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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF LOS ANGELES**

17 PORFIRIA YOCUPICIO, individually, and on)
18 behalf of all other similarly situated,)

19 Plaintiff,

20 vs.

21 ARCH RESOURCES GROUP LLC, ET AL.,)
22 a limited liability company; and DOES 1)
23 through 10, inclusive,)

24 Defendants)

CASE NO. BC548550

) Assigned to the Hon. Elihu M. Berle
Dept. 6

) **AMENDED CLASS ACTION**
) **SETTLEMENT AGREEMENT**

) Complaint Filed: June13, 2014

) First Amended
) Complaint Filed: August 21, 2014

) Trial Date: None

conformed
COPY

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUL 26 2018

Sherri R. Carter, Executive Officer/Clerk of Court
By: Isaac Lovo, Deputy

1 This Amended Class Action Settlement Agreement ("Settlement Agreement") is made by
2 and between Plaintiff Porfiria Yocupicio ("Plaintiff"), on behalf of herself and other similarly
3 situated employees of Defendant Arch Resources Group LLC (hereinafter referred to as
4 "ARCH"), a Delaware limited liability company, and ARCH (hereinafter, collectively referred to
5 as "parties" or individually as "party"), in regard to the civil action filed against Arch Resources
6 Group LLC, *et al* on June 13, 2014, in the Superior Court of California for the County of Los
7 Angeles, captioned *PORFIRIA YOCUPICIO, individually, and on behalf of all others similarly*
8 *situated, Plaintiff, vs. ARCH GROUP, LLC, a limited liability company* Case No. BC548550. On
9 August 24, 2014, Plaintiff filed a First Amended Complaint naming PAE Group, LLC as a
10 defendant. PAE Group, LLC was subsequently dismissed because it had renamed itself ARCH.
11 Plaintiff subsequently amended her complaint to add Pacific Pearl Hotel Management - San
12 Diego and Pacific Pearl Hotels, LLC, who are not parties to this agreement (collectively, "PPH").

15 **I. BACKGROUND AND RECITALS**

16 1. On June 13, 2014, Plaintiff filed a class action complaint in the Superior Court of
17 California for the County of Los Angeles, Case No. BC548550. On August 21, 2014, Plaintiff
18 filed her First Amended Class Action Complaint ("FAC") against ARCH RESOURCES GROUP,
19 LLC, a limited liability company. On or about October 3, 2017, Plaintiff amended the complaint
20 to add PACIFIC PEARL HOTEL MANAGEMENT - SAN DIEGO, LLC, a limited liability
21 company; PACIFIC PEARL HOTELS, LLC, a limited liability company as Doe defendants.

22 2. On June 16, 2016, ARCH filed a cross-complaint against PPH, which is not a
23 subject of this Agreement.

24 3. The FAC alleged the following seven causes of action, respectively: (1) "Failure
25 To Provide Meal Periods"; (2) "Failure To Authorize and Permit Rest Breaks"; (3) "Failure to
26 Pay Minimum Wage And Straight Time Wages"; (4) "Failure To Pay Overtime Compensation";
27 (5) "Failure to Pay Vested Vacation time"; (6) "Failure To Timely Pay Temporary Service
28

1 Employee”; (7) “Failure to Timely Pay All Wages Upon Termination Of Employment”; (8)
2 “Failure to Provide Accurate Itemized Wage Statements”; (9) “Unfair Business Practices”; and
3 (10) “Representative Action Under the Private Attorneys General Act of 2004 for Civil Penalties,
4 Labor Code §§ 2698-2699.5 [‘PAGA’]” (collectively, the “Action”).

5 4. Plaintiff is a former housekeeper at the DoubleTree by Hilton Golf Resort in San
6 Diego (“DoubleTree”) who worked during a portion of the relevant class period. Pursuant to an
7 agreement between ARCH and PPH, ARCH employed Plaintiff and certain other individuals (the
8 “DoubleTree Employees”), solely for purposes of providing PPH with ministerial human
9 resources and payroll functions for such individuals, which DoubleTree Employees worked at the
10 DoubleTree. The parties agree that Plaintiff may be appointed by the Court as the class
11 representative (“Class Representative”).

12 5. Plaintiff’s counsels are Messrs. Farzad Rastegar and Thomas S. Campbell of the
13 Rastegar Law Group, APC, whom the parties agree may be appointed by the Court as class
14 counsel (“Class Counsel”).

15 6. Prior to settlement, the parties conducted pre-mediation discovery which involved
16 the production of a substantial amount of payroll and wage records relating to the claims in this
17 litigation. Class Counsel and ARCH’s counsel expended a significant amount of time and
18 resources reviewing electronic data and business records relating to worker time data, payroll
19 summaries, ARCH’s meal and rest period policies and signed acknowledgments, as well as other
20 ARCH policies and procedures relevant to the claims in this Action.

21 7. On July 19, 2017, the parties participated in a full-day mediation with Jeffrey
22 Krivis at First Mediation Corporation. The parties thereafter continued mediating the case with
23 Mr. Krivis and, after considering all of the various factors at issue, the parties eventually agreed to
24 settle the entire Action and entered into a Memorandum of Understanding (MOU) setting forth
25 the material economic and non-economic terms of the settlement, with the understanding that a
26 long-form settlement agreement would be executed by the parties. This document is the long-
27 form settlement agreement contemplated by the MOU, and it supersedes the MOU upon the
28 approval of the Court of the settlement.

1 8. Plaintiff and Class Counsel concluded, after taking into account the sharply
2 disputed factual and legal issues involved in this Action, the risks attendant to further prosecution
3 and the substantial benefits to be received pursuant to the compromise and settlement of the
4 Action as set forth in this Agreement, that settlement on the terms set forth herein is in the best
5 interests of Plaintiff and the putative Class and is fair and reasonable.

6 9. Similarly, ARCH concluded, after taking into account the sharply disputed factual
7 and legal issues involved in the Action, the expense and burden of protracted litigation and its
8 desire to put the controversy to rest, that settlement on the terms set forth in this Agreement is in
9 ARCH's best interest and is fair and reasonable.

10 10. Each of the parties understands and acknowledges that each party is waiving legal
11 rights or claims by signing the Agreement, and that each party voluntarily enters into the
12 Agreement with a complete understanding of its terms and with the intent to be bound thereby.

13 11. This settlement contemplates (i) entry by the Court of an Order preliminarily
14 approving the settlement and certifying the proposed settlement class, as hereinafter described,
15 solely for purposes of settlement, (ii) entry by the Court of Order ruling that this agreement
16 constitutes a good faith settlement between ARCH and the putative class pursuant to Code of
17 Civil Procedure §§ 877 *et seq.*; and (iii) entry by the Court of an Order granting final approval of
18 the settlement as of the date of the final approval order.

19 **NOW, THEREFORE,** in consideration of the mutual covenants and promises contained
20 herein, and for other good and valuable consideration, receipt of which is hereby acknowledged,
21 the parties agree as follows:

22 **II. CONSIDERATION FOR THE SETTLEMENT AND RELEASE OF CLAIMS**

23 12. Subject to and conditioned upon Court approval pursuant to Section 382 of the
24 California Code of Civil Procedure and Rule 3.769, *et seq.* of the California Rules of Court, and
25 an Order of this Court determining this agreement constitutes a good faith settlement as set forth
26 in paragraph 25 below, Plaintiff and ARCH have mutually agreed to settle the Action upon the
27 terms and conditions, release of claims with prejudice, and other consideration set forth in this
28 Agreement. A summary of the terms of the Settlement is as follows:

1 A. The parties stipulate to certification of a provisional settlement class ("Settlement
2 Class"), for purposes of this settlement only. The putative class members also be referred to
3 herein collectively as "Members of the Settlement Class" or individually as "Member of the
4 Settlement Class." The Settlement Class shall consist of:

5 All employees who worked in any hourly paid job position in California and were
6 employed by ARCH to work at the DoubleTree by Hilton Golf Resort - San Diego,
7 located at 14455 Penasquitos Drive, San Diego, CA 92129, any time during the Class
8 Period from June 13, 2010, until the date of preliminary approval of the Settlement by the
9 Court.

10 B. Gross Settlement Value: On behalf of ARCH and the ARCH Released Parties,
11 ARCH will pay a maximum of One Hundred Twenty Two Thousand Five Hundred Dollars
12 (\$122,500.00), which is referred to herein as the Gross Settlement Value ("GSV"), inclusive of,
13 and in full and final settlement of, Plaintiff's individual and representative claims as well as all
14 Settlement Class claims, PAGA claims, attorneys' fees, costs (including expert witness fees and
15 related costs), and expenses and interest. The parties agree that the following sums may be
16 deducted from the GSV, to attain a Net Settlement Amount ("NSA"):

17 i. Enhancement Payment: Class Representative Plaintiff shall be paid the
18 total sum of Five Thousand Dollars (\$5,000.00), without deductions, as an
19 Enhancement Payment for serving diligently and responsibly as the Class
20 Representative in recognition of the additional time and resources
21 expended by Plaintiff. This sum shall be deducted from the GSV.

22 ii. LWDA Payment. The Parties recognize and agree that, as a result of the
23 claim for penalties pursuant to PAGA, \$3,750.00 represents seventy-five
24 percent (75% of \$5,000.00 of the PAGA penalties) which must be paid to
25 the LWDA, as mandated by Labor Code Section 2699(i). The \$1,250
26 portion of the PAGA penalties will be included in the Net Settlement
27 Amount for distribution to eligible Class Members.

28 iii. Attorneys' Fees: Subject to Court approval, ARCH has agreed not to

1 object to a request by Class Counsel to be designated as Class Counsel and
2 to be paid any accounts for a reasonable lodestar which the Court may
3 grant, but in no event shall the total payment of attorneys' fees exceed the
4 sum of 35% of the GSV, *i.e.*, Forty-Two Thousand Eight Hundred Seventy
5 Five Dollars (\$42,875.00), which sum shall be deducted from the GSV.

6 iv. Attorneys' Costs: Subject to Court approval, ARCH has agreed not to
7 object to a request by Class Counsel to be paid any accounts for reasonable
8 costs, but in no event shall the total payment of attorneys' costs exceed the
9 sum of Twenty-One Thousand Five Hundred Dollars (\$21,500.00), which
10 sum shall be deducted from the GSV.

11 v. Class Administrative Costs: The class administrative costs (the
12 "Administrative Costs"), including without limitation the fees paid to a
13 settlement administrator, shall be deducted from the GSV.

14 C. Net Settlement Amount: The NSA is estimated to be Forty-Three Thousand One
15 Hundred and Twenty-Five Dollars (\$43,125.00), *i.e.*, GSV minus PAGA Penalties, Enhancement
16 Payment, Attorneys' Fees, Attorneys' Costs, and Administrative Costs. The parties agree that the
17 NSA shall be allocated and paid to Members of Settlement Class, as follows:

18 13. Other than payment of the GSV, under the terms and conditions set forth herein,
19 Plaintiff and the putative members of the settlement identified herein acknowledge and agree that
20 no other payment(s), including without limitation for wages, piece rates, overtime, bonus,
21 vacation pay, premium pay for alleged missed meal or rest breaks, travel, expenses, failure to
22 provide meal or rest periods, failure to provide accurate itemized wage statements and to maintain
23 records, failure to timely pay wages upon termination, restitution, PAGA penalties, and civil or
24 statutory penalties, interest, attorneys' fees, or benefits, are or shall be due and owing from ARCH
25 or any of the ARCH Released Parties, individually or as members of an identified settlement
26 class, or to Class Counsel, for the relevant period of time covered by the FAC, or for any other
27 period.

1 14. Pursuant to the IRS Circular 230 Disclaimer, the parties acknowledge and agree
2 that (1) no provision of this Agreement, and no written communication or disclosure between or
3 among the parties or their attorneys and other advisers, is or was intended to be, nor shall any
4 such communication or disclosure constitute or be construed or be relied upon as, tax advice
5 within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
6 amended); (2) the acknowledging part(ies) (a) has relied exclusively upon his, her or its own,
7 independent legal and tax advisers for advice (including tax advice) in connection with this
8 Agreement, (b) has not entered into this Agreement based upon the recommendation of any other
9 party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
10 communication or disclosure by any attorney or advisor to any other party to avoid any tax
11 penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any
12 other party has imposed any limitation that protects the confidentiality of any such attorney's or
13 adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure
14 by the acknowledging party of the tax treatment or tax structure of any transaction, including any
15 transaction contemplated by this Agreement.

16 **III. RELEASE OF CLAIMS**

17 15. The term "ARCH Released Parties" means and shall include the following: ARCH
18 (as defined herein), ARCH RESOURCES GROUP, LLC, a limited liability company, each of its
19 current or former owners, officers, directors, shareholders, investors, partners, members,
20 employees, servants, managing agents, partnerships, trustees, predecessors, successors, assigns,
21 parent corporations, and/or subsidiaries (whether or not wholly owned); any other entity or
22 company operated, controlled by, or under common control with any one of the foregoing; each
23 of their respective trustees, directors, officers, attorneys, insurers or reinsurers, accountants,
24 lenders, investors, agents, servants, representatives, employees and former employees (in their
25 respective capacities as such, in their individual and personal capacities, and in any and all other
26 capacities).

27 16. The term "Class Released Claims" means any and all liabilities, demands, claims,
28 causes of action, complaints and obligations arising during June 13, 2010 through the Settlement

1 Effective Date (as defined herein) that were alleged or which could have been alleged in the FAC,
2 and each and every material allegation alleged therein, including without limitation the following:
3 1) "Failure To Provide Meal Periods"; (2) "Failure To Authorize and Permit Rest Breaks"; (3)
4 "Failure To Pay Minimum Wage And Straight Time Wages"; (4) "Failure To Pay Overtime
5 Compensation"; (5) "Failure To Pay Vested Vacation Time"; (6) "Failure To Timely Pay
6 Temporary Service Employee"; (7) "Failure To Timely Pay All Wages Upon Termination Of
7 Employment"; (8) "Failure To Provide Accurate Itemized Wage Statements"; (9) "Unfair
8 Business Practices"; and (10) "Representative Action Under the Private Attorneys General Act of
9 2004 for Civil Penalties, Labor Code §§ 2698-2699.5 ['PAGA']" (collectively, the "Action").

10 17. The term "Plaintiff Released Claims" means any and all Class Released Claims
11 and claims under the California Fair Employment and Housing Act ("FEHA"), California Family
12 Rights Act ("CFRA") (Cal. Gov't Code section 12940 *et seq.*), Title VII of the 1964 Civil Rights
13 Act, as amended ("Title VII") (42 U.S.C. section 2000e *et seq.*), the Consolidated Omnibus
14 Benefits Reconciliation Act of 1985 ("COBRA"), the Americans with Disabilities Act ("ADA")
15 (42 U.S.C. section 12101 *et seq.*), as amended, the Vocational Rehabilitation Act of 1973 (29
16 U.S.C. section 701, *et seq.*), the California Labor Code; claims for disputed wages and penalties
17 under federal or state law; claims for compensation, severance, employee benefits and vacation
18 pay (*excluding* workers' compensation or unemployment insurance claims); attorneys' fees, costs,
19 expenses and expert witness fees and expenses; tort damages or personal injury damages; breach
20 of implied or express contract; failure to accommodate; failure to engage in an interactive process;
21 wrongful termination in violation of public policy; breach of fiduciary duty; declaratory relief;
22 injunctive relief; public policy breach; intentional or negligent infliction of emotional distress;
23 breach of employment contract (whether express, implied in law or fact, oral or written); breach
24 of implied covenant of good faith and fair dealing; interference with contract; intentional or
25 negligent interference with prospective economic advantage; intentional or negligent
26 misrepresentation, promissory fraud, or fraud; conversion; defamation; libel or slander;
27 discrimination, retaliation, harassment or hostile work environment on the basis of any statutorily
28 protected class including but not limited to disability, engagement in protected activity; failure to

1 prevent discrimination, retaliation, harassment or hostile work environment; negligent hiring;
2 constructive discharge; disparagement of any kind or nature; invasion of privacy; civil assault;
3 malicious prosecution; abuse of process; declaratory or injunctive relief, whether known or
4 unknown, suspected or unsuspected, fixed or contingent, apparent or concealed, at law or in
5 equity, which Plaintiff ever had or held, now has or holds, or hereafter can, shall, or may have or
6 hold at any time in the future, in any capacity, individually or as a member of a class, collective or
7 representative action, or an action for the public good or as a private attorneys general, with
8 respect to Plaintiff's employment with ARCH, the terms and conditions and working environment
9 of her employment, and the termination thereof, the compensation paid to Plaintiff, the subject
10 matter of the Agreement, or any other matters with, by, between or among ARCH, or any of the
11 ARCH Released Parties, and Plaintiff from the beginning of the World through the Settlement
12 Effective Date.

13 18. In consideration of the terms and provisions of the Agreement, the Members of the
14 Settlement Class shall and do hereby and forever fully, finally and forever generally remise,
15 release, waive and discharge, with prejudice, ARCH and the ARCH Released Parties, and each of
16 them, from any and all known or unknown, suspected or unsuspected, whether or not concealed
17 or hidden, claims, rights, actions and causes of action, at law or in equity, *relating to the Class*
18 *Released Claims only*, which the Members of the Settlement Class ever had or held, now have or
19 hold, or hereafter can, shall, or may have or hold against ARCH and the ARCH Released Parties
20 or any one of them, based on any occurrences, transactions, events, acts, or omissions of any kind
21 whatsoever from the beginning of the World through the Settlement Effective Date. Any eligible
22 Class Member who does not elect to exclude himself or herself from the Settlement Class will be
23 deemed to have entered into this release of claims and to have released the claims.

24 19. In consideration of the terms and provisions of the Agreement, and without
25 limiting the foregoing release in Paragraph 16, Plaintiff shall and does hereby and forever fully,
26 finally and forever generally remise, release, waive and discharge, with prejudice, ARCH and the
27 ARCH Released Parties, and each of them, from any and all known or unknown, suspected or
28 unsuspected, whether or not concealed or hidden, claims, rights, actions and causes of action, at

1 law or in equity, including but not limited to the Plaintiff Released Claims, which Plaintiff ever
2 had or held, now has or holds, or hereafter can, shall, or may have or hold against ARCH and the
3 ARCH Released Parties or any one of them, based on any occurrences, transactions, events, acts,
4 or omissions of any kind whatsoever from the beginning of the World through the Settlement
5 Effective Date.

6 20. ARCH shall not reinstate, re-hire, or hire Plaintiff. Plaintiff shall not apply for
7 employment with ARCH. Plaintiff understands and agrees that, should she apply for
8 employment, ARCH shall have the right to terminate the processing of his application, and
9 Plaintiff shall have no rights, claims or causes of action against ARCH as a result.

10 **IV. WAIVER OF SECTION 1542 RIGHTS**

11 21. Plaintiff acknowledges and agrees she has been informed of and understands the
12 provision of California Civil Code section 1542 which provides as follows:

13 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
14 **WHICH THE CREDITOR DOES NOT KNOW OR**
15 **SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE**
16 **TIME OF EXECUTING THE RELEASE, WHICH IF**
17 **KNOWN BY HER OR HER MUST HAVE MATERIALLY**
AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR.

18 22. Plaintiff expressly waives and relinquishes any and all rights and benefits under
19 Section 1542 of the Civil Code of the State of California and under any statute, rule, or principle
20 of common law or equity, of any jurisdiction, that is similar to Section 1542.

21 23. This waiver of Section 1542 does not extend to Class Members other than
22 Plaintiff.

23 24. Plaintiff further acknowledges and agrees that if the facts or law with respect to
24 which the foregoing releases are given hereafter turn out to be other than or different from the
25 facts or law in that connection not known to be or believed by each of them to be true, Plaintiff
26 expressly assumes the risk of the facts or law turning out to be so different, and agrees that the
27 foregoing releases shall be in all respects effective and not subject to termination or rescission
28 based upon any such differences in facts or law.

1 **V. ADDITIONAL TERMS**

2 25. Good Faith Settlement. The parties agree that this Agreement is expressly
3 conditioned upon the Court granting a good faith settlement motion by ARCH pursuant to Code
4 of Civil Procedure sections 877 *et seq.* The parties further acknowledge that, if the Court denies
5 ARCH's motion, ARCH may waive this condition in its sole discretion.

6 26. Stay of Discovery. The parties agree to stay all discovery between them and the
7 further deposition of Plaintiff pending approval of the Court of this settlement. The parties agree
8 not to serve any discovery requests, subpoenas, or deposition notices to each other following
9 Court approval pursuant to Code of Civil Procedure section 382 and Rule of Court 3.768, *et seq.*

10 27. No Admission of Liability. This Agreement represents a settlement of disputed
11 rights and claims and, by entering into the Agreement, ARCH does not admit or acknowledge the
12 existence of any liability or wrongdoing to Plaintiff or any of the Members of the Settlement
13 Class, all such liability or wrongdoing being specifically and expressly denied.

14 28. Calculation of Class Members Payment/Claims Process. The amount that each
15 individual participating Class Member will be eligible to receive under the settlement will be
16 calculated by dividing each participating Class Member's individual work weeks by the total
17 workweeks of all Class Members and multiplying the resulting fraction by the Net Settlement
18 Fund. Each participating Class Members' individual settlement award will be designated as
19 follows: 1/3 as wages, 2/3 for interest, penalties, and any other damages. The amounts paid as
20 wages shall be subject to all tax withholdings customarily made from the employee's wages and
21 all other authorized and required withholdings shall be reported by W-2 forms. The amounts paid
22 as penalties and interest shall be subject to all authorized and required withholdings other than the
23 tax withholdings customarily made from employees' wages and shall be reported by IRS 1099
24 form. ARCH shall be responsible for paying the employer's portion of any employment taxes
25 attributable to the amounts paid as wages.

26 29. No-Claims Made. The parties agree to a "no-claims made" redemption process
27 whereby each Class Member will receive their settlement share if he or she does not opt-out of the
28 Settlement. Members of the Settlement Class have one hundred eighty (180) days from the date

1 of the issuance to cash their checks.

2 30. Class Administrator: The parties have agreed to appoint Phoenix Settlement
3 Administrators ("Phoenix") as the class administrator for the purpose of administering the
4 settlement contemplated by this Agreement (the "Class Administrator"). The Class
5 Administrator's duties include, but are not limited to, printing, distributing, and tracking notices
6 and forms for this settlement, calculating Individual Settlement Amounts, tax reporting,
7 distributing payments, and providing necessary reports and declarations, and other duties set forth
8 herein to process this Agreement, as requested by the parties. If for any reason Phoenix does not
9 become the Class Administrator, then all references to the Class Administrator and to Class
10 Action Administration in this Agreement shall be deemed to refer to the Class Administrator
11 actually appointed.

12 31. ARCH To Provide Contact Information for Members of the Settlement Class:
13 Within twenty-one (21) calendar days after the Court's preliminary approval of the Settlement,
14 ARCH shall provide on a confidential basis the Class Administrator with the Class List Data
15 consisting of the following: i) a spreadsheet containing the names, most recent known mailing
16 addresses, telephone numbers, and Social Security numbers of the Members of the Settlement
17 Class, to the extent that ARCH has such information in its records.

18 32. Confidentiality of Class List Data: The Class Administrator shall keep
19 confidential all Class List Data provided by ARCH, as well as any other information exchanged
20 between the parties as part of the settlement.

21 33. Class Notice of Settlement: Within twenty-one (21) calendar days after receipt of
22 the Class List Data, the Class Administrator shall mail the class notice in English and in Spanish
23 (the "Class Notice"), attached as Exhibit A and incorporated herein by this reference as though set
24 forth herein, to the Members of the Settlement Class via first-class U.S. Mail. The Class Notice
25 will be in a form substantially identical to Exhibit "A" attached hereto, with any modifications as
26 the Court may order. The purpose of the Class Notice is to, *inter alia*, inform Members of the
27 Settlement Class of the nature of the Action, provide a summary of the proposed settlement,
28 define the Settlement Class, describe how to submit Requests for Exclusion, and describe how to

1 submit Objections.

2 34. Verification of Contact Information: Before the mailing of the Class Notice, the
3 Class Administrator will perform a search based on the National Change of Address Database, or
4 any other similar services available, to correct for any identifiable address changes. After
5 mailing, if a new address is obtained, then the Class Administrator shall promptly forward the
6 original Class Notice to the updated address via first-class U.S. Mail, indicating on the original
7 Class Notice the date of such remailing. ARCH agrees to cooperate with the Class Administrator
8 to locate a more recent address for Members of the Settlement Class where necessary.

9 35. Deadline for Response by Members of the Settlement Class: Members of the
10 Settlement Class will have sixty (60) calendar days from the mailing of the Class Notice (the
11 "Opt-Out Period") to submit Requests for Exclusion or objections to the proposed settlement. As
12 to Members of the Settlement Class whose notices are re-mailed because of a new address, the
13 new deadline for submitting an Exclusion Request or an Objection will be either (i) sixty (60)
14 calendar days from the second mailing or (ii) forty-five (45) calendar days before the hearing on
15 Final Approval, whichever date is earlier.

16 36. Opting Out by Exclusion Request: Within the Opt-Out Period, Members of the
17 Settlement Class who wish to opt-out of the proposed settlement must sign and fax or postmark to
18 the Class Administrator a written Exclusion Request. An Exclusion Request is a writing
19 submitted within the Opt-Out Period that expresses an intent to not participate in the proposed
20 settlement and that (1) is signed by the Member of the Settlement Class requesting exclusion, (2)
21 contains the name, address, telephone number and the last four digits of the Social Security
22 number of the Member of the Settlement Class requesting exclusion, (3) clearly states that the
23 Member of the Settlement Class does not wish to be included in the proposed settlement, (4) is
24 returned by fax or mail to the Class Administrator at the specified address, and (5) is faxed or
25 postmarked on or before the 60-day deadline. The date of the fax or the postmark on the Member
26 of the Settlement Class's mailing envelope shall determine whether an Exclusion Request is
27 timely. A Member of the Settlement Class who does not timely submit an Exclusion Request
28 shall be deemed a Member of the Settlement Class and will benefit by and be bound by all terms

1 of the settlement contemplated by this Agreement, if the Court grants Final Approval.

2 37. Objections: To object to the settlement proposed by this Agreement, a Member of
3 the Settlement Class must file with the Court and serve Plaintiff's counsel and Defendant's
4 counsel, within the Opt-Out Period, an objection to the Agreement. An objection is a written
5 document that is signed by a Member of the Settlement Class who has not filed an Exclusion
6 Request and that includes (a) the objecting Member of the Settlement Class' full name, address,
7 and telephone number, (b) a written statement of factual and legal grounds for the Objection, (c)
8 copies of any papers, briefs, or other documents on which the Objection relies, (d) a list of all
9 persons who will be called to testify in support of the Objection, (e) a statement whether the
10 objector intends to appear at the hearing on Final Approval, and (f) a list of all cases in which the
11 objector or the objector's counsel has filed objections to a class action settlement in the preceding
12 five years. Any Member of the Settlement Class who does not file a timely Objection and a
13 notice of an intention whether to appear at the hearing on Final Approval, or who otherwise fails
14 to substantially comply with the requirements of this paragraph, may be foreclosed from objecting
15 to the proposed settlement and seeking any adjudication or review of the settlement, by appeal or
16 otherwise.

17 38. Class Administrator Responsibilities Before Final Approval: If any Class Notice is
18 returned to the Class Administrator as nondelivered, then the Class Administrator may use skip
19 tracing, address verification of returned mail, or other methodology as the Class Administrator
20 deems to be appropriate to locate Members of the Settlement Class. As soon as practicable after
21 the Opt-Out Period, the Class Administrator shall report simultaneously to the parties' counsel the
22 following information: (1) the number of timely and untimely Exclusion Requests, if any, (2) the
23 name of each Member of the Settlement Class, if any, who submitted an Exclusion Request, (3)
24 the number of timely and untimely Objections, if any, and (4) the name of each Settlement Class
25 Member, if any, who submitted an Objection, and the stated grounds therefor. No later than
26 seven (7) calendar days before the hearing on Final Approval, the Class Administrator shall
27 prepare a Due Diligence Declaration stating the steps the Class Administrator has taken to
28 administer this Agreement, including the dissemination of the Class Notice and the receipt of any

1 Requests for Exclusion or Objections. Class Counsel shall be responsible for filing the Due
2 Diligence Declaration with the Court.

3 39. Motion for Final Approval: Following the expiration of the Opt-Out Period, Class
4 Representative Plaintiff will move for Final Approval ("Motion for Final Approval"), and will
5 submit a proposed order to approve this Agreement, which would adjudge that the terms thereof
6 to be fair, adequate, and reasonable, rule on the request for attorneys' fees, rule on the request for
7 the Enhancement Payment, rule on the request for the PAGA Settlement, and call for judgment to
8 be entered on the Action with a provision for the retention of the Court's jurisdiction over the
9 parties to enforce the terms of the judgment pursuant to Rule 3.769(h) of the California Rules of
10 Court. The Class Representatives shall provide a draft of the Motion for Final Approval for
11 ARCH's review and comment. Upon agreement by the parties as to the language to be included
12 in the Motion for Final Approval, ARCH will file a notice of non-opposition to the Motion for
13 Final Approval.

14 40. Payment of GSV: Within thirty days of the date of the entry of the Final Approval
15 Order, the GSV shall be deposited by ARCH with the Settlement Administrator, who shall keep
16 such funds in an established interest-bearing account.

17 41. Class Administrator Responsibilities After Final Approval: As soon as practicable
18 after the deposit of the GSV with the Class Administrator, but no later than fourteen (14) days
19 thereafter, the Class Administrator shall (1) effect individual settlement payment amounts and
20 issue the appropriate tax reporting, (2) pay the Enhancement Payment to Class Representative
21 Plaintiff and issue the appropriate tax reporting, and (3) pay the award of attorneys' fees and costs
22 to Class Counsel and issue the appropriate tax reporting. The Class Administrator shall monitor
23 the cashing of settlement checks by Members of the Settlement Class. The Class Administrator
24 shall make settlement checks negotiable for 180 days from their issuance and will thereafter have
25 them automatically cancelled if not cashed. As soon as practicable after the 180-day check
26 cashing period, the Class Administrator shall prepare for the parties a Final Report – a document
27 summarizing relevant events to date and advising the total dollar amount paid to Members of the
28 Settlement Class, and the status of any uncashed checks. The Class Administrator shall comply,

1 on behalf of the parties, with any orders of the Court concerning class administration.

2 42. Cy Pres: Pursuant to Code of Civil Procedure section 384, counsel for Plaintiff
3 shall provide the Court with the Final Report within ten (10) days after receipt from the Class
4 Administrator, and advise the Court of the total amount of uncashed and/or returned checks from
5 the ARCH Class, plus the amount of interest accrued on such amount. After the Final Report is
6 received by the Court, the Court shall amend the judgment to direct the Class Administrator to
7 pay the sum of the uncashed and returned checks, plus interest accrued on that sum, to the
8 Counsel for Justice ("CFJ"), the charitable arm of the Los Angeles County Bar Association which
9 provides equal access to legal services in the community by raising funds for, and directly
10 contributing to, projects involving domestic violence, support of veterans, immigration assistance,
11 and AIDS services.

12 **VII. LIMITATIONS ON USE OF THIS SETTLEMENT**

13 43. **No Admission.**

14 Neither the acceptance nor the performance by ARCH of the terms of this Agreement nor
15 any of the related negotiations or proceedings is or shall be claimed to be, construed as, or
16 deemed a precedent or an admission by ARCH of the truth of any allegations in the Complaint.

17 44. **Non-Evidentiary Use.**

18 Neither this Agreement nor any of its terms, nor any statements or conduct in the
19 negotiation or drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member
20 (including any individual who requested to be excluded from the Class), ARCH, or their
21 respective counsel, in the Action.

22 45. **Nullification.**

23 If the Court for any reason does not approve this Settlement, this Agreement shall be
24 considered null and void and all parties to this settlement shall stand in the same position, without
25 prejudice, as if the settlement had been neither entered into nor filed with the Court.

26 **VIII. MISCELLANEOUS PROVISIONS**

27 46. **Non-Disclosure.**

28 Plaintiff agrees that if asked about this Action or Settlement, Plaintiff shall refer such

1 inquires to Class Counsel. Class Counsel agrees not to publicize this Action or settlement on their
2 website(s) or in a jury, or case reporting service or in any way.

3 **47. Amendments.**

4 The terms and provisions of this Agreement may be amended only by a written agreement
5 which is both (1) signed by named Plaintiff, Class Counsel, ARCH, and Counsel for ARCH; and
6 (2) approved by the Court.

7 **48. Cooperation.**

8 The parties agree to fully cooperate with each other to accomplish the terms of this
9 Agreement, including but not limited to, executing such documents and taking such other action
10 as may reasonably be necessary to implement the terms of this Agreement. The parties to this
11 Agreement shall use their best efforts, including all efforts contemplated by Agreement and any
12 other efforts that may become necessary by order of the Court or otherwise to effectuate this
13 Agreement and the terms set forth herein. As soon as practicable after execution of this
14 Agreement, Plaintiff's Counsel shall, with the assistance and cooperation of ARCH and its
15 counsel, take all necessary steps to secure the Court's preliminary and final approval of this
16 Agreement.

17 **49. No Inducements.**

18 Plaintiff and ARCH acknowledge that each of them is entering into this Agreement as a
19 free and voluntary act without duress or undue pressure or influence of any kind or nature
20 whatsoever with the intent to be bound thereby, and that neither Plaintiff nor ARCH have relied
21 on any promises, representations or warranties regarding the subject matter hereof other than as
22 set forth in this Agreement.

23 **50. No Prior Assignment.**

24 The parties hereto represent, covenant, and warrant that they have not directly or
25 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
26 person or entity any portion of any liability, claim, demand, action, cause of action or rights
27 herein released and discharged except as set forth herein.

28 ///

1 **51. Severability.**

2 If any provision (or portion thereof) of the Agreement is declared by an arbitrator or court
3 of competent jurisdiction to be invalid or unenforceable, the remaining provisions (including
4 other
5 portions of a provision having an invalid portion) shall remain in full force and effect and, to the
6 extent possible, the disputed provision shall be construed so that it may be valid and enforceable.

7 **52. Integrated Agreement.**

8 The Agreement constitutes an integrated written contract expressing the entire agreement
9 of Plaintiff and ARCH, and each of them, as to its subject matter. All prior and contemporaneous
10 discussions, negotiations and writings, have been and are merged with and integrated into, and are
11 superseded by, the Agreement. No representations, promises, agreements or understandings,
12 written or oral, not contained herein shall be of any force or effect. The Agreement cannot be
13 modified except by a writing executed by the parties.

14 **53. Governing Law.**

15 Construction and interpretation of the Agreement shall at all times and in all respects be
16 governed by the laws of the State of California, without regard to the rules or principles of
17 conflicts or choice of law that might look to any jurisdiction outside of California.

18 **54. Waiver.**

19 No failure or delay in exercising any right, power or privilege in respect of the Agreement
20 shall act as a waiver to a later demand for full and complete performance.

21 **55. Independent Legal Advice.**

22 The parties have each received prior independent legal advice from their counsel of record
23 with respect to the advisability of entering into the Agreement; and each material term of this
24 Agreement was explained to them in a manner which allowed them to understand the terms of the
25 Agreement and the releases of claims set forth herein to the extent necessary or desirable.

26 **56. Construction of Agreement.**

27 As each of the parties to the Agreement was assisted by their respective attorneys in
28 reviewing and agreeing to the terms hereof, no ambiguity shall be resolved against any of the

1 parties by virtue of having participated in the drafting of the Agreement.

2 **57. Counterparts.**

3 This Agreement, and any amendments hereto, may be executed in any number of
4 counterparts, each of which when executed and delivered shall be deemed to be an original and all
5 of which taken together shall constitute but one and the same instrument.

6 **58. Settlement Effective Date.**

7 The effective date of the Agreement ("Settlement Effective Date") means the date when
8 the following conditions have been satisfied: (1) The Agreement is executed by all parties, Class
9 Counsel, and ARCH's counsel; (2) the Court has given preliminary approval of the Agreement;
10 (3) notice has been given to the Members of the Settlement Class providing them with an
11 opportunity to opt-out of the Agreement; (4) the Court held a final approval hearing and entered a
12 final order and judgment approving the Agreement; (5) in the event there are written objections
13 filed prior to the final approval hearing that are not withdrawn or overruled, the later of the
14 following events: (i) when the period for filing any appeal, writ, or other appellate proceeding
15 opposing the Agreement has elapsed without any appeal, writ or other appellate proceeding
16 having been filed; or any appeal, writ or other appellate proceeding opposing the Agreement has
17 been dismissed finally and conclusively with no right to pursue further remedies or relief, or (ii)
18 any appeal, writ, or other appellate proceeding has upheld the Court's final order with no right to
19 pursue further remedies or relief. In this regard, it is the intention of the Parties that the
20 Settlement shall not become effective until the Court's order approving the Agreement is
21 completely final and there is no further recourse by an appellant or objector who seeks to contest
22 the Agreement. In the event that no objections are filed, the Effective Date shall be upon the
23 completion of steps (a) through (d) above. If any foregoing conditions described in this paragraph
24 has failed to occur, then, absent further agreement of the parties, this Agreement shall be null and
25 void.

26 ///

27 ///

28 ///

IN WITNESS WHEREOF, the parties have executed the Agreement on the date and year written below.

Dated: July 25, 2018

Porfiria Yocupicio
Porfiria Yocupicio

Dated: . July 25, 2018

RASTEGAR LAW GROUP, APC

By:

Farzad Rastegar
Thomas Campbell

Dated: July 25, 2018

ARCH RESOURCES GROUP LLC

By:

Ulises Muñiz Patiño, Executive Vice President

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On July 26, 2018, I served the following document or documents:
AMENDED CLASS ACTION SETTLEMENT AGREEMENT

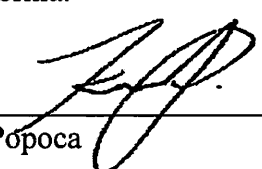
AMENDED CLASS ACTION SETTLEMENT AGREEMENT

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Service List

BOUTIN JONES INC. Bruce M. Timm (State Bar No. 199679) btimm@boutinjones.com Michael E. Chase (State Bar No. 214506) mchase@boutinjones.com Kimberly A. Lucia (State Bar No. 266503) klucia@boutinjones.com 555 Capitol Mall, Suite 1500 Sacramento, CA 95814-4603 Tel: (916) 321-4444 Fax: (916) 441-7597	Attorneys for Defendant, Arch Resource Group
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 26, 2018 at Torrance, California.



Karla Popoca