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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

MARTHA OLIVARES, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

PCI INDUSTRIES, LLC, a Delaware limited
liability company; PACIFIC
CONSOLIDATED INDUSTRIES LLC, a
Delaware limited liability company; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 22STCV37965

[Assigned to the Hon. Lawrence P. Riff in
Dept. 7]

**CLASS AND PAGA ACTION
SETTLEMENT AGREEMENT**

Action Filed: December 5, 2022

Trial Date: None Set

1 This Class and PAGA Action Settlement Agreement (“Settlement,” “Agreement” or
2 “Settlement Agreement”) is made by and between plaintiff Martha Olivares (“Plaintiff”), on one
3 hand, and Defendant PCI Industries, LLC (“Defendant”), on the other hand. The Agreement
4 refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

5 **1. DEFINITIONS**

6 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
7 Defendant, captioned *Martha Olivares v. PCI Industries, LLC, et. al.*, Case No. 22STCV37965,
8 initiated on December 5, 2022, and pending in Superior Court of the State of California, County
9 of Los Angeles.

10 1.2. “Administrator” means Phoenix Class Action Administration Solutions (“Phoenix”), the
11 neutral entity the Parties have agreed to appoint to administer the Settlement.

12 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
13 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
14 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
15 Preliminary Approval of the Settlement.

16 1.4. “Aggrieved Employee” means a person currently or formerly employed by Defendant or
17 PCI Industries, Inc. as an hourly-paid, non-exempt employee in the State of California at any
18 time during the PAGA Period.

19 1.5. “Class” or “Settlement Class” means all persons currently or formerly employed by
20 Defendant or PCI Industries, Inc. as hourly-paid, non-exempt employees in the State of California
21 at any time during the Class Period.

22 1.6. “Class Counsel” means David D. Bibiyan, Jeffrey D. Klein, Vedang J. Patel of Bibiyan
23 Law Group, P.C.

24 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
25 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
26 expenses, respectively, incurred to prosecute the Action.

27 1.8. “Class Data” means Class Member’s identifying information in Defendant’s possession
28 including the Class Member’s name, last-known mailing address, Social Security number, hire

1 dates, termination dates (as applicable) and re-hire dates (as applicable).

2 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either
3 a Participating Class Member or Non-Participating Class Member (including a Non-Participating
4 Class Member who qualifies as an Aggrieved Employee).

5 1.10. “Class Member Address Search” means the Administrator’s investigation and search for
6 current Class Member mailing addresses using all reasonably available sources, methods and
7 means including, but not limited to, the National Change of Address database, skip traces, and
8 direct contact by the Administrator with Class Members.

9 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
10 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
11 Class Members in English and Spanish in the form, without material variation, attached as Exhibit
12 A and incorporated by reference into this Agreement.

13 1.12. “Class Period” means the period from December 5, 2018 through September 15, 2023.

14 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action
15 seeking Court approval to serve as a Class Representative.

16 1.14. “Class Representative Service Payment” means the payment to the Class Representative
17 for initiating the Action and providing services in support of the Action.

18 1.15. “Court” means the Superior Court of California, County of Los Angeles.

19 1.16. “Defendant” means named Defendant PCI Industries, LLC.

20 1.17. “Defense Counsel” means J. Rod Betts and Kelly Elaine Kagan of Quarles & Brady LLP.

21 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the
22 Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
23 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
24 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
25 one or more Participating Class Members objects to the Settlement, the day after the deadline for
26 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the
27 day after the appellate court affirms the Judgment and issues a remittitur.

28 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval
2 of the Settlement.

3 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final
4 Approval.

5 1.22. “Gross Settlement Amount” means \$750,000.00 (Seven Hundred Fifty Thousand Dollars
6 and Zero Cents), which is the total amount Defendant agrees to pay under the settlement except
7 as provided in Paragraph 8.1 below. The Gross Settlement Amount will be used to pay Individual
8 Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Representative
9 Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and
10 the Administrator’s Expenses.

11 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
12 Net Settlement Amount calculated according to the number of Workweeks worked during the
13 Class Period.

14 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of
15 the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA
16 Period.

17 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

18 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
19 entitled, under Labor Code section 2699, subd. (i).

20 1.27. “LWDA PAGA Payment” means 75% of the PAGA Penalties paid to the LWDA under
21 Labor Code section 2699, subd. (i).

22 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
23 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
24 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
25 Litigation Expenses Payment and the Administration Expenses Payment. The remainder is to be
26 paid to Participating Class Members as Individual Class Payments.

27 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
28 Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

1.31. "PAGA Period" means the period from December 5, 2021 through September 15, 2023.

1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.33. "PAGA Notice" means plaintiff's December 5, 2022 letter to Defendant and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, which the Parties have agreed will be Twenty Five Thousand Dollars (\$25,000), allocated 25% to the Aggrieved Employees (\$6,250) and the 75% to the LWDA (\$18,750) in settlement of PAGA claims.

1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. "Plaintiff" means Martha Olivares, the named Plaintiff in the Action.

1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.38. "Preliminary Approval Order" means the proposed Order granting Preliminary Approval and Approval of the PAGA Settlement.

1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.4 below.

1.41. "Released Parties" means: Defendant and all predecessor or successor legal entities that employed an Aggrieved Employee or Class Member, and any parent and subsidiary corporations, divisions, and other affiliated entities of the Defendant, past and present and future, including, but not limited to PCI Industries, LLC, PCI Industries, Inc., and CS Holding, Inc. and each of their former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

1 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be
2 excluded from the Class Settlement signed by the Class Member.

3 1.43. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to
4 Class Members and Aggrieved Employees and shall be the last date on which Class Members
5 may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the
6 Settlement. Class Members to whom Notice Packets are resent after having been returned
7 undeliverable to the Administrator shall have an additional fifteen (15) days beyond the Response
8 Deadline has expired.

9 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the
10 Judgment.

11 1.45. "Workweek" means any week during which a Class Member or an Aggrieved Employee
12 worked for Defendant or PCI Industries, Inc. for at least one day in a non-exempt, hourly-paid
13 position during the Class Period in California, based on hire dates, re-hire dates (as applicable)
14 and termination dates (as applicable).

15 **2. RECITALS**

16 2.1. On December 5, 2022, Plaintiff commenced this Action by filing a Complaint alleging
17 causes of action against Defendants for: (1) failure to pay overtime wages; (2) failure to pay
18 minimum wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure
19 to provide rest periods or compensation in lieu thereof; (5) failure to pay all wages due upon
20 termination; (6) failure to provide accurate wage statements; (7) failure to timely pay wages
21 during employment; (8) failure to pay interests on deposits; (9) failure to pay for unused vested
22 vacation time; and (10) engaging in unfair competition within the meaning of Business and
23 Professions Code section 17200 arising out of Labor Code violations referenced in the
24 Complaint.

25 2.2. On August 22, 2023, Plaintiff moved to dismiss without prejudice an unrelated defendant,
26 Pacific Consolidated Industries LLC, which the court granted on August 23, 2023. On September
27 26, 2023, the Parties participated in an all-day mediation presided over by Louis Marlin, Esquire,
28 which led to this Agreement to settle the Action.

2.3. As part and parcel to the Settlement, the Parties agree to stipulate to Plaintiff filing a First Amended Complaint in the Class Action to include representative claims pursuant to the Private Attorneys' General Act of 2004. The Court has granted Plaintiff leave to file the First Amended Complaint via stipulation between the Parties. The First Amended Complaint will be the operative complaint in the Action (the "Operative Complaint"). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery: (1) time and payroll records for the 235 Class Members; (2) class data points, including average rates of pay, and the total hours and the number of pay periods worked by Class Members during the Class Period, (3) all relevant policy documents, including collective bargaining agreements; and (4) Defendant's employee handbook. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal. App. 4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-130 (*Dunk/Kullar*).

2.5. The Court has not granted class certification.

2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below, Defendant promises to pay \$750,000.00 as the Gross Settlement Amount, unless increased pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount or any payroll taxes prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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1 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
2 the following payments from the Gross Settlement Amount, in the amounts specified by the Court
3 in the order granting Final Approval:

4 3.2.1. To Plaintiff: Class Representative Service Payment to Plaintiff of not more than
5 \$7,500.00 in addition to any Individual Class Payment and any Individual PAGA
6 Payment Plaintiff is entitled to receive as a Participating Class Member. Defendant will
7 not oppose Plaintiff's request for a Class Representative Service Payment that does not
8 exceed this amount. As part of the motion for Class Counsel Fees Payment and Class
9 Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
10 Representative Service Payment. If the Court approves a Class Representative Service
11 Payment less than the amount requested, the Administrator will retain the remainder in
12 the Net Settlement Amount. The Administrator will pay the Class Representative
13 Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability
14 for employee taxes owed on the Class Representative Service Payment.

15 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the
16 Gross Settlement Amount, which is currently estimated to be \$262,500.00 unless
17 increased pursuant to Paragraph 8.1 of this Agreement, and a Class Counsel Litigation
18 Expenses Payment of not more than \$30,000.00. Defendant will not oppose requests for
19 these payments provided that do not exceed these amounts. Class Counsel will file a
20 motion for Class Counsel Fees Payment and a Class Litigation Expenses Payment prior
21 to the Final Approval Hearing. If the Court approves the Class Counsel Fees Payment
22 and/or Class Counsel Litigation Expenses Payment less than the amounts requested, the
23 Administrator will allocate the remainder to the Net Settlement Amount. Released
24 Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising
25 from any claim to any portion of any Class Counsel Fees Payment and/or Class Counsel
26 Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees
27 Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099
28 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the

1 Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and
2 holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy
3 regarding any division or sharing of any of these payments. There will be no additional
4 charge of any kind to either the Class Members or request for additional consideration
5 from Defendant under this Agreement unless Defendant materially breaches this
6 Agreement, including any term regarding funding, and further efforts are necessary from
7 Class Counsel to remedy said breach, including, without limitation, moving the Court
8 to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation
9 costs and expenses in amounts that are less than the amounts provided for herein, then
10 the unapproved portion(s) shall be part of the Net Settlement Amount.

11 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
12 \$8,500.00 except for a showing of good cause and as approved by the Court. To the
13 extent the Administration Expenses are less or the Court approves payment less than
14 \$8,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

15 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by
16 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by
17 all Participating Class Members during the Class Period, and (b) multiplying the result
18 by each Participating Class Member's Workweeks.

19 3.2.4.1. Tax Allocation of Individual Class Payments. Twenty percent (20%) of
20 each Participating Class Member's Individual Class Payment will be allocated
21 to settlement of wage claims (the "Wage Portion"). The Wage Portions are
22 subject to tax withholding and will be reported on an IRS W-2 Form. The
23 remaining eighty percent (80%) of each Participating Class Member's
24 Individual Class Payment will be allocated to settlement of claims for interest
25 and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not
26 subject to wage withholdings and will be reported on IRS 1099 Forms.
27 Participating Class Members assume full responsibility and liability for any
28 employee taxes owed on their Individual Class Payment. Defendant has not

provided any tax advice in regard to this allocation, and shall have no liability for claims by any federal, state or local taxing authorities that insufficient tax withholding occurred.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$25,000.00 to be paid from the Gross Settlement Amount, with 75% (\$18,750.00) allocated to the LWDA PAGA Payment and 25% (\$6,250.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties, \$6,250.00, by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks. For the time period from December 5, 2018 through May 26, 2023, Defendant estimates there are 235 Class Members who collectively work a total of 12,014 Workweeks during that time period.

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1 4.2. Class Data. Not later than ten (10) days after the Court grants Preliminary Approval of
2 the Settlement, Defendant will deliver the Class Data to the Administrator in the form of a
3 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must
4 maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement
5 and for no other purpose, and restrict access to the Class Data to Administrator's employees who
6 need access to the Class Data to effect and perform under this Agreement. Defendant has a
7 continuing duty to immediately notify Class Counsel if they discover that the Class Data omitted
8 Class Member identifying information and will provide corrected or updated Class Data to the
9 Administrator as soon as reasonably feasible. Without any extension of the deadline by which
10 Defendant must send the Class Data to the Administrator, the Parties and their counsel will
11 expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related
12 to missing or omitted Class Data.

13 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
14 Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes, by
15 transmitting the funds to the Administrator no later than fourteen (14) days after the Effective
16 Date.

17 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant
18 fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class
19 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
20 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
21 Payment and the Class Representative Service Payment. Disbursement of the Class Counsel Fees
22 Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service
23 Payment shall not precede disbursement of Individual Class Payments and Individual PAGA
24 Payments.

25 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
26 Individual PAGA Payments and send them to the Class Members via First Class U.S.
27 Mail, postage prepaid. The face of each check shall prominently state the date (not less
28 than 180 days after the date of mailing) when the check will be voided. The

1 Administrator will cancel all checks not cashed by the void date. The Administrator will
2 send checks for Individual Settlement Payments to all Participating Class Members
3 (including those for whom Class Notice was returned undelivered). The Administrator
4 will send checks for Individual PAGA Payments to all Aggrieved Employees including
5 Non-Participating Class Members who qualify as Aggrieved Employees (including
6 those for whom Class Notice was returned undelivered). The Administrator may send
7 Participating Class Members a single check combining the Individual Class Payment
8 and the Individual PAGA Payment. Before mailing any checks, the Settlement
9 Administrator must update the recipients' mailing addresses using the National Change
10 of Address Database.

11 4.4.2. The Administrator must conduct a Class Member Address Search for all other
12 Class Members whose checks are returned undelivered without USPS forwarding
13 address. Within seven (7) days of receiving a returned check, the Administrator must
14 re-mail checks to the USPS forwarding address provided or to an address ascertained
15 through the Class Member Address Search. The Administrator need not take further
16 steps to deliver checks to Class Members whose re-mailed checks are returned as
17 undelivered. The Administrator shall promptly send a replacement check to any Class
18 Member whose original check was lost or misplaced, requested by the Class Member
19 prior to the void date.

20 4.4.3. For any Class Member whose Individual Class Payment check or Individual
21 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
22 shall transmit the funds represented by such checks to the California Controller's Office,
23 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid
24 residue" subject to the requirements of California Code of Civil Procedure Section 384.

25 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
26 not obligate Defendant to confer any additional benefits or make any additional
27 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
28 specified in this Agreement.

5. RELEASE OF CLAIMS

Effective upon entry of Judgment, the Order granting Final Approval of this Settlement, and on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors and assigns generally release and discharge Released Parties from all claims, transactions or occurrences whether known or unknown, which Plaintiff has ever had, or hereafter may claim to have, arising on or before the date Plaintiff signs this Agreement, including without limitation, any claims relating to or arising out of any aspect of Plaintiff's employment with Defendant, PCI Industries, Inc. and CS Holding, Inc., or their affiliated entities, any claims for unpaid compensation, wages, reimbursement for business expenses, penalties, or waiting time penalties under the California Labor Code, the California Business and Professions Code, the federal Fair Labor Standards Act, 29 U.S.C. section 201, et seq., or any state, county or city law or ordinance regarding wages or compensation; any claims for employee benefits, including without limitation, any claims under the Employee Retirement Income Security Act of 1974; and any claims that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action, including, but not limited to, all claims and code sections identified and released under Paragraph 5.2 below ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits, wrongful termination, violation of the Fair Employment and Housing Act, discrimination, harassment, or retaliation related claims that arose at any time, or claims based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that

1 Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall
2 be and remain effective in all respects, notwithstanding such different or additional facts or
3 Plaintiff's discovery of them.

4 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
5 purposes of Plaintiff's Release only, Plaintiff expressly waives and relinquishes the
6 provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

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

11 5.1.1.1. However, the foregoing release, including waiver of 1542,
12 expressly excludes Plaintiff's claims for wrongful
13 termination, violation of the Fair Employment and Housing
14 Act, discrimination, harassment, and retaliation related
15 claims.

16 5.2. Release by Participating Class Members: For the duration of the Class Period, all
17 Participating Class Members, on behalf of themselves and their respective former and present
18 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released
19 Parties from all claims that were alleged, or reasonably could have been alleged, based on the
20 facts stated in the Operative Complaint including: (1) all claims for failure to pay overtime wages;
21 (2) all claims for failure to pay minimum wages; (3) all claims for failure to provide compliant
22 meal periods, or compensation in lieu thereof; (4) all claims for failure to provide compliant rest
23 periods, or compensation in lieu thereof; (5) all claims for the failure to pay wages due upon
24 termination or resignation; (6) all claims for non-compliant wage statements; (7) all claims for
25 failure to timely pay wages; (8) all claims for failure to pay interest on deposits; (9) all claims for
26 failure to pay for unused vested vacation time; and (10) all claims asserted through California
27 Business & Professions Code section 17200, *et seq.* arising out of the Labor Code violations
28 referenced in the Operative Complaint.

1 5.3. Except as set forth in Paragraph 5.2 of this Agreement, Participating Class Members do
2 not release any other claims, including claims for vested benefits, wrongful termination, violation
3 of the Fair Employment and Housing Act, unemployment insurance, disability, social security,
4 workers' compensation, or claims based on facts occurring outside the Class Period.

5 5.4. Release by Aggrieved Employees: For the duration of the PAGA Period, all Aggrieved
6 Employees are deemed to release, on behalf of themselves and their respective former and present
7 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
8 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been
9 alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, including,
10 claims for PAGA penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and
11 2699 in connection with alleged violations of Labor Code sections Labor Code sections 96, 98.6,
12 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 232, 232.5, 246 *et seq.*, 432, 510, 512,
13 558, 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, and any
14 other Labor Code sections allegedly violated as set forth in the PAGA Notice to the LWDA or
15 the Operative Complaint.

16 **6. MOTION FOR PRELIMINARY APPROVAL**

17 6.1. Plaintiff shall prepare and file a motion for preliminary approval ("Motion for Preliminary
18 Approval") that complies with the Court's current checklist for Preliminary Approvals.

19 6.2. Defendant Not Aware of Competing Claims. Defense Counsel hereby affirms that they
20 are not aware of any other pending matter or action asserting claims that will be extinguished or
21 adversely affected by the Settlement. Defense Counsel will approve Plaintiff's proposed
22 Administrator, and such approval shall not be unreasonably withheld.

23 6.3. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
24 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
25 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
26 Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under Labor
27 Code Section 2699, subd. (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and
28 Approval of the PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration

1 from the Administrator attaching its “not to exceed” bid for administering the Settlement and
2 attesting to its willingness to serve; competency; operative procedures for protecting the security
3 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other
4 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
5 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
6 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve
7 and disclosing all facts relevant to any actual or potential conflicts of interest with Class
8 Members, the Administrator and the proposed Cy Pres; (v) a signed declaration from each Class
9 Counsel firm attesting to its competency to represent the Class Members; its timely transmission
10 to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section
11 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement
12 (Labor Code section 2699, subd. (1)(2)); and (vi) all facts relevant to any actual or potential
13 conflict of interest with Class Members and the Administrator.

14 6.4. Responsibilities of Class Counsel. Class Counsel is responsible for expeditiously
15 finalizing and filing the Motion for Preliminary Approval after the full execution of this
16 Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for
17 appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel
18 is responsible for delivering the Court’s Preliminary Approval to the Administrator.

19 6.5. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
20 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
21 Defense Counsel will expeditiously work together on behalf of the Parties by meeting-and-
22 conferring in good faith to resolve the disagreement. If the Court does not grant Preliminary
23 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
24 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
25 meeting-and-conferring in good faith to modify the Agreement and otherwise satisfy the Court’s
26 concerns.

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1 **7. SETTLEMENT ADMINISTRATION**

2 7.1. Selection of Administrator. The Parties have jointly selected Phoenix to serve as the
3 Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by
4 this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange
5 for payment of Administration Expenses. The Parties and their Counsel represent that they have
6 no interest or relationship, financial or otherwise, with the Administrator other than a professional
7 relationship arising out of prior experiences administering settlements.

8 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
9 Identification Number for purposes of calculating payroll tax withholdings and providing reports
10 to state and federal tax authorities.

11 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
12 the requirements of a Qualified Settlement Fund (“QSF”) under U.S. Treasury Regulation section
13 468B-1.

14 7.4. Notice to Class Members

15 7.4.1. No later than three (3) business days after receipt of the Class Data, the
16 Administrator shall notify Class Counsel that the list has been received and state the
17 number of Class Members, Aggrieved Employees, and Workweeks in the Class Data.

18 7.4.2. Using best efforts to perform as soon as possible, and in no event later than fourteen
19 (14) days after receiving the Class Data, the Administrator will send to all Class Members
20 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
21 the Class Notice, with Spanish translation, substantially in the form attached to this
22 Agreement as Exhibit “A.” The first page of the Class Notice shall prominently estimate
23 the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment
24 payable to the Class Member, and the number of Workweeks and PAGA Pay Periods
25 used to calculate these amounts. Before mailing Class Notices, the Administrator shall
26 update Class Member addresses using the National Change of Address database.

27 7.4.3. Not later than three (3) business days after the Administrator’s receipt of any Class
28 Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class

1 Notice using any forwarding address provided by the USPS. If the USPS does not
2 provide a forwarding address, the Administrator shall conduct a Class Member Address
3 Search and re-mail the Class Notice to the most current address obtained. The
4 Administrator has no obligation to make further attempts to locate or send Class Notice
5 to Class Members whose Class Notice is returned by the USPS a second time.

6 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
7 and/or Pay Periods and Requests for Exclusion will be extended an additional 15 days
8 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
9 notice is re-mailed. The Administrator will inform the Class Member of the extended
10 deadline with the re-mailed Class Notice.

11 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
12 discovers any persons who believe they should have been included in the Class Data
13 and should have received Class Notice, the Parties will expeditiously meet and confer
14 in good faith in an effort to agree on whether to include them as Class Members. If the
15 Parties agree, such persons will be Class Members entitled to the same rights as other
16 Class Members and the Administrator will send, via email or overnight delivery, a Class
17 Notice requiring them to exercise options under this Agreement not later than 15 days
18 after receipt of Class Notice or the deadline dates in the Class Notice, which ever are
19 later.

20 7.5. Requests for Exclusion (Opt-Outs).

21 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
22 must send the Administrator, by mail, a signed written Request for Exclusion not later
23 than 45 days after the Administrator mails the Class Notice (plus an additional 15 days
24 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
25 from a Class Member or his/her representative that reasonably communicates the Class
26 Member's election to be excluded from the Settlement and includes the Class Member's
27 name, address, and email address or telephone number. To be valid, a Request for
28 Exclusion must be timely postmarked by the Response Deadline.

1 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
2 fails to contain all the information specified in the Class Notice. The Administrator shall
3 accept any Request for Exclusion as valid if the Administrator can reasonably ascertain
4 the identity of the person as a Class Member and the Class Member's desire to be
5 excluded. The Administrator's determination shall be final and not appealable or
6 otherwise susceptible to challenge. If the Administrator has reason to question the
7 authenticity of a Request for Exclusion, the Administrator may demand additional proof
8 of the Class Member's identity. The Administrator's determination of authenticity shall
9 be final and not appealable or otherwise susceptible to challenge.

10 7.5.3. If more than five percent (5%) of the Class Members become Opt-Outs as
11 specified in this Agreement, then Defendant shall have the option to declare this
12 Agreement null and void, which it can accomplish by, within fifteen (15) calendar days
13 following the expiration of the last time period in which to opt-out, serving written
14 notice of its exercise of this option on Class Counsel. All signatories and their counsel
15 agree they will not encourage opt-outs.

16 7.5.4. Every Class Member who does not submit a timely and valid Request for
17 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
18 to all benefits and bound by all terms and conditions of the Settlement, including the
19 Participating Class Members' Releases under Paragraph 5.2 of this Agreement,
20 regardless of whether the Participating Class Member actually receives the Class Notice
21 or objects to the Settlement.

22 7.5.5. Every Class Member who submits a valid and timely Request for Exclusion is a
23 Non-Participating Class Member and shall not receive an Individual Class Payment or
24 have the right to object to the class action components of the Settlement. Because future
25 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
26 Participating Class Members who are Aggrieved Employees are deemed to release the
27 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
28 PAGA Payment.

1 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
2 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
3 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
4 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the
5 allocation by communicating with the Administrator via mail. The Administrator must encourage
6 the challenging Class Member to submit supporting documentation. In the absence of any
7 contrary documentation, the Administrator shall presume that the Workweeks and/or Pay Periods
8 contained in the Class Notice are correct so long as they are consistent with the Class Data. The
9 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
10 Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator
11 shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods
12 to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

13 7.7. Objections to Settlement

14 7.7.1. Only Participating Class Members may object to the class action components of
15 the Settlement and/or this Agreement, including contesting the fairness of the
16 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
17 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

18 7.7.2. Participating Class Members may send written objections to the Administrator
19 by mail. In the alternative, Participating Class Members may appear in Court (or hire
20 an attorney to appear in Court) to present verbal objections at the Final Approval
21 Hearing. A Participating Class Member who elects to send a written objection to the
22 Administrator must do so not later than 45 days after the Administrator's mailing of
23 the Class Notice (plus an additional 15 days for Class Members whose Class Notice
24 was re-mailed).

25 7.7.3. Non-Participating Class Members have no right to object to any of the class action
26 components of the Settlement.

27 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
28 performed or observed by the Administrator contained in this Agreement or otherwise.

1 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
2 and use an internet website to post information of interest to Class Members, including
3 the date, time and location for the Final Approval Hearing and copies of the Settlement
4 Agreement, Motion for Preliminary Approval, the Preliminary Approval Order, the
5 Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees
6 Payment, Class Counsel Litigation Expenses Payment and Class Representative Service
7 Payment, the Final Approval Order and the Judgment. The Administrator will also
8 maintain and monitor an email address and a toll-free telephone number to receive Class
9 Member calls and emails.

10 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
11 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
12 Not later than five (5) days after the expiration of the deadline for submitting Requests
13 for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
14 containing (a) the names and other identifying information of Class Members who have
15 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
16 other identifying information of Class Members who have submitted invalid Requests
17 for Exclusion; and (c) copies of all Requests for Exclusion from Settlement submitted
18 (whether valid or invalid).

19 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
20 reports to Class Counsel and Defense Counsel that, among other things, tally the number
21 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
22 Exclusion (whether valid or invalid) received, objections received, challenges to
23 Workweeks and/or Pay Periods received and/or resolved and checks mailed for
24 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
25 Weekly Reports must include (provide) the Administrator’s assessment of the validity
26 of Requests for Exclusion and attach copies of all Requests for Exclusion and objections
27 received.

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1 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
2 address and make final decisions consistent with the terms of this Agreement on all
3 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
4 Administrator's decision shall be final and not appealable or otherwise susceptible to
5 challenge.

6 7.8.5. Administrator's Declaration. Before the date by which Plaintiff is required to file
7 the Motion for Final Approval of the Settlement, the Administrator will provide to Class
8 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting
9 to its due diligence and compliance with all of its obligations under this Agreement,
10 including, but not limited to, its mailing of Class Notice, the Class Notices returned as
11 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total
12 number of Requests for Exclusion from Settlement it received (both valid or invalid),
13 the number of written objections and attach the Exclusion List. The Administrator will
14 supplement its declaration as needed or requested by the Parties and/or the Court. Class
15 Counsel is responsible for filing the Administrator's declaration(s) in Court.

16 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
17 disburses all funds in the Gross Settlement Amount, the Administrator will provide
18 Class Counsel and Defense Counsel with a final report detailing its disbursements by
19 employee identification number only of all payments made under this Agreement. At
20 least seven (7) days before any deadline set by the Court, the Administrator will prepare,
21 and submit to Class Counsel and Defense Counsel, a signed declaration suitable for
22 filing in Court attesting to its disbursement of all payments required under this
23 Agreement. Class Counsel is responsible for filing the Administrator's declaration in
24 Court.

25 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

26 Based on its records, Defendant estimates that, as of the date of mediation on September
27 26, 2023, there were 235 Class Members and 12,014 Total Workweeks between December 5,
28 2018 and May 26, 2023.

8.1. Increase in Workweeks. In the event the number of Workweeks during the Class Period increases by more than 10% of 12,014 Workweeks worked during this period, then the Gross Settlement Amount shall be increased proportionally by the number of Workweeks in excess of 13,215 Workweeks (12,014 Workweeks + 1,201 Workweeks), multiplied by the Workweek Value. The Workweek Value shall be calculated by dividing the originally agreed-upon Gross Settlement Amount by 12,014 Workweeks. The Parties agree that the Workweek Value amounts to \$62.43 per Workweek ($\$750,000 / 12,014 \text{ Workweeks}$). Thus, for example, should there be 14,000 Workweeks during the Class Period, then the Gross Settlement Amount shall be increased by \$49,007.55 $((14,000 \text{ Workweeks} - 13,215 \text{ Workweeks}) \times \$62.43 \text{ per Workweek})$.

9. MOTION FOR FINAL APPROVAL

Before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA Settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel a least one week prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

9.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administrator Expenses Payment shall not constitute a material

modification to the Agreement within the meaning of this paragraph.

9.3. Defendant's Option to Void Agreement. If any court order or action of the court requires Defendant to pay any portion of the Gross Settlement Fund to any person or entity other than as provided herein, or pay more than the amounts specified in this Agreement, the Agreement shall be voidable by Defendant by providing written notice to Class Counsel, no later than twenty (20) calendar days after Defendant receives notice of entry of any such order.

9.4. If Defendants exercise a right under this Agreement to void this Agreement, or if the Court fails to approve this Agreement, Defendant shall not have any obligation to make any payments under this Agreement and Defendant shall receive a return of any funds already paid. Defendant agrees to pay to the Settlement Administrator directly all of the Settlement Administration expenses under those circumstances.

9.5. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law. The Court may award reasonable attorneys' fees and costs to the prevailing party in any motion or action taken based on an alleged violation of any material term of this Settlement Agreement.

9.6. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, excluding the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Award set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.

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1 9.7. Appellate Court Orders to Vacate, Reverse or Materially Modify Judgment. If the
2 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
3 modification of this Agreement (including, but not limited to, the scope of release to be granted
4 by Class Members), this Agreement shall be null and void. The Parties shall, nevertheless,
5 expeditiously work together in good faith to address the appellate court's concerns and to obtain
6 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
7 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
8 the Court's award of the Class Representative Service Payment or any payments to Class Counsel
9 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
10 as long as the Gross Settlement Amount remains unchanged.

11 **10. AMENDED JUDGMENT**

12 If any amended judgment is required under Code of Civil Procedure section 384, the
13 Parties will work together in good faith to jointly submit and a proposed amended judgment.

14 **11. ADDITIONAL PROVISIONS**

15 11.1. No Admission of Liability, Class Certification or Representative Manageability for Other
16 Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
17 Nothing in this Agreement is intended or should be construed as an admission by Defendant that
18 any of the allegations in the Operative Complaint have merit or that Defendant has any liability
19 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that
20 Defendant's defenses in the Action have merit. The Parties agree that class certification and
21 representative treatment is for purposes of this Settlement only. If, for any reason the Court does
22 grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to
23 contest certification of any class for any reasons, and Defendant reserves all available defenses
24 to the claims in the Action, and Plaintiff reserves the right to move for class certification on any
25 grounds available and to contest Defendant's defenses. The Settlement, this Agreement and
26 Parties' willingness to settle the Action will have no bearing on, and will not be admissible in
27 connection with, any litigation except for proceedings to enforce or effectuate the Settlement and
28 this Agreement.

1 11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and
2 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
3 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
4 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
5 or indirectly, specifically or generally, to any person, corporation, association, government
6 agency, or other entity except: (1) to the Parties' attorneys, accountants or spouses, all of whom
7 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
8 extent necessary to report income to appropriate taxing authorities; (4) in response to a court
9 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
10 government agency. Each Party agrees to immediately notify each other Party of any judicial or
11 agency order, inquiry or subpoena seeking such information. Plaintiff, Class Counsel, Defendant
12 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or
13 other communication, before the filing of the Motion for Preliminary Approval, with any third
14 party regarding this Agreement or the matters giving rise to this Agreement except to respond
15 only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class
16 Counsel's communications with Class Members in accordance with Class Counsel's ethical
17 obligations owed to Class Members.

18 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
19 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
20 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
21 ability to communicate with Class Members in accordance with Class Counsel's ethical
22 obligations owed to Class Members.

23 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
24 together with its attached exhibits shall constitute the entire agreement between the Parties
25 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
26 inducements made to or by any Party.

27 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
28 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate

1 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
2 its terms, and to execute any other documents reasonably required to effectuate the terms of this
3 Agreement including any amendments to this Agreement.

4 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
5 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
6 Settlement Agreement, submitting supplemental evidence, and supplementing points and
7 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
8 or content of any document necessary to implement the Settlement or on any modification of the
9 Agreement that may become necessary to implement the Settlement, the Parties will seek the
10 assistance of a mediator and/or the Court for resolution.

11 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
12 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer or
13 encumber to any person or entity any portion of any liability, claim, demand, action, cause of
14 action, or right released and discharged by the Party in this Settlement.

15 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are
16 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
17 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
18 Part 10, as amended) or otherwise.

19 11.9. Modification of Agreement. This Agreement and all parts of it may be amended,
20 modified, changed or waived only by an express written instrument signed by all Parties or their
21 representatives, and approved by the Court.

22 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
23 the benefit of, the successors of each of the Parties.

24 11.11. Applicable Law. All terms and conditions of this Agreement, and its exhibits will be
25 governed by and interpreted according to the internal laws of the state of California without regard
26 to conflict of law principles.

27 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
28 this Agreement. This Agreement will not be construed against any Party on the basis that the

1 Party was the drafter or participated in the drafting.

2 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
3 during Action and in this Agreement relating to the confidentiality of information shall survive
4 the execution of this Agreement.

5 11.14. No Publicity. The Parties and their respective counsel shall not issue any press release
6 or media release or have any communication with the press or media regarding this Settlement.
7 Class Counsel may, however, respond to any inquiries from Class Members or Aggrieved
8 Employees regarding the Settlement.

9 11.15. Use of Mediation Data. Information provided to Class Counsel, pursuant to Cal. Evid.
10 Code §1152, and all copies and summaries of such provided to Class Counsel by Defendant, in
11 connection with the mediation, other settlement negotiations or in connection with the
12 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
13 be used in any way that violates any existing contractual agreement, statute or rule of court.

14 11.16. Headings. The descriptive heading of any section or paragraph of this Agreement is
15 inserted for convenience of reference only and does not constitute a part of this Agreement.

16 11.17. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be
17 to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend
18 or federal legal holiday, such date or deadline shall be on the first business day thereafter.

19 11.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts
20 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
21 be accepted as an original. All executed counterparts and each of them will be deemed to be one
22 and the same instrument if counsel for the Parties will exchange between themselves signed
23 counterparts. Any executed counterpart will be admissible in evidence to prove the existence
24 and contents of this Agreement.

25 11.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
26 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
27 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
28 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement

process.

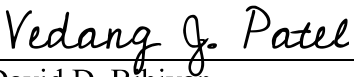
Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:


Martha Olivares (Jun 3, 2024 18:07 PDT)

Plaintiff Martha Olivares

Patrick A. Cockrum, President
For Defendant PCI Industries, LLC



David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiff, Martha Olivares

J. Rod Betts
Kelly Elaine Kagan
Counsel for Defendant PCI Industries, LLC

1 process.
2 Severability. In the event that one or more of the provisions contained in this Agreement shall
3 for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
4 illegality, or unenforceability shall in no way effect any other provision if Defendant's
5 Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect
6 in writing to proceed as if such invalid, illegal, or unenforceable provision had never been
7 included in this Agreement.

8 **IT IS SO AGREED:**

9
10 _____
11 Plaintiff Martha Olivares



Patrick A. Cockrum, President
For Defendant PCI Industries, LLC

12
13 _____
14 David D. Bibiyan
15 Vedang J. Patel
16 Counsel for Plaintiff, Martha Olivares



6/3/24

J. Rod Betts
Kelly Elaine Kagan
Counsel for Defendant PCI Industries, LLC