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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

QUENTIN COSTEIU; individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

INTERTEK TESTING SERVICES, an
unknown business entity; INTERTEK USA
INC., an unknown business entity; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: 34-2016-00189662

Honorable Christopher E. Krueger
Department 54

**DECLARATION OF EDWIN AIWAZIAN
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Plaintiff's Motion for Preliminary Approval
of Class Action Settlement; Declaration of
Proposed Class Representative (Quentin
Costeiu); and [Proposed] Order filed
concurrently herewith.]

Complaint Filed: January 26, 2016
Trial Date: None Set

Date: March 27, 2019
Time: 9:00 a.m.
Department: 54

DECLARATION OF EDWIN AIWAZIAN

I, Edwin Aiwarzian, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers for Justice, PC, attorneys of record for Plaintiff Quentin Costeiu. The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EDUCATION

2. In May of 2004, I graduated from *Pepperdine University School of Law* with a Juris Doctor degree. I have extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, I have previously served as a *pro bono* mediator for the Los Angeles Superior Court. In October of 2000, I obtained a Litigation Paralegal Certificate from the *UCLA Extension Program*. During the summer of 2000, I studied Legal Writing at *Harvard University*. In April of 1999, I obtained a Bachelor of Arts degree in Communication with a concentration in Natural Sciences from *Pepperdine University*.

JUDICIAL EXTERNSHIPS

3. From approximately September 2002 to approximately December 2002, I served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the *United States Court of Appeals for the Ninth Circuit*. From approximately June 2002 to approximately August 2002, I served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the *California Court of Appeal for the Second Appellate District*.

LITIGATION AND CLASS ACTION EXPERIENCE

4. In December of 2004, I obtained a license to practice law from the California State Bar. From approximately December 2004 to approximately August 2008, I was employed by the law firm of *Girardi & Keese*.

5. At *Girardi & Keese*, my practice focused on class actions and other complex cases involving toxic torts and products liability. In addition, I gained substantial experience on cases involving insurance bad faith, premises liability, and medical negligence. While employed by

1 *Girardi & Keese*, I argued approximately 100 motions, took or defended approximately 150
2 depositions, and prepared dozens of expert witnesses for deposition or trial.

3 6. Since its inception, in or around October of 2008, *Lawyers for Justice, PC* has almost
4 exclusively focused on the prosecution of consumer and employment class actions, involving
5 wage-and-hour claims, race discrimination, unfair business practices or consumer fraud.
6 Currently, we are the attorneys of record in over a dozen employment-related putative class actions
7 in both state and federal courts in the State of California. Our firm has successfully litigated cases
8 involving the executive, administrative, and other overtime exemptions to the State of California
9 and federal overtime compensation requirements. During this relatively short time, in association
10 with other law firms, we have recovered millions of dollars on behalf of thousands of individuals
11 in California.

12 **EXAMPLES OF CLASS ACTION RESULTS**

13 7. What follows are just a few examples of the type of results we have achieved on
14 behalf of our clients:

15 a) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
16 and-hour class and representative action against a major property management company involving
17 allegations of misclassification of various "manager" positions. On September 20, 2010, the court
18 granted final approval of the class and representative action settlement. The Los Angeles County
19 Superior Court Case Number is BC400414.

20 b) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
21 and-hour class action against a national retailer involving allegations of misclassification of the
22 "Assistant Store Manager" position. On October 28, 2010, the court granted final approval of the
23 class action settlement. The Los Angeles County Superior Court Case Number is BC413498.

24 c) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
25 and-hour class and representative action against a national property management company
26 involving allegations of misclassification of the "Property Manager" position. On May 23, 2012,
27 the court granted final approval of the class and representative action settlement. The Los Angeles
28 County Superior Court Case Number is BC430918.

d) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action against a national retailer involving allegations of misclassification of the "Store Manager" position. On June 10, 2011, the court granted plaintiffs' motion for class certification. On August 26, 2013, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC424012.

e) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a bank, involving allegations of misclassification of the "Assistant Branch Manager" position. On August 27, 2013, the court granted final approval of the class and representative action settlement. The Kern County Superior Court Case Number is S-1500-CV-273194-LHB.

f) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a national wholesale distributor of plumbing and builder supplies, involving allegations of misclassification of multiple salaried "manager" positions. On May 22, 2014, the court granted final approval of the class and representative action settlement. The Sacramento County Superior Court Case Number is 34-2012-00136285.

g) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action involving allegations of misclassification of the "Operations Manager" position. On September 16, 2014, the court granted plaintiffs' motion for class certification. The Los Angeles County Superior Court Case Number is BC478769.

h) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a national retailer of household items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the court granted final approval of the class and representative action settlement. The San Francisco County Superior Court Case Number is CGC-13-532344.

i) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action involving allegations of misclassification of the salaried residential "Property Manager" position. On September 17, 2015, the court granted plaintiffs' motion for class certification. The Los Angeles County Superior Court Case Number is BC474784.

j) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a national retailer of upscale hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the court granted final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is JCCP4794.

k) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a national retailer of apparel and fashion accessories, on behalf of non-exempt employees. On August 5, 2016, the court granted final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is BC488069.

l) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action against a national retailer of apparel, accessories, and home products, involving allegations of misclassification of the "Department Manager" position. On August 12, 2016, the court granted plaintiffs' motion for class certification. The Alameda County Superior Court Case Number is RG13680477.

m) Our firm represented the plaintiffs in a representative action under the Private Attorneys General Act, against a real estate and property management company, on behalf of non-exempt employees. On November 4, 2016, the Court granted approval of the settlement. The Orange County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

n) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action against a full-service bank, on behalf of non-exempt employees. On November 18, 2016, the court granted final approval of the class action settlement. The San Francisco County Superior Court Case Number is CJC-13-004839.

o) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a consumer packaging company, on behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is BC590429.

p) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a manufacturer of food service industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final approval of the class and representative action settlement. The Orange County Superior Court Case Number is 30-2015-00810013-CU-OE-CXC.

q) Our firm represented the plaintiffs in a wage-and-hour class and representative action against a food company on behalf of non-exempt employees. On June 30, 2017, the court granted final approval of the class action settlement. The Sacramento County Superior Court Case Number is 34-2015-00175871.

r) Our firm represented the plaintiffs in a wage-and-hour class and representative action against a chocolate company on behalf of non-exempt employees. On July 19, 2017, the court granted final approval of the class and representative action settlement. The Alameda County Superior Court Case Number is RG15764300.

s) Our firm represented the plaintiffs in a wage-and-hour class and representative action against a manufacturer of plastic containers on behalf of non-exempt employees. On October 31, 2017, the court granted final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is BC577233.

t) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action and representative action against a bank on behalf of non-exempt employees. On December 11, 2017, the court entered an order granting final approval of class and representative action settlement. The Los Angeles County Superior Court Case Number is BC569646.

u) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action and representative action against a property management company on behalf of hourly-paid and non-exempt employees. On January 4, 2018, the court entered an order granting final approval of a class and representative action settlement. The Los Angeles County Superior Court Case Number is JCCP4819.

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v) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action and representative action against a global provider of flexible office space solutions. On February 15, 2018, the court entered an order granting final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is BC498401.

w) Our firm represented the plaintiffs in a wage-and-hour class and representative action against a mental illness service provider on behalf of non-exempt employees. On November 13, 2018, the court granted final approval of a class and representative action settlement. The Alameda County Superior Court Case Number is RG16811450.

x) Our firm, in association with co-counsel, represented the plaintiff in a representative action under the Private Attorneys General Act, against a global provider of products and services to the energy industry, on behalf of hourly-paid and non-exempt employees. On November 19, 2018, the Court granted approval of the settlement. The Kern County Superior Court Case Number is S-1500-CV-280215-SDC.

PRELIMINARY APPROVAL

8. Marked and attached hereto as “**EXHIBIT 1**” is the Class Action and PAGA Settlement Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff Quentin Costeiu (“Plaintiff”), individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendants Intertek USA, Inc. and Intertek Testing Services N.A., Inc., (“Defendants”), on the other hand (collectively, the “Parties”). The Parties and their counsel have approved the proposed Notice of Settlement of Class Action Settlement and Hearing (“Class Notice”), which is attached to the Settlement Agreement as “Exhibit A,” and respectfully request that the Court approve it as well.

9. Based on information provided by Defendants, as of February 2019, the Class was estimated to consist of approximately six hundred thirty-one (631) individuals.

10. The effectiveness of Lawyers for Justice PC (“Class Counsel”) in prosecuting this matter has translated into tangible monetary benefits for the Class Members in the following respects: (1) Class Members recover over a reasonably short period of time as opposed to waiting

1 additional years for the same, or possibly worse, result; (2) a guaranteed result that compares
2 favorably with other similar class action settlements of this type given the strengths and
3 weaknesses of the case; and (3) significant savings in Class Counsel's fees and/or costs that would
4 have only increased significantly had the case progressed through certification, trial, and/or
5 appeals.

6 11. Since Plaintiff commenced this action on January 26, 2016, the matter has been
7 actively litigated. The Parties have engaged in extensive settlement negotiations and participated
8 in a formal, full-day mediation conducted by the Louis M. Marlin, Esq., a well-respected mediator
9 experienced in mediating complex labor and employment matters. Prior to and during the
10 mediation and settlement discussions, the Parties exchanged class information, propounded and
11 responded to extensive formal written discovery requests, engaged in an extensive discussion
12 regarding their evaluations of the case and various aspects of the case, including but not limited
13 to, the risks and delays of further litigation, the risks to the Parties of proceeding with class
14 certification and/or representative adjudication, the law relating to off-the-clock theory, meal and
15 rest periods, wage-and-hour enforcement, and PAGA representative claims, as well as the
16 evidence produced and analyzed, and the possibility of appeals, among other things. During all
17 settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial
18 position. Arriving at a settlement that was acceptable to both Parties was not easy. Defendants
19 and their counsel felt strongly about their ability to prevail on the merits and at certification, and
20 Plaintiff and Class Counsel believed that they would be able to obtain class certification and
21 prevail at trial. After conducting investigations and formal and informal discovery and exchange
22 of information, extensive settlement negotiations, and with the aid of the mediator's evaluations,
23 the Parties have agreed that the matter is well-suited for settlement given the legal issues relating
24 to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further
25 litigation. The Settlement is a fair, reasonable, and adequate resolution of Plaintiff and Settlement
26 Class Members' Released Claims against the Released Parties.

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28 ///

1 12. Prior to the mediation, the Parties conducted significant investigation into the facts
2 of the case and the Parties engaged in extensive formal and informal discovery, and the formal and
3 informal exchange, review, and analysis of thousands of pages of documents and data produced
4 by Defendants. The volume of data and documents that Class Counsel reviewed and analyzed
5 included and was not limited to: Plaintiff and other Class Members' employment records, a
6 detailed sampling of Class Members' time and pay data, Defendants' Employee Handbook,
7 agreements (including, but not limited to, Six-Hour Meal Period Waiver and Second Meal Period
8 Waiver), acknowledgements (including but not limited to Defendants' Acknowledgement of
9 Receipt of Employee Handbook and Acknowledgement of Meal and Rest Period Policy), internal
10 memoranda, job descriptions, and Defendants' operations and employment practices, forms,
11 procedures, and policies (including but not limited to Defendants' Meal and Rest Period Policy),
12 among other information and documents. Class Counsel interviewed Plaintiffs and other Class
13 Members to gather facts and to identify potential witnesses. Class Counsel also propounded
14 multiple sets of formal discovery requests on Defendants, and worked with Plaintiff to respond to
15 discovery requests propounded by Defendants. Class Counsel also prepared for and took the
16 deposition of two of Defendants' Person Most Knowledgeable designees as well as prepared for
17 and defended the deposition of Plaintiff Quentin Costeiu. Counsel for the Parties also met and
18 conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, jurisdiction,
19 motion practice, discovery, and the production of documents and data. Class Counsel also drafted
20 Plaintiff's mediation brief, and prepared for and attended court proceedings, settlement
21 negotiations, and the mediation, among other tasks.

22 13. Counsel for the Parties have also invested time researching and investigating the
23 applicable law, which is constantly evolving as it relates to certification, representative PAGA
24 claims, off-the-clock theory, meal and rest periods, wage-and-hour enforcement, Plaintiff's claims
25 and damages, and Defendants' defenses thereto, as well as facts discovered. Based on our analysis,
26 I submit that the result achieved in this litigation is fair, adequate, and reasonable.

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1 14. The Settlement provides for a Gross Settlement Amount of one million one hundred
2 thousand dollars (\$1,100,000). The Net Settlement Amount is the Gross Settlement Amount less
3 the following amounts subject to approval by the Court: Attorneys' Fees and Costs, Service
4 Award, Settlement Administration Costs, and LWDA Payment. Assuming that the amounts
5 allocated under the Settlement toward these payments are awarded by the Court, the Net
6 Settlement Amount is currently estimated to be six hundred thirty-five thousand two hundred fifty
7 dollars (\$635,250). Under the Settlement Agreement, the final available Net Settlement Amount
8 will be distributed to Settlement Class Members and only the portion of the Net Settlement that
9 is allocated to individuals who opt out will be retained by Defendants.

10 15. The Parties have agreed to retain Simpluris, Inc. ("Simpluris" or "Settlement
11 Administrator") to handle the notice and settlement administration process. The Parties
12 respectfully request that the Court appoint Simpluris to handle these procedures and serve as the
13 Settlement Administrator. Defendants will provide Simpluris with the Class List and Simpluris
14 will calculate each Class Member's estimated Class Member Payment. Simpluris will also receive
15 Requests for Exclusion, objections, and disputes regarding Work Weeks; provide necessary
16 reports and declarations; calculate, subtract, and transmit necessary taxes and withholdings;
17 prepare and submit informational and other tax filings and documents; issue and transmit all
18 payments provided by the Settlement, including and not limited to, mailing Class Member
19 Payment Checks to the Settlement Class Members; and perform any other usual and customary
20 duties for administering a class action settlement. Settlement Administration Costs are currently
21 estimated not to exceed eighteen thousand five hundred dollars (\$18,500) and will be paid out of
22 the Gross Settlement Amount, subject to approval of the Court.

23 16. Based on investigation and information discovered, Class Counsel believes that
24 there is sufficient evidence to support the allegations made in the lawsuit, including the allegations
25 that Defendants, with respect to Plaintiff and the Class Members, *inter alia*, failed to properly pay
26 for all hours worked, failed to provide compliant meal and rest periods and to pay associated
27 premium pay, failed to timely pay wages upon termination and during employment, failed to
28 provide complaint wage statements, failed to maintain requisite payroll records, and failed to

1 reimburse necessary business expenses, and thereby engaged in unfair business practices and
2 violated the Private Attorneys General Act of 2004 (California Labor Code sections 2698, *et seq.*).
3 Plaintiff also asserted that Class Members were expected to perform similar job duties and were
4 subject to the same or similar operations and employment policies, practices, and procedures.
5 Additionally, Plaintiff asserted that Defendants' recordkeeping practices with respect to Plaintiff
6 and the Class Members were substantially the same during the time period at issue. As a result,
7 Plaintiff claims that he and the Class Members were uniformly not paid all of compensation that
8 was owed to them by Defendants during the Class Period. Thus, in Class Counsel's view, it is
9 clear that the outcome of this litigation would be determined by Defendants' uniform operations
10 and employment practices, policies, and procedures that Plaintiff alleges applied across its non-
11 exempt hourly employees in California during the Class Period.

12 17. Class Counsel is aware of the defenses and position of Defendants, but believes that
13 Plaintiff could potentially obtain class certification despite many obstacles. Plaintiff has also taken
14 into account the uncertainty and risk of the outcome of further litigation, and the difficulties and
15 delays inherent in such litigation, including those involved in class certification and/or
16 representative adjudication. Plaintiff further recognizes the burdens of proof necessary to establish
17 liability for the claims asserted in the lawsuit, Defendants' defenses, and the difficulties in
18 establishing entitlement to monetary recovery. Plaintiff has also considered the Parties' settlement
19 discussions, as well as the evaluations of the mediator, who is experienced and well-regarded in
20 complex labor and employment matters.

21 18. Defendants, on the other hand, denied and continue to deny any liability and
22 wrongdoing of any kind associated with the claims alleged in the lawsuit, and further deny that
23 the lawsuit is appropriate for class treatment or representative adjudication for any purpose other
24 than this Settlement. Defendants believe that they would ultimately succeed in the matter. Both
25 sides have also had the opportunity to interview witnesses and review documents and information
26 relating to Plaintiff and the Class Members' employment with Defendants, and Defendants'
27 operations and employment policies, practices, and procedures. The Parties also reviewed and
28 analyzed thousands of pages of documents and data, including but not limited to a detailed

1 sampling of Class Members' time and pay information, to determine the potential value and
2 strength of the claims. The available information enabled Class Counsel to estimate the potential
3 claims of the Class and prepare damages/valuation models. Accordingly, the Parties have
4 conducted adequate investigation and discovery to be sufficiently informed of the nature and
5 extent of the Class Members' claims, and to enable both sides to fully evaluate the Settlement for
6 its fairness, adequacy, and reasonableness. The Parties have agreed that the matter is well-suited
7 for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and
8 risks to both sides that would attend further litigation. The Settlement takes into account the
9 strengths and weaknesses of each side's position and the uncertainty of how the case might have
10 concluded at certification, trial, and/or appeals.

11 19. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees
12 in an amount of up to three hundred eighty-five thousand dollars (i.e., \$385,000) and litigation
13 expenses and costs in an amount not to exceed forty-five thousand dollars (\$45,000), which will
14 be paid out of the Gross Settlement Amount, subject to approval by the Court. It should be noted
15 that Class Counsel has borne all of the risks and costs of litigation and will not receive any
16 compensation until recovery is obtained.

17 20. The Settlement Agreement provides for a Service Award of up to eight thousand
18 dollars (\$8,000) to Plaintiff Quentin Costeu, to be paid out of the Gross Settlement Amount
19 subject to approval by the Court. Plaintiff spent considerable time and effort to produce relevant
20 documents and past employment records and to provide the facts and evidence necessary to
21 attempt to prove the allegations. Plaintiff was available whenever Class Counsel needed him and
22 actively tried to obtain information that would benefit the Class. For instance, Plaintiff reviewed
23 and provided responses to discovery requests and prepared for and attended his deposition.
24 Accordingly, it is appropriate and just for Plaintiff to receive a reasonable Service Award, in
25 addition to his Class Member Payment, for his services on behalf of the Class.

26 21. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and is
27 in the best interest of the Class. Class Counsel further submit that the Settlement is within an
28 acceptable range of recovery for this type of litigation given the strengths and weaknesses of this

1 action, the inherent costs and risks of further litigation, and the costs and risks associated with
2 class certification, representative adjudication, trial, and/or appeals.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct.

5 Executed on this 4th day of March 2019, at Glendale, California.

6 
7 Edwin Aiwarzian

EXHIBIT 1

1 **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT**

2 This Class Action Settlement Agreement (“Settlement Agreement”) is made and entered
3 into between Plaintiff Quentin Costeiu (“Costeiu” or “Plaintiff” or “Class Representative”) on
4 the one hand, individually and on behalf of the Class (as defined below), by and through Lawyers
5 for Justice, PC (“Class Counsel”), and Defendants Intertek USA, Inc. and Intertek Testing
6 Services N.A., Inc. (“Defendants” or “Intertek”) on the other hand subject to the approval of the
7 Court, as provided below. This Settlement Agreement is intended by Plaintiff and Defendants
8 to fully, finally, and forever resolve, discharge, and settle the Action (as defined below) and
9 Released Claims (as defined below), upon and subject to the terms and conditions hereof, as
10 follows:

11 **1. Definitions.**

12 As used herein, for the purposes of this Settlement Agreement only, the following terms
13 will be defined as set forth below:

14 **1.1** “Action” refers to the civil action entitled: *Quentin Costeiu v. Intertek*
15 *Testing Services, an unknown business entity; Intertek USA, Inc., an unknown business entity;*
16 *and DOES 1 through 100, inclusive*, Case No. 34-2016-00189662, in the Superior Court of
17 California, County of Sacramento.

18 **1.2** “Class” refers to all current and former hourly-paid or non-exempt
19 employees who worked for Defendants within the State of California at any time from
20 January 26, 2012 to the date of Preliminary Approval of the Settlement Agreement.

21 **1.3** “Class Counsel” refers to the attorneys of record for the Class
22 Representative, *i.e.*, Lawyers for Justice, PC.

23 **1.4** “Class Members” means all individuals identified in Section 1.2.

24 **1.5** “Class Notice” refers to the form of direct-mail notice to Class Members
25 substantially in the form attached hereto as “**Exhibit A**,” as may be modified by the Court.

26 **1.6** “Class Member Payment” refers to the amount paid to a Class Member
27 who does not timely submit a Request for Exclusion as set forth in Sections 1.20 and 17
28 below.

1 **1.7** “Class Period” refers to January 26, 2012 through the date of Preliminary
2 Approval of this Settlement Agreement.

3 **1.8** “Class Representative” refers to Quentin Costeiu.

4 **1.9** “Complaint” refers to the Class Action Complaint for Damages &
5 Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et
6 Seq., filed in this Action.

7 **1.10** “Final” means the latest of: (a) if there is an appeal of the Court’s
8 Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such
9 appeal, or the expiration of the time to file a petition for writ of certiorari, or, (b) if a
10 petition for a writ of certiorari is filed, the date of denial of the petition for writ of
11 certiorari, or the date the Judgment is affirmed pursuant to such petition; or (c) if no appeal
12 is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.

13 **1.11** “Final Approval Hearing” refers to the hearing at which the Court will
14 make a final determination whether the terms of the Settlement Agreement are fair,
15 reasonable, and adequate for the Class and meet all applicable requirements for approval.

16 **1.12** “Final Approval Order” refers to the final order by the Court approving
17 the Settlement following the Final Approval Hearing.

18 **1.13** “Final Effective Date” refers to the first day after the date by which the
19 last of the following has occurred: (a) all conditions of settlement have been met,
20 including and not limited to, obtaining preliminary and final approval of the settlement of
21 class claims and approval of the settlement of PAGA claims, as defined herein and with
22 respect to the time period contemplated herein, in conformity with California law; (b) the
23 Court, or other court assuming jurisdiction of this matter, has entered and filed the Final
24 Approval Order and Judgment; and (c) the Court’s Judgment approving the Settlement
25 becomes Final.

26 **1.14** “Gross Settlement Amount” (also referred to herein as “GSA”) refers to
27 the maximum settlement payment of one million one hundred thousand dollars and zero
28 cents (\$1,100,000.00) Defendants will be obligated to make, except that Defendants shall

1 bear, in addition, all employer-side payroll tax payments (e.g., FICA, FUTA, etc.) due
2 and payable as a result of this settlement. This sum includes all payments made to
3 Settlement Class Members, Service Payment to Class Representative, all Settlement
4 Administration Costs, attorneys' fees and litigation costs and expenses to Class Counsel,
5 and LWDA Payment as set forth below.

6 **1.15** "Judgment" refers to the final judgment by the Court approving the
7 Settlement.

8 **1.16** "LWDA Payment" means the amount that the Parties have agreed to pay
9 to the LWDA in connection with the Labor Code Private Attorneys General Act of 2004
10 (Cal. Lab. Code sections 2698, *et seq.*, "PAGA"). The Parties have agreed that the amount
11 of Eleven Thousand Dollars (\$11,000) of the Gross Settlement Amount will be allocated
12 to penalties under PAGA, for the resolution of all claims based on the facts or claims
13 alleged in the Complaint in the action which arise under PAGA ("PAGA claims"), which
14 are subsumed in the release of Released Claims provided for herein. Pursuant to PAGA,
15 75%, or Eight Thousand Two Hundred Fifty Dollars (\$8,250), of the PAGA Settlement
16 Amount will be paid to the California Labor and Workforce Development Agency, and
17 25%, or Two Thousand Seven Hundred Fifty Dollars (\$2,750) of the PAGA Settlement
18 Amount will be part of the Net Settlement Amount to be available for distribution to
19 Settlement Class Members.

20 **1.17** "Net Settlement Amount" (also referred to herein as "NSA") is the GSA
21 minus court-approved attorney's fees and litigation costs and expenses to Class Counsel,
22 Settlement Administration Costs, the LWDA Payment, and Service Award. The NSA is
23 the maximum amount that will be available for distribution to Settlement Class Members.

24 **1.18** "Parties" are Plaintiff and Defendants.

25 **1.19** "Released Claims" are those claims defined in Section 14.3.

26 **1.20** "Request for Exclusion" refers to a request to be excluded from the
27 Settlement, which must be made in writing in conformity with the requirements set forth
28 in the Class Notice, the Court's order granting preliminary approval, and herein, and

1 mailed to the Administrator and postmarked on or before the Response Deadline.

2 **1.21** “Response Deadline” refers to a date that is forty-five (45) calendar days
3 after the date that the Class Notice is mailed to Class Members and is the deadline by
4 which Class Members’ Requests for Exclusion, disputes regarding Work Weeks, and/or
5 objections must be postmarked in order to be timely.

6 **1.22** “Service Award” refers to a monetary award to the Plaintiff, in an amount
7 not to exceed \$8,000. for his services as Class Representative as described in Section 7,
8 to be paid for from the Gross Settlement Amount, subject to approval by the Court, as
9 described below.

10 **1.23** “Settlement Administrator” refers to the third-party administrator
11 mutually selected by the parties, subject to approval by the Court, to perform the notice,
12 claims administration, and distribution functions further described in this Settlement
13 Agreement. The costs and expenses of the administrator, to perform its tasks and duties
14 as provided by this Settlement Agreement, are the “Settlement Administration Costs.”

15 **1.24** “Settlement Class” or “Settlement Class Member” refers to all Class
16 Members or individual Class Members as defined in Section 1.2 and 1.4 who do not
17 request exclusion from the Settlement pursuant to Section 17 of this Settlement
18 Agreement.

19 **2. Procedural History and Recitals.**

20 **2.1** On or about January 26, 2016, Plaintiff filed his Complaint purporting to
21 assert putative class action claims against INTERTEK TESTING SERVICES NA, INC.
22 (erroneously sued as “Intertek Testing Services”) and INTERTEK USA, INC., on behalf
23 all current and former hourly-paid or non-exempt employees who worked for Defendants
24 within the State of California at any time from four years prior to the filing of the
25 Complaint through the present. The Complaint alleges the following causes of action: (a)
26 Failure to pay overtime (“in violation of Cal. Labor Code sections 510 and 1198”); (b)
27 Failure to provide meal periods (“in violation of the Wage Orders and California Labor
28 Code sections 226.7 and 512(a)”); (c) Failure to provide rest breaks (“in violation of the

1 Wage Orders and California Labor Code section 226.7”); (d) Failure to pay minimum
2 wages (“in violation of the Wage Orders and California Labor Code sections 1194, 1197,
3 1197.1”); (e) Failure to timely pay wages upon termination (“in violation of California
4 Labor Code sections 201 and 202”); (f) Failure to timely pay wages during employment
5 (“in violation of California Labor Code section 204”); (g) Failure to provide compliant
6 wage statements (“in violation of California Labor Code section 226(a)”); (h) Failure to
7 keep complete or accurate wage statements (“in violation of California Labor Code
8 section 1174(d)”); (i) Failure to reimburse necessary business expenses (“in violation of
9 California Labor Code sections 2800 and 2802.”); (j) Violation of California Business &
10 Professions Code sections 17200 *et seq.*; and (k) Violation of California Labor Code
11 sections 2698 *et seq.*

12 **2.2** On or about March 18, 2016, Defendants answered the Complaint, in
13 which they denied the allegations contained therein and alleged a number of affirmative
14 defenses to the claims contained in the Complaint.

15 **2.3** On September 29, 2016, the Parties participated in a mediation session
16 before mediator Louis Marlin, Esq., an experienced mediator who has mediated numerous
17 wage-hour class actions. At the mediation session, the Parties reached the basic terms of
18 a settlement and agreed to prepare this formal settlement agreement, subject to approval
19 by the Court.

20 **2.4** Defendants deny that they are liable to Plaintiff or the Class and further
21 deny that, for any purpose other than settling the Action, this Action is appropriate for
22 class treatment.

23 **2.5** Class Counsel represent that they have thoroughly investigated the claims
24 alleged against Defendants in the Action. Class Counsel represent that they have
25 conducted their own investigation into the underlying facts, events, and issues related to
26 the subject matter of this Action. Class Counsel represent that they have further
27 undertaken an extensive analysis of the legal principles applicable to the claims asserted
28 against Defendants, and the potential defenses thereto. Both Class Representative and

1 Defendants have had an opportunity to evaluate their respective positions on the merits
2 of the claims asserted.

3 **2.6** Class Counsel has also engaged in intensive arm's-length negotiations
4 with counsel for Defendants with a view toward achieving substantial benefits for the
5 Class while avoiding the cost, delay and uncertainty of further litigation, trial, and
6 appellate review.

7 **2.7** As a consequence of said negotiations, and of Class Counsel's
8 investigation, analysis and discovery, Plaintiff and Class Counsel determined to enter into
9 this Settlement Agreement on the terms and conditions hereinafter set forth, believing
10 such Settlement to be fair, reasonable and adequate and in the best interests of Plaintiff
11 and the other members of the Class. Plaintiff and Class Counsel have determined to
12 execute this Settlement Agreement and urge approval by the Court of the Settlement after
13 considering (a) the substantial factual and legal defenses available to Defendants to the
14 claims asserted in the Action, which render the outcome of the Action substantially
15 uncertain; (b) the potential difficulties Plaintiff and Class Members would encounter in
16 establishing the elements of their claims; (c) the substantial benefits made available to
17 Class Members pursuant to the Settlement; (d) the fact that the Settlement ensures that
18 Class Members will receive relief in the most expeditious and efficient manner
19 practicable, and thus much sooner than would be possible were the claims to be litigated
20 successfully through trial and appeal; and (e) the fact that the Settlement allows persons
21 who would otherwise fall within the definition of the Class, if they so desire, to opt out of
22 the Action and individually pursue any Release Claims that he or she may have.

23 **2.8** As set forth above, without admitting any wrongdoing or liability,
24 Defendants are willing to agree to the terms of the Settlement in order to settle,
25 compromise, and fully resolve the Action and Released Claims (as defined below).

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1 **NOW THEREFORE, in consideration of the covenants and agreements set forth**
2 **herein, and of the release of all Released Claims, Plaintiff, on behalf of himself and the**
3 **Class, Class Counsel, and Defendants agree to the terms and provisions of this Settlement**
4 **Agreement, subject to the approval of the Court.**

5 **3. Limitation on Effect of Settlement.**

6 The Settlement will not constitute, in this or any other proceeding, an admission of any
7 kind by Defendants, including without limitation, that certification of a class is appropriate or
8 proper or that Plaintiff could establish any of the requisite elements for class treatment of any
9 of the claims in the Action. In the event that the Settlement is not finally approved, or the
10 Settlement is otherwise terminated, Defendants expressly reserve all rights to challenge
11 certification of a class on all available grounds.

12 **4. Establishment of the GSA.**

13 This Settlement will be made on a non-claims-made basis and will be non-reversionary,
14 except that for any Class Member who timely and validly submits a Request for Exclusion, as
15 set forth herein, that individual's share of the NSA, as set forth herein, will be retained by
16 Defendants. Defendants shall pay a total of no more than the GSA, which will cover payment
17 by Defendants pursuant to this Settlement Agreement, to Settlement Class Members, Settlement
18 Administration Costs, attorneys' fees and litigation costs to Class Counsel, PAGA penalties, and
19 Service Award to Plaintiff.

20 **5. Calculation of the NSA and Distribution of Settlement Proceeds.**

21 **5.1** This settlement is a "non-claims-made" settlement. Each Settlement Class
22 Member will be entitled to a share of the NSA in accordance with the formula set forth
23 below. Payments will be made from the NSA only to Settlement Class Members, as set
24 forth herein.

25 **5.1.1** Each Settlement Class Member will be paid a portion of the NSA
26 in accordance with the following formula: Each Settlement Class
27 Member's potential share of the NSA will be calculated by
28 dividing the number of weeks worked by the Settlement Class

1 Member during the Class Period as a non-exempt hourly employee
2 in California ("Work Weeks") by all weeks worked by all
3 Settlement Class Members as non-exempt hourly employees in
4 California during the Class Period, multiplied by the NSA.

5 **5.1.2** The amount distributed to Settlement Class Members in the form
6 of Class Member Payments, plus all required withholdings, will
7 not exceed the NSA. If a Class Member timely and validly submits
8 a Request for Exclusion, as set forth herein, his or her portion of
9 the NSA plus all required amounts that Defendant would have had
10 to separately pay for employer-side payroll tax payments (e.g.,
11 FICA, FUTA, etc.) in connection with the amounts allocated to
12 wages will be retained by Defendants.

13 **5.2** Payments to Class Members pursuant to this Settlement Agreement will
14 not be construed as compensation for purposes of determining eligibility for or benefit
15 calculations of any health and welfare benefit plan, retirement benefit plan, vacation
16 benefit plan, unemployment compensation, including, without limitation, all plans,
17 subject to Employee Retirement Income Security Act ("ERISA"). The Parties agree these
18 payments do not represent any modification of any employee's previously-credited hours
19 of service or other eligibility criteria under any employee pension benefit plan, employee
20 welfare benefit plan, or other program or policy.

21 **6. Attorneys' Fees and Costs.**

22 Class Counsel shall file a motion for attorneys' fees and costs contemporaneous with the
23 motion for the final approval, requesting an award of attorneys' fees and litigation costs and
24 expenses that is equal to or less than \$385,000.00 (i.e., 35% of the GSA) for attorneys' fees and
25 up to \$45,000.00 for reimbursement of litigation costs and expenses. Defendants agree to not
26 oppose Class Counsel's request for attorneys' fees and litigation costs and expenses if sought in
27 conformity with this Subsection; Defendants retain the right to oppose a request for attorneys'
28 fees exceeding 35% of the GSA or a request for litigation costs and expenses in excess of

1 \$45,000.00. The terms of this Settlement Agreement will not be abrogated and will continue in
2 full force even if the Court awards a lower amount of attorneys' fees or costs than requested by
3 Class Counsel. However, Class Counsel retains the right to appeal any such reductions, but such
4 an appeal will delay Defendants' obligation to make all payments set forth in this Settlement
5 Agreement. Any unapproved amount of attorneys' fees and litigation costs and expenses, will
6 be added to the Net Settlement Amount and be distributed to the Settlement Class Members as
7 described in this Settlement Agreement.

8 **7. Service Award.**

9 Class Counsel shall file a motion requesting an Service Award for Plaintiff to which
10 Defendants agree not to object, of no more than \$8,000 from the GSA in consideration for
11 serving as Class Representative. Defendants retain the right to object to a request for a Service
12 Award in excess of this amount. Should the Court approve a Service Award in an amount less
13 than that set forth herein, the unapproved portion or portions will be added to the NSA.

14 **8. PAGA Settlement Provisions.**

15 **8.1** Parties acknowledge and agree that the settlement of PAGA claims is
16 subject to approval by the Court, and that a judgment in an action brought under PAGA
17 binds nonparty employees as well as the government, pursuant to California Labor Code
18 section 2699(l) and *Arias v. Superior Ct.* (2009) 46 Cal. 4th 969. Subject to approval by
19 the Court, the Parties agree that the amount of Eleven Thousand Dollars (\$11,000) of the
20 Gross Settlement Amount ("PAGA Settlement Amount") will be allocated to the
21 resolution of PAGA claims. Pursuant to PAGA, 75%, or Eight Thousand Two Hundred
22 Fifty Dollars (\$8,250), of the PAGA Settlement Amount will be paid to the California
23 Labor and Workforce Development Agency, and 25%, or Two Thousand Seven Hundred
24 Fifty Dollars (\$2,750), of the PAGA Settlement Amount will be part of the Net Settlement
25 Amount available for distribution to Settlement Class Members.

26 **8.2** Plaintiff also agrees to update the LWDA with notice of the inclusive dates
27 of this Settlement Agreement.

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1 **8.3** This Settlement Agreement is contingent on the approval and effectuation
2 of the resolution of PAGA claims.

3 **8.4** The Settlement will not constitute, in this or any other proceeding, an
4 admission of any kind by Defendants, including without limitation, that representative
5 treatment is proper or that Plaintiff could establish any of the requisite elements for
6 representative treatment of any of the claims in the Action. In the event that the
7 Settlement is not finally approved, or the Settlement is otherwise terminated, Defendants
8 expressly reserve all rights to challenge that this should be a representative action on all
9 available grounds.

10 **8.5** The Parties agree that if the Settlement does not receive final approval,
11 Defendants do not agree that Plaintiff has the ability or standing to pursue claims under
12 PAGA beyond those detailed in his original PAGA notice letter to the LWDA, and the
13 Parties agree that they will revert to their positions under the original PAGA notice letter.
14 Defendants further do not waive any argument to later challenge the sufficiency of
15 Plaintiff's original PAGA notice letter by signing this Settlement Agreement.

16 **9. Costs of Settlement Administration.**

17 The Parties have mutually agreed to the selection of Simpluris, Inc. ("Settlement
18 Administrator"), to undertake the administration of the Settlement in this Action. The
19 administration duties include, without limitation, the following: establishing and maintaining a
20 qualified settlement account for the NSA, obtaining tax identification number(s) for Defendants
21 applicable to the Settlement, calculating the Class Member Payments, performing an initial
22 National Change of Address (NCOA) search upon receipt of the Class Member mailing
23 addresses, mailing the Class Notices, performing one skip trace on Class Notices which are
24 returned as undeliverable, reviewing and processing Requests for Exclusion, disputes, and
25 objections, mailing the Class Members Payments and tax forms to the Settlement Class
26 Members, and setting up a static website regarding the Settlement. The Settlement
27 Administrator will report payment of the individual Class Member Payments to all required
28 taxing and other authorities, take appropriate withholdings, forward payments for withholdings

1 and issue Internal Revenue Service Forms W-2 and 1099. The Settlement Administrator will
2 establish a Qualified Settlement Fund ("QSF"), pursuant to section 468B(g) of the Internal
3 Revenue Service for the purposes of administering the Settlement. The Parties estimate that the
4 costs and expenses of administration of the settlement will not exceed \$18,500, and these costs
5 and expenses will be paid from the GSA, subject to approval of the Court.

6 **10. Payment Procedure.**

7 **10.1 Funding the Settlement:** Within twenty (20) calendar days after the Final
8 Effective Date of this Settlement Agreement, Defendants will deposit money into an
9 account, through the Settlement Administrator, in an amount equal to the GSA, minus
10 any amounts of the NSA that would have been allocated to Class Members who timely
11 and validly submitted a Request for Exclusion plus Defendants' portion of payroll taxes
12 in connection with the wages portion of the NSA.

13 **10.2 Payments to Settlement Class Members, Class Counsel, Class**
14 **Representative, the LWDA, and Taxing Authorities:** Within thirty (30) calendar days
15 after the Final Effective Date, the Settlement Administrator will pay, subject to approval
16 by the Court: (a) the NSA to the Settlement Class Members per the terms of this
17 Settlement Agreement and the Final Approval Order and Judgment; (b) attorneys' fees
18 and litigation costs and expenses to Class Counsel; (c) Settlement Administration Costs
19 to the Settlement Administrator; (d) all applicable tax withholdings to the appropriate
20 taxing authorities; (e) the Service Awards to the Class Representative; and (f) the LWDA
21 Payment to the proper authority.

22 **10.3 Uncashed Class Payment Checks:** Class Member Payments will be
23 calculated in conformity with Section 5 and issued by way of check ("Class Member
24 Payment Check"). Class Member Payment Checks that are not cashed within one
25 hundred and eighty (180) calendar days from the date of issuance by the Settlement
26 Administrator, will be cancelled. Class Members whose Class Member Payment checks
27 are not timely cashed and which are cancelled, will be deemed to have irrevocably waived
28 any right in or claim to any payment under the Settlement, but the settlement and their

1 release of Released Claims will remain binding upon them. The value of the cancelled
2 Class Member Payment checks will be transmitted in conformity with California Civil
3 Procedure Code section 384, to Legal Aid at Work.

4 **11. Tax Treatment.**

5 **11.1 Tax Treatment of Class Member Payments:** Thirty percent of each Class
6 Member Payment will be allocated as wages ("wage portion"), while fifty percent will be
7 allocated as penalties and interest and twenty percent will be allocated as reimbursements
8 of alleged non-wage expenses (collectively, "non-wage portion"). The wage portion will
9 be reported on IRS Form W-2 and subject to reduction for the employee's share of taxes
10 and withholding, and the non-wage portion will be reported on IRS Form 1099 (if
11 required).

12 **11.2 Employer's Portion of Payroll Taxes:** Defendants shall pay the employer's
13 portion of payroll taxes with respect to the wage portion of Class Member Payments
14 separately and in addition to the GSA.

15 **11.3 Tax Treatment of Service Award:** Plaintiff will receive an IRS Form 1099
16 for his individual Service Award and will be responsible for payment of any taxes owing
17 on said amount.

18 **11.4 Tax Treatment of Attorneys' Fees and Cost Award:** Class Counsel will
19 receive an IRS Form 1099 for any amount awarded to Class Counsel in the form of
20 attorneys' fees or costs and will be responsible for payment of any taxes owing on said
21 amount.

22 **11.5 No Tax Advice:** Defendants are not giving any tax advice in connection
23 with the settlement or any payments to be made pursuant to this settlement. Each
24 Settlement Class Member agrees to indemnify, and hold harmless Defendants from any
25 liability for taxes, fees, costs, or assessments resulting from his or her failure to timely
26 pay his or her share of taxes, interest, fees, or penalties owed.

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1 **12. Resolution of Disputes Relating Work Weeks.**

2 If a Class Member timely disputes the number of Work Weeks listed on his or her Class
3 Notice, the Parties' counsel will make a good faith effort to resolve the dispute informally. If
4 counsel for the Parties cannot agree, the dispute will be submitted to the Settlement
5 Administrator, who will examine the records and either verify the calculation or provide a
6 corrected calculation. If a Class Member disputes the number of Work Weeks, he or she must
7 do so in writing that is submitted to the Settlement Administrator, postmarked on or before the
8 Response Deadline. The dispute must contain: the Class Member's full name, address,
9 signature, and last four digits of his or her Social Security number; the case name and number
10 of the Action; a clear statement indicating that he or she disputes the number of Work Weeks
11 credited to him or her; and facts supporting the Class Member's dispute, along with any
12 supporting materials confirming that the Work Weeks credited to him or her are incorrect. In
13 any event, the Settlement Administrator will make every effort to resolve any such disputes prior
14 to final approval of this Settlement Agreement. The Settlement Administrator's determination
15 of disputes under this Subsection will be final.

16 **13. Non-Materiality of Attorneys' Fees, Costs and Enhancement Awards.**

17 The attorneys' fees and litigation costs and expenses to Class Counsel, Settlement
18 Administration Costs, and Service Award provided by this Settlement, will be awarded at the
19 discretion of the Court, provided that they do not exceed the amounts listed in this Settlement
20 Agreement. The Parties agree that the provisions of Sections 6, 7, and 9 of this Settlement
21 Agreement are severable from the remainder of the Settlement Agreement. Any denial or
22 reduction in amount by the Court of the application for attorneys' fees and litigation costs and
23 expenses, Service Award, and/or Settlement Administration Costs will in no way affect the
24 validity and effect of the remainder of this Settlement Agreement, or give rise to a right to
25 abrogate this Settlement Agreement.

26 **14. Release.**

27 In exchange for the consideration set forth in this Settlement Agreement, Plaintiff and
28 the Settlement Class Members agree to release all claims as set forth herein.

1 **14.1** Upon the Effective Date, Plaintiff on his own individual behalf agrees to
2 generally release Defendants, and any of their parents, affiliates, subsidiaries, divisions,
3 predecessors, successors, and assigns, and each of their officers, directors, board
4 members, trustees, shareholders, employees, agents, attorneys, auditors, accountants,
5 stockholders, representatives, partners, insurers, reinsurers, and other persons acting on
6 their behalf, and each of them (collectively, the "Released Parties"), from any and all
7 causes of action, claims, rights, damages, punitive or statutory damages, penalties,
8 liabilities, expenses, and losses and issues of any kind or nature whatsoever, that Plaintiff
9 has or may have had against any of the Released Parties. Plaintiff acknowledges that he
10 may have claims that are presently unknown and that the release contained in this
11 Settlement Agreement is intended to and will fully, finally, and forever discharge all
12 claims against the Released Parties, whether now asserted or un-asserted, known or
13 unknown, suspected or unsuspected, which now exist, or heretofore existed or may
14 hereafter exist, which if known, might have affected his decision to enter into this release.
15 In making this waiver, Plaintiff agrees that, although he may discover facts in addition to
16 or different from those that are currently known or believed to be true with respect to the
17 Released Claims, it is his intention to fully, finally, and forever settle and release any and
18 all Released Claims, known or unknown, suspected or unsuspected, which now exist, or
19 heretofore existed, or may hereafter exist, and without regard to the subsequent discovery
20 or existence of such additional or different facts. The foregoing waiver includes, without
21 limitation, an express waiver, as to the Released Claims, to the fullest extent permitted by
22 law, by Plaintiff of any and all rights under California Civil Code section 1542, which
23 provides:

24 "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
25 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
26 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
27 KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS OR HER
28 SETTLEMENT WITH THE DEBTOR."

1 **14.2** Plaintiff warrants and represents that he has not assigned or, transferred,
2 to any person or entity any of the Released Claims or any rights, claims, or causes of
3 action arising out of the Released Claims. In addition, Plaintiff shall defend, hold
4 harmless, and indemnify the Released Parties, or any of them, from and against any
5 claims, damages, litigation, causes of action, and expenses, including reasonable
6 attorneys' fees, resulting from any breach by Plaintiff of this warranty and representation,
7 or any breach by Plaintiff of his release of the Released Claims.

8 **14.3** Upon the Effective Date, all Settlement Class Members hereby release and
9 discharge Released Parties, from any and all claims, rights, demands, liabilities and causes
10 of action of every nature and description, whether known or unknown, that were or could
11 have been brought based on the facts or claims alleged in the Complaint, arising during the
12 period from January 26, 2012 to the date on which the Court grants preliminary approval
13 of the Settlement. The claims released by the Settlement Class Members include, but are
14 not limited to, statutory, constitutional, contractual or common law claims for wages,
15 damages, unpaid costs or expenses, penalties, liquidated damages, punitive damages,
16 interest, attorneys' fees, litigation costs, restitution, or equitable relief, arising out of or
17 based upon the following categories of allegations regardless of the forum in which they
18 may be brought, to the fullest extent such claims are releasable by law: (a) all claims for
19 failure to pay wages, including overtime premium pay and the minimum wage; (b) all
20 claims for the failure to provide meal and/or rest periods in accordance with applicable law,
21 including all payments for non-compliant meal and/or rest periods and alleged non-payment
22 of premium pay for non-compliant meal and/or rest periods; (c) any and all claims for
23 recordkeeping, payroll, or pay stub violations; (d) failure to timely pay wages during
24 employment and upon separation and all associated waiting time penalties; (e) any and all
25 claims for failure to reimburse business expenses under California Labor Code section
26 2802; (f) and all other civil and statutory penalties, including those recoverable under the
27 Private Attorneys General Act, California Labor Code section 2698 *et seq.* based on the
28 facts or claims alleged in the Complaint in the Action (collectively, "Released Claims").

1 The Released Claims include without limitation claims meeting the above definition(s),
2 based on the facts or claims alleged in the Complaint in the Action, under any and all
3 applicable statutes, including without limitation any provision of the California Labor Code,
4 California Bus. & Prof. Code sections 17200 *et seq.*, and any provision of the applicable
5 California Industrial Welfare Commission Wage Orders.

6 **14.4 Prohibition on Subsequent Assertion of Released Claims.** As of the
7 Effective Date, Plaintiff, will be prohibited from asserting any claims released under
8 Sections 14.1 and 14.2 above, and from commencing, joining in, or voluntarily assisting
9 in a lawsuit or adversary proceeding against the Released Parties for any such claims. As
10 of the Effective Date, to the fullest extent allowed by law, all Settlement Class Members
11 will be prohibited from asserting any claims released under Section 14.2 above, and from
12 commencing, joining in, or voluntarily assisting in a lawsuit or adversary proceeding
13 against the Released Parties for any such claims. Excluded from this prohibition are any
14 instances where any individual is legally compelled to testify through service of a
15 subpoena or other process.

16 **15. Class Settlement Notice and Settlement Administration.**

17 **15.1 Engagement of Settlement Administrator.** The Parties agree to
18 mutually select a Settlement Administrator, subject to approval by the Court, to perform
19 the notice and other settlement administration functions set forth herein.

20 **15.1.1** The Settlement Administrator shall provide Defendants' counsel
21 and Class Counsel with weekly summary reports, including the
22 total number of Class Notices that were returned as undeliverable,
23 the total number of objections, disputes regarding Work Weeks,
24 and/or Requests for Exclusion, and the amounts remitted the
25 LWDA as addressed herein. The Settlement Administrator shall
26 maintain records of its work, which will be available for inspection
27 upon request by Defendants' counsel or Class Counsel.

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1 **15.1.2** Should the selected Settlement Administrator be unable or
2 unwilling to serve, the Parties will meet and confer to select an
3 alternate mutually agreeable Settlement Administrator.

4 **15.2 Identification of Class Members.**

5 **15.2.1** Within fifteen (15) calendar days of the entry of the order granting
6 preliminary approval of the Settlement ("Preliminary Approval
7 Order"), Defendants shall provide the Settlement Administrator
8 with the following information ("Class Data List"):

- 9 (a) the names, employment identification number, last known
10 addresses, last known telephone numbers, and Social
11 Security numbers of each Class Member; and
12 (b) the start and end dates of active employment of each Class
13 Member as a non-exempt, hourly employee in California
14 during the Class Period.

15 **15.2.2** Upon its receipt of the Class Data List, the Settlement
16 Administrator shall access the National Change of Address
17 ("NCOA") Database, and update the addresses contained therein.

18 **15.2.3** The Settlement Administrator shall provide the Class Notice by
19 bulk first class mail, forwarding requested, to the Class Members
20 at the addresses identified through the process described above.

21 **15.2.4** As to any Class Notices that are returned as undeliverable within
22 ten (10) calendar days after the date of the initial mailing of the
23 Class Notice, or where the NCOA Database indicates that the last
24 known address of any Class Member is invalid or otherwise
25 undeliverable, the Settlement Administrator will perform a skip
26 trace procedure. Such skip-trace procedure will be performed
27 within seven (7) calendar days of the date on which the Settlement
28 Administrator is informed that a Class Notice is undeliverable or

1 otherwise invalid. If this procedure reveals a new address, the
2 Settlement Administrator will, within five (5) business days
3 thereafter, re-mail the Class Notice to any new address that is
4 allocated for the Class Member whose notice was undeliverable.

5 **15.2.5** If Defendants and the Settlement Administrator determine, based
6 upon further review of available data, that a person previously
7 identified as being a Class Member should not be so included or
8 identify a person who should have been included as a Class
9 Member but was not so included, Defendants and the Settlement
10 Administrator shall immediately notify Class Counsel and Parties
11 shall meet and confer to mutually determine whether it is
12 appropriate to delete or add such person.

13 **15.2.6** Other than the obligations set forth in this Settlement Agreement,
14 Parties will have no additional obligation to identify or locate any
15 Class Member.

16 **15.2.7** Parties will not be responsible for nor have any liability in
17 connection with the provision of Class Member data to the
18 Settlement Administrator, outside of the obligations set forth in the
19 Settlement Agreement. The Settlement Administrator and all those
20 working through, in concert with, or on behalf of the Settlement
21 Administrator, shall be obligated to take all reasonable steps to
22 maintain the confidentiality of Class Member information and to
23 carry out the other duties enumerated in the Settlement Agreement,
24 including calculating each Class Member's potential share of the
25 Settlement.

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1 **15.3 Class Notice and Notification of Work Weeks.**

2 **15.3.1** The Class Notice will be a pre-printed notice, in substantially the
3 form attached hereto as **Exhibit A** and to be approved by the Court.
4 In addition to other information contained on the Class Notice, the
5 Class Notice will state the number of Work Weeks that the Class
6 Member worked as a non-exempt, hourly employee in California
7 during the Class Period for Defendants, according to Defendants'
8 records. The Class Notice also will include an explanation of the
9 *pro rata* distribution formula used to determine the share of the Net
10 Settlement Amount that he or she may be entitled to receive under
11 the Settlement.

12 **15.3.2** The Class Notice will state that, if the Class Member disagrees with
13 the Work Weeks, the Class Member must submit a dispute in
14 conformity with Section 12 herein. Failure to submit written
15 documentation to support such dispute will mean that Defendants'
16 numbers from its records will be controlling.

17 **16. Objections to the Settlement.**

18 Any Class Member who does not request exclusion from the Settlement (i.e. Settlement
19 Class Members) may object to the Settlement Agreement. The Class Notice will provide that
20 Settlement Class Members who wish to object to the Settlement must file with the Court and
21 serve on the Settlement Administrator, not later than forty-five (45) calendar days from the date
22 of the initial mailing of the Class Notice to the Class Member ("Response Deadline"), a written
23 statement objecting to the Settlement. The written objection must contain: the Class Member's
24 full name, address, the case name and number of the Action, and a clear statement of the basis
25 for his or her objection. The Settlement Administrator shall immediately send all objections to
26 counsel for Defendants and Class Counsel.

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1 **17. Right to Request Exclusion.**

2 **17.1** Any Class Member may elect to opt out of the Settlement by submitting a
3 written Request for Exclusion from the Settlement to the Settlement
4 Administrator, postmarked no later than the Response Deadline. The
5 Request for Exclusion must contain the following: the Class Member's full
6 name, signature, address, the case name and number of the Action; and a
7 clear statement that he or she seeks to be excluded from the Settlement.
8 The Settlement Administrator shall immediately send all Requests for
9 Exclusion to Defendants' counsel and Class Counsel. A Class Member
10 who fails to comply with the opt out procedure set forth herein on or before
11 the Response Deadline, as set by the Court, will not be excluded and will
12 instead be bound by all provisions of the Settlement Agreement and all
13 orders issued pursuant thereto.

14 **17.2** Any Class Member who elects to opt out of the Class in the manner and
15 within the time limits specified above and in the Class Notice: (1) will not
16 have any rights under the Settlement Agreement; (2) will not be entitled to
17 receive any compensation under the Settlement Agreement; (3) will not
18 have standing to submit any objection to the Settlement Agreement; and
19 (4) will not be bound by the Settlement Agreement.

20 **17.3** Except for persons who elect to opt out of the Settlement in the manner
21 and within the time limits specified above, in the Preliminary Approval
22 Order, and in the Class Notice, all Class Members, will be deemed to be
23 within the Class for all purposes under this Settlement Agreement, will be
24 bound by the terms and conditions of this Settlement Agreement
25 (including the release provisions in Section 14 and its subparts), including
26 all orders issued pursuant thereto, and will be deemed to have waived all
27 unstated objections and opposition to the fairness, reasonableness, and
28 adequacy of this Settlement Agreement, and any of its terms.

1 **17.4** If the Settlement Agreement is given final approval, it will operate as a
2 full, complete, and final release of all the Released Claims of the Class
3 Representative and all Settlement Class Members, and as an effective
4 covenant not to sue.

5 **18. Application for Preliminary Approval Order.**

6 **18.1** After the Parties' execution of this Settlement Agreement, the Plaintiff
7 shall file a motion for preliminary approval of the Settlement, requesting a Preliminary
8 Approval Order that contains the following provisions:

9 **18.1.1** preliminarily approving the Settlement Agreement and its terms;

10 **18.1.2** preliminarily approving the Class for settlement purposes only;

11 **18.1.3** approving the form of the Class Notice, and finding that the
12 proposed method of disseminating the Class Notice meets the
13 requirements of due process and is the best notice practicable under
14 the circumstances;

15 **18.1.4** establishing the procedures and the deadline by which Settlement
16 Class Members may assert objections to the Settlement, seek
17 exclusion from the Settlement, and/or dispute Work Weeks that
18 have been credited to them under the Settlement;

19 **18.1.5** establishing a deadline for the Parties to submit papers/briefing in
20 response to any objections and in support of final approval of the
21 Settlement Agreement; and

22 **18.1.6** setting a date for the Final Approval Hearing.

23 **18.2** As soon as possible, Class Counsel will provide additional notice to the
24 LWDA advising it of the Settlement of the PAGA claims. Also, concurrent with the filing
25 of the motion for preliminary approval of the Settlement, Class Counsel will submit this
26 Settlement Agreement to the LWDA.

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1 **18.3** Counsel for Defendants will be given an opportunity to comment on the
2 motion for preliminary approval of the Settlement prior to its being filed with the Court,
3 and such comments will be implemented to the extent reasonable. On the same day that
4 the motion for preliminary approval of the Settlement is filed with the Court, Class
5 Counsel will submit the motion and this Settlement Agreement to the LWDA.

6 **19. Final Approval Order and Judgment.**

7 **19.1** If the Settlement is preliminarily approved by the Court, the Parties shall
8 thereafter request that the Court enter an order granting final approval of the Settlement
9 and judgment based thereon ("Final Approval Order and Judgment"), which includes
10 the following provisions:

11 **19.1.1.** confirming certification of the Class for settlement purposes only;

12 **19.1.2.** finding that the dissemination of the Class Notice in the form and
13 manner ordered by the Court was accomplished as directed, met
14 the requirements of due process; and

15 **19.1.3.** finally approving the Settlement Agreement and the Settlement as
16 fair, reasonable and adequate and directing consummation of the
17 Settlement in accordance with its terms and provisions.

18 **19.2** The Judgment will include the following provisions:

19 **19.2.1** directing the Parties to implement the terms of the Settlement
20 Agreement;

21 **19.2.2** releasing and discharging the Released Parties from any and all
22 liability with respect to the Released Claims as hereinabove
23 provided;

24 **19.2.3** resolving and settling all the Released Claims by the Class
25 Representative and all Settlement Class Members, as herein above
26 provided, with the release precluding them from instituting,
27 commencing, or continuing to prosecute, directly or indirectly, as
28 an individual or collectively, representatively, derivatively, or on

1 behalf of himself or herself, or in any other capacity of any kind
2 whatsoever, any action in this Court, any other state court, or any
3 arbitration or mediation proceeding or any other similar
4 proceeding, against any of the Released Parties, that asserts any
5 Released Claims.

6 **19.2.4** awarding reasonable attorneys' fees and litigation costs and
7 expenses to Class Counsel as determined by the Court;

8 **19.2.5** awarding a Service Award to the Class Representative as
9 determined by the Court;

10 **19.2.6** awarding Settlement Administration Costs to the Settlement
11 Administrator as determined by the Court;

12 **19.2.7** providing that any portion of the NSA attributable to Class
13 Members who validly and timely submit a Request for Exclusion
14 remains the exclusive property of Defendants;

15 **19.2.8** approving the resolution of the PAGA claims and payment of the
16 PAGA penalties to the LWDA and the Settlement Class Members;
17 and

18 **19.2.9** preserving continuing and exclusive jurisdiction over all matters
19 related to the administration and consummation of the terms of this
20 Settlement and enforcement of the Judgment.

21 **19.3** Counsel for Defendants will be given an opportunity to comment on the
22 motion for final approval of the Settlement prior to its being filed with the Court, and such
23 comments will be implemented to the extent reasonable. On the same day that the motion
24 for final approval of the Settlement is filed with the Court, Class Counsel will also submit
25 the motion to the LWDA.

26 **19.4** Within ten (10) calendar days of the entry of the Judgment, Class Counsel
27 will submit a copy of the Court's Final Approval Order and Judgment to the LWDA.

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1 **20. Effect of Settlement Not Being Final.**

2 In the event that the Settlement does not become final then the Settlement Agreement
3 will become null and void, and all negotiations, proceedings, and statements relating thereto will
4 be without prejudice as to the rights of any and all Parties hereto, and all Parties and their
5 respective predecessors and successors will be deemed to have reverted to their respective
6 positions in the Action as of the date and time immediately prior to the execution of this
7 Settlement Agreement. If the Court does not approve either preliminarily or finally any material
8 term or condition of the Settlement Agreement, or if the Court effects a material change to the
9 parties' settlement, then this entire Settlement Agreement will be, at the Parties' discretion,
10 voidable and unenforceable.

11 **21. Tolerance of Requests for Exclusion.**

12 Notwithstanding any other provision of this Settlement Agreement, Defendants will
13 retain the right, in the exercise of their sole discretion, to nullify the Settlement within fifteen
14 (15) calendar days after expiration of the Response Deadline, if more than five percent (5%) of
15 Class Members or Class Members whose collective shares of the NSA exceed five percent (5%)
16 of the NSA submit valid and timely Requests for Exclusion. If Defendants exercise this right,
17 the parties will split the costs of administration incurred as of that date.

18 **22. No Admissions.**

19 The Parties understand and agree that this Settlement Agreement is the result of a good
20 faith compromise settlement of disputed claims, and no part of this Settlement Agreement or
21 any conduct or written or oral statements made in connection with this Settlement and this
22 Settlement Agreement, whether or not the Settlement is finally approved and/or consummated,
23 may be offered as or construed to be an admission or concession of any kind by Defendants, or
24 any of the Releasing or Released Parties.

25 **23. Avoidance of Undue Publicity.**

26 The Parties and their counsel agree that they will not issue any press releases, initiate
27 any contact with the press, respond to any press inquiry or have any communication with the
28 press about the fact, amount, or terms of the Settlement. If counsel for either party receives an

1 inquiry about the Settlement from the media, counsel may respond only after the motion for
2 preliminary approval has been filed and only by confirming the accurate terms of the Settlement.
3 Nothing in this provision will prevent Defendants from making any required disclosure, and
4 nothing in this provision will prevent Class Counsel from making any required disclosure under
5 the PAGA.

6 **24. Extensions of Time.**

7 Without further order of the Court, the Parties hereto may agree in writing to reasonable
8 extensions of time to carry out any of the provisions of the Settlement, except, where an
9 extension will require the Final Approval Hearing to be re-scheduled, the Parties will seek
10 approval of the Court

11 **25. Construction.**

12 This Settlement Agreement was entered into after substantial good faith, arm's-length
13 negotiations between the Parties. This Settlement Agreement has been entered into without any
14 coercion and under no duress. The Parties acknowledge and agree that all Parties had an equal
15 hand in drafting this Settlement Agreement so that it will not be deemed to have been prepared
16 or drafted by one party or another.

17 **26. Due Authority of Attorneys.**

18 Each of the attorneys executing this Settlement Agreement on behalf of one or more
19 Parties hereto warrants and represents that he or she has been duly authorized and empowered
20 to execute this Settlement Agreement on behalf of each such respective Party and to bind them
21 to the terms hereof.

22 **27. Entire Agreement.**

23 This Settlement Agreement (including all Exhibits hereto) sets forth the entire agreement
24 of the Parties with respect to its subject matter and supersedes any and all other prior agreements
25 and all negotiations leading up to the execution of this Settlement Agreement, whether oral or
26 written, regarding the subjects covered herein. The Parties acknowledge that no representations,
27 inducements, warranties, promises, or statements relating to the subjects covered herein, oral or
28

otherwise, have been made by any of the Parties which are not embodied or incorporated by reference herein.

28. Modification or Amendment.

This Settlement Agreement may not be modified or amended except in a writing signed by all signatories hereto or their attorneys or their successors in interest.

29. Successors.

This Settlement Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and assigns, and upon any corporation, partnership or other entity into or with which any Party hereto may merge, combine, or consolidate.

30. Counterparts.

This Settlement Agreement may be executed in counterparts, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

31. Waivers.

The waiver by any Party of any breach of this Settlement Agreement will not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

32. Governing Law.

This Settlement Agreement will be governed by and construed, enforced, and administered in accordance with the internal laws of the State of California.

33. Headings.

The headings contained in this Settlement Agreement are for convenience and reference purposes only, and will not be given weight in its construction.

34. Notices.

Any notices, requests, demands, or other communications required or permitted to be given pursuant to this Settlement Agreement, other than the contemplated Class Notice to the Class Members, must be in writing and mailed as follows:

///

34.2 To Defendants and counsel for Defendants, to the attention of Coby M. Turner, Esq., Seyfarth Shaw LLP, 400 Capitol Mall, Suite 2350, Sacramento, California 95814; Telephone: (916) 498-7001.

Plaintiff and Proposed Class Representative

**Intertek Testing Services N.A., Inc., and
Intertek USA, Inc.**

**Counsel for Plaintiff and
Proposed Class Counsel**

Counsel for Defendants

47562904v.1

EXHIBIT A

[EXHIBIT A]

NOTICE OF SETTLEMENT OF CLASS ACTION AND SETTLEMENT HEARING

Quentin Costeiu, v. Intertek Testing Services N.A., Inc. and Intertek USA, Inc.,
Superior Court of California, County of Sacramento
Case No. 34-2016-00189662

To: All current or former hourly-paid or non-exempt employees who worked for Intertek Testing Services N.A., Inc. and/or Intertek USA, Inc. (collectively "Intertek" or "Defendants") in California at any time from January 26, 2012 to [Preliminary Approval date]:

THIS NOTICE is designed to advise you of a proposed settlement of a class action lawsuit and an announcement of a court hearing that you may choose to attend. Your rights may be affected by the legal proceedings in this action. The Superior Court of California, County of Sacramento ("Court" or "Sacramento County Superior Court") will conduct a hearing on [Final Approval Hearing date] to address whether the proposed settlement should be approved. You may be entitled to receive a payment under the terms of this class action settlement contained in the Settlement Agreement.

IDENTIFYING INFORMATION: you have been identified as a Class Member in the above lawsuit. Your eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTION IN THIS SETTLEMENT	
DO NOTHING	If you do nothing you will receive a payment under this Settlement and you will give up your right to sue Defendants and the Released Parties for any of the Released Claims set forth below.
EXCLUDE YOURSELF	If you request exclusion from this Settlement, you will not be entitled to receive any compensation under the Settlement and will not be bound by the Settlement, including the release of the Released Claims.
OBJECT	As long as you do not request exclusion from the Settlement, you can write to the Court and the parties about why you do not like the Settlement. If you object to the Settlement, you will still be bound by the Settlement if it is granted final approval by the Court.
GO TO THE FINAL APPROVAL HEARING	You may appear at the Final Approval Hearing on [Final Approval Hearing date] at Sacramento County Superior Court, Gordon D. Schaber Courthouse, located at 720 9th Street, Sacramento, California 95814 in Department [] on [date] at [time] to speak to the Court about the Settlement.

I. Why should I read this Notice?

Plaintiff and Defendants (collectively the "Parties") have proposed to settle this class action lawsuit. Defendants' records indicate that you may be a member of the Class. If the Court approves the proposed Settlement, your legal rights may be affected. This Notice, which has been approved by the Court, is only a summary of your rights and options under the Settlement.

II. What is this lawsuit about?

A lawsuit entitled *Quentin Costeiu v. Intertek Testing Services NA, Inc., et al.* is now pending in the Superior Court of California, County of Sacramento, Case No. 34-2016-00189662 ("Action"). Plaintiff Quentin Costeiu ("Plaintiff") has alleged claims against Intertek under the California Labor Code and California Business & Professions Code. Plaintiff seeks to bring this Action as a class action and representative action on behalf of himself and other similarly situated current and former non-exempt or hourly-paid Intertek employees in California.

Plaintiff alleges that with respect to non-exempt and hourly-paid employees, Defendants failed to properly pay all minimum or overtime wages, timely pay all wages at termination and during employment, provide compliant meal and rest periods and pay associated premium pay, provide compliant wage statements, maintain requisite payroll records, and that they failed to reimburse business-related expenses, and that Defendants thereby violated the California Business & Professions Code, the California Labor Code, and § 2698, *et seq.*, Private Attorneys General Act of 2004 ("PAGA").

Plaintiff's Class Action Complaint for Damages & Enforcement under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. and Demand for Jury Trial ("Complaint") alleges the following causes of action: (1) Failure to pay overtime (Cal. Labor Code

sections 510 and 1198); (2) Failure to provide compliant meal periods and associated premiums (Cal. Labor Code sections 226.7 and 512(a)); (3) Failure to provide compliant rest breaks and associated premiums (Cal. Labor Code section 226.7); (4) Failure to pay minimum wages (Cal. Labor Code sections 1194, 1197, 1197.1); (5) Failure to timely pay wages upon termination (Cal. Labor Code sections 201 and 202); (6) Failure to timely pay wages during employment (Cal. Labor Code section 204); (7) Failure to provide compliant wage statements (Cal. Labor Code section 226(a)); (8) Failure to keep requisite payroll records (Cal. Labor Code section 1174(d)); (9) Failure to reimburse necessary business expenses (Cal. Labor Code sections 2800 and 2802); (10) Violation of Cal. Business & Professions Code §§ 17200, *et seq.*; and (11) Violation of Cal. Labor Code §§ 2698 *et seq.* (PAGA). Plaintiff seeks a monetary recovery on behalf of the putative class for the alleged violations, along with interest, costs and fees.

Intertek contends that it has complied with all laws and denies all of the allegations Plaintiff is asserting in this Action. The Court has not formed any opinions concerning the merits of the Action, and the Court has not ruled for or against Plaintiff as to the merits of any of his individual or class or representative claims.

III. Who is covered by the class action lawsuit and the proposed Settlement?

A. The Class. On [Preliminary Approval date], the Court granted preliminary approval of the Settlement, authorized this Notice to be sent to you and the Class, preliminarily appointed Plaintiff Quentin Costeu as the Class Representative, appointed Simpluris, Inc. as the Settlement Administrator, and preliminarily appointed Plaintiff's Counsel, the law firm of Lawyers for Justice, PC, as Class Counsel. The Court also conditionally certified the following Class: all current and former hourly-paid or non-exempt employees who worked for Defendants within the State of California at any time during the period between January 26, 2012 and [Preliminary Approval date].

B. The Effect of Membership in the Class. If you come within the definition of the Class, you are a Settlement Class Member unless you exclude yourself from the Class by following the procedures for exclusion that are set forth in this Notice. Settlement Class Members (i.e., Class Members who do not request exclusion from the Settlement) are eligible to receive a monetary settlement payment under the Settlement and will be bound by the Settlement if it is approved by the Court. Persons who properly exclude themselves from the Settlement, as detailed in this Notice, will not be bound by the Settlement and will not share in the proceeds of the Settlement, but may pursue their own timely individual claims against Intertek Testing Services NA, Inc. and/or Intertek USA, Inc., if they choose.

IV. What are the terms of the Settlement?

The Settlement was negotiated between the Parties. Class Counsel believes that this Settlement is in the best interest of the members of the Class. As part of the Settlement, the Parties have agreed to the following:

A. Monetary Compensation

- Defendants have agreed to pay a maximum total amount of \$1,100,000 (the "Gross Settlement Amount") for the Settlement of the Action. The amount available to be paid to the Class Members (the "Net Settlement Amount"), is the Gross Settlement Amount less amounts awarded by the Court for Attorneys' Fees and Litigation Costs and Expenses to Class Counsel, Settlement Administration Costs to the Settlement Administrator, Service Award to the Class Representative, and payment to the California Labor Workforce Development Agency ("LWDA") of its portion of penalties allocated to penalties under PAGA ("LWDA Payment"). Settlement Class Members are not required to submit a claim form in order to receive payment from the Net Settlement Amount. The portions of the Net Settlement Amount allocated to Class Members who request exclusion from the Gross Settlement Amount will be retained by Defendants, as those individuals will not be releasing any claims in the Settlement.
- Each Class Member's proportional share of the Net Settlement Amount ("Class Member Payment") will be determined by dividing the number of weeks worked by the Class Member during the period between January 26, 2012 and [Preliminary Approval date] as a non-exempt hourly employee in California ("Work Weeks"), by the Work Weeks worked by all Class Members, multiplied by the Net Settlement Amount. According to Intertek's records, you worked [number of Work Weeks] Work Weeks. If you dispute the total number of Work Weeks set forth above, you must set forth a Work Week dispute to Settlement Administrator. In order to dispute your Work Weeks, you must mail a written dispute to the Settlement Administrator on or before [Response Deadline], at the address listed in Section V below, and it must contain: (1) your full name, address, signature, and last four digits of your Social Security number; (2) the case name and number of the Lawsuit (*Quentin Costeu v. Intertek Testing Services, et al.*, Sacramento County Superior Court Case No. 34-2016-00159662); and (3) a clear statement indicating that you dispute the number of Work Weeks credited to you, and any facts and supporting materials demonstrating that the Work Weeks credited to you are incorrect (such as documents, like pay stubs).
- Defendants, through the Settlement Administrator, shall pay the amounts awarded by the Court for Attorneys' Fees and Litigation Costs and Expenses, Settlement Administration Costs, Service Award, the LWDA Payment, and the Class Member Payments, within 30 calendar days after the Final Effective Date of the Settlement Agreement.

B. Fees and Expenses

Contemporaneous with requesting the Court to grant final approval of the Settlement, Plaintiff will apply to the Court for payment of the following amounts from Gross Settlement Amount:

- Attorneys' Fees and Costs in an amount up to \$385,000 and an award of Litigation Costs and Expenses of up to \$45,000 to Class Counsel. Class Counsel has been prosecuting the Action on behalf of Plaintiff and Class Members on a contingency fee basis (that is, without being paid any money to date) and has been paying all Litigation Cost and Expenses to date;
- Settlement Administration Costs not to exceed \$18,500 to the Settlement Administrator for the costs of the notice and settlement administration process, including and not limited to, the expenses of notifying the Class Members of the Settlement, processing requests for exclusion, objections, and disputes of Work Weeks, and calculating and distributing Class Member Payments under the Settlement; and
- Service Award in an amount up to \$8,000 to Plaintiff in consideration for his service in connection with prosecuting the Action and serving as the representative of the Class.

C. Release of Claims

Upon the Effective Date, all Settlement Class Members (i.e., Class Members who do not request exclusion from the Settlement) hereby release and discharge Defendants, and any of their parents, affiliates, subsidiaries, divisions, predecessors, successors, and assigns, and each of their officers, directors, board members, trustees, shareholders, employees, agents, attorneys, auditors, accountants, stockholders, representatives, partners, insurers, reinsurers, and other persons acting on their behalf, and each of them (collectively, the "Released Parties"), from any and all claims, rights, demands, liabilities and causes of action of every nature and description, whether known or unknown, that were or could have been brought based on the facts or claims alleged in the Complaint, arising during the period from January 26, 2012 to [Preliminary Approval date]. The claims released by the Settlement Class Members include, but are not limited to, statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs or expenses, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, arising out of or based upon the following categories of allegations regardless of the forum in which they may be brought, to the fullest extent such claims are releasable by law: (a) all claims for failure to pay wages, including overtime premium pay and the minimum wage; (b) all claims for the failure to provide meal and/or rest periods in accordance with applicable law, including all payments for non-compliant meal and/or rest periods and alleged non-payment of premium pay for non-compliant meal and/or rest periods; (c) any and all claims for recordkeeping, payroll, or pay stub violations; (d) failure to timely pay wages during employment and upon separation and all associated waiting time penalties; (e) any and all claims for failure to reimburse business expenses under California Labor Code section 2802; (f) and all other civil and statutory penalties, including those recoverable under the Private Attorneys General Act, California Labor Code section 2698, *et seq.* based on the facts or claims alleged in the Complaint in the Action (the "Released Claims"). The Released Claims also include without limitation claims meeting the above definition(s), based on the facts or claims alleged in the Complaint in the Action, under any and all applicable statutes, including without limitation any provision of the California Labor Code, California Bus. & Prof. Code sections 17200, *et seq.*, and any provision of the applicable California Industrial Welfare Commission Wage Orders.

If you do NOT exclude yourself from the Settlement by following the procedures set forth in this Notice and the Court approves the Settlement, you will be deemed to have entered into the above-stated release of claims.

V. How do I receive a payment?

Any Class Member who wishes to receive payment under this Settlement does not need to do anything. If you do not exclude yourself from the Settlement, you will be a Settlement Class Member, and you will receive a Class Member Payment based on your Work Weeks as identified in this Notice. If you are a member of the Class and you move or change your address, and you want to receive your settlement benefits at your new address, you must notify the Settlement Administrator of your new address by contacting them at the below address or telephone number:

Simpluris, Inc.
[Mailing Address]
[Telephone Number]

VI. Who represents the Class?

The Court has preliminarily appointed Plaintiff Quentin Costeiu to serve as Class Representative in this lawsuit. The law firm of Lawyers for Justice, PC has been preliminarily appointed by the Court as Class Counsel, and Class Counsel may be contacted at the address listed below:

Edwin Aiwarzian, Esq.
Lawyers for Justice, P.C.
410 West Arden Avenue, Suite 203
Glendale, California 91203

VII. What are the reasons for the Settlement?

Plaintiff and Class Counsel weighed the risks and benefits to the Class of this Settlement compared with those of continuing the litigation. The factors that Class Counsel considered included the uncertainty and delay associated with continued litigation, a trial and appeals, and the uncertainty of particular legal issues that have yet to be determined by the Court. After balancing these and other substantial risks, Plaintiff and Class Counsel determined that the Settlement is fair, reasonable, and adequate in light of all circumstances and in the best interests of Class Members.

Defendants agreed to this Settlement in order to avoid the expense and distraction associated with lengthy litigation, and to allow them to focus on continuing to provide quality service to their customers. Defendants do not admit to any wrongdoing or liability in connection with agreeing to this Settlement, and Defendants expressly deny any and all of Plaintiff's allegations in this litigation.

VIII. What are my rights and options?

A. You may remain a member of the Settlement, represented by Class Counsel, and take no further action. If you take no further action as a Class Member, you will be represented by Class Counsel and will receive your Class Member Payment. If the Settlement is finally approved by the Court, you will be bound by the terms of the Settlement which will result in a release of the Released Claims. As a member of the Class, you will not be charged for the services of Class Counsel, as Class Counsel's fees will come out of the Gross Settlement Amount in an amount determined by the Court. If you retain your own attorney, you are responsible for the fees, costs, and expenses of your separate legal counsel.

B. You may exclude yourself from the Settlement. If you are a member of the Class but do not want to participate in the Settlement, you may request exclusion from the Settlement. If you exclude yourself from the Settlement, you will lose any right to receive payment under the Settlement. You will also lose the right to object to the Settlement. You will be free to pursue any claims you may have against Defendants on your own behalf, if you choose, but Class Counsel will not represent you. A valid request for exclusion must be in writing, mailed to the Settlement Administrator on or before [Response Deadline], at the address listed in Section V above. The request for exclusion must contain: (1) your full name, signature, and address; (2) the case name and number of the Action (*Quentin Costeiu v. Intertek Testing Services, et al.*, Sacramento County Superior Court Case No. 34-2016-00159662); and (3) a clear statement that you seek to be excluded from the Settlement. **If you do not comply with these procedures by the above-set deadline, you will lose any opportunity to exclude yourself from the Class, and you will release the Released Claims if the Settlement is finally approved by the Court.**

C. You may participate in the Settlement and object to the Settlement or any portion thereof. If you are a Settlement Class Member (i.e., you have not excluded yourself from the Settlement), you may object to the Settlement by filing an objection with the Court and serving a copy of the objection on the Settlement Administrator on or before [Response Deadline], at the address listed in Section V above. Valid objections must be in writing and must contain: (1) the objecting class member's full name and address; (2) the case name and number of the Action (*Quentin Costeiu v. Intertek Testing Services, et al.*, Sacramento County Superior Court Case No. 34-2016-00159662); and (3) a clear statement of the basis for your objection. If you choose to submit an objection to the Settlement, you may (but are not required to) enter an appearance at the Final Approval Hearing described below *in propria persona* (meaning you choose to represent yourself) or through your own attorney. If you choose to retain your own separate attorney, you will be solely responsible for the fees and costs of your own attorney. You do not need to appear at the Final Approval Hearing for your objection to be considered by the Court. Please note: Even if you object to the Settlement, you are still eligible to participate in the Settlement and receive a settlement payment.

IX. When is the Final Approval Hearing and what is it for?

On [Final Approval Hearing date], the Court will hold a hearing in Department [] of the Superior Court for the State of California, County of Sacramento, 720 9th Street, Sacramento, California 95814, for the purposes of determining whether the Settlement is fair, adequate and reasonable and should be approved, and whether to approve and award Attorneys' Fees and Litigation Costs and Expenses, Service Award, and Settlement Administration Costs. This hearing may be continued or rescheduled by the Court without further notice.

X. Where can I get more information?

If you have questions about this Notice or the Settlement or would like more information, you should contact Class Counsel or the Settlement Administrator. You may also seek advice and guidance from your own private attorney at your own expense, if you so desire.

This Notice is only a summary. For more detailed information, you may review the Class Action and PAGA Settlement Agreement, containing the complete terms of the Settlement. The Settlement Agreement and other documents filed in this Action may be accessed and view during regular business hours at the Clerk's Office, of the Sacramento County Superior Court, 720 9th Street, Sacramento, California 95814. These documents may also be access online at <https://services.saccourt.ca.gov/PublicCaseAccess/Civil/SearchByCaseNumber> by filling out the year the case was filed (2016) and the truncated case number (00189662). Fees or charges may apply when accessing documents at the Clerk's Office or online.

The Settlement Agreement may also be accessed for free of charge online at the following website: [insert web address for static website regarding the settlement].

PLEASE DO NOT WRITE OR TELEPHONE THE COURT, DEFENDANTS, OR DEFENDANTS' COUNSEL FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.