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14 all others similarly situated and aggrieved

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **FOR THE COUNTY OF SAN DIEGO**

17
18 BRANDON ALEXANDER LOW, an
individual and on behalf of all others
19 similarly situated,

20 Plaintiff,

21 v.

22 TRIPLE CANOPY, INC., a Illinois
23 Corporation; JENNA WEEKS, an individual;
and DOES 1 through 100, inclusive,

24 Defendants.
25
26
27
28

CASE NO. 37-2023-00007078-CU-OE-CTL

CLASS AND PAGA ACTION

**JOINT STIPULATION RE: CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT**

Complaint Filed: February 17, 2023

1 This Joint Stipulation re: Class Action and Representative Action Settlement (“Settlement”
2 or “Agreement” or “Settlement Agreement”) is made by and between plaintiff BRANDON LOW
3 (“Plaintiff”) individually and on behalf of the Settlement Class, on the one hand; and defendant
4 TRIPLE CANOPY, INC. (“Triple Canopy”), on the other hand, in the current lawsuit entitled
5 *Brandon Alexander Low v. Triple Canopy, Inc.*, filed in San Diego County Superior Court, Case
6 No. 37-2023-00007078-CU-OE-CTL (the “Action”), which also names defendant JENNA WEEKS
7 (“Weeks”) who shall be dismissed by separate joint stipulation on the terms set forth below (Triple
8 Canopy and Weeks are collectively referred to as “Defendants”). Plaintiff and Triple Canopy shall
9 be, at times, collectively referred to as the “Parties.” This Agreement is intended by the Parties to
10 fully, finally, and forever resolve the claims pled in the Action and as otherwise set forth herein,
11 based upon and subject to the terms and conditions of this Agreement.

12 **1. DEFINITIONS**

13 **A. “Action”** means *Brandon Alexander Low v. Triple Canopy, Inc.*, filed in San Diego
14 County Superior Court, bearing Case No. 37-2023-00007078-CU-OE-CTL.

15 **B. “Aggrieved Employees”** means all non-exempt, hourly-paid employees who
16 performed work for Triple Canopy in California on its DHS CBP Migrant Vaccination Contracts
17 and who received wages for hours worked at any time during the PAGA Period.

18 **C. “Aggrieved Employees PAGA Payment”** is the twenty-five percent (25%) share of
19 the PAGA Payment, equivalent to Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00),
20 that will be distributed to Aggrieved Employees on a *pro rata* basis based on the Qualifying Pay
21 Periods in which an Aggrieved Employee was paid wages for hours worked as a non-exempt,
22 hourly-paid employee for work performed in California on Triple Canopy’s DHS CBP Migrant
23 Vaccination Contracts during the PAGA Period. Any Aggrieved Employee PAGA Payment to an
24 Aggrieved Employee shall be in addition to his or her Individual Settlement Payment if he or she is
25 also a Participating Class Member.

26 **D. “Class Counsel”** means: David D. Bibiyan, Brian Zaghi, Joshua Shirian, and Vedang
27 J. Patel of Bibiyan Law Group, P.C. The term “Class Counsel” shall be used synonymously with
28 the term “Plaintiff’s Counsel.”

1 **E. “Class Period”** means the period from November 28, 2021 through November 3,
2 2023.

3 **F. “Class Notice”** means and refers to the notice sent to Class Members after
4 preliminary approval of the Settlement in the manner described in Paragraph 6 of this Agreement.

5 **G. “Court”** means the Superior Court of the State of California for the County of San
6 Diego.

7 **H. “Final Approval Date”** means the later of: (1) the date the Court signs an Order
8 granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there is an
9 objector, 60 days from the date the Final Approval and Judgment; or (3) to the extent any appeals
10 have been filed, the date on which they have been resolved or exhausted.

11 **I. “Defendants”** means, collectively, Triple Canopy, Inc. and Jenna Weeks.

12 **J. “Effective Date”** is the date on which this Settlement Agreement shall become
13 effective, and when the settlement is considered to be Final. For purposes of this Settlement
14 Agreement, “Effective Date” and “Final” mean: (i) in the event that the Settlement has received
15 Final Approval by the Court, and regardless of whether any timely objections thereto have been
16 filed or withdrawn, then sixty-five (65) calendar days after the Court’s issuance of the Final
17 Approval Order without a timely appeal being filed; or, (ii) in the event that a timely appeal of the
18 Court’s Final Approval Order has been filed, then the Settlement Agreement shall be “Final” when
19 the applicable appellate court has rendered a final decision or opinion affirming the Court’s Final
20 Approval Order without material modification, and the applicable date for seeking further appellate
21 review has passed without further appellate review being sought. In the event that the Court fails to
22 approve the Settlement, or if the appropriate appellate court fails to approve the Settlement: (1) this
23 Settlement Agreement shall have no force and effect and the Parties shall be restored to their
24 respective positions prior to entering into it, and no Party shall be bound by any of the terms of the
25 Settlement Agreement; (2) Defendants shall have no obligation to make any payments to the
26 LWDA, Class Members, Plaintiff or Plaintiff’s Counsel; and (3) any preliminary approval order
27 and/or Final Approval Order shall be vacated.
28

1 **K. “Employer Taxes”** means employer-funded taxes and contributions imposed on the
2 wage portions of the Individual Settlement Payments under the Federal Insurance Contributions
3 Act, the Federal Unemployment Tax Act, and any similar state and federal taxes and contributions
4 required to be paid to federal and state tax authorities as a result of this Settlement.

5 **L. “General Release”** means the broader release of claims by Plaintiff, which is in
6 addition to Plaintiff’s limited release of claims as a Participating Class Member.

7 **M. “Gross Settlement Amount”** means a non-reversionary fund in the sum of Three
8 Hundred Fifty Thousand Dollars and Zero Cents (\$350,000.00),¹ which shall be paid by Triple
9 Canopy and from which all payments for the Individual Settlement Payments to Participating Class
10 Members, the Court-approved amounts for attorneys’ fees and reimbursement of litigation costs and
11 expenses to Class Counsel, Settlement Administration Costs, the Service Award, the PAGA
12 Payment, and the LWDA Payment shall be paid. It expressly excludes Employer Taxes, which shall
13 be paid by Triple Canopy separate, apart, and in addition to the Gross Settlement Amount.
14 Defendants shall not be obligated to pay any other sums in conjunction with this Settlement except
15 as set forth herein.

16 **N. “Individual PAGA Payment”** means a payment made to an Aggrieved Employee
17 for his or her share of the Aggrieved Employee PAGA Payment, which may be in addition to his or
18 her Individual Settlement Share if he or she is also a Participating Class Member.

19 **O. “Individual Settlement Payment”** means a payment to a Participating Class
20 Member of his or her net share of the Net Settlement Amount.

21 **P. “Individual Settlement Share”** means the gross amount of the Net Settlement
22 Amount that a Participating Class Member is projected to receive based on the number of Qualifying
23 Workweeks that he or she worked as a Settlement Class Member during the Class Period, which
24 shall be reflected in his or her Class Notice.

25 **Q. “LWDA Payment”** means the payment to the State of California Labor and
26 Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the PAGA
27 Payment, equivalent to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00)

28

¹ As the same may be increased in accordance with Paragraph 17, below.

1 **R. “Net Settlement Amount”** means the portion of the Gross Settlement Amount that
2 is available for distribution to the Participating Class Members after deductions for the Court-
3 approved allocations for Settlement Administration Costs, a Service Award to Plaintiff, an award of
4 attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel, and the PAGA
5 Payment.

6 **S. “Operative Complaint” or “Complaint”** means the First Amended Complaint to
7 be filed with the Court in *Brandon Alexander Low v. Triple Canopy, Inc.*, filed in San Diego County
8 Superior Court, Case No. 37-2023-00007078-CU-OE-CTL, pursuant to the terms of the Parties’
9 Agreement.

10 **T. “PAGA Payment”** is the gross amount of Ten Thousand Dollars and Zero Cents
11 (\$10,000) that is allocated toward PAGA penalties under this Agreement, all of which is payable
12 from the Gross Settlement Amount. Out of the PAGA Payment, seventy-five percent (75%),
13 equivalent to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), will be paid to the
14 LWDA (*i.e.*, the LWDA Payment), and twenty-five percent (25%), equivalent to Two Thousand
15 Five Hundred Dollars and Zero Cents (\$2,500.00), will be paid to Aggrieved Employees on a *pro*
16 *rata* basis based on the number of Qualifying Pay Periods worked for Triple Canopy in the PAGA
17 Period (*i.e.* the Aggrieved Employee PAGA Payment).

18 **U. “PAGA Period”** means the period from February 12, 2022 through the end of the
19 Class Period.

20 **V. “Participating Class Members”** means all Settlement Class Members who do not
21 submit a timely and valid Request for Exclusion. Settlement Class Members who are not
22 Participating Class Members will still be eligible to receive an Individual PAGA Payment if such
23 individual(s) qualify as an “Aggrieved Employee” within the meaning of this Settlement
24 Agreement.

25 **W. “Participating Individual Settlement Share”** means the gross amount of the Net
26 Settlement Amount that a Participating Class Member is eligible to receive based on the number of
27 Qualifying Workweeks in which he or she received wages for hours worked as a Settlement Class
28 Member during the Class Period once all opt-outs have been factored in. A Participating Class

1 Member's Participating Individual Settlement Share excludes any Individual PAGA Payment to
2 which he or she may be entitled if he or she is also an Aggrieved Employee.

3 **X. "Plaintiff," "Named Plaintiff," or "Class Representative"** shall refer to plaintiff
4 Brandon Low.

5 **Y. "Preliminary Approval Date"** means the date on which the Court enters an Order
6 granting preliminary approval of the Settlement.

7 **Z. "Qualifying Workweek"** means a workweek worked by a Settlement Class Member
8 or Aggrieved Employee (as applicable) during which he or she was employed by Triple Canopy and
9 was paid wages for hours worked on its DHS CBP Migrant Vaccination Contracts in a non-exempt,
10 hourly position during the Class Period or PAGA Period (as applicable). **"Qualifying Pay Period"**
11 is any pay period during the Class Period or PAGA Period in which a Settlement Class Member or
12 Aggrieved Employee (as applicable) had a Qualifying Workweek.

13 **AA. "Released Parties"** shall mean Triple Canopy (including without limitation, Jenna
14 Weeks, Constellis, Inc., Constellis, LLC, and Constellis Integrated Risk Management Services, Inc.)
15 and each of their past, present, and future respective subsidiaries, dba's, affiliates, parents, insurers
16 and reinsurers, and company-sponsored employee benefit plans of any nature and their successors
17 and predecessors in interest, including all of their officers, directors, shareholders, employees,
18 agents, principals, heirs, representatives, accountants, auditors, consultants, attorneys,
19 administrators, fiduciaries, trustees, and agents.

20 **BB. "Response Deadline"** means the deadline for Settlement Class Members to mail
21 any Requests for Exclusion, Objections, or Qualifying Workweek Disputes to the Settlement
22 Administrator, which is forty-five (45) calendar days from the date that the Class Notice is first
23 mailed by the Settlement Administrator, unless a Class Member's notice is re-mailed. In such an
24 instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing, or forty-
25 five (45) calendar days from the date of the initial mailing, whichever is later, in which to postmark
26 a Request for Exclusion, Qualifying Workweek Dispute or Objection. The date of the postmark
27 shall be the exclusive means for determining whether a Request for Exclusion, Objection, or
28 Qualifying Workweek Dispute was submitted by the Response Deadline.

1 **CC. “Request for Exclusion”** means a written request to be excluded from the Settlement
2 Class pursuant to Paragraph 9.c below.

3 **DD. “Service Award”** means monetary amounts to be paid to Plaintiff of up to Seven
4 Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), which subject to Court approval, will
5 be paid out of the Gross Settlement Amount.

6 **EE. “Settlement Administration Costs”** means all costs incurred by the Settlement
7 Administrator in administration of the Settlement, including, but not limited to, translating the Class
8 Notice to Spanish, the distribution of the Settlement Class Notice in English and Spanish, calculating
9 Individual Settlement Shares, Individual Settlement Payments, Individual PAGA Payments, and
10 Participating Individual Settlement Shares, as well as processing associated taxes and withholdings,
11 providing declarations, generating Individual Settlement Payment checks and related tax reporting
12 forms, doing administrative work related to unclaimed checks, transmitting payment to Class
13 Counsel for the Court-approved amounts for attorneys’ fees and reimbursement of litigation costs
14 and expenses, to Plaintiff for his Service Award, and to the LWDA for the LWDA Payment,
15 providing weekly reports of opt-outs, objections and related information, and any other actions of
16 the Settlement Administrator as set forth in this Agreement, all pursuant to the terms of this
17 Agreement. The Settlement Administration Costs are estimated not to exceed \$6,500.00. If the
18 actual amount of the Settlement Administration Costs is less than \$6,500.00, the difference between
19 \$6,500.00 and the actual Settlement Administration Costs shall be a part of the Net Settlement
20 Amount. If the Settlement Administration Costs exceed \$6,500.00 then such excess will be paid
21 solely from the Gross Settlement Amount and Defendants will not be responsible for paying any
22 additional funds in order to pay these additional costs.

23 **FF. “Settlement Administrator”** means the Third-Party Administrator mutually agreed
24 upon by the Parties that will be responsible for the administration of the Settlement including,
25 without limitation, translating the Class Notice to Spanish, the distribution of the Individual
26 Settlement Payments to be made by Triple Canopy from the Gross Settlement Amount and related
27 matters under this Agreement.
28

1 **GG.** “**Settlement Class**” or “**Settlement Class Members**” means all current and former
2 non-exempt, hourly-paid employees who performed work for Triple Canopy in California on its
3 DHS CBP Migrant Vaccination Contracts at any time during the Class Period.

4 **2. BACKGROUND**

5 **A.** On February 13, 2023, Plaintiff filed with the LWDA and served on Triple Canopy
6 a notice under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA
7 to recover civil penalties on behalf of the Aggrieved Employees for various Labor Code violations
8 (the “PAGA Notice”).

9 **B.** On February 17, 2023, Plaintiff filed this Action, styled as a putative wage-and-hour
10 class action and alleging that, during the Class Period, Defendants, as it pertains to Class Members:
11 (1) failed to pay overtime wages; (2) failed to pay minimum wages; (3) failed to provide meal
12 periods or compensation in lieu thereof; (4) failed to provide rest periods or compensation in lieu
13 thereof; (5) failed to all wages due upon termination; (6) failed to provide accurate wage statements;
14 (7) failed to timely pay wages during employment; (8) failed to reimburse for business expenses;
15 (9) failed to pay vested and unused vacation pay at the employee’s final rate of pay; and (10) engaged
16 in unfair competition (the “Action”).

17 **C.** Shortly thereafter, the Parties agreed to exchange informal discovery and attend a
18 mediation, in advance of which Class Counsel was provided with, among other things: (1) 100% of
19 time and payroll records for the Class Members and Aggrieved Employees; (2) data points including
20 the number of Class Members and PAGA Aggrieved Employees, number of currently employed
21 and separated Class Members, the number of shifts and pay periods worked, the number of wage
22 statements issued to the Class Members, and the average rate of pay for Class Members; (3) relevant
23 policy and other documents pertaining to Triple Canopy’s operations and wage and hour practices;
24 and (4) all personnel records, time records, payroll records and wage statements relating to Plaintiff.

25 **D.** On August 3, 2023, the Parties participated in a full-day mediation before Nikki Tolt
26 Esquire, a well-regarded mediator experienced in mediating complex labor and employment
27 matters. Although the Parties were unable to reach an agreement at the mediation, the Parties
28 subsequently accepted a mediator’s proposal and reached the Settlement to resolve the Action on

1 the terms set forth in this Agreement. As part and parcel to the Settlement, the Parties have agreed
2 to: (1) afford Plaintiff leave to file a First Amended Complaint (“FAC”) in the Low Class Action to
3 add the PAGA claims asserted by Plaintiff in the PAGA Notice, and (2) add any other claims, causes
4 of action, and factual theories asserted by Plaintiff which have not been pleaded to date.

5 **E.** Class Counsel has conducted significant investigation of the law and facts relating to
6 the claims asserted in the Action and the PAGA Notice, and have concluded that that the Settlement
7 set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement Class, taking
8 into account the sharply contested issues involved, the expense and time necessary to litigate the
9 Action through trial and any appeals, the risks and costs of further litigation of the Action, the risk
10 of an adverse outcome, the uncertainties of complex litigation, the information learned through
11 informal discovery regarding Plaintiff’s allegations, and the substantial benefits to be received by
12 Settlement Class Members.

13 **F.** Triple Canopy has concluded that, because of the substantial expense of defending
14 against the Action, the length of time necessary to resolve the issues presented herein, the
15 inconvenience involved, and the concomitant disruption to its business operations, it is in its best
16 interest to accept the terms of this Agreement. Triple Canopy denies each of the allegations and
17 claims asserted against it in the Action and the PAGA Notice. However, Triple Canopy nevertheless
18 desires to settle the Action for the purpose of avoiding the burden, expense and uncertainty of
19 continuing litigation and for the purpose of putting to rest the controversies engendered by the
20 Action.

21 **G.** This Agreement is intended to and does effectuate the full, final, and complete
22 resolution of all Class Released Claims of Plaintiff and Participating Class Members, and all PAGA
23 Released Claims of Plaintiff and, to the extent permitted by law, of the State of California and
24 Aggrieved Employees. The Plaintiff identified herein is also providing a General Release, as that
25 term is defined herein and set forth in Paragraph 7.d of this Settlement Agreement.

26 **3. JURISDICTION**

27 The Court has jurisdiction over the Parties and the subject matter of the Action. The Action
28 includes claims that, if proven, would authorize the Court to grant relief pursuant to the applicable

1 statutes. After the Court has granted Final Approval of the Settlement and entered judgment, the
2 Court shall retain jurisdiction over the Parties to enforce the terms of the judgment pursuant to
3 California Rule of Court, rule 3.769, subdivision (h).

4 **4. STIPULATION OF CLASS CERTIFICATION**

5 The Parties stipulate to the certification of the Settlement Class under this Agreement for
6 purposes of settlement only.

7 **5. DISMISSAL OF DEFENDANT WEEKS**

8 The Parties shall dismiss without prejudice defendant Weeks pursuant to a separate joint
9 stipulation to be filed within three (3) court days of the execution of this Settlement Agreement,
10 which stipulation shall also contain Weeks' agreement to waive all costs and fees provided that
11 Plaintiff does not rename Weeks as a defendant in this action.

12 **6. AMENDMENT OF PLEADING AND MOTIONS FOR APPROVAL OF**
13 **SETTLEMENT**

14 The Parties hereby stipulate, and leave will be requested as part of Plaintiff's motion for
15 preliminary approval, to the filing of the proposed FAC in the Action (a copy of which is attached
16 hereto as **Exhibit "A"**), which adds the PAGA claims asserted by Plaintiff in his PAGA Notice and
17 any other claims, causes of action, and factual theories asserted by Plaintiff which have not been
18 pleaded to date, and excludes Weeks as a named defendant pursuant to Paragraph 5 above. Upon
19 the FAC being deemed filed, Triple Canopy shall be deemed to have generally denied all of the
20 allegations set forth in the FAC pending final approval of this settlement, without any need to file a
21 separate answer to the FAC.

22 After full execution of this Agreement, Plaintiff will move for an order granting preliminary
23 approval of the Settlement, approving the filing of the FAC, approving and directing the mailing of
24 the proposed Notice of Class Action Settlement ("Class Notice") attached hereto as **Exhibit "B"**,
25 conditionally certifying the Settlement Class for settlement purposes only, and approving the
26 deadlines proposed by the Parties for the submission of Requests for Exclusion, Qualifying
27 Workweek Disputes, and Objections. If and when the Court preliminarily approves the Settlement,
28 and after administration of the Class Notice in a manner consistent with the Court's Preliminary

1 Approval Order, Plaintiff will move for an order finally approving the Settlement and seek entry of
2 a Judgment in line with this Settlement. The Parties may both respond to any Objections lodged to
3 final approval of the Settlement up to five (5) court days before the Final Approval Hearing.

4 Not later than fourteen (14) days following the execution of this Settlement Agreement,
5 Plaintiff's counsel will submit near-final drafts thereof (including all supporting papers,
6 declarations, and proposed order) to counsel for Triple Canopy for their review and comment.
7 Counsel for Triple Canopy will provide their comments to the draft motion for preliminary approval
8 and supporting papers within 7 days of receipt. The Parties will finalize the motion for preliminary
9 approval and supporting papers within 7 days thereafter. Plaintiff shall file the motion for
10 preliminary approval as soon as practicable following execution of this Settlement Agreement.

11 For purposes of settlement only, the Parties agree that all statutes of limitations shall be
12 waived with respect to the claims asserted in the FAC to be filed as a condition of preliminary
13 approval, with all such limitations to run from the earliest possible date based on the filing of the
14 Action and the sending of the PAGA Notice. In the event the Court does not grant final approval
15 of the settlement, then the FAC will be deemed withdrawn *ab initio* and the original limitations
16 periods shall apply.

17 **6. STATEMENT OF NO ADMISSION**

18 Defendants deny any wrongdoing of any sort and further deny any liability to Plaintiff and
19 the Settlement Class and/or Aggrieved Employees with respect to any claims or allegations asserted
20 in the Action and the PAGA Notice. This Agreement shall not be deemed an admission by
21 Defendants of any claims or allegations asserted in the Action and/or the PAGA Notice. Except as
22 set forth elsewhere herein, in the event that this Agreement is not approved by the Court, or any
23 appellate court, is terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to
24 have waived, limited or affected in any way any claims, rights or remedies, or defenses in the Action
25 or the PAGA Notice, and Defendants will not be deemed to have waived, limited, or affected in any
26 way any of their objections or defenses in the Action and the PAGA Notice. The Parties shall be
27 restored to their respective positions in the Action prior to the entry of this Settlement.
28

1 **7. RELEASE OF CLAIMS**

2 **a. Release by All Participating Class Members.**

3 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
4 of Judgment, and payment by Triple Canopy to the Settlement Administrator of the full Gross
5 Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, Plaintiff and all
6 Participating Class Members release the Released Parties of any and all claims that have been or
7 could reasonably have been asserted based on the factual allegations in the Operative Complaint as
8 follows: For the duration of the Class Period, the release includes, for Participating Class Members:
9 (1) all claims for failure to pay (or properly pay) overtime wages; (2) all claims for failure to pay
10 minimum or other wages for all hours worked; (3) all claims for failure to provide meal periods or
11 compensation in lieu thereof (including, without limitation, break premiums); (4) all claims for
12 failure to provide rest periods or compensation in lieu thereof (including, without limitation, break
13 premiums); (5) all claims for failure to pay all wages due upon separation from employment; (6) all
14 claims for failure to issue accurate wage statements; (7) all claims for failure to timely pay wages
15 during employment; (8) all claims asserting a failure to properly reimburse employees for business-
16 related expenses; (9) all claims for violation of Labor Code section 227.3 with respect to the payment
17 of vacation wages; (10) all claims asserted through California Business & Professions Code section
18 17200, *et seq.* arising out of the Labor Code violations referenced in the FAC; and (11) all claims
19 for relief, including damages, statutory and/or civil penalties, equitable and/or injunctive relief,
20 attorneys' fees, interest, costs, and any other kind of relief whatsoever that could be sought based
21 on the factual allegations and theories of liability asserted in the FAC (the "Class Released Claims").
22 The Parties additionally agree that the Class Released Claims shall include the release of claims
23 under the federal Fair Labor Standards Act ("FLSA") pursuant to *Rangel v. Check Cashers*, 899
24 F.3d 1106 (9th Cir. 2018).

25 **b. PAGA Release by All Aggrieved Employees**

26 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
27 of Judgment, and payment by Triple Canopy to the Settlement Administrator of the full Gross
28 Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, Plaintiff, the

1 Aggrieved Employees, and, to the extent permitted by law, the State of California, release the
2 Released Parties for the duration of the PAGA Period from all claims alleged in the PAGA Notice
3 and the FAC for PAGA civil penalties pursuant to Labor Code sections 96(k), 98.6, 201.3, 210,
4 226.3, 432.7, 432.8, 558, 1174.5, 1197.1, and 2699 in connection with alleged violations of Labor
5 Code sections 201, 202, 203, 204, 212, 213, 221, 223, 226, 226.7, 227.3, 232, 232.5, 246 *et seq.*,
6 404, 432, 432.3, 432.5, 432.6, 510, 512, 558, 1102.5, 1174, 1182.12, 1194, 1194.2, 1197, 1197.5,
7 1198.5, 1527, 2802, 2810.5, 3366, 3457, 6401, 6402, 6403, 6409, 6409.6, 6432 and 8397.4,
8 including for alleged (1) failure to pay (or properly pay) overtime wages; (2) failure to pay minimum
9 or other wages for all hours worked; (3) failure to provide meal periods or compensation in lieu
10 thereof (including, without limitation, break premiums); (4) failure to provide rest periods or
11 compensation in lieu thereof (including, without limitation, break premiums); (5) failure to pay all
12 wages due upon separation from employment; (6) failure to issue accurate wage statements;
13 (7) failure to timely pay wages during employment; (8) failure to properly reimburse employees for
14 business-related expenses; (9) violations of Labor Code section 227.3 with respect to the payment
15 of vacation wages; (10) failure to maintain and/or produce payroll and time records; (11) payment
16 of wages via non-compliant instruments; (12) failure to provide Labor Code section 2810.5 notices;
17 (13) failure to provide or properly pay for sick leave; (14) failure to provide weekly pay to temporary
18 workers; (15) failure to provide suitable seating; (16) whistleblower retaliation; (17) failing to
19 comply with COVID-19-related notice requirements; (18) failure to provide safety
20 devices/safeguards; (19) failure to keep adequate sanitation facilities; (20) requiring employees to
21 sign unlawful agreements; (21) unlawful pre-employment inquiries and background checks; and
22 (22) unlawful reliance on salary history in making hiring and compensation offers (the “PAGA
23 Released Claims”). The Class Released Claims and PAGA Released Claims shall be collectively
24 referred to herein as the “Released Claims.”

25 **c. Claims Not Released**

26 The Released Claims expressly excludes all other claims, including claims for vested
27 benefits, wrongful termination, unemployment insurance, disability, social security, workers’
28 compensation, and any other claims outside of the Class Released Claims of Participating Class

1 Members arising during the Class Period and the PAGA Released Claims of Aggrieved Employees
2 (and, to the extent permitted by law, the State of California) arising outside of the PAGA Period.

3 **d. General Release**

4 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
5 of Judgment, and payment by Triple Canopy to the Settlement Administrator selected of the full
6 Gross Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, in addition
7 to the Release provided by the Plaintiff in Sections 7.a. and 7.b. of this Agreement, Plaintiff makes
8 the additional following General Release: Plaintiff releases the Released Parties from all claims,
9 demands, rights, liabilities and causes of action of every nature and description whatsoever, known
10 or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of
11 any state or federal statute, rule, law or regulation arising out of, relating to, or in connection with
12 any act or omission of the Released Parties through the date of final approval of this Agreement in
13 connection with Plaintiff's employment with Triple Canopy or the termination thereof, except for
14 any and all other claims that may not be released as a matter of law through this Agreement. To the
15 extent of the General Release provided herein, Plaintiff stipulates and agrees that, upon entry of an
16 Order granting Final Approval of the Settlement, entry of Judgment, and payment by Triple Canopy
17 to the Settlement Administrator selected of the full Gross Settlement Amount and Employer's Taxes
18 necessary to effectuate the Settlement, they shall have expressly waived and relinquished, to the
19 fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California
20 Civil Code, or any other similar provision under federal or state law, which provides:

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

24 **8. SETTLEMENT ADMINISTRATOR**

25 **A.** Plaintiff and Triple Canopy, through their respective counsel, have selected Phoenix
26 Class Action Administration Solutions to administer the Settlement, which includes but is not
27 limited to: translating the Class Notice to Spanish; distributing the Class Notice; distributing and
28 responding to inquiries about the Class Notice and calculating all amounts to be paid from the Gross

1 Settlement Amount. Charges and expenses of the Settlement Administrator, currently estimated to
2 be \$6,500.00 will be paid from the Gross Settlement Amount. If the actual amount of the Settlement
3 Administration Costs is less than \$6,500.00, the difference between \$6,500.00 and the actual
4 Settlement Administration Costs shall be a part of the Net Settlement Amount. If the Settlement
5 Administration Costs exceed \$6,500.00, then such excess will be paid solely from the Gross
6 Settlement Amount and Defendants will not be responsible for paying any additional funds in order
7 to pay these additional costs.

8 **9. NOTICE, WORKWEEK DISPUTE, OBJECTION, AND EXCLUSION**
9 **PROCESS**

10 **A. Notice to the Settlement Class Members**

11 (1) Within thirty (30) days after the Preliminary Approval Date, Counsel for
12 Triple Canopy shall provide the Settlement Administrator with information with respect to each
13 Settlement Class Member and/or Aggrieved Employee, including his or her: (1) name; (2) last
14 known address(es) currently in Triple Canopy's possession, custody, or control; (3) last known
15 telephone number(s) currently in Triple Canopy's possession, custody, or control; (4) last known
16 Social Security Number(s) in Triple Canopy's possession, custody, or control; (5) the dates of
17 employment (*i.e.*, hire dates, and, if applicable, re-hire date(s) and/or separation date(s)); (6) the
18 number of Qualifying Workweeks for each Settlement Class Member for the Class Period, and (7)
19 the number of Qualifying Pay Periods for each Aggrieved Employee for the PAGA Period
20 (hereafter, the "Class List"). The final Class List will be designated as Highly Confidential,
21 Attorneys' Eyes Only, pursuant to a Court-approved and entered Stipulated Protective Order to be
22 submitted by the Parties in the Action prior to the filing of the motion for preliminary approval, and
23 provided by Triple Canopy after the Settlement Administrator signs and returns to Counsel for
24 Triple Canopy the Acknowledgment and Agreement to be Bound attached as Exhibit A to such
25 Protective Order. The final Class List shall be used only by the Settlement Administrator and only
26 for purposes of administering the Settlement and shall not be provided to Class Counsel, and nothing
27 in this Settlement Agreement limits the use of it for that purpose. The Settlement Administrator
28 shall perform an address search using the United States Postal Service National Change of Address

1 (“NCOA”) database and update the addresses contained on the Class List with the newly-found
2 addresses, if any. Within seven (7) calendar days, or soon thereafter, of receiving the Class List
3 from Triple Canopy, the Settlement Administrator shall mail the Class Notice in English and
4 Spanish to the Settlement Class Members via first-class regular U.S. Mail using the most current
5 mailing address information available. The Settlement Administrator shall maintain the Class List
6 and digital copies of all the Settlement Administrator’s records evidencing the giving of notice to
7 any Settlement Class Member and/or other records pertaining to its administration of the Settlement
8 (including, without limitation, records pertaining to Class Member queries, requests for exclusions,
9 opt-outs, Workweek disputes, and undeliverable mailing), for at least four (4) years from the Final
10 Approval Date.

11 (2) The proposed Class Notice will include verbiage jointly agreed to by the
12 Parties and will set forth:

- 13 (a) the Settlement Class Member’s estimated Individual Settlement
14 Payment and Individual PAGA Payment, as applicable, and the basis
15 for each;
- 16 (b) the information required by California Rule of Court, rule 3.766,
17 subdivision (d);
- 18 (c) the material terms of the Settlement;
- 19 (d) the proposed Settlement Administration Costs;
- 20 (e) the definition of the Settlement Class;
- 21 (f) a statement that the Court has preliminarily approved the Settlement;
- 22 (g) how the Settlement Class Member can obtain additional information,
23 including contact information for Class Counsel;
- 24 (h) information regarding opt-out, objection and dispute procedures;
- 25 (i) the date and location of the Final Approval Hearing; and
- 26 (j) that the Settlement Class Member must notify the Settlement
27 Administrator no later than the Response Deadline if the Settlement
28 Class Member disputes the accuracy of the number of Qualifying

1 Workweeks as set forth on his or her Class Notice (“Qualifying
2 Workweek Dispute”). If a Settlement Class Member fails to timely
3 dispute the number of Qualifying Workweeks attributed to him or her
4 in conformity with the instructions in the Class Notice, then he or she
5 shall be deemed to have waived any objection to its accuracy and any
6 claim to any additional settlement payment based on different data.

7 (3) If a Class Notice from the initial notice mailing is returned as undeliverable,
8 the Settlement Administrator will attempt to obtain a current address for the Settlement Class
9 Member to whom the returned Class Notice had been mailed, within five (5) calendar days of receipt
10 of the returned Class Notice, by: (1) contacting the Settlement Class Member by phone, if possible,
11 and (2) undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new
12 address, it will promptly re-mail the Class Notice to the Settlement Class Member. Further, any
13 Class Notices that are returned to the Settlement Administrator with a forwarding address before the
14 Response Deadline shall be promptly re-mailed to the forwarding address affixed thereto.

15 (4) No later than seven (7) calendar days after the Response Deadline, the
16 Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the
17 completion of the notice process, including the number of attempts to obtain valid mailing addresses
18 for and re-sending of any returned Class Notices, as well as the identities, number of, and copies of
19 all Requests for Exclusion and Objections received by the Settlement Administrator, if any.

20 **B. Objections.**

21 Only Participating Class Members may object to the Class Settlement; neither Participating
22 Class Members nor PAGA Aggrieved Employees may object to the PAGA settlement. In order for
23 any Settlement Class Member to object to this Class Settlement in writing, or any term of it, he or
24 she must do so by mailing a written objection to the Settlement Administrator at the address
25 provided on the Class Notice, with such objection postmarked no later than the Response Deadline.
26 The Settlement Administrator shall email a copy of the Objection forthwith to Class Counsel and
27 counsel for Triple Canopy and attach copies of all Objections to the Declaration it provides Class
28 Counsel, which Class Counsel shall file in support of Plaintiff’s Motion for Final Approval. To be

1 valid, the Objection must be timely submitted and must set forth the following in writing: (1) the
2 Objector's name; (2) the Objector's address; (3) the last four digits of the Objector's Social Security
3 Number; (4) the Objector's signature; (5) a statement of whether the Objector plans to appear at the
4 Final Approval Hearing; and (6) the reason(s) for the Objection, along with whatever legal authority,
5 if any, the Objector asserts in support of the Objection. If a Settlement Class Member objects to the
6 Class Settlement, the Settlement Class Member will remain a member of the Settlement Class and
7 if the Court approves this Agreement, the Settlement Class Member will be bound by the terms of
8 the Settlement in the same way and to the same extent as a Settlement Class Member who does not
9 object. The date of mailing of the Class Notice to the objecting Settlement Class Member shall be
10 conclusively determined according to the records of the Settlement Administrator. Settlement Class
11 Members need not object in writing to be heard at the Final Approval Hearing; they may object or
12 comment in person at the hearing at their own expense. Class Counsel and counsel for Triple
13 Canopy may respond to any objection lodged with the Court up to five (5) court days before the
14 Final Approval Hearing.

15 **C. Requesting Exclusion.**

16 Any Settlement Class Member may request exclusion from (*i.e.*, to "opt out" of) the Class
17 Settlement by mailing a written request to be excluded from the Class Settlement ("Request for
18 Exclusion") to the Settlement Administrator, postmarked on or before the Response Deadline. To
19 be valid, a Request for Exclusion must be timely submitted and must include the following in
20 writing: (1) the Class Member's name; (2) the Class Member's Social Security Number; (3) the
21 Class Member's signature; and (4) a statement that the Class Member seeks to be excluded from the
22 Settlement Class using the same or any other language standing for the proposition the Class
23 Member seeks to be excluded from the Settlement Class: "Please exclude me from the Settlement
24 Class in the *Low v. Triple Canopy, Inc., et al.* matter. I understand that by requesting exclusion, I
25 will not participate in the class settlement and will not receive any money from the class settlement."
26 The Settlement Administrator shall immediately provide copies of all Requests for Exclusion to
27 Class Counsel and counsel for Triple Canopy and shall report the Requests for Exclusions that it
28 receives, to the Court, in its declaration to be provided in advance of the Final Approval Hearing.

1 Any Settlement Class Member who timely and properly requests exclusion from the Settlement
2 Class using this procedure will not be entitled to receive any Individual Settlement Share from the
3 Settlement and will not be bound by the Settlement Agreement or have any right to object to, appeal,
4 or comment on the Settlement as it relates to the Class Settlement and Class Released Claims. Any
5 Settlement Class Member who does not opt out of the Settlement Class by submitting a timely and
6 valid Request for Exclusion will be bound by all terms of the Settlement, including those pertaining
7 to the Class Released Claims, as well as any Judgment that may be entered by the Court if Final
8 Approval of the Class Settlement is granted. A Settlement Class Member cannot submit both a
9 Request for Exclusion and an objection. If a Settlement Class Member submits an Objection and a
10 Request for Exclusion, the Request for Exclusion will control and the Objection will be overruled.
11 Settlement Class Members who worked during the PAGA Period as Aggrieved Employees that
12 submit a valid Request for Exclusion from the Settlement Class will still be deemed to be Aggrieved
13 Employees, will still receive their Individual PAGA Payments, and will be bound by the release of
14 the PAGA Released Claims.

15 **D. Disputes Regarding Settlement Class Members' Qualifying Workweek Data.**

16 Each Settlement Class Member may dispute the number of Qualifying Workweeks attributed
17 to him or her with respect to the Individual Settlement Share on his or her Class Notice ("Workweek
18 Dispute"). Any such disputes must be in writing and mailed to the Settlement Administrator by the
19 Settlement Class Member, postmarked on or before the Response Deadline. To be valid, a
20 Qualifying Workweek Dispute must be timely submitted and must include the following in writing:
21 (1) the Class Member's name, current mailing address, telephone number, the last four digits of
22 his/her social security number, and his/her signature; (2) a statement indicating that the Class
23 Member seeks to dispute the number of Qualifying Workweeks credited to him or her, the time
24 period(s) he or she worked for Triple Canopy during the Class Period, and the number of Qualifying
25 Workweeks that he or she contends should be credited to him or her; and (3) documentation and/or
26 other facts supporting the Class Member's position. The Settlement Administrator shall
27 immediately provide copies of all Qualifying Workweek Disputes (if any) to Class Counsel and
28 counsel for Triple Canopy. In response to any timely Qualifying Workweek Dispute, Triple Canopy

1 will first verify the information contained in the disputing Class Member's personnel file and Triple
2 Canopy's payroll records. Unless the Class Member can establish that the number of Qualifying
3 Workweeks credited to him or her is incorrect, by providing documentation in support thereof or
4 other details to substantiate his or her position, the total number of Qualifying Workweeks
5 established by Triple Canopy's records will control. Class Counsel and counsel for Triple Canopy
6 will then make a good faith effort to resolve the dispute informally before the Final Approval
7 Hearing. If counsel for the Parties cannot agree, the dispute shall be resolved by the Settlement
8 Administrator before the Final Approval Hearing, who shall examine the records provided by Triple
9 Canopy and the Class Member and shall be the final arbiter of disputes relating to a Class Member's
10 Qualifying Workweeks. The Settlement Administrator's determination regarding any such dispute
11 shall be final for purposes of administering notice of the Settlement, subject to final review,
12 determination, and approval by the Court.

13 **10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA**
14 **PAYMENTS**

15 Individual Settlement Payments will be calculated and distributed to Participating Class
16 Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class
17 Members' respective number of Qualifying Workweeks during the Class Period. Individual
18 PAGA Payments to Aggrieved Employees will be calculated and distributed to Aggrieved
19 Employees from the Aggrieved Employee PAGA Payment on a *pro rata* basis based on Aggrieved
20 Employees' respective number of Qualifying Pay Periods during the PAGA Period. Specific
21 calculations of the Individual Settlement Shares and Individual PAGA Payments to Aggrieved
22 Employees will be made as follows:

23 **A. The Total Number of Qualifying Workweeks.**

24 The Total Number of Qualifying Workweeks worked by each Settlement Class Member
25 during the Class Period ("Class Member's Workweeks"), as well as the aggregate number of
26 Qualifying Workweeks worked by all Settlement Class Members during the Class Period ("Class
27 Workweeks"), shall be determined from Triple Canopy's records and shall be provided on the
28 Class List provided by Triple Canopy. Additionally, the total number of Qualifying Pay Periods

1 worked by each Aggrieved Employee during the PAGA Period (“Aggrieved Employee’s Pay
2 Periods”), as well as the aggregate number of Qualifying Pay Periods worked by all Aggrieved
3 Employees during the PAGA Period (“PAGA Pay Periods”), shall be determined from Triple
4 Canopy’s records and shall be provided on the Class List provided by Triple Canopy.

5 **B.** To determine each Participating Class Member’s Participating Individual Class
6 Settlement Share, the Settlement Administrator will determine the aggregate number of
7 Qualifying Workweeks worked by all Participating Class Members during the Class Period
8 (“Total Participating Class Member Workweeks”) and use the following formula: Individual
9 Settlement Share = (Individual Participating Class Member’s Qualifying Workweeks ÷ Total
10 Participating Class Member Qualifying Workweeks) × Net Settlement Amount.

11 **C.** To determine each Aggrieved Employee’s Individual PAGA Payment, the
12 Settlement Administrator will use the following formula: Aggrieved Employee’s Individual
13 PAGA Payment = (Aggrieved Employee’s Qualifying Pay Periods ÷ Total Aggrieved Employee
14 PAGA Qualifying Pay Periods) x Aggrieved Employee PAGA Payment.

15 **D.** Individual Settlement Payments and Individual PAGA Payments shall be paid to
16 Participating Class Members and/or Aggrieved Employees by way of check. When a Participating
17 Class Member is also an Aggrieved Employee, one check may be issued that aggregates both the
18 Individual Settlement Payment and the Individual PAGA Payment.

19 **11. DISTRIBUTION OF PAYMENTS**

20 **A. Distribution of Individual Settlement Payments.**

21 Participating Class Members will receive an Individual Settlement Payment and Aggrieved
22 Employees will receive an Individual PAGA Payment as applicable. Individual Settlement
23 Payment and Individual PAGA Payment checks shall remain valid and negotiable for one hundred
24 and eighty (180) calendar days after the date of their issuance. In the event that any checks mailed
25 to Participating Class Members and/or Aggrieved Employees are not cashed, deposited, or
26 otherwise negotiated within the 180-day period, then the checks shall be sent to the California
27 State Controller’s Office Unclaimed Property Fund in the name of the individual, and such Class
28 Members and/or Aggrieved Employees shall nevertheless be bound to the Settlement and the Final

1 Approval Order. Thus, there shall be no “Unpaid Residue” subject to the requirements of
2 California Code of Civil Procedure section 384.

3 **B. Funding of Settlement.**

4 Within thirty (30) business days following the occurrence of the Effective Date of the
5 Settlement as defined above, Triple Canopy shall remit payment of the Gross Settlement Amount
6 (as the same may be escalated pursuant to Paragraph 17 of this Agreement) and Employer Taxes (as
7 that term is defined herein) to the Settlement Administrator pursuant to Internal Revenue Code
8 section 1.468B-1 for deposit in an interest-bearing qualified settlement account (“QSA”) with an
9 FDIC insured banking institution, for distribution in accordance with this Agreement and the Court’s
10 Orders and subject to the conditions described herein.

11 **C. Time for Distribution.**

12 Within fifteen (15) calendar days after payment of the full Gross Settlement Amount and
13 Employer Taxes by Triple Canopy, or as soon thereafter as practicable, the Settlement Administrator
14 shall distribute Payments from the QSA for: (1) the Service Award to Plaintiff as approved by the
15 Court; (2) the Attorneys’ Fees and Cost Award to be paid to Class Counsel, as approved by the
16 Court; (3) the Settlement Administrator Costs, as approved the Court; (4) the LWDA Payment, as
17 approved by the Court; and (5) Individual PAGA Payments as approved by the Court. The balance
18 remaining shall constitute the Net Settlement Amount from which Individual Settlement Payments
19 shall be made to Participating Class Members, less applicable taxes and withholdings.

20 **12. ATTORNEYS’ FEES AND LITIGATION COSTS**

21 Class Counsel shall apply for, and Triple Canopy shall not oppose, an award of attorneys’
22 fees of up to 35% of the Gross Settlement Amount, which, unless the Gross Settlement Amount is
23 escalated pursuant to Paragraph 17 of this Agreement, amounts to One Hundred Twenty-Two
24 Thousand, Five Hundred Dollars and Zero Cents (\$122,500.00). Class Counsel shall further apply
25 for, and Triple Canopy shall not oppose, an application or motion by Class Counsel for
26 reimbursement of actual costs associated with Class Counsel’s prosecution of this matter as set forth
27 by declaration testimony in an amount up to Twenty-Five Thousand Dollars and Zero Cents
28 (\$25,000.00). Awards of attorneys’ fees and costs shall be paid out of the Gross Settlement Amount,

1 for all past and future attorneys' fees and costs necessary to prosecute, settle, and obtain Final
2 Approval of the settlement in Action. The "future" aspect of the amounts stated herein includes,
3 without limitation, all time and expenses expended by Class Counsel (including any appeals
4 therein). There will be no additional charge of any kind to either the Settlement Class Members or
5 request for additional consideration from Defendants for such work unless, Triple Canopy materially
6 breach this 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 to enforce the
8 Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in
9 amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall
10 become a part of the Net Settlement Amount for distribution to Participating Class Members, and
11 any such lesser award shall not be grounds for Plaintiff and/or Class Counsel to terminate the
12 Settlement.

13 **13. SERVICE AWARD TO PLAINTIFF**

14 Named Plaintiff shall seek, and Triple Canopy shall not oppose, a Service Award in an
15 amount not to exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) payable
16 to Plaintiff for participation in and assistance with the Action. Any Service Award awarded to
17 Plaintiff shall be paid from the Gross Settlement Amount and shall be reported to Plaintiff on an
18 IRS Form 1099. If the Court approves the Service Award to Plaintiff in less than the amounts sought
19 herein, then the unapproved portion(s) shall become a part of the Net Settlement Amount for
20 distribution to Participating Class Members, and any such lesser award shall not be grounds for
21 Plaintiff and/or Class Counsel to terminate the Settlement.

22 **14. TAXATION AND ALLOCATION**

23 **a.** Each Individual Settlement Share shall be allocated as follows: 20% as wages (to be
24 reported on an IRS Form W-2) and 80% for civil or statutory penalties and interest, with such non-
25 wage portions to be reported on an IRS Form 1099. Each Individual PAGA Payment shall be
26 allocated entirely as penalties and reported on an IRS Form 1099. The Parties agree that prior to
27 distribution, each Individual Settlement Share due to a Participating Class Member will be subject
28 to reduction for required employee-side payroll taxes, contributions and withholdings with respect

1 to the wage portion of the Individual Settlement Share, which shall yield each Participating Class
2 Member's "Individual Settlement Payment." The amount of federal income tax withholding will
3 be based upon a flat withholding rate for supplemental wage payments in accordance with Treasury
4 Regulation § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be
5 made pursuant to applicable state and/or local withholding codes or regulations.

6 **b.** Forms W-2 and/or Forms 1099 will be timely and correctly prepared and distributed
7 by the Settlement Administrator at times and in the manner required by the Internal Revenue Code
8 of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated
9 thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes
10 set forth in this Section may be modified in a manner to bring Triple Canopy into compliance with
11 any such changes.

12 **c.** Neither Counsel for Plaintiff nor counsel for Triple Canopy intend anything
13 contained in this Agreement to constitute advice regarding taxes or taxability, nor shall anything in
14 this Agreement be relied upon as such within the meaning of United States Treasury Department
15 Circular 230 (31 C.F.R. Part 10, as amended) or otherwise. Settlement Class Members and
16 Aggrieved Employees will be responsible for correctly characterizing the compensation that they
17 receive pursuant to the Form 1099 and for payment of any taxes owing on said amount(s).

18 **15. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION AND**
19 **NOTIFICATION TO THE LWDA**

20 The Parties agree to allocate Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Gross
21 Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five percent (75%) of
22 the amount allocated toward PAGA (\$7,500.00) will be paid to the LWDA and twenty-five percent
23 (25%) (\$2,500.00) will be distributed to Aggrieved Employees on a *pro rata* basis based upon their
24 respective Qualifying Pay Periods worked as Aggrieved Employees during the PAGA Period.

25 Concurrently with the filing of the motion for preliminary approval of the settlement under
26 this Agreement, Plaintiff and his counsel will comply with all requirements under PAGA to give
27 notice and make submissions regarding the proposed settlement to the LWDA, and promptly
28 provide written evidence thereof to counsel for Triple Canopy.

1 **16. COURT APPROVAL**

2 This Agreement is contingent upon an order by the Court granting Final Approval of the
3 Settlement, and that the LWDA does not intervene and object to the Settlement. In the event it
4 becomes impossible to secure approval of the Settlement by the Court and the LWDA, the Parties
5 shall be restored to their respective positions in the Action prior to entry of this Settlement, except
6 as otherwise set forth herein. If this Settlement Agreement is voided, not approved by the Court or
7 approval is reversed on appeal, it shall have no force or effect and no Party shall be bound by its
8 terms except to the extent: (a) the Court reserves any authority to issue any appropriate orders when
9 denying approval; and/or (b) there are any terms and conditions in this Settlement Agreement
10 specifically stated to survive the Settlement Agreement being voided or not approved, and which
11 control in such an event.

12 **17. INCREASE IN QUALIFYING WORKWEEKS**

13 Triple Canopy represents that the Settlement Class worked approximately 2,442
14 Qualifying Workweeks during the Class Period. In the event that it is determined that the number
15 of Qualifying Workweeks worked by Class Members during the Class Period increases by more
16 than 10%, or more than 2,687 Qualifying Workweeks, then the Gross Settlement Amount shall be
17 increased by one percent (1%) for every one percent (1%) increase in Qualifying Workweeks over
18 the 10% threshold. Thus, for example, if the number of Qualifying Workweeks worked during the
19 Class Period increases by 12%, the Gross Settlement Amount would be increased by 2%, or
20 \$350,000 x 0.02, for an increased Gross Settlement Amount of \$357,000 (\$350,000 + \$7,000).

21 **18. NOTICE OF JUDGMENT**

22 In addition to any duties set out herein, the Settlement Administrator shall provide notice
23 of the Final Judgment entered in the Action by posting the same on its website for a period of no
24 less than four (4) years.

25 **19. WITHDRAWAL FROM SETTLEMENT BASED ON REQUESTS FOR**
26 **EXCLUSION**

27 Triple Canopy shall retain the right to nullify the Agreement in the event that more than
28 ten percent (10%) of Class Members submit timely and valid Requests for Exclusion. Should the

1 10% threshold for opt outs be exceeded, the Settlement Administrator shall notify lead counsel
2 for all Parties via email immediately, and Triple Canopy must provide written notice to Class
3 Counsel of its withdrawal within ten (10) calendar days of receiving sufficient information to
4 determine that the opt out rate exceeds 10%. If Triple Canopy exercises this right, it shall be
5 solely responsible for the costs incurred for settlement administration up to the date of
6 nullification.

7 **20. CONFIDENTIALITY**

8 Except as otherwise agreed in writing between the Parties, both before and following the
9 execution of this Settlement Agreement by the Parties and their counsel, there will be no direct or
10 indirect comment or publication by Plaintiff and Class Counsel of the settlement in terms of
11 affirmative or responsive media statements/comments, press releases or conferences, website
12 postings or content, social media postings or content, other Internet postings or content, subscribed
13 email messages, newsletters, disseminated updates, mass mailings, or any other comment or
14 publication to the press, media or public at large. This shall not apply to or limit the public filing
15 of motions or other case materials by Class Counsel in the Action related to seeking and obtaining
16 Court approval of the proposed settlement and the related awards of attorneys fees and costs,
17 enhancements and the other relief set forth in this Settlement Agreement, or to communications
18 between Class Counsel and Plaintiff or Settlement Class Members. Class Counsel may otherwise
19 state only that the Action has been settled on terms mutually agreeable to the Parties. The Parties
20 understand and agree that there may be media coverage of the settlement of the Action not initiated
21 by Plaintiff or Class Counsel, directly or indirectly. It is also agreed and understood that the Parties
22 and each and every Settlement Class Member, may disclose the settlement to their families, plus
23 their legal, tax, or accounting advisors, insurance companies, or as required by law, regulatory
24 rules or regulatory requirements. Class Counsel may disclose the names of the Parties in the
25 Action, the venues/case numbers, and settlement details available in the public record, for the
26 limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions or
27 for purposes of seeking approval of an unrelated settlement.

28 **21. SETTLEMENT WEBSITE**

1 The Parties agree that the Settlement Administrator may use U.S. mail and its own website
2 to provide notice and information about the Settlement to Settlement Class Members. Reference
3 to this Settlement on the Settlement Administrator's website must be taken down within 45 days
4 after the date the Settlement Administrator must remit any unclaimed funds to the State, as set
5 forth in Section 11.A of this Agreement. No information about the Action or the settlement may
6 be posted on Class Counsel's websites or their social media without Triple Canopy's prior written
7 consent, except as expressly set forth in this Agreement.

8 **22. MISCELLANEOUS PROVISIONS**

9 **A. Interpretation of the Agreement, Governing Law.**

10 This Agreement constitutes the entire agreement between the Parties with respect to its
11 subject matter. Except as expressly provided herein, this Agreement has not been executed in
12 reliance upon any other written or oral representations or terms, and no such extrinsic oral or written
13 representations or terms shall modify, vary or contradict its terms. In entering into this Agreement,
14 the Parties agree that this Agreement is to be construed according to its terms and may not be varied
15 or contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the
16 laws of the State of California, both in its procedural and substantive aspects, without regard to its
17 conflict of law provisions. Any claim arising out of or relating to the Agreement, or the subject
18 matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California
19 for the County of San Diego, and Plaintiff and Triple Canopy hereby consent to the personal
20 jurisdiction of the Court in the Action over it solely in connection therewith. The foregoing is only
21 limited to disputes concerning this Agreement. The Parties, and each of them, participated in the
22 negotiation and drafting of this Agreement and had available to them the advice and assistance of
23 independent counsel. As such, neither Plaintiff nor Triple Canopy may claim that any ambiguity in
24 this Agreement should be construed against the other. The Agreement may be modified only by a
25 writing signed by counsel for the Parties and approved by the Court.

26 **B. Further Cooperation.**

27 The Parties and their respective attorneys shall proceed diligently to prepare and execute all
28 documents, to seek the necessary approvals from the Court, and to do all things reasonably necessary

1 to consummate the Settlement as expeditiously as possible. The Parties agree that they will not take
2 any action inconsistent with this Agreement, including, without limitation, encouraging Class
3 Members to opt out of the Settlement. In the event the Court finds that any Party has taken actions
4 inconsistent with the Settlement, including, without limitation, encouraging Class Members to opt
5 out of the Settlement, the Court may take any corrective actions, including enjoining any Party from
6 communicating regarding the Settlement on an *ex parte* basis, issuing (a) corrective notice(s),
7 awarding monetary, issue, evidentiary and/or terminating sanctions against that Party, and/or
8 enforcing this Agreement despite the presence of opt-outs and/or objections.

9 **C. Counterparts.**

10 The Agreement may be executed in one or more actual or non-original counterparts,
11 including via DocuSign, all of which will be considered one and the same instrument and all of
12 which will be considered duplicate originals.

13 **D. Authority.**

14 Each individual signing below warrants that he or she has the authority to execute this
15 Agreement on behalf of the Party for whom or which that individual signs.

16 **D. Binding On Assigns.**

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

19 **F. Deadlines Falling on Weekends or Holidays.**

20 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
21 legal holiday, that deadline shall be continued until the following business day.

22 **G. Jurisdiction of the Court.**

23 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
24 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this
25 Settlement Agreement and all orders and judgments entered in connection therewith, and the Parties
26 and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
27 implementing, and enforcing the settlement embodied in this Settlement Agreement and all orders
28 and judgments entered in connection therewith.

1 **H. Severability.**

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

7 **IT IS SO AGREED:**

8 Dated: Dec 11, 2023, 2023

Brandon A Low

Brandon A Low (Dec 11, 2023 14:54 PST)

BRANDON ALEXANDER LOW
Plaintiff and Class Representative

11 Dated: December 14, 2023

Katherine F. McKenzie-Veal

TRIPLE CANOPY, INC.

By: Katherine F. McKenzie-Veal

Its: VP - Legal, Corporate Counsel

16 **AGREED AS TO FORM:**

BIBIYAN LAW GROUP, P.C.

18 Dated: December 11, 2023, 2023

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