<u>FIRST AMENDED CLASS ACTION AND PAGA SETTLEMENT AGREEMENT</u>

This Class Action and PAGA Settlement Agreement and Release of Claims is entered into by and between Plaintiff Lorena Rivas Arias, individually and on behalf of all others similarly situated, and Defendant Wolverine Distribution, Inc., and is approved as to form by their respective counsel of record, subject to the terms and conditions hereof and the Court's approval.

A. <u>Definitions</u>

1. "Action" or "Lawsuit" refers to the case entitled *Arias v. Wolverine Distribution, Inc.*, Case No. CVRI22004488, pending in Riverside County.

2. "Aggrieved Employees" include all non-exempt hourly employees who were employed by Defendant in California at any time since October 9, 2021 through the date on which the Court grants Preliminary Approval of the Settlement.

3. "Agreement," "Settlement Agreement," "Settlement," or "Stipulation" shall mean this Class Action and PAGA Settlement Agreement and Release of Claims, including any attached Exhibits.

4. "Class Claims" or "Released Class Claims" will include all claims that were alleged in the Complaint, including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at the time of termination/end of employment; (7) failure to furnish accurate itemized wage statements; (8) unfair business practices; and, (9) claims for statutory penalties for violation of California Labor Code sections 201-204, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 246, 510, 512, 516, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802-2804, California Code of Civil Procedure section 1021.5, Civil Code sections 3287, 3289, and California Business and Professions Code section 17200 et seq. or any applicable Wage Order, irrespective of the theory of recovery alleged.

5. "Class Counsel" refers to Moon Law Group, APC, Kane Moon and Lilit Ter-Astvatsatryan.

6. “Class Data” means a complete list of all Settlement Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator on one spreadsheet and shall include the Settlement Class Members’ full names; last known addresses; telephone numbers; Social Security Numbers; dates of employment and/or number of Workweeks as non-exempt or hourly employees of Defendant during the Class Period and the PAGA Period for each Settlement Class Member.

7. “Class Period” and “Class Release Period” shall mean October 17, 2018 through the date on which the Court grants Preliminary Approval of the Settlement.

8. “Class Representative” or “Plaintiff” means and refers to Lorena Rivas Arias.

9. “Complaint” refers to the First Amended Complaint filed in the Riverside County Superior Court action entitled *Arias v. Wolverine Distribution, Inc.*, Case No. CVRI2204488.

10. “Court” means the California Superior Court, County of Riverside, or any Court of competent jurisdiction.

11. “Defendant” refers to Wolverine Distribution Inc.

12. “Defendant’s Counsel” or “Defense Counsel” refers to Andrew M. McNaught and Lilah Wylde of Seyfarth Shaw LLP.

13. “Effective Date” The term “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its order granting final approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement (including an objection from the LWDA), the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, (including an objection from the LWDA), the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

14. “Final” means that the Settlement has been granted “Final Approval” by the Court and the “Effective Date” has occurred.

15. “Final Approval” refers to the order of the Court granting final approval of this Settlement Agreement and entering a judgment approving this Settlement on substantially the

same terms provided herein or as may be modified by subsequent agreement of the Parties or order of the Court.

16. “Final Settlement Class” and “Final Settlement Class Member” refers to all persons who are or were previously employed by Defendant as a non-exempt employee who do not opt out of the Settlement and did not sign a valid and binding arbitration agreement with a class waiver in California since October 17, 2018, and (2) for individuals who did not release their claims as members of the class action settlement in *Jason Hogan v. Wolverine Distribution, Inc*.

17. “Individual Settlement Amount” shall have the meaning ascribed to it in Paragraph 47(d) below.

18. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 47(c) below.

19. “Notice” means the notice of the proposed settlement of class action and PAGA Settlement and the setting of a Final Approval Hearing that will be sent to the Settlement Class Members.

20. “Notice Response Deadline” is 45 calendar days from the date the Notice is mailed to the Settlement Class Members.

21. “Objecting Settlement Class Member” means a Settlement Class Member, other than Plaintiff, who submits a valid and timely objection to the terms of this Agreement with respect to the Class Claims pursuant to Paragraph 68(a) below.

22. “PAGA” shall refer to the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698-2699.5.

23. “PAGA Claims” or “Released PAGA Claims” shall include any and all claims for PAGA penalties that were alleged, during the PAGA Period, based on the facts stated in the PAGA Notice including claims for: 1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at the time of termination/end of

employment; (7) failure to furnish accurate itemized wage statements; (8) unfair business practices; and, (9) claims for statutory penalties for violation of California Labor Code sections 201-204, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 246, 510, 512, 516, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802-2804, California Code of Civil Procedure section 1021.5, and Civil Code sections 3287, 3289, et seq.

24. "PAGA Notice" shall refer to the notice sent by Plaintiff, by and through counsel, on or about October 9, 2022, to the LWDA and Defendant, alleging that Defendant engaged in violations of the California Labor Code and California Wage Order(s).

25. "PAGA Period" and "PAGA Release Period" shall mean October 9, 2021, through the date the Court grants Preliminary Approval of the class settlement.

26. "Participating Class Member" means any and all Settlement Class Members who do not opt out of the settlement of the Class Claims by timely submitting valid Requests for Exclusion.

27. "Parties" or "Settling Parties" means Plaintiff, the Settlement Class Members, the Aggrieved Employees, and Defendant, collectively.

28. "Pay Periods" for each Aggrieved Employee means any pay period during the PAGA Period in which the Aggrieved Employee was employed by Defendant as a non-exempt employee in California and worked at least one shift during the pay period for or on behalf of Defendant for which a prior release of claims has not been signed. Pay periods will be calculated based on the Defendant's business records. This information shall be treated as confidential. The number of full pay periods that an Aggrieved Employee was on a leave of absence, sick time, or vacation during the PAGA Period shall be excluded from the total number of pay periods.

29. "Preliminary Approval Date" means the date the Court preliminarily approves the Settlement Agreement as to the class claims and the exhibits thereto and enters the Preliminary Approval Order.

30. "Preliminary Approval Order" means the judicial Order to be entered by the Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement and providing for the issuance of the Notice to the Settlement Class Members, an opportunity to opt

out of settlement of the Class Claims, an opportunity to submit timely objections to the terms of this Settlement related to the Class Claims, and setting a hearing on the fairness of the terms of Settlement, including approval of attorneys' fees and costs.

31. "QSF" means the Qualified Settlement Fund set up by the Settlement Administrator for the benefit of the Final Settlement Class, and from which the settlement payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue Code Section 468.

32. "Release" shall mean the release and discharge of the Class Claims by Plaintiff and all of the Participating Class Members and the release and discharge of the PAGA Claims by Plaintiff and all of the Aggrieved Employees.

33. "Released Parties" shall refer to Wolverine Distribution, Inc. and Wolverine World Wide, Inc., and any of its subsidiaries, namely: Hush Puppies Retail, LLC; Saucony, Inc.; Stride Rite Children's Group, LLC; Wolverine Outdoors, Inc.

34. "Request for Exclusion" shall have the meaning ascribed to it in Paragraph 68(a) below.

35. "Service Payment" or "Service Award" means the amounts approved by the Court to be paid to the Class Representative in addition to their Individual Settlement Amounts as Participating Class Members.

36. "Settlement Administration Costs" means the actual and direct fees and expenses reasonably incurred by the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, due diligence, reporting and remittance obligations, distributing the Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement Amount.

37. "Settlement Administrator" means and refers to Phoenix Class Action Administration Solutions, which will provide the Notice to the Class Members and perform all duties relating to the administration of the Settlement as described in this Agreement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting,

distributing the Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Settlement Administrator as being the maximum costs necessary to administer the Settlement.

38. "Settlement Amount" or "Gross Settlement Amount" shall have the meaning ascribed to it in Paragraph 47(a) below.

39. "Settlement Class Member" or "Class Member" refers to individual members of the Settlement Class.

40. "Settlement Class" and "Settlement Class Members" refer to all persons who are or were previously employed by Defendant in California classified as a non-exempt employee who do not opt out of the Settlement since October 17, 2018 for individuals who did not sign a valid and binding arbitration agreement with a class waiver, and (2) October 7, 2019 for individuals who released their claims as members of the class action settlement in *Jason Hogan v. Wolverine Distribution, Inc.*.

41. "Workweeks" for each Settlement Class Member means any workweek during the Class Period in which the Settlement Class Member was employed by Defendant as a non-exempt employee in California and worked at least one shift during the workweek for or on behalf of Defendant for which a prior release of claims has not been signed. Workweeks will be calculated based on the Defendant's business records. This information shall be treated as confidential. Workweeks of Non-Participating Class Members will not be included in the total number of Workweeks that are reported to the Settlement Administrator to calculate and distribute Individual Settlement Payments to Participating Class Members. The number of full workweeks that a Participating Class Member was on a leave of absence, sick time, or vacation during the Class Period shall be excluded from the total number of Workweeks.

B. <u>General Terms</u>

42. On or about October 17, 2022, Plaintiff Lorena Arias filed a class action complaint in the Court against Defendant, including allegations of: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) meal period violations, (4) rest period violations, (5) failure to

reimburse business expenses, (6) waiting time penalties (7) wage statement violations, and (8) unfair competition. On May 8, 2022, Plaintiff Lorena Arias filed a First Amended Complaint adding a cause of action for PAGA penalties based on the foregoing Labor Code violations.

43. Defendant denies Plaintiff's claims and allegations and contends that the Action is not suitable for class certification and/or representative treatment.

44. Class Representative believes she can proceed with her class, and representative claims, that the Action is meritorious, and that class certification is appropriate.

45. The Parties have thoroughly investigated the facts of the Action. This includes conducting an extensive exchange of informal discovery, including Defendant's written policies and practices, and producing payroll and timekeeping records for Settlement Class Members and Aggrieved Employees. Class Counsel is both knowledgeable about and has done extensive research with respect to the applicable law and potential defenses to the claims of the Settlement Class Members and Aggrieved Employees. Class Counsel has diligently investigated the Class Members' claims against Defendant. Based on the foregoing data and their own independent investigation and evaluation, Class Counsel is of the opinion that the settlement with Defendant for the consideration and on the terms outlined in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Settlement Class Members and Aggrieved Employees in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendant, and numerous potential appellate issues.

46. On August 28, 2024, the Parties participated in mediation before Marc Feder, Esq., a highly experienced class action mediator. After a full-day mediation and the issuance of a mediator's proposal, the Parties later reached a settlement agreement based on the mediator's proposal.

47. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts to be performed or judgments to be entered pursuant to the terms of the Settlement and Agreement shall be construed as an admission by Defendant of any wrongdoing or violation of any statute or law or liability on the claims or allegations in the Action.

48. Stipulation for Class Certification and Representative Treatment. For settlement purposes only, Defendant will stipulate that the Settlement Class Members described herein who do not Request Exclusion from the Settlement Class may be conditionally certified as a settlement class and that the Aggrieved Employees are appropriate for representative treatment for settlement purposes. This stipulation to certification and representative treatment is in no way an admission that class action certification and/or representative treatment is proper and shall not be admissible in this or any other action except for enforcing this Agreement. Should, for whatever reason, the Court fail to issue Final Approval, the Parties' stipulation to class certification and representative treatment as part of the Settlement shall become null and void *ab initio* and shall have no bearing on and shall not be admissible in connection with the issue of whether or not class certification and/or representative treatment would be appropriate in a non-settlement context. Defendant expressly reserves its right and declares that it will continue to oppose class certification, representative treatment, and the substantive merits of the case should the Court fail to issue Final Approval. Plaintiff expressly reserves her rights and declares that she will continue to pursue class certification, representative treatment, and a trial should the Court fail to issue Final Approval.

C. Terms of Settlement

49. The financial terms of the Settlement are as follows:

(a) Settlement Amount: The Parties agree to settle this Action for Three Hundred and Thirty-Seven Thousand Five Hundred Dollars ($337,500) ("the Settlement Amount"). The Settlement Amount is the maximum amount that will be paid by the Defendant and includes Individual Settlement Amounts, attorneys' fees of Class Counsel, costs and expenses, the Service Payment to the Class Representatives, all Settlement Administration Costs, and payment to the Labor Workforce Development Agency (LWDA) for PAGA penalties. Defendant shall separately pay the employer's share of applicable payroll taxes.

(b) Defendant estimates that there are approximately 6,000 Workweeks during the Class Period and 21,000 Pay Periods during the PAGA Period. If the Workweek number increases by more than 10% of the estimate stated herein (so that there are more than 6,600 Workweeks) by the end of the Class Period, then Defendant shall have the option to either (1) Increase the

Gross Settlement Amount for each additional Workweek above 6,600; or (2) have the Class Period end on the date before the Weeks Worked meet or exceed the 6,600 Workweek threshold. Similarly, if the Pay Period number increases by more than 10% of the estimate (so that there are more than 23,100 Pay Periods) then Defendant shall have the option to either (1) Increase the Gross Settlement Amount for each additional Pay Period above 23,100; or (2) have the PAGA Period end on the date before the Pay Periods meet or exceed the 23,100 Pay Period threshold. The Parties agree that in no event shall Defendant be permitted to end the Class Period or the PAGA period before August 29, 2024 (the day of mediation). If Defendant elects to shorten the Class Period and/or PAGA Period, then the Parties shall amend the Settlement Agreement and Notice to reflect the modified Class Period and/or PAGA Period. If the Preliminary Approval motion has already been filed, the Parties shall submit a stipulation, all applicable documents, and a revised Order to reflect the new Class Period, PAGA Period, and Workweek/Pay Period information.

(c) Net Settlement Amount: The "Net Settlement Amount" is defined as the Settlement Amount less attorneys' fees and litigation costs as approved and awarded by the Court, the Service Payment to Class Representative as approved and awarded by the Court, the Settlement Administration Costs, as approved and awarded by the Court, and the Twenty Five Thousand Dollars ($25,000.00) allocated to payment for PAGA penalties as described in paragraph 43 below. If the Court reduces the attorneys' fees and litigation costs or Service Award, Settlement Administration Costs, or either increases or decreases the amount allocated to PAGA penalties, the Net Settlement Sum shall be increased or decreased accordingly. Any Court order awarding less than the below allocations of the Settlement Amount shall not be grounds to rescind the Settlement Agreement or otherwise void the Settlement.

(d) Individual Settlement Amounts for the Settlement Class and Aggrieved Employees: The Settlement Administrator will use the Class Data provided by Defendant to calculate each Final Settlement Class Member's and Aggrieved Employee's Individual Settlement Amounts based on the following formula:

i. PAGA Amount: $25,000 of the Gross Settlement Amount has been designated to the PAGA claims. Twenty-five percent (25%) of the $25,000, or $6,250, shall be paid to Aggrieved Employees. Each Aggrieved Employee shall receive a portion of the $6,250 proportionate to the number of Pay Periods by the Aggrieved Employees during the PAGA Period compared to the total number of Pay Periods by all Aggrieved Employees during the PAGA Period. Aggrieved Employees shall have their settlement amount for the Released PAGA claims paid one hundred percent (100%) as civil penalties for which no taxes will be withheld and for which the Settlement Administrator will issue a Form 1099.

ii. Class Amount: The Net Settlement Amount shall be allocated to each Final Settlement Class Member based on his/her/their proportionate Workweeks during the Class Period. This is determined by multiplying the Net Settlement Amount by a fraction, the numerator of which is the Final Settlement Class Member's total Workweeks during the Class Period, and the denominator of which is the total Workweeks by all Final Settlement Class Members during the Class Period. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Amounts for each Final Settlement Class Member so that the amount distributed to Final Settlement Class Members equals 100% of the Net Settlement Amount allocated toward Released Class Claims.

(e) Allocation of Individual Settlement Amount: The Individual Settlement Amount for Final Settlement Class Members will be allocated for tax purposes based on the allegations in the Action as follows: twenty-five percent (25%) will be paid as wages subject to withholding of all applicable local, state, and federal taxes; and seventy-five percent (75%) will be paid as interest and as civil penalties (pursuant to, e.g., California Labor Code sections 203, 226) from which no taxes will be withheld. The Settlement Administrator will issue to each Final Settlement Class Member an Internal Revenue Service Form W-2 and comparable state forms concerning the wage allocation and a Form 1099 concerning the civil penalties and interest allocations.

(f) Service Payment to Class Representative: The amount awarded to the Class Representative as a Service Payment will be set by the Court in its discretion, not to exceed $10,000. Defendant agrees not to oppose this request. The Service Payment to the Class Representative will be paid from the Gross Settlement Amount. Class Representative will be issued IRS Form 1099 in connection with this payment. Plaintiff shall be solely and legally responsible for paying any and all applicable taxes on this payment. The Parties agree that any amount awarded by the Court as the Service Payment to Plaintiff less than the requested amount shall not be a basis for Plaintiff or Class Counsel to void this Agreement. Should the Court approve a lesser amount for the Service Payment, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members. In the event of any appeal of the amount of the service awards (if any) approved by the Court, if, after the exhaustion of any such appellate review, additional amounts not awarded to the Class Representative shall be added to the Net Settlement Amount to be distributed to the Final Settlement Class Members.

(g) Class Counsel's Attorneys' Fees and Costs: Defendant agrees not to oppose a request by Class Counsel to the Court for an award of attorneys' fees of one-third (33.33%) or $112,500 of the Settlement Amount, plus reasonable litigation costs not to exceed $20,000 ("Attorneys' Fees and Costs Award"). For purposes of this Settlement, Defendant agrees not to oppose any contention by Class Counsel that attorneys' fees should be based on the common fund theory. The Attorneys' Fees and Costs Award shall be paid from the Gross Settlement Amount, and except for this award, Defendant shall have no further obligation to pay any attorneys' fees, costs, or expenses to Class Counsel. Should the Court approve a lesser amount than what is sought by Class Counsel, the difference shall be added to the Net Settlement Amount to be distributed to the Final Settlement Class Members and Aggrieved Employees. Any Court order awarding less than the amount sought by Class Counsel shall not be grounds to rescind the Settlement Agreement or otherwise void the Settlement. In the event of any appeal of the amount of the awards of attorneys' fees and costs (if any) approved by the Court, final funding and administration of the portion of the attorneys' fees and/or costs award in dispute will be segregated and stayed pending the exhaustion of appellate review. If, after the exhaustion of any such appellate review, additional amounts not awarded to as attorneys' fees and costs shall be added to the Net Settlement Amount to be distributed to the Final Settlement Class Members and Aggrieved Employees. The Settlement Administrator shall issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded by the Court. Class Counsel agrees that any allocation of fees between or among Class Counsel and any other attorney representing or claiming to represent the Class Members and/or the Aggrieved Employees shall be the sole responsibility of Class Counsel.

(h) Settlement Administration Costs: The fees and other charges of the Settlement Administrator will be paid from the Gross Settlement Amount, not to exceed $8,500, subject to Court approval, unless approved by all Parties and the Court.

(i) PAGA Penalties: The Parties agree that $25,000 is allocated to PAGA Penalties and will be paid from the Gross Settlement Amount, subject to Court approval. Of this amount, $18,750 (75%) shall be paid to the LWDA in satisfaction of Plaintiff's claims for civil penalties under the PAGA, and $6,250 (25%) will be included in the Individual Settlement Amounts, payable to the Aggrieved Employees as set forth in Paragraph 49(d).

(j) Tax Liability: Class Counsel, Defendant, and Defendant's Counsel make no representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder, and Plaintiff and the Final Settlement Class Members are not relying on any statement or representation by Class Counsel, Defendant, or Defendant's Counsel in this regard. Plaintiff and Final Settlement Class Members understand and agree that they will be solely responsible for paying any taxes and penalties assessed on their respective Settlement Amounts described herein. Income tax withholding will also be made pursuant to applicable federal, state, and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law are changed after the date of this Agreement, the processes set forth in this Section may be modified to bring Defendant into compliance with any such changes.

(k) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR

AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, THEIR, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

50. <u>"Non-Reversionary" Settlement</u>. This is a "non-reversionary" settlement. Under no circumstances will any portion of the Settlement Amount revert to Defendant. Final Settlement Class Members and Aggrieved Employees will not have to make a claim to receive an Individual Settlement Amount. In the form of Individual Settlement Amounts, distributions will be made directly to each Final Settlement Class Member. The Settlement Administrator shall be responsible for accurately and timely reporting any remittance obligations with respect to unclaimed funds as a result of a Final Settlement Class Member not cashing an Individual Settlement Amount by the check cashing deadline, as set forth herein.

51. Class Counsel and Plaintiff believes that the Settlement is fair, reasonable, and

adequate and will so represent same to the Court.

D. Release by Plaintiff and the Final Settlement Class

52. Upon the Effective Date of this Settlement and full funding of the Settlement, Plaintiff and her respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, and each Final Settlement Class Member, for themselves and their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the Released Class Claims for the Class Release Period.

53. Each Final Settlement Class Member will be deemed to have made the foregoing Release as if by manually signing it.

54. Upon the Effective Date of this Settlement and full funding of the Settlement, Plaintiff and the LWDA will forever completely release and discharge the Released Parties from the Released PAGA Claims for the PAGA Release Period.

55. Plaintiff and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

56. Plaintiff and Defendant intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Final Settlement Class Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released Class Claims for the Class Release Period. The Settlement Class Members shall be notified in the Notice. This paragraph does not apply to any Settlement Class Member who timely and validly opts out of the Settlement for purposes of Class Claims.

57. Plaintiff and Defendant intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Aggrieved Employees and

the LWDA to obtain a recovery based on, arising out of, and/or related to any and all of the Released PAGA Claims for the PAGA Release Period. The Aggrieved Employees and the LWDA shall be notified in the Notice.

58. Class Representative, on behalf of herself and the Final Settlement Class Members, acknowledge and agree that the claims for unpaid wages and unreimbursed expenses in the Action, inaccurate wage statements, and untimely payment of wages in the Action, are disputed and that the payments set forth herein constitute payment of all sums allegedly due to her. Class Representative, on behalf of herself and the Final Settlement Class Members, acknowledge and agree that California Labor Code Section 206.5 does not apply to the Parties hereto. Section 206.5 provides in pertinent part as follows:

> An employer shall not require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned unless payment of those wages has been made.

E. <u>Interim Stay of Proceedings</u>

59. Pending completion of all prerequisites necessary to effectuate this Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the Action except such as are necessary to effectuate the Settlement, including amending the Complaint.

F. <u>Notice Process</u>

60. <u>Appointment of Settlement Administrator</u>. The Parties have agreed to the appointment of the Settlement Administrator to perform the duties of a settlement administrator, including mailing the Notice, using standard devices to obtain forwarding addresses, independently reviewing and verifying documentation associated with any claims or opt-out requests, resolving any disputes regarding the calculation or application of the formula for determining the Individual Settlement Amount, drafting and mailing the settlement checks to Final Settlement Class Members, issuing Forms W-2 and 1099, reporting to taxing authorities, due diligence, reporting and remittance obligations, and performing such other tasks as set forth herein or as the Parties mutually agree or that the Court orders.

61. <u>Disputes Regarding Settlement Administration</u>. Any and all disputes relating to

the administration of the Settlement by the Settlement Administrator (except for disputes regarding Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement until Plaintiff and Defendant notify the Court that all payments and obligations contemplated by this Settlement Agreement have been fully carried out. Before presenting any issue to the Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of Court intervention. The Settlement Administrator shall also be responsible for issuing to Plaintiff, Final Settlement Class Members, and Class Counsel any Forms W-2, Forms 1099, or other Tax Forms as may be required by law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be responsible for setting up all necessary tax accounts and forwarding all payroll taxes and penalties to the appropriate government authorities.

62. Class Data. Within ten (10) days after the Preliminary Approval Order entry, Defendant shall provide the Class Data to the Settlement Administrator. The Settlement Administrator will check the Class Members' addresses against those on file with the U.S. Postal Service's National Change of Address List. The Class Data provided to the Settlement Administrator will not be provided to Class Counsel, and it will remain confidential; it shall be used solely to administer the Settlement, and it will not be used or disclosed to anyone except as required by applicable tax authorities, pursuant to Defendant's express written consent, or by order of the Court.

63. Notice. The Notice, as approved by the Court, shall be sent by the Settlement Administrator to the Settlement Class Members by first-class mail in English within fourteen (14) calendar days following the Settlement Administrator's receipt of the Class Data. The Settlement Administrator shall use standard devices, including a skip trace, to obtain forwarding addresses of Settlement Class Members if any notices are returned.

64. Returned Notices. The Settlement Administrator will take steps to ensure that the Notice is received by all Settlement Class Members, including utilization of the National Change of Address Database maintained by the United States Postal Service, to review the accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any Settlement Class

Member for whom an updated address is located within ten (10) calendar days following the Settlement Administrator's learning of the failed mailing and its receipt of the updated address. The Notice shall be identical to the original Notice, except that it shall notify the Settlement Class Member that the exclusion (opt-out) request or objection must be returned by the later of the Notice Response Deadline or fifteen (15) days after remailing the Notice.

65. Presumption Regarding Receipt of Notice. It will be conclusively presumed that if an envelope has not been returned within thirty (30) days of the mailing the Settlement Class Member received the Notice.

66. Disputes Regarding Class Data. Settlement Class Members are deemed to participate in the Settlement unless they opt out. The Notice will inform Settlement Class Members of his/her/their estimated Individual Settlement Amount and the number of Workweeks during the Class Period and/or the number of Pay Periods during the PAGA Period. Settlement Class Members may dispute their Workweeks and/or Pay Periods if they believe they were employed more Workweeks in the Class Period and/or more Pay Periods in California than the Defendant's records show by timely submitting evidence to the Settlement Administrator. Defendant's records will be presumed determinative absent reliable evidence to rebut the Defendant's records, but the Settlement Administrator will evaluate the evidence submitted by the Settlement Class Member and provide the evidence submitted to the Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Workweeks and/or Pay Periods and estimated Individual Settlement Amount. If Class Counsel and Defense Counsel cannot agree, they agree to submit the dispute to the Court to render a final decision. Settlement Class Members will have until the Notice Response Deadline to dispute Workweeks and/or Pay Periods, object, or opt out, unless extended by the Court. If the Settlement Administrator increases the number of Workweeks and/or Pay Periods for any Settlement Class Member, then the Settlement Administrator will recalculate the Participating Class Members' Individual Settlement Amounts; accordingly, in no event will Defendant be required to increase the Gross Settlement Amount.

67. Declaration of Due Diligence. Before the final approval hearing, the Settlement

Administrator shall provide counsel for the Parties declaration of due diligence and proof of mailing with regard to the mailing of the Notice.

68. Settlement Class Members' Rights. Each Settlement Class Member will be fully advised of the Settlement, the ability to object to the provisions in the Settlement related to the Class Claims, and the ability to opt-out or request exclusion from the Class Claims provisions of the Settlement. The Notice will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Class Claims provisions of the Settlement in accordance with the following guidelines:

(a) Requests for Exclusion from Final Settlement Class. Any Settlement Class Member, other than Plaintiff, may request to be excluded from the Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before the Notice Response Deadline. The Request for Exclusion should be stated in words to this effect:

> "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE ARIAS V. WOLVERINE DISTRIBUTION, INC. LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE CLASS CLAIMS IN THIS LAWSUIT.

Any Request for Exclusion must include the full name, address, telephone number, last four digits of the social security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail, e-mail or fax to the Settlement Administrator at the specified address, e-mail address, or fax number. Any such Request must be made in accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if postmarked by the Notice Response Deadline unless the Parties agree in writing. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Agreement with respect to the Class Claims, including the right to object, appeal, or comment on the Settlement; (ii) will not be entitled to receive any payments under this Agreement with respect to Class Claims; and (iii) will not be bound by this Agreement, or the Judgment, with respect to the Class Claims. Aggrieved Employees under PAGA may not opt-out of the settlement with respect to the PAGA release provided.

(b) Binding Effect on Participating Class Members. Except for those Settlement Class Members who exclude themselves in compliance with the procedures set forth above, all Settlement Class Members will: (i) be deemed to be Final Settlement Class Members for all purposes under this Agreement; (ii) will be bound by the terms and conditions of this Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(c) Objections to Settlement of Class Claims. Any Settlement Class Member, other than Plaintiff, may object to the terms of this Agreement with respect to the Class Claims and may appear at the Final Approval Hearing and object whether or not they have filed a written objection as outlined herein. To object, a Settlement Class Member shall inform the Settlement Administrator, in writing, of his/her/their objection, which must be postmarked by the Notice Response Deadline at the address, e-mail, or fax number set forth in the Notice. Such objection shall include the full name, address, telephone number, dates of employment with Defendant of the Objecting Settlement Class Member, the case name and number, the basis for the objection. The Settlement Administrator shall provide objections, if any, to Class Counsel and Defense Counsel within three (3) days of receipt, and the Settlement Administrator shall attach the same to its declaration of due diligence filed with the Court before the Final Approval Hearing. Any Final Class Member who files an objection remains eligible to receive monetary compensation from the Settlement. Plaintiff and Defendant shall not be responsible for any fees, costs, or expenses incurred by any Class Member and/or his/her/their counsel related to any objections to the Settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment under Code of Civil Procedure section 663. Settlement Class Members and Aggrieved Employees may not object to or opt out of the Settlement with respect to the PAGA Claims.

(d) Failure to Object. Any Settlement Class Member who desires to object with respect to the Class Claims but fails to submit a written objection timely or does not appear at the final approval hearing to object orally waives any right to object and will be foreclosed from making any objection to this Settlement. Any Settlement Class Member who does not timely and properly become a party of record by intervening or filing a motion to vacate the judgment waives any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure section 473, and extraordinary writs.

(e) Responses to Objections. Counsel for the Parties may file a response to any objections submitted by Objecting Settlement Class Members at least five (5) court days before the date of the Final Approval Hearing.

69. Settlement Class Members will have until the Notice Response Deadline to object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement Administrator shall disclose jointly to Class Counsel and Defendant's counsel what objections or Requests for Exclusion were timely submitted every week and upon the request of Class Counsel or Defense Counsel.

70. Funding of the Settlement Amount. Defendant shall make a one-time deposit into the QSF of the Settlement Amount, as described in Paragraph 47(a), that is necessary to make all payments required under this Settlement within fourteen (14) days after the Effective Date, and Defendant shall separately pay its share of employer payroll taxes as calculated and directed by the Settlement Administrator.

71. Qualified Settlement Fund. The Qualified Settlement Fund shall be established at a federally insured bank acceptable to the Defendant and the Settlement Administrator. The Parties agree that the Qualified Settlement Fund is intended to be a "Qualified Settlement Fund" under section 468B of the Code and Treas. Reg. §1.468B-1, 26 CFR § 1.468B-1, *et seq.*, and will be administered by the Settlement Administrator as such. With respect to the Qualified Settlement Fund, the Settlement Administrator shall: (1) open and administer a Settlement Account in such a manner as to qualify and maintain the qualification of the Qualified Settlement Fund as a "Qualified Settlement Fund" under Section 468B of the Code and Treas. Reg. §1.468B-

1; (2) calculate, withhold, remit and report each Participating Class Member's share of applicable payroll taxes (including, without limitation, federal, state and local income tax withholding, FICA, Medicare and any state or local employment taxes), and indemnify Defendant for any penalty arising out of any error or incorrect calculation and/or interest with respect to any late deposit of the same; (3) calculate and cooperate with Defendant to remit and to permit Defendant to report Defendant's share of applicable taxes (including, without limitation, federal, state and local income tax withholding, FICA, Medicare, unemployment insurance, employment training tax, state disability insurance and any state or local employment taxes), and indemnify Defendant for any penalty arising out of any error or incorrect calculation and/or interest with respect to the same; (4) satisfy all federal, state and local income and other tax reporting, return, and filing requirements with respect to the Qualified Settlement Fund and any interest or other income earned by the Qualified Settlement Fund; and (5) satisfy out of the Qualified Settlement Fund all (i) taxes (including any estimated taxes, interest or penalties) with respect to the interest or other income earned by the Qualified Settlement Fund, if any, and (ii) fees, expenses and costs incurred in connection with the opening and administration of the Qualified Settlement Fund and the performance of its duties and functions as described in this Agreement. The aforementioned taxes, fees, costs, and expenses shall be treated as and included in the costs of administering the Qualified Settlement Fund and Settlement Administration Costs. The Parties and the Settlement Administrator shall treat the Qualified Settlement Fund as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 CFR §1.468B-1(j)(2)(i), and such election statement shall be attached to the appropriate returns as required by 26 CFR §1.468B-1(j)(2)(ii). The Parties agree to cooperate with the Settlement Administrator and one another to the extent reasonably necessary to carry out the provisions of this Section.

72. Distribution of Funds. No later than ten (10) calendar days after deposit of the payment into the QSF, the Settlement Administrator will mail the payments to the Final Settlement Class Members, the payment for the attorneys' fees and costs to Class Counsel, any Service Payment to the Class Representative, the payment to the LWDA for PAGA penalties, and will pay itself the Settlement Administration Costs.

73. Deadline for Cashing Settlement Checks. Final Settlement Class Members shall have 180 calendar days after mailing by the Settlement Administrator to cash their settlement checks. If any Final Settlement Class Member's check is not cashed within that period, the check will be void, and a stop-payment will be issued. All unclaimed funds shall be redistributed to the Class Members who cashed their checks. The release will be binding upon all Final Settlement Class Members who do not cash their checks within the 180-day period. If any settlement check is returned to the Settlement Administrator within 180 days of mailing, the Settlement Administrator will, within five (5) business days of receipt of the returned settlement check, perform a skip trace to locate the individual. If a new address is located by these means, the Administrator will have ten (10) business days to re-issue the check and notify Defense Counsel and Class Counsel that a re-issued check has been sent. Neither the Defendant, defense counsel, Class Counsel, Plaintiff, or settlement administrator will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event that a Final Settlement Class Member notifies the Settlement Administrator that he/she/they believes that a settlement check has been lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the check-in question has not been negotiated before the stop payment order, the Settlement Administrator will issue a replacement check.

74. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on mailings, distributions, payments, or reports made in accordance with or pursuant to this Agreement. This provision does not, however, prevent a Party from seeking enforcement of this Agreement.

75. Without prejudice to any other remedies, the Settlement Administrator shall agree to be responsible for any breach of its obligations (whether committed by the Settlement Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any breach committed by the Settlement Administrator or its agents.

G. Duties of the Parties Prior to the Court's Approval

76. Upon completion of the execution of this Settlement Agreement, Plaintiff will move the Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order accomplishing the following:

(a) Scheduling the Final Approval Hearing on the issue of whether this Settlement should be finally approved as fair, reasonable, and adequate as to the Class Members and a hearing on fees, costs, and the Service Payment;

(b) Approving as to form and content of the proposed Notice;

(c) Directing the mailing of the Notice by first class mail to the Settlement Class Members;

(d) Preliminarily approving this Settlement; and

(e) Preliminarily certifying the class for purposes of this Settlement.

Plaintiff's counsel shall provide a draft of the motion for preliminary approval of the settlement to Defendant's counsel for review and comment prior to filing it. Good faith efforts will be made to have the preliminary approval hearing within 60 days of execution of this Settlement Agreement.

77. Reallocation of Settlement Proceeds. In the event the Court fails, on its first hearing, to approve this Agreement because the amount of the PAGA penalties is not adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds within this Agreement, to try to achieve Final Approval of the Agreement upon any subsequent Court hearings.

H. Duties of the Parties Following Court's Final Approval

78. In connection with the Final Approval Hearing provided for in this Settlement Agreement, Class Counsel shall submit a proposed Final Approval Order:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payment to the Class Representative, and the payment to the Settlement Administrator for costs of administering the settlement; and

(c) Entering judgment approving the settlement, thereby permanently barring all Participating Class Members from prosecuting any Released Class Claims against any of the Released Parties and permanently barring all Aggrieved Employees and the LWDA from prosecuting any Released PAGA Claims against any of the Released Parties.

Plaintiff's counsel shall provide drafts of the motion for final approval of the settlement, and the proposed Final Approval Order, to Defendant's counsel for review and comment prior to filing.

I. <u>Voiding the Agreement</u>

79. If the Court fails or refuses to issue the Final Approval Order or fails to approve any material condition of this Settlement Agreement which effects a fundamental change of the Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of either Party. Reduction of the amount of attorney's fees and/or costs sought or the Class Representative award sought shall not be considered a failure to approve a material condition.

80. If five percent (5%) or more of the Settlement Class Members timely submit a Request for Exclusion, Defendant shall have the option of terminating or modifying this Agreement without prejudice to its pre-settlement positions and defenses in the Action. If Defendant exercises such option under this paragraph, it shall be relieved of any obligation to pay the Settlement Amount or any other obligations from the Settlement by giving notice to Plaintiff's Counsel and the Settlement Administrator within ten (10) days of being notified by the Settlement Administrator of a 5% or greater opt-out rate. In such an event, the Parties shall be restored to their respective positions in all respects as though the contemplated settlement never occurred. In the event of such termination, no party may use the fact that the Parties agreed to settle or the terms provided herein as an admission, as evidence, or for any other purpose, including, without limitation, to prove any liability or the amount of any sum allegedly owed by any Party. All parties and counsel shall not encourage opt-outs or objections to this Agreement. The parties agree not to solicit opt-outs, directly or indirectly, through any means.

81. If the Settlement is voided or fails for any reason, Plaintiff and Defendant will

have no further obligations under the Settlement, including any obligation by Defendant to pay the Settlement Amount or any amounts that otherwise would have been owed under this Settlement.

82. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendant and Plaintiff unless otherwise specified in this Agreement.

J. Other Terms

83. Full and Complete Defense. Any Released Party may plead this Agreement as a full and complete defense to and may be used as the basis for an injunction against any action, suit, or other proceeding that has been or may be instituted, prosecuted, or attempted, asserting any Released Claim.

84. Waiver. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

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

86. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to the execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after executing this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and Defendant's Counsel, take all necessary steps to secure the Court's preliminary and final approval of the settlement and the final entry of judgment.

87. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,

transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights released and discharged by this Settlement Agreement.

88. No Admission. Defendant denies any and all liability to Plaintiff and/or any Settlement Class Member or Aggrieved Employee under PAGA in this Action as to any and all causes of action that were asserted or that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and compromise the matters at issue in the Complaint to avoid further substantial expense and the inconvenience and distraction of protracted and burdensome litigation. Defendant also has taken into account the uncertainty and risks inherent in litigation, and without conceding any infirmity in the defenses that it has asserted or could assert against Plaintiff, has determined that it is desirable and beneficial that Plaintiff's claims be settled in the manner and upon the terms and conditions set forth in this Agreement.

89. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and it, along with all related documents such as the notices and motions for preliminary and final approval, shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for class certification as part of this Settlement Agreement is for settlement purposes only, and if, for any reason, the settlement is not approved, the stipulation will be of no force or effect.

90. Notices. Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed:

To the Settlement Class Members and Aggrieved Employees:

Kane Moon
kmoon@moonlawgroup.com
Lilit Ter-Astvatsatryan
lilit@moonlawgroup.com
725 S. Figueroa St., 31st Fl.
Los Angeles, CA 90017
Tel: (213) 232-3128; Fax: (213) 232-3125

To Defendant:

Andrew M. McNaught
amcaught@seyfarth.com
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel: (415) 397-2823

91. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party because of the extent to which any Party or their counsel participated in the drafting of this Settlement Agreement. Plaintiff and Defendant expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

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

93. Modification. This Settlement Agreement may not be changed, altered, or modified except in writing and signed by the Parties hereto and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by writing signed by all of the Parties hereto.

94. Dispute Resolution. Prior to instituting legal action to enforce the provisions of

this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide written notice to the other Party and allow an opportunity to cure the alleged deficiencies, and Plaintiff and Defendant agree to seek the help of the mediator identified in this Agreement to resolve any dispute they are unable to resolve informally. During this period, the Parties shall bear their attorneys' fees and costs. This provision shall not apply to any legal action or other proceeding instituted by any person or entity other than Plaintiff or Defendant.

95. Court Retains Jurisdiction. The Parties agree that pursuant to Code of Civil Procedure section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations of this Agreement.

96. Enforceability. Pursuant to California Evidence Code section 1123(a) and (b), this Agreement is intended by the Parties to be and shall be, enforceable, binding, and admissible in a court of law.

97. Choice of Law. This Settlement Agreement shall be governed by and construed, enforced, and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

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

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

100. Signatures of All Class Members Unnecessary to be Binding. It is agreed that because the members of the Settlement Class are numerous, it is impossible or impractical to have each Final Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein, and such shall

have the same force and effect as if each Final Settlement Class Member executed this Settlement Agreement.

101. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES:

Dated: _______________ **CLASS REPRESENTATIVE:**

____
Lorena Rivas Arias

Dated: 1/27/2025 **DEFENDANT:**

WOLVERINE DISTRIBUTION, INC.

Erin Orndorff
____
By: Erin Orndorff
Its: Senior Corporate Counsel

APPROVED AS TO FORM:

CLASS COUNSEL

Dated:___________________ **MOON LAW GROUP, PC**

____
Kane Moon

Lilit Ter-Astvatsatryan
Attorneys for Plaintiff

Dated: 1/27/2025

DEFENDANT'S COUNSEL:

SEYFARTH SHAW LLP

Andrew McNaught

Andrew M. McNaught
Attorneys for Defendant,
Wolverine Distribution, Inc.