administrator shall calculate and disburse all payments due under the Settlement Agreement, including all Individual Settlement Shares, Individual PAGA Payments, the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payments, the PAGA Payment, and the Administration Costs.
 - c. **QSF:** The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.468B-1, 26 C.F.R. § 1.468B-1 *et seq.*, and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.
9. **Uncashed Checks.** Participating Class Members and Eligible Aggrieved Employees must cash or deposit their Individual Settlement Share and Individual PAGA Payment checks within one hundred eighty (180) calendar days after the checks are mailed to them. The void date of each Individual Settlement Share and Individual PAGA Payment check shall be stated on each check. If any checks are returned as undeliverable and without a forwarding address, the Settlement Administrator will conduct a skip trace search to find the most up to date mailing address and re-mail the checks promptly. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) calendar days, it will expire and become non-

negotiable, and offer to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are initially mailed, pay the amount of the unclaimed sums to the *cy pres* recipient Voices for Children.

10. Final Report by Settlement Administrator. Prior to a compliance hearing date or at the request of the Parties, and after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.

11. Defendant's Legal Fees. Defendant is responsible for paying for all of Defendant's own legal fees, costs, and expenses incurred in this Class Action outside of the Gross Settlement Fund.

- I. Release of Claims.** As of the Effective Final Settlement Date, in exchange for the consideration set forth in this Agreement, Plaintiffs and the Participating Class Members release the Released Parties from the Released Claims for the Class Period.
- J. PAGA Release.** As of the Effective Final Settlement Date, the LWDA and each Eligible Aggrieved Employee, including Plaintiffs, individually and on behalf of their heirs, executors, administrators, representatives, attorneys, successors and assigns are hereby voluntarily and knowingly barred from bringing any action for the PAGA Released Claims during the PAGA Period. The release of the PAGA Released Claims is effective regardless of whether the Eligible Aggrieved Employee submits a timely and valid request for exclusion. The release does not include claims that as a matter of law cannot be released and does not include claims for retaliation, discrimination, wrongful termination, and individual claims for the recovery of workers' compensation benefits.
- K. Plaintiffs' Release of Claims and General Release.** As of the Effective Final Settlement Date, and in exchange for the Class Representative Enhancement Payments to Plaintiffs in an amount not to exceed \$10,000 to each Plaintiff, but potentially less if so ordered by the Court, in recognition of their work and efforts in obtaining the benefits for the Class, and undertaking the risk for the payment of costs in the event this matter had not successfully resolved, Plaintiffs hereby provide a general release of claims for themselves and their spouses, heirs, successors and assigns, and forever release, remise, and discharge the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, arising from the beginning of time through the date of the Court grants Preliminary Approval, known or unknown, suspected or unsuspected, whether in tort, contract, equity, or otherwise, for

violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to their employment with Defendant or the remuneration for, or termination of, such employment under the California Labor Code, the California Business and Professions Code, the California Government Code, or any federal, state, county or city law or ordinance, including, without limitation, the following:

- a. The Civil Rights Acts of 1866, 1964, and 1991, as amended;
- b. Title 42 of United States Code section 1981;
- c. The California Fair Employment and Housing Act;
- d. Section 503 of the Rehabilitation Act of 1973;
- e. The Fair Labor Standards Act (including the Equal Pay Act);
- f. The California and United States Constitutions;
- g. The California Labor Code specifically including, but not limited to, the Private Attorney General Act pursuant to Labor Code section 2699 et seq.;
- h. The California Business and Professions Code;
- i. The Employee Retirement Income Security Act, as amended;
- j. The California Family Rights Act;
- k. The Americans with Disabilities Act;
- l. The Family Medical Leave Act;
- m. The California Wage Orders;
- n. The National Labor Relations Act;
- o. The Immigration Reform and Control Act;
- p. California Occupational Safety and Health Act, or the Federal equivalent;
- q. The Age Discrimination in Employment Act of 1967, as amended;
- r. The Older Workers' Benefit Protection Act; and
- s. The Families First Coronavirus Response Act.

Plaintiffs' Release of Claims also includes a waiver of California Civil Code section 1542, which provides as follows:

A general release does not extend to claims that 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.

Each Plaintiff also agrees to execute a general release agreement, in a form provided by Defendant, of all known and unknown claims each might have against the Released Parties ("General Release Agreements").

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L. Miscellaneous Terms

- 1. No Admission of Liability.** Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserve the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Class Action, or that but for the Settlement, a Class should be certified in the Class Action or could proceed on a representative basis. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiffs' and Defendant's willingness to settle the Class Action will have no bearing on, and will not be admissible in connection with, any litigation, administrative proceeding or other special proceeding (other than solely in connection with this Settlement).
- 2. No Effect on Employee Benefits.** The Class Representative Enhancement Payments and Individual Settlement Shares paid to Plaintiffs and Participating Class Members shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, vacation, holiday pay, retirement plans, etc.) of Plaintiffs, Participating Class Members. The Parties agree that any Class Representative Enhancement Payments and Individual Settlement Shares paid to Plaintiffs and Participating Class Members under the terms of this Agreement do not represent any modification of Plaintiffs' or Participating Class Members' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.
- 3. Publicity.** Class Counsel and Plaintiffs agree to discuss the terms of this Settlement only in declarations submitted to a court to establish Class Counsel's adequacy to serve as class counsel, in declarations submitted to a court in support of motions for preliminary approval, Final Approval, for attorneys' fees/costs, and any other pleading filed with the Court in conjunction with the Settlement, and in discussions with Class Members in the context of administering this Settlement until the Preliminary Approval Order is issued. Plaintiffs and Class Counsel agree that they have not and will not publicize the settlement terms. In response to any inquiries Plaintiffs will state that "the case was resolved, and it was resolved confidentially." Class Counsel and Plaintiffs agree to decline to respond to any media inquiries concerning the Settlement.

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4. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibit will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibit, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibit.
5. **Authorization to Enter Into Settlement Agreement.** Class Counsel and Counsel for Defendant warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.
6. **Exhibit and Headings.** The terms of this Agreement include the terms set forth in the attached exhibit, which are incorporated by this reference as though fully set forth herein. Any exhibit to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
7. **Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Class Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.
8. **Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.
9. **Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.

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- 10. No Prior Assignment.** Plaintiffs hereby represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 11. Applicable Law.** All terms and conditions of this Agreement and its exhibit will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
- 12. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Class Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
- 13. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Plaintiffs, Class Counsel, and Participating Class Members will assume any such tax obligations or consequences that may arise from any disbursements made under this Agreement, and that Plaintiffs, Class Counsel, and Participating Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any recipient of a disbursement under this agreement, such recipient assumes all responsibility for the payment of such taxes.
- 14. Jurisdiction of the Superior Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Superior Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.
- 15. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

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

17. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

18. Class Size Escalator. Defendant estimates that the class included approximately 55,317 workweeks as of August 2021. If the number of workweeks increases by more than 10%, the Gross Settlement Amount will increase proportionately over the 10% grace (*i.e.* meaning if the workweeks increase by 11%, the Gross Settlement Amount will increase by 1%). However, if the escalator clause is triggered, Defendant may choose to end the Class Period on the date that the increase was triggered in lieu of paying a proportionate increase.

[SIGNATURES ON NEXT PAGE]

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 02/16/2023

MOISES NAVA



Dated: 02/16/2023

EVAN HARDING



Dated: 02/21/2023

DEVIN VESTER



Dated: 02/23/2023

**COUNTYWIDE MECHANICAL SYSTEMS,
INC.**



By: Kyle Kitson

Title: Corporate Attorney (In-House Counsel)

Dated: 2/21/23

JUSTICE LAW CORPORATION



Douglas Han, Esq.
Attorneys for Plaintiffs Moises Nava, Devin Vester,
and Evan Harding, on behalf of themselves and all
others similarly situated

Dated: 2/27/2023

FISHER & PHILLIPS LLP



Daniëlle Hultenius Moore, Esq.
Lauren Bushman, Esq.
Attorneys for Defendant, Countywide Mechanical
Systems, Inc.

EXHIBIT A

CALIFORNIA SUPERIOR COURT, COUNTY OF SAN DIEGO

Moises Nava, et al., v. Countywide Mechanical Systems, Inc.

Case No. 37-2021-00049164-CU-OE-CTL

NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you, and you are not being sued.
However, your legal rights are affected by whether you act or don't act.*

TO: All hourly-paid or non-exempt employees employed by Defendant Countywide Mechanical Systems, Inc. ("Defendant") within the State of California during the time period from November 17, 2017 to November 25, 2022.

The California Superior Court, County of San Diego, has granted preliminary approval of a proposed settlement ("Settlement") of the above-captioned class and representative actions (referred to in this Notice as the "Class Action"). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class and Representative Action Settlement ("Notice") carefully.

The Court has certified the following class for settlement purposes ("Class" or "Class Members"):

All hourly-paid or non-exempt employees of Defendant within the State of California during the time period from November 17, 2017 to November 25, 2022.

The purpose of this Notice is to provide a brief description of the claims alleged in the Class Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS AND REPRESENTATIVE ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

WHAT INFORMATION IS IN THIS NOTICE

1. Why Have I Received This Notice?.....	Page 2
2. What Is This Case About?	Page 2
3. Am I a Class Member?	Page 3
4. How Does This Class Action Settlement Work?.....	Page 3
5. Who Are the Attorneys Representing the Parties?	Page 3
6. What Are My Options?.....	Page 4
7. How Do I Opt-Out or Exclude Myself From This Settlement?.....	Page 4
8. How Do I Object to the Settlement?	Page 5
9. How Does This Settlement Affect My Rights? What are the Released Claims and PAGA Released Claims?	Page 5
a. Released Claims.....	Page 9
b. PAGA Released Claims.....	Page 9
10. How Much Can I Expect to Receive From This Settlement?.....	Page 6
a. How Will My Individual Settlement Share Be Calculated?	Page 10
b. How Will My Individual PAGA Payment Be Calculated?	Page 11

c. When Will My Settlement Payment Be Mailed?	Page 11
11. How Will the Attorneys for the Class and the Class Representatives Be Paid?.....	Page 7
12. Final Approval Hearing.....	Page 7
13. How Do I Get More Information.....	Page 7

1. Why Have I Received This Notice?

The personnel records of Defendant indicate that you may be a Class Member. The Settlement will resolve all Class Members’ Released Claims, as described below, from November 17, 2017 to November 25, 2022 (the “Class Period”). You are a Class Member if you were employed by Defendant as an hourly-paid or non-exempt employee within the State of California at any time during the period from November 17, 2017, to November 25, 2022 (the “Class Period”). You are an Eligible Aggrieved Employee if you were employed by Defendant as an hourly-paid or non-exempt employee within the State of California at any time during the period from September 16, 2021, to November 25, 2022 (the “PAGA Period”).

A Preliminary Approval Hearing was held on [the date of Preliminary Approval], in the California Superior Court, County of San Diego. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court has determined that there is sufficient evidence to suggest that the proposed settlement may be fair, adequate, and reasonable and that any final determination of those issues will be made at the Final Approval Hearing.

The Court will hold a Final Approval Hearing concerning the proposed settlement on [the date of final approval hearing], 2023 at [time a.m./p.m.], before the Honorable Ronald F. Frazier, at the Superior Court for the County of San Diego, located at 330 West Broadway, San Diego, California 92101, Department C-65.

2. What Is This Case About?

Plaintiffs Moises Nava and Devin Vester commenced a wage-and-hour class action in the San Diego County Superior Court (Case Number 37-2021-00049164-CU-OE-CTL). Afterwards, Plaintiffs Moises Nava and Devin Vester filed a First Amended Complaint that added Plaintiff Evan Harding as an additional plaintiff and added a PAGA cause of action.

Plaintiffs’ wage-and-hour class action against Defendant sought damages, restitution, statutory penalties, civil penalties interest, costs, attorney’s fees and other relief based on the following alleged causes of action: (1) failure to pay overtime; (2) failure to provide meal period premiums; (3) failure to provide rest break premiums; (4) failure to pay minimum wages; (5) failure to timely pay final wages to terminated employees; (6) failure to comply with employee wage statement provisions of the California Labor Code; (7) failure to reimburse business expenses; 8) violation of California Labor Code section 2698 et seq. and 9) a violation of the California Business & Professions Code sections 17200, *et seq.*

The Parties attended mediation on September 20, 2022 and subsequently agreed to enter a settlement.

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The Court has not made any determination as to whether the claims advanced by Plaintiffs have any merit. Nor has it decided whether this case could proceed as a class action. Instead, both sides agreed to resolve the Class Action with no decision or admission of who is right or wrong.

In other words, the Court has not determined that Defendant violated any laws, nor has it decided in favor of Plaintiffs or Defendant; instead, both sides have agreed to resolve the Class Action with no decision or admission of who is right or wrong. By agreeing to resolve the Class Action, the parties avoid the risks and costs of a trial.

Defendant denies all allegations made by Plaintiffs, individually and on behalf of Class Members, in the Class Action and denies liability for any wrongdoing with respect to the alleged facts and causes of action asserted in the Class Action. The settlement is not an admission by Defendant of any wrongdoing or an indication that any law was violated.

3. *Am I A Class Member?*

You are a Class Member if you are currently or were formerly employed by Defendant as an hourly-paid or non-exempt employees within the State of California during the time period from November 17, 2017 to November 25, 2022 (“Class Period”). If you qualify as a Class Member, you could receive money from the Class Action Settlement.

4. *How Does The Class Action Settlement Work?*

In this Class Action, Plaintiffs sued on behalf of themselves and all other similarly situated employees who were employed by Defendant as hourly-paid or non-exempt employees in California at any time during the Class Period. Plaintiffs and other current and former employees comprise a “Class” and are “Class Members.” The settlement of this Action resolves the Released Claims of all Class Members, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiffs and Class Counsel believe the Settlement is fair and reasonable. The Court must also review the terms of the Settlement and determine if it is fair and reasonable to the Class. The Court file has the Settlement documents, which explain the Settlement in greater detail.

5. *Who Are the Attorneys Representing the Parties?*

Attorneys for Plaintiffs and the Class	Attorneys for Defendant
JUSTICE LAW CORPORATION Douglas Han Shunt Tatavos-Gharajeh Lizette Rodriguez 751 N. Fair Oaks Avenue, Suite 101 Pasadena, California 91103 Telephone: (818) 230-7502 Facsimile: (818) 230-7259	FISHER & PHILLIPS LLP Danielle Hultenius Moore Lauren M. Bushman 4747 Executive Drive, Suite 1000 San Diego, California 92101 Telephone: (858) 597-9600 Facsimile: (858) 597-9601

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The Court has decided that Justice Law Corporation is qualified to represent the Class Members simultaneously for the purposes of this Settlement.

Class Counsel is working on your behalf. If you want your own attorney, you may hire one at your own cost.

6. What Are My Options?

The purpose of this Notice is to inform you of the proposed Settlement and your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: Defendant will not retaliate against you in any way for either participating or not participating in this Settlement.

• **DO NOTHING:** **You do not have to do anything in order to receive payment under this Settlement.**

If you do nothing and the Court grants final approval of the Settlement, you will become part of the Class Action Settlement and will receive an Individual Settlement Share (explained below) based on the total number of workweeks you were employed by Defendant as an hourly-paid or non-exempt employee in California during the Class Period. You will release all of the Released Claims, as defined in Section No. 9 below, and you will give up your right to pursue the Released Claims, as defined in Section No. 9 below.

• **OPT-OUT:** If you do not want to participate as a Class Member **and do not want to receive an Individual Settlement Payment**, you may “opt-out,” and you will not be part of this Class Action Settlement. If the Court grants final approval of the Settlement, you will not receive an Individual Settlement Share, and you will not give up the right to sue the Released Parties, including Defendant, for any of the Released Claims as defined in Section No. 9 below. If you are an Eligible Aggrieved Employee, you may not opt-out of the PAGA portion of the settlement but you will be issued a check for your Individual PAGA Payment.

• **OBJECT:** You can ask the Court to deny approval of this Settlement by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. You cannot both object to the Settlement and opt out of the case. If you are an Eligible Aggrieved Employee you do not have the right to object to the PAGA portion of the proposed Settlement. If the Court approves the proposed Settlement, the Settlement Administrator will mail you your Individual PAGA Payment check, and you will give up your right to sue the Released Parties, including Defendant.

The procedures for opting out and objecting are set forth below in the sections entitled “How Do I Opt-Out or Exclude Myself From This Settlement” and “How Do I Object To The Settlement?”

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7. How Do I Opt Out Or Exclude Myself From This Class Action Settlement?

If you do not wish to participate in the Class Action Settlement, **and do not want to receive an Individual Settlement Share**, you can exclude yourself from the Settlement (*i.e.*, “opt-out”) by submitting sending a letter by mail to the Settlement Administrator with a sentence stating: “I wish to be excluded from the case entitled *Moises Nava, et al., v. Countywide Mechanical Systems, Inc.*, Case No. 37-2021-00049164-CU-OE-CTL).” You must also include your full name (and former names, if any), address, telephone number, last four digits of your social security number, and your signature. If you opt-out of the Settlement, you will not be bound by the Class Action Settlement and therefore you will not release the claims set forth in Section No. 9. The request must be complete, signed, dated, and mailed by first-class regular U.S. Mail, **postmarked no later than [REDACTED], 2023 to: Moises Nava, et al., v. Countywide Mechanical Systems, Inc., Settlement Administrator, C/O [INSERT ADDRESS]**.

If you received a remailed Class Notice, whether, by skip-trace or forwarded mail, you will have an additional ten (10) days to postmark an exclusion request. The envelope should indicate whether the Class Notice has been forwarded or remailed. We encourage you to keep copies of all documents, including the envelope, in the event your compliance with the deadline is challenged.

The Court will exclude from the Class Action Settlement any Class Member who submits a complete and timely exclusion request as described in the paragraph above. Exclusion requests that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective. Any Class Member who fails to submit a valid and timely exclusion request on or before the above-specified deadline shall be bound by all terms of the Settlement, release, and any Judgment entered in the Action if the Settlement receives final approval from the Court.

Class Members may only opt out of the class portion of the Settlement. Class Members who are also Eligible Aggrieved Employees cannot opt out of the PAGA portion of the Settlement. Therefore, a Class Member who submits a valid and timely request for exclusion will not receive an Individual Settlement Share and will not release the Released Claims, as described in Section No. 9 below. However, if such a Class Member is also an Eligible Aggrieved Employee, the Class Member will still be entitled to and will be mailed his or her Individual PAGA Payment and will still release the PAGA Released Claims, as described in Section No. 9 below.

8. How Do I Object To The Settlement?

If you are a Class Member who does not opt-out of the Settlement, you may object to the Settlement, personally or through an attorney.

You may mail a written objection to the Settlement Administrator at [address] by [the Response Deadline]. If you received a remailed Class Notice, whether, by skip-trace or forwarded mail, you will have an additional twenty-one (21) calendar days to postmark a written objection. If you choose to object in writing your objection must state: (a) the objecting person’s full name, address, and telephone number; (b) the words “Notice of Objection” or “Formal Objection;” (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing.

Class Members may appear at the Final Approval Hearing, either in person or through the objector’s own counsel even if they did not submit a written objection. Class Members’ timely and valid objections to the Settlement will be considered even if the objector does not appear at the Final Approval Hearing.

If the Court approves the settlement over objections, objecting Class Members will receive an Individual Settlement Share and will be bound by the terms of the Settlement.

9. *How Does This Class Action Settlement Affect My Rights? What are the Released Claims?*

If the proposed Settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt-out of the Settlement will be bound by the Court's Final Judgment and will fully release and discharge Defendant and all of their respective subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, and assigns ("Released Parties").

A. Released Claims.

The Released Claims means any and all claims asserted in the Complaints or any other claims that could have been asserted in the Complaints based on the facts alleged, including but not limited to claims for, unpaid minimum wages, unpaid overtime and double time wages (including, but not limited to, any claims for additional wages owed due to "rounding," "off the clock work," and/or not factoring bonuses or shift differentials into the regular rate of pay); failure to provide proper meal and rest breaks; failure to maintain accurate employment records; wage statement violations; late payment of wages; separation pay violations; failure to pay wages timely during employment; failure to keep requisite payroll records; failure to reimburse business expenses; unfair business practices; and the PAGA. The period of the Release shall extend to the limits of the Class Period.

B. PAGA Released Claims.

The PAGA Released Claims means any and all allegations and claims for civil penalties pursuant to PAGA based on any and all Labor Code violations that arose during the PAGA Period, which includes, inter alia, alleged violations of California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226, 226.3, 226.7, 246(1), 510, 512, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802. The period of the PAGA release extends to the limits of the PAGA Period.

As explained above, Eligible Aggrieved Employees do not have the right to opt out of the PAGA portion of the Settlement. Therefore, if the Court approves the Settlement, all Eligible Aggrieved Employees will release the PAGA Released Claims, regardless of whether the Eligible Aggrieved Employee submits a timely and valid request for exclusion.

10. *How Much Can I Expect to Receive From This Settlement?*

Defendant will pay, subject to Court approval, a Gross Settlement Amount of \$2,000,000.00 to cover: (1) the Individual Settlement Shares to all Settlement Class Members; (2) the Class Representative Enhancement Payment to Plaintiffs in an amount up to \$10,000.00 to each Plaintiff; (3) the Administration Costs to the Settlement Administrator in an amount not to exceed \$15,000.00; (4) the Attorney Fee Award for attorneys' fees of \$700,000.00 and Cost Award of up to \$25,000.00 supported by declaration; and (5) a \$100,000 PAGA Payment, seventy-five percent (75%) of which (\$75,000) shall be paid to the LWDA, and the remaining twenty-five percent (25%) of which (\$25,000) shall be distributed to Eligible Aggrieved Employees as Individual PAGA Payments..

After deducting the Class Representative Enhancement Payments, Administration Costs, Attorney Fee Award, Cost Award, and PAGA Payment, the remaining sum, estimated at \$ [REDACTED] is the "Net Settlement Amount", which shall be distributed to all Participating Class Members.

A. How Will My Individual Settlement Share Be Calculated?

The Settlement Administrator will pay each Participating Class Member an Individual Settlement Share from the Net Settlement Amount. The Individual Settlement Share is calculated based on each Participating Class Member's pro rata share of the Net Settlement Amount based on workweeks during the Class Period as follows: (i) the number of weeks he or she worked as an hourly-paid or non-exempt employee during the Class Period, divided by (ii) the total number of weeks worked by all Participating Class Members collectively during the Class Period, which is then multiplied by the Net Settlement Amount. The Settlement Administrator will use the Class Data provided by Defendant to calculate the number of workweeks worked by each Class Member based on their dates of employment for purposes of this calculation.

Although your exact share of the Net Settlement Amount cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ [REDACTED], less taxes. This is based on Defendant's records, which show you worked [REDACTED] workweeks during the Class Period.

If you believe the number of eligible workweeks records are incorrect, you may provide documentation and/or an explanation to show contrary information to the Settlement Administrator at [address] on or before [the Response Deadline]. Any evidence submitted will be carefully weighed, and the Settlement Administrator will make a final determination. If this was remailed to you, you have an additional twenty-one (21) calendar days to submit a dispute.

Ten percent (10%) of your Individual Settlement Share will be treated as unpaid wages. Applicable taxes will be withheld from the wages portion of your Individual Settlement Share only and reported on an IRS Form W-2. The remaining ninety percent (90%) of your Individual Settlement Share will be treated as penalties, interest, and reimbursement and will be paid pursuant to an IRS Form 1099.

B. How Will My Individual PAGA Payment Be Calculated?

The Settlement Administrator will pay each Eligible Aggrieved Employee an Individual PAGA Payment from the portion of the PAGA Payment allocated to the Eligible Aggrieved Employees. Your Individual PAGA Payment will be based on your pro-rata share of the portion of the PAGA Payment allocated to the Eligible Aggrieved Employees and will be calculated as follows: (i) the number of pay periods you worked as an Eligible Aggrieved Employee during the PAGA Period, (ii) divided by the total number of pay periods worked by all Eligible Aggrieved Employees collectively during the PAGA Period, (iii) which is then multiplied by the \$25,000 of the PAGA Payment allocated to the Eligible Aggrieved Employees. For purposes of this calculation, the Settlement Administrator will use the Class Data to calculate the number of pay periods worked by each Eligible Aggrieved Employee based on their dates of employment.

Based upon the calculation above, your approximate Individual PAGA Payment is \$ [REDACTED]. This is based on Defendant's records, which show you worked [REDACTED] pay periods during the PAGA Period.

One hundred percent (100%) of this payment will be considered penalties, and you will be issued an IRS Form 1099 if your payment exceeds \$600. You are responsible for paying any federal, state, or local taxes owed as a result of this payment.

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The Settlement Administrator will mail your Individual PAGA Payment check to the address the Settlement Administrator has on record for you. Therefore, it is important that you keep the Settlement Administrator informed of any change of address.

If no amount is stated for your Individual PAGA Payment, according to Defendant's records, you are not an Eligible Aggrieved Employee eligible for an Individual PAGA Payment because you were not employed by Defendant as an hourly-paid or non-exempt employee within the State of California during the PAGA Period. Therefore, this subsection B does not apply to you.

C. When Will My Settlement Payment Be Mailed?

Defendant is expected to fund the Gross Settlement Amount no later than fifteen (15) business days after the date the Final Approval of the Settlement can no longer be appealed or, if there are no objectors and no Plaintiffs in intervention at the time the Court grants Final Approval of the Settlement, the date the court enters judgment granting Final Approval of the Settlement. Your Individual Settlement Share will be distributed within approximately fourteen (14) calendar days of the funding of the entire Gross Settlement Amount.

It is strongly recommended that upon receipt of your Individual Settlement Share check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period after mailing, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the Individual Settlement Share to the *cy pres* recipient Voices for Children.

11. How Will the Attorneys for the Class and the Class Representatives Be Paid?

Class Counsel will be paid from the Gross Settlement Amount. Subject to Court approval, Class Counsel shall be paid an amount not to exceed thirty-five percent (35%) of the Gross Settlement Amount (or \$700,000.00) for attorneys' fees, and up to \$25,000.00 for litigation costs.

Defendant has paid all its own attorneys' fees and costs.

As set forth in Section No. 10 above, the Plaintiffs will also be paid Class Representative Enhancement Payments, subject to Court approval.

12. Final Approval Hearing

The Court will hold a Final Fairness Hearing concerning the proposed settlement on [the date of final approval hearing], 2023 at [time a.m./p.m.], before the Honorable Ronald F. Frazier, at the Superior Court for the County of San Diego, located at 330 West Broadway, San Diego, California 92101, Department C-65. You are not required to appear at this hearing. Any changes to the hearing date will be available on the Settlement Administrator's website [INSERT WEBSITE ADDRESS]. Once the Court grants final approval of the settlement, the Settlement Administrator will mail notice of judgment to the Class Members via first-class regular U.S. Mail alongside their settlement checks.

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13. *How Do I Get More Information?*

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS OR WOULD LIKE ELECTRONIC COPIES OF DOCUMENTS RELATING TO THE CLASS ACTION OR THE SETTLEMENT, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll-free. Please refer to the “Nava, *et al.*, v. Countywide Mechanical Systems, Inc. class action settlement.”

This Notice does not contain all the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Court located at 330 West Broadway, San Diego, California 92101, between 8:30 a.m. and 4:00 p.m.

PLEASE DO NOT TELEPHONE THE COURT OR COURT’S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

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On February 28, 2023, I served the foregoing document described as

on interested parties in this action by electronically submitting as follows:

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Executed on February 28, 2023, at Pasadena, California.

Martin Andersen

Mariah Anderson