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Attorneys for Defendant JOHN GRIFFIN CONSTRUCTION, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

EDUARDO COVARRUBIAS, on behalf of
himself and all others similarly situated,

Plaintiffs,

v.

JOHN GRIFFIN CONSTRUCTION, INC., a
California Corporation, and DOES 1-20,
inclusive,

Defendants.

Case No. CVRI2301734
The Hon. Harold W. Hopp
Dept. 1

**STIPULATION OF CLASS ACTION AND
PAGA SETTLEMENT AND RELEASE OF
CLAIMS**

Filed: April 5, 2023
Trial Date: None Set

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1 This Stipulation of Class Action and PAGA Settlement and Release of Claims
2 (“Settlement Agreement” or “Agreement”) is made by and between Plaintiff Eduardo
3 Covarrubias (“Plaintiff”) and Defendant John Griffin Construction, Inc. (“Defendant”). The
4 Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

5 **I. DEFINITIONS**

6 A. “Action” means the lawsuit filed by Plaintiff alleging wage and hour violations
7 against Defendant entitled *Covarrubias v. John Griffin Construction, Inc.*, Case No.
8 CVRI2301734, filed on April 5, 2023, in the Superior Court of the State of California, County of
9 Riverside.

10 B. “Administrator” means Phoenix Settlement Administrators, the neutral entity the
11 Parties have agreed to appoint to administer the Settlement.

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

16 D. “Aggrieved Employee” means, “all persons who worked for Defendant as non-
17 exempt employees in the State of California at any time during the PAGA Period.”

18 E. “Class” means “all persons who worked for Defendant as non-exempt employees
19 in the State of California at any time during the Class Period.”

20 F. “Class Counsel” means Sam Kim and Yoonis Han of Verum Law Group, APC.

21 G. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
22 mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees
23 and expenses, respectively, incurred to prosecute the Action.

24 H. “Class Data” means Class Member identifying information in Defendant’s
25 possession including the Class Member’s name, last-known mailing address, Social Security
26 number, and number of Class Period Workweeks and PAGA Pay Periods.

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

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

K. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without material variation. The Class Notice included in the Notice Packet is attached hereto as **Exhibit A**, and incorporated by reference into this Agreement.

L. “Class Period” means the period from April 5, 2019, to March 31, 2024.

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

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

O. “Court” means the Superior Court of California, County of Riverside.

P. “Defendant” means Defendant John Griffin Construction, Inc.

Q. “Defense Counsel” means Roxana E. Verano and Joseph P. Sklar of Landegger Verano & Davis, ALC.

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

1 S. "Final Approval" means the Court's order granting final approval of the
2 Settlement.

3 T. "Final Approval Hearing" means the Court's hearing on the Motion for Final
4 Approval of the Settlement.

5 U. "Final Judgment" means the Judgment Entered by the Court upon Granting Final
6 Approval of the Settlement.

7 V. "Gross Settlement Amount" means \$375,000 which is the total amount Defendant
8 agrees to pay under the Settlement except as provided in § VIII below. The Gross Settlement
9 Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA
10 PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service
11 Payment and the Administrator's Expenses.

12 W. "Individual Settlement Payment" means the Participating Class Member's pro
13 rata share of the Net Settlement Amount calculated according to the number of Workweeks
14 worked during the Class Period.

15 X. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of
16 25% of the PAGA Penalties calculated according to the number of Workweeks worked during
17 the PAGA Period.

18 Y. "Information Sheet" means the document which contains the Class Member's
19 individualized information, including his or her Compensable Workweeks and estimated
20 Individual Settlement Payment. The Information Sheet included in the Notice Packet is attached
21 hereto as **Exhibit A**

22 Z. "Judgment" means the judgment entered by the Court based upon the Final
23 Approval.

24 AA. "LWDA" means the California Labor and Workforce Development Agency, the
25 agency entitled, under Labor Code section 2699, subd. (i).

26 BB. "LWDA PAGA Payment" means the 75% share of the PAGA Penalties paid to
27 the LWDA under Labor Code section 2699, subd. (i).
28

1 CC. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less
2 the following payments in the amounts approved by the Court: Individual PAGA Payments, the
3 LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment,
4 Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The
5 remainder is to be paid to Participating Class Members as Individual Class Payments.

6 DD. "Non-Participating Class Member" means any Class Member who opts out of the
7 Settlement by sending the Administrator a valid and timely Request for Exclusion.

8 EE. "Notice Packet" means the Notice of Proposed Class Action Settlement ("Class
9 Notice"), Information Sheet, Notice of Objection Form, and Request for Exclusion in forms
10 substantially similar to the form attached hereto as **Exhibit A**.

11 FF. "Notice of Objection Form" means the written statement instructing the objecting
12 Class Member that the objection must be mailed to the Settlement Administrator, stating the
13 name and address of the settlement administrator, and stating the date by which the objection
14 must be mailed. The Notice of Objection Form included in the Notice Packet is attached hereto
15 as **Exhibit A**.

16 GG. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee
17 worked for Defendant for at least one day during the PAGA Period.

18 HH. "PAGA Period" means the period from April 6, 2022 to March 31, 2024.

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

20 JJ. "PAGA Notice" means Plaintiff's April 6, 2023 letter to Defendant and the
21 LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

22 KK. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid
23 from the Gross Settlement Amount (\$15,000.00), allocated 25% to the Aggrieved Employees
24 (\$3,750.00) and the 75% to LWDA (\$11,250.00) in settlement of PAGA claims.

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

27 MM. "Plaintiff" means Eduardo Covarrubias, the named plaintiff in the Action.
28

1 NN. "Preliminary Approval" means the Court's Order Granting Preliminary Approval
2 of the Settlement.

3 OO. "Preliminary Approval Order" means the proposed Order Granting Preliminary
4 Approval and Approval of PAGA Settlement.

5 PP. "Released Class Claims" means the claims being released as described in § V (B)
6 below.

7 QQ. "Released PAGA Claims" means the claims being released as described in § V
8 (C) below.

9 RR. "Released Parties" means: Defendant and each of its officers, directors,
10 employees and agents.

11 SS. "Request for Exclusion" means Class Member's submission of a written request
12 to be excluded from the Class Settlement signed by the Class Member. The Request for Exclusion
13 request must contain the Class Member's name, address, and telephone number to be mailed by
14 Class Members who wish to opt out of the Settlement. To be effective, the Request for Exclusion
15 must be post-marked by the Response Deadline and ultimately received by the Settlement
16 Administrator. The Request for Exclusion included in the Notice Packet is attached hereto as
17 **Exhibit A.**

18 TT. "Response Deadline" means 60 days after the Administrator mails Notice to Class
19 Members and Aggrieved Employees and shall be the last date on which Class Members may: (a)
20 fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or
21 her Objection to the Settlement. Class Members to whom Notice Packets are resent after having
22 been returned undeliverable to the Administrator shall have an additional 14 calendar days
23 beyond the Response Deadline has expired.

24 UU. "Settlement" means the disposition of the Action effected by this Agreement and
25 the Judgment.

26 VV. "Workweek" means any week during which a Class Member worked for
27 Defendant for at least one day, during the Class Period.

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2 **II. RECITALS**

3 A. On April 5, 2023, Plaintiff commenced this Action by filing a Complaint alleging
4 causes of action against Defendant for: 1) failure to pay all wages; 2) non-payment of overtime
5 compensation; 3) failure to provide proper meal breaks; 4) failure to authorize and permit proper
6 rest breaks; 5) failure to properly maintain and submit itemized wage statements; 6) violation of
7 Labor Code §§ 201 and 202.7; 7) violation of California Business Code § 17200 et seq.; and 8)
8 violation of prevailing wage law. On January 11, 2024, Plaintiff filed a First Amended Complaint
9 (“FAC”) adding a cause of action under the Private Attorneys General Act (“PAGA”). The FAC
10 is the operative complaint in the Action (the “Operative Complaint.”). Defendant denies the
11 allegations in the Operative Complaint, denies any failure to comply with the laws identified in
12 the Operative Complaint and denies any and all liability for the causes of action alleged.

13 B. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written
14 notice to Defendant and the LWDA by sending the PAGA Notice.

15 C. On January 10, 2024, the Parties participated in an all-day mediation presided
16 over by Todd Smith, Esq., which led to this Agreement to settle the Action.

17 D. Prior to mediation, Plaintiff obtained, through informal discovery, the following
18 information, including but not limited to a sample of time keeping and payroll data, wage and
19 hour policies used by the company, and mediation information (i.e., workweek information, class
20 size information).

21 E. The Court has not granted class certification.

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

25 **III. MONETARY TERMS**

26 A. Gross Settlement Amount. Except as otherwise provided by § VIII below,
27 Defendant promises to pay \$375,000 as the Gross Settlement Amount. Defendant will be
28 separately responsible for any employer payroll taxes required by law, including the employer

1 FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount.
2 Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to
3 the deadline stated in § IV (C) of this Agreement. The Administrator will disburse the entire
4 Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved
5 Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount
6 will revert to Defendant.

7 B. Payments from the Gross Settlement Amount. The Administrator will make and
8 deduct the following payments from the Gross Settlement Amount, in the amounts specified by
9 the Court in the Final Approval:

10 1. To Plaintiff: Class Representative Service Payment to the Class
11 Representative of not more than \$8,500.00 (in addition to any Individual Class Payment and any
12 Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class
13 Member). Defendant will not oppose Plaintiff's request for a Class Representative Service
14 Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment
15 and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
16 Representative Service Payments no later than 16 court days prior to the Final Approval Hearing.
17 If the Court approves a Class Representative Service Payment less than the amount requested,
18 the Administrator will retain the remainder in the Net Settlement Amount. The Administrator
19 will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full
20 responsibility and liability for employee taxes owed on the Class Representative Service
21 Payment.

22 2. To Class Counsel: A Class Counsel Fees Payment of not more than 1/3 of
23 the Gross Settlement Amount, which is currently estimated to be \$125,000, and a Class Counsel
24 Litigation Expenses Payment of not more than \$15,000. Defendant will not oppose requests for
25 these payments provided that amounts requested do not exceed these amounts. Class Counsel
26 will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no
27 later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class
28 Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the

amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3. To the Administrator: An Administrator Expenses Payment not to exceed \$5,950 except for a showing of good cause and as approved by the Court. To the extent the actual Administration Expenses are less than the amount requested herein, or the Court approves payment less than \$5,950, the Administrator will retain the remainder in the Net Settlement Amount.

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

a) Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their individual Class Payment ("Non-Wage Portion"). The Non-Wage Portions are not subject to wage

withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

b) 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.

5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$15,000 to be paid from the Gross Settlement Amount, with 75% (\$11,250) allocated to the LWDA PAGA Payment and 25% (\$3,750) allocated to the Individual PAGA Payments.

a) The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$3,750 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.

b) 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.

IV. SETTLEMENT FUNDING AND PAYMENTS

A. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 87 Class Members who collectively worked a total of 8,267 Workweeks, and 56 Aggrieved Employees who worked a total 1,695 of PAGA Pay Periods.

1 B. Class Data. Not later than 15 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 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 it discovers that the Class Data omitted
8 class member identifying information and to provide corrected or updated Class Data to
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 C. Funding of Gross Settlement Amount. Within 14 calendar days after the Effective
14 Date, Defendant will fully fund the Gross Settlement Amount, along with the employer's share
15 of payroll taxes. The date on which Defendant funds the entire Gross Settlement Amount will be
16 referred to herein as the "Funding Date."

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

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

1 Payments to all Participating Class Members (including those for whom Class Notice was
2 returned undelivered). The Administrator will send checks for Individual PAGA Payments to all
3 Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved
4 Employees (including those for whom Class Notice was returned undelivered). The
5 Administrator may send Participating Class Members a single check combining the Individual
6 Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement
7 Administrator must update the recipients' mailing addresses using the National Change of
8 Address Database.

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

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

22 4. The Individual Class Payments and Individual PAGA Payments made to
23 Class Members under this Settlement, as well as any other payments made pursuant to this
24 Settlement, will not be utilized to calculate any additional benefits under any benefit plans to
25 which any Class Members may be eligible, including but not limited to profit-sharing plans,
26 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and
27 any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not
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1 affect any rights, contributions, or amounts to which any Class Members may be entitled under
2 any benefit plan.

3 **V. RELEASES OF CLAIMS.** Upon the Funding Date, and except as to such rights or
4 claims as may be created by this Settlement Agreement, each Participating Class Member,
5 inclusive of Plaintiff, and Class Counsel will release claims against all Released Parties as
6 follows:

7 A. Plaintiff's Release. Plaintiff and his or her respective former and present spouses,
8 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
9 and discharge Released Parties from all claims, transactions, or occurrences, including, but not
10 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts
11 contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could
12 have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA
13 Notice. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to
14 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
15 benefits, social security benefits, workers' compensation benefits that arose at any time, or based
16 on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts
17 or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to
18 be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all
19 respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

20 1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542.
21 For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,
22 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

27 B. Release by Participating Class Members: All Participating Class Members, on
28 behalf of themselves and their respective former and present representatives, agents, attorneys,

heirs, administrators, successors, and assigns, fully and forever release and discharge all of the Released Parties from all claims stated in the First Amended Complaint and those based solely upon the facts alleged in the First Amended Complaint during the Class Period (the “Released Class Claims”).

C. Release by Plaintiff and the State of California Regarding PAGA Penalties: Plaintiff and the State of California fully and forever release the Released Parties from all claims for statutory penalties that could have been sought by the Labor Commissioner for the violations identified in the PAGA Notice; Plaintiff and the State of California do not release any aggrieved employee’s claim for wages or damages (the “Released PAGA Claims”). All Aggrieved Employees will be bound by the judgment entered as to the Released PAGA Claims.

VI. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

A. Defense Counsel’s Declaration. Within 30 days of the full execution of this Agreement, Defense Counsel will prepare and deliver to Class Counsel a signed Declaration from Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator, and averring that Defense Counsel is not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

B. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of

1 interest with Class Members; and the nature and extent of any financial relationship with
2 Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming
3 willingness and competency to serve and disclosing all facts relevant to any actual or potential
4 conflicts of interest with Class Members, and the Administrator; (v) a signed declaration from
5 each Class Counsel firm attesting to its competency to represent the Class Members; its timely
6 transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor
7 Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)),
8 this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties'
9 Agreement showing all modifications made to the Model Agreement ready for filing with the
10 Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class
11 Members, the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall
12 aver that they are not aware of any other pending matter or action asserting claims that will be
13 extinguished or adversely affected by the Settlement.

14 C. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
15 responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later
16 than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the
17 Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion
18 for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary
19 Approval to the Administrator.

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

28 **VII. SETTLEMENT ADMINISTRATION.**

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

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

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

14 D. Notice to Class Members.

15 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 number of
17 Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

18 2. Using best efforts to perform as soon as possible, and in no event later than
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, the Class
21 Notice with Spanish translation substantially in the form attached to this Agreement as Exhibit
22 A. The first page of the Class Notice shall prominently estimate the dollar amounts of any
23 Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and
24 the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these
25 amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses
26 using the National Change of Address database.

27 3. Not later than 3 business days after the Administrator’s receipt of any
28 Class 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 provide a
2 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-
3 mail the Class Notice to the most current address obtained. The Administrator has no obligation
4 to make further attempts to locate or send Class Notice to Class Members whose Class Notice is
5 returned by the USPS a second time.

6 4. The deadlines for Class Members' written objections, Challenges to
7 Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14
8 days beyond the 60 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 deadline
10 with the re-mailed Class Notice.

11 5. If the Administrator, Defendant or Class Counsel is contacted by or
12 otherwise 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 in person
14 or by telephone, and in good faith, in an effort to agree on whether to include them as Class
15 Members. If the Parties agree, such persons will be Class Members entitled to the same rights as
16 other 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 14 days after
18 receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

19 E. Requests for Exclusion (Opt-Outs).

20 1. Class Members who wish to exclude themselves (opt-out of) the Class
21 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
22 Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional
23 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
24 from a Class Member or his/her representative that reasonably communicates the Class
25 Member's election to be excluded from the Settlement and includes the Class Member's name,
26 address and email address or telephone number. To be valid, a Request for Exclusion must be
27 timely faxed, emailed, or postmarked by the Response Deadline.

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

10 3. Every Class Member who does not submit a timely and valid Request for
11 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
12 benefits and bound by all terms and conditions of the Settlement, including the Participating
13 Class Members' Releases under § V (B) and V (C) of this Agreement, regardless whether the
14 Participating Class Member actually receives the Class Notice or objects to the Settlement.

15 4. Every Class Member who submits a valid and timely Request for
16 Exclusion is a Non-Participating Class Member and shall not receive an Individual Class
17 Payment or have the right to object to the class action components of the Settlement. Because
18 future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
19 Participating Class Members who are Aggrieved Employees are deemed to release the claims
20 identified in § V (C) of this Agreement and are eligible for an Individual PAGA Payment.

21 F. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days
22 after the Administrator mails the Class Notice (plus an additional 14 days for Class Members
23 whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay
24 Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may
25 challenge the allocation by communicating with the Administrator via fax, email or mail. The
26 Administrator must encourage the challenging Class Member to submit supporting
27 documentation. In the absence of any contrary documentation, the Administrator is entitled to
28 presume that the Workweeks contained in the Class Notice are correct so long as they are

1 consistent with the Class Data. The Administrator's determination of each Class Member's
2 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise
3 susceptible to challenge. The Administrator shall promptly provide copies of all challenges to
4 calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the
5 Administrator's determination the challenges.

6 G. Objections to Settlement.

7 1. Only Participating Class Members may object to the class action
8 components of the Settlement and/or this Agreement, including contesting the fairness of the
9 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel
10 Litigation Expenses Payment and/or Class Representative Service Payment.

11 2. Participating Class Members may send written objections to the
12 Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear
13 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
14 Hearing. A Participating Class Member who elects to send a written objection to the
15 Administrator must do so not later than 60 days after the Administrator's mailing of the Class
16 Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

17 3. Non-Participating Class Members have no right to object to any of the
18 class action components of the Settlement.

19 H. Administrator Duties. The Administrator has a duty to perform or observe all tasks
20 to be performed or observed by the Administrator contained in this Agreement or otherwise.

21 1. Website, Email Address and Toll-Free Number. The Administrator will
22 establish and maintain and use an internet website to post information of interest to Class
23 Members including the date, time and location for the Final Approval Hearing and copies of the
24 Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
25 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class
26 Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final
27 Approval and the Judgment. The Administrator will also maintain and monitor an email address
28 and a toll-free telephone number to receive Class Member calls, faxes and emails.

1 2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
2 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
3 later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the
4 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
5 and other identifying information of Class Members who have timely submitted valid Requests
6 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
7 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
8 Exclusion from Settlement submitted (whether valid or invalid).

9 3. Weekly Reports. The Administrator must, on a weekly basis, provide
10 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
11 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
12 Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks
13 and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments
14 and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide
15 the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all
16 Requests for Exclusion and objections received.

17 4. Workweek and/or Pay Period Challenges. The Administrator has the
18 authority to address and make final decisions consistent with the terms of this Agreement on all
19 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
20 Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

21 5. Administrator’s Declaration. Not later than 14 days before the date by
22 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
23 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
24 for filing in Court attesting to its due diligence and compliance with all of its obligations under
25 this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices
26 returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the
27 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
28 number of written objections and attach the Exclusion List. The Administrator will supplement

its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

6. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

VIII. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 87 Class Members and 8,267 total Workweeks during the Class period and (2) there were 56 Aggrieved Employees who worked 1,695 Pay Periods during the PAGA Period. If the actual number of workweeks worked by Class Members eligible to participate in the Settlement is greater than 10% of this estimate, then Defendant has the option to either: (1) agree to increase the Gross Settlement Amount on a proportional basis above 10% (i.e., if there is an 11% increase in the number of workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%); or (2) elect to end the Class Period and PAGA Period on an earlier date at the Defendant's discretion in order to limit the covered workweeks to 10% more than the estimate provided in lieu of paying an increase to the Gross Settlement Amount.

IX. DEFENDANT'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for

1 paying all Settlement Administration Expenses incurred to that point. Defendant must notify
2 Class Counsel and the Court of its election to withdraw not later than seven days after the
3 Administrator sends the final Exclusion List to Defense Counsel; late elections will have no
4 effect.

5 **X. MOTION FOR FINAL APPROVAL.**

6 Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will
7 file in Court, a motion for final approval of the Settlement that includes a request for approval of
8 the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order
9 and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide
10 drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion
11 for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in
12 person or by telephone, and in good faith, to resolve any disagreements concerning the Motion
13 for Final Approval.

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

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

26 C. Continuing Jurisdiction of the Court. The Parties agree that, after entry of
27 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely
28

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.

D. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected 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, except as to matters that do not affect the amount of the Net Settlement Amount.

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

XI. ADDITIONAL PROVISIONS.

A. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant

1 has any liability for any claims asserted; nor should it be intended or construed as an admission
2 by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class
3 certification and representative treatment is for purposes of this Settlement only. If, for any reason
4 the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant
5 reserves the right to contest certification of any class for any reasons, and Defendant reserves all
6 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
7 certification on any grounds available and to contest Defendant's defenses. The Settlement, this
8 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
9 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
10 Settlement and this Agreement).

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

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

6 D. Integrated Agreement. Upon execution by all Parties and their counsel, this
7 Agreement together with its attached exhibits shall constitute the entire agreement between the
8 Parties relating to the Settlement, superseding any and all oral representations, warranties,
9 covenants, or inducements made to or by any Party.

10 E. Attorney Authorization. Class Counsel and Defense Counsel separately warrant
11 and represent that they are authorized by Plaintiff and Defendant, respectively, to take all
12 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
13 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
14 terms of this Agreement including any amendments to this Agreement.

15 F. Cooperation. The Parties and their counsel will cooperate with each other and use
16 their best efforts, in good faith, to implement the Settlement by, among other things, modifying
17 the Settlement Agreement, submitting supplemental evidence and supplementing points and
18 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
19 or content of any document necessary to implement the Settlement, or on any modification of the
20 Agreement that may become necessary to implement the Settlement, the Parties will seek the
21 assistance of a mediator and/or the Court for resolution.

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

26 H. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel
27 are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be
28

1 relied upon as such within the meaning of United States Treasury Department Circular 230 (31
2 CFR Part 10, as amended) or otherwise.

3 I. Modification of Agreement. This Agreement, and all parts of it, may be amended,
4 modified, changed, or waived only by an express written instrument signed by all Parties or their
5 representatives, and approved by the Court.

6 J. Agreement Binding on Successors. This Agreement will be binding upon, and
7 inure to the benefit of, the successors of each of the Parties.

8 K. Applicable Law. All terms and conditions of this Agreement and its exhibits will
9 be governed by and interpreted according to the internal laws of the state of California, without
10 regard to conflict of law principles.

11 L. Cooperation in Drafting. The Parties have cooperated in the drafting and
12 preparation of this Agreement. This Agreement will not be construed against any Party on the
13 basis that the Party was the drafter or participated in the drafting.

14 M. Confidentiality. To the extent permitted by law, all agreements made, and orders
15 entered during Action and in this Agreement relating to the confidentiality of information shall
16 survive the execution of this Agreement.

17 N. Use and Return of Class Data. Information provided to Class Counsel pursuant to
18 Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel
19 by Defendant in connection with the mediation, other settlement negotiations, or in connection
20 with the Settlement, may be used only with respect to this Settlement, and no other purpose, and
21 may not be used in any way that violates any existing contractual agreement, statute, or rule of
22 court. Not later than 90 days after the date when the Court discharges the Administrator's
23 obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff
24 shall destroy, all paper and electronic versions of Class Data received from Defendant unless,
25 prior to the Court's discharge of the Administrator's obligation, Defendant makes a written
26 request to Class Counsel for the return, rather than the destructions, of Class Data.

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

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

5 Q. Notice. All notices, demands or other communications between the Parties in
6 connection with this Agreement will be in writing and deemed to have been duly given as of the
7 third business day after mailing by United States mail, or the day sent by email or messenger,
8 addressed as follows:

9 To Plaintiff:

10 Sam Kim
11 Yoonis Han
12 VERUM LAW GROUP, APC
13 360 N. Pacific Coast Highway, Suite 1025
14 El Segundo, CA 90245
15 Telephone: (424) 320-2000
16 Facsimile: (424) 221-5010

17 To Defendant:

18 Roxana E. Verano
19 Joseph P. Sklar
20 LANDEGGER VERANO & DAVIS, ALC
21 15760 Ventura Blvd., Suite 1200
22 Encino, CA 91436

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

S. Stay of Litigation. The Parties agree that upon the execution of this Agreement
the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the

date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: May 14, 2024

By:

DocuSigned by:



Eduardo Covarrubias

Dated: May __, 2024

By:

Printed Name: John Griffin
Title: Chief Executive Officer
John Griffin Construction, Inc.

APPROVED AS TO FORM

Dated: May 15, 2024

VERUM LAW GROUP, APC



Sam Kim
Yoonis Han
Attorneys for Plaintiff EDUARDO
COVARRUBIAS

Dated: May __, 2024

LANDEGGER VERANO & DAVIS, ALC

Roxana Verano
Joseph P. Sklar
Attorneys for Defendant JOHN GRIFFIN
CONSTRUCTION, INC.

1 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
2 process.

3
4 Dated: May ___, 2024

5
6 By:

7 _____
Eduardo Covarrubias

8
9 Dated: May 28, 2024

10
11 By:

12 _____
Printed Name: John Griffin
Title: Chief Executive Officer
John Griffin Construction, Inc.

13
14
15 **APPROVED AS TO FORM**

16
17 Dated: May ___, 2024

VERUM LAW GROUP, APC

18
19 _____
Sam Kim
Yoonis Han
Attorneys for Plaintiff EDUARDO
COVARRUBIAS

20
21
22
23 Dated: May 28, 2024

LANDEGGER VERANO & DAVIS, ALC

24
25 _____
Roxana Verano
Joseph P. Sklar
Attorneys for Defendant JOHN GRIFFIN
CONSTRUCTION, INC.

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Covarrubias v. John Griffin Construction, Inc.
Riverside Superior Court Case No. CVRI2301734

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE EMPLOYED BY JOHN GRIFFIN CONSTRUCTION, INC. AT ANY TIME
BETWEEN APRIL 5, 2019, TO MARCH 31, 2024, THIS PROPOSED CLASS ACTION
SETTLEMENT MAY AFFECT YOUR RIGHTS

Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Covarrubias v. John Griffin Construction, Inc.* (“Action”). The purpose of this Notice of Proposed Class Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

A hearing concerning final approval of the proposed Settlement will be held before the Hon. Harold W. Hopp on [REDACTED], 2024 at X:XX x.m. in Department 1 of the Riverside Superior Court, located at 4050 Main Street, Riverside, CA 92501, to determine whether the Settlement is fair, adequate and reasonable.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable and any final determination of those issues will be determined at the final approval hearing.

As a Class Member, you are eligible to receive an Individual Class Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING	If you do nothing, you will be considered part of the Class and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendant John Griffin Construction, Inc. (“Defendant”) for the Released Class Claims and Released PAGA Claims asserted in the Action as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS	You have the option to pursue separate legal action against Defendant about the claims in the lawsuits. If you choose to do so, you must exclude yourself, in writing, from the Settlement. As a result, you will not receive any benefits under the Settlement. However, if you fall within the definition of an Aggrieved Employee, as defined below, you will be bound by the judgment entered as to the Released PAGA Claims.
OBJECT	To object to the Settlement, you must write to the Court about why you don’t like the Settlement. This option is available only if you do <u>not</u> exclude yourself from the Settlement.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class (the “Class”):

All persons who worked for Defendant as non-exempt employees in the State of California at any time from April 5, 2019, to March 31, 2024 (“Class Period”).

According to Defendant’s records, you are a member of the Class (“Class Member”).

The Court has also approved, for settlement purposes only, the following definition for an aggrieved employee (“Aggrieved Employee”):

All persons who worked for Defendant as nonexempt employees in the State of California at any time between April 6, 2022, to March 31, 2024 (“PAGA Period”).

If you are determined to be an Aggrieved Employee, you may neither object or opt-out of the PAGA settlement. See **Information Sheet** to determine if you are an Aggrieved Employee.

What is this case about?

In the Action, Plaintiff Eduardo Covarrubias (“Plaintiff”) alleges on behalf of himself and the Class the following claims: (1) failure to pay all wages; (2) non-payment of overtime compensation; (3) failure to provide proper meal breaks; (4) failure to authorize and permit rest breaks; (5) failure to properly maintain and submit itemized wage statements; (6) violation of Labor Code sections 201 and 202.7; (7) violation of California Business Code section 17200, and others.; (8) violation of the Prevailing Wage Law; and (9) a representative action for civil penalties under the California Labor Code Private Attorneys General Act (“PAGA”). Plaintiff seeks unpaid wages, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys’ fees, and costs.

PAGA authorizes aggrieved employees to file lawsuits to recover civil penalties on behalf of themselves, other employees, and the State of California for Labor Code violations.

Defendant denies the allegations in the First Amended Complaint, denies any failure to comply with the laws identified in the First Amended Complaint and denies any and all liability for the causes of action alleged.

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendant (the “Parties”), through their attorneys, and is not an admission of liability on the part of Defendant. Both sides agree that, in light of the risks and expenses associated with continued litigation, this Settlement is fair, adequate, and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Actions are:

Class Counsel

Sam Kim

VERUM LAW GROUP, APC

360 N. Pacific Coast Highway, Suite 1025

El Segundo, CA 90245

Telephone: (424) 320-2000

Facsimile: (424) 221-5010

Defendant's Counsel

Roxana Verano
Joseph P. Sklar
LANDEGGER VERANO & DAVIS, ALC
15760 Ventura Blvd., Suite 1200
Encino, CA 91436
Telephone: (818) 986-7561
Facsimiles: (818) 986-5147

What are the Settlement terms?

Subject to final Court approval, Defendant will pay \$375,000 (the "Gross Settlement Amount") for: (a) Individual Class Payments to Settlement Class Members; (b) the Court-approved Class Representative Service Payment to Plaintiff; (c) the Court-approved attorneys' fees and costs to Class Counsel; (d) the costs of administering the Settlement; and (e) payment to the State of California Labor and Workforce Development Agency ("LWDA") for PAGA penalties.

Individual Class Payments. After deduction from the Gross Settlement Amount for attorneys' fees and costs, the Class Representative Service Payment to Plaintiff, the payment to the LWDA, Individual PAGA Payments, and the costs of administering the Settlement, there will be a Net Settlement Amount. From this Net Settlement Amount, Defendant will make an Individual Class Payment to each Class Member who does not submit a valid and timely Request for Exclusion from the Settlement ("Participating Class Members").

The Net Settlement Amount shall be divided among all Participating Class Members on a pro rata basis based upon the total number of workweeks worked by each respective Participating Class Member during the Class Period. Your estimated Individual Class Payment is listed on the **Information Sheet** enclosed in this Notice Packet.

For tax reporting purposes, the payments to Participating Class Members will be allocated twenty (20%) as wages and eighty (80%) as penalties and interest. The wage portion of the Individual Class Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable payroll taxes from the wage portion of the Individual Class Payments.

Individual PAGA Payments. The Settlement Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$3,750 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.

The Settlement Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

Deadlines To Deposit Checks. If the Individual Class Payment or Individual PAGA Payment, or both payments, remain un-cashed after one hundred eighty (180) days from issuance, the Settlement Administrator shall forward over the amount represented by the check to the California Controller's Unclaimed Property Fund in the name of the Class Member. In such event, the Class Member shall nevertheless remain bound by the Settlement.

None of the Parties or attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Settlement Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

Class Counsel Attorneys' Fees and Costs, Class Representative Service Payment, Settlement Administration Costs and Payment to the Labor Workforce Development Agency. Class Counsel

will ask the Court to award attorneys' fees up to \$125,000 (or 1/3 of the Gross Settlement Amount) and reimbursement of reasonable costs incurred in the Action not to exceed \$15,000. In addition, Class Counsel will ask the Court to authorize the Class Representative Service Payment of \$8,500 to the Plaintiff for his efforts in the prosecution of this case on behalf of the Class. The Parties estimate the cost of administering the Settlement will not exceed \$5,950. A payment in the amount of \$11,250 will also be made to the Labor Workforce Development Agency for its portion of the PAGA penalties.

What claims are being released by the proposed Settlement?

Upon the Effective Date, Participating Class Members shall be deemed to have fully, finally, and forever released Defendant and each of its officers, directors, employees and agent ("Released Parties") from all claims stated in the First Amended Complaint and those based solely upon the facts alleged in the First Amended Complaint during the Class Period. ("Released Class Claims").

In addition, Plaintiff and the State of California release the Released Parties for all claims for statutory penalties that could have been sought by the Labor Commissioner for the violations identified in the PAGA Notice; Plaintiff and the State of California do not release any aggrieved employee's claim for wages or damages (the "Released PAGA Claims"). All Aggrieved Employees will be bound by the judgment as to the Released PAGA Claims. As an Aggrieved Employee, you may neither object or opt-out of the PAGA settlement.

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an Individual Class Payment; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement as to the Released Class Claims, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Class Claims as described above.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive an Individual Class Payment under the Settlement, **you do not need to take any action.** By remaining in the Class and receiving settlement monies, you consent to the release of the Released Class Claims as described above.

Any amount paid to Settlement Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendant, unless otherwise required by law.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable or adequate in any way, you may object to it. To object, you should submit a written brief or statement of objection ("Notice of Objection") to the Settlement Administrator at [Administrator], P.O. Box _____, [City], [State] [Zip], as well as Class Counsel and Defendant's Counsel at their respective addresses identified above. The Notice of Objection should: (1) state your full name; (2) state the grounds for the objection; (3) be signed by you; and (4) be postmarked on or before [Response Deadline] and returned to the Settlement Administrator at the address listed above. You can also hire an attorney at your own expense to represent you in your objection. Any Class Member who does not timely object in the manner described above shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.**

OPTION B. Request to Be Excluded from the Settlement. If you do not want to be part of the Settlement, you must submit a Request for Exclusion (which is included in this Notice Packet) to the Settlement Administrator at [Administrator], P.O. Box _____, [City], [State] [Zip]. In order to be valid, your Request for Exclusion must be signed and postmarked on or before [Response Deadline]. If you do not timely submit a signed Request for Exclusion (as evidenced by the postmark), your Request for Exclusion will be rejected, you will be deemed a Settlement Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you timely submit a signed Request for Exclusion, you will have no further role in the Actions, and you will not be entitled to any benefit as a result of the Actions and Settlement and will not be entitled to or permitted to assert an objection to the Settlement.

When will the Settlement be distributed?

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

Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsels' request for attorneys' fees and costs, the Class Representative Service Payment to Plaintiff, the settlement administration costs, and the payment to the LWDA for PAGA penalties on _____, 2024 at _____ in Department 1 of the Riverside Superior Court, located at 4050 Main Street, Riverside, CA 92501. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an Individual Class Payment.

If the Court grants final approval of the Settlement, notice of final judgment will be posted on the Settlement Administrator's website (www._____) within seven (7) calendar days after entry of the Final Order and Judgment.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Settlement Agreement. The Settlement Agreement and all other records relating to the lawsuit are available as follows: 1) under Exhibit A attached to the Declaration of Sam Kim in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement filed on June 12, 2024, Stipulation of Class Action and PAGA Settlement and Release of Claims; 2) at the Riverside Superior Court located at 4050 Main Street, Riverside, CA 92501; or 3) online at <https://epublic-access.riverside.courts.ca.gov/public-portal/>.

You may also request a copy of the Settlement Agreement from Class Counsel, at the addresses listed above.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

INFORMATION SHEET

Covarrubias v. John Griffin Construction, Inc.
Riverside Superior Court Case No. CVRI2301734

Calculation of Individual Class Payments: Each Participating Class Member's share of the Net Settlement Amount shall be based upon his or her "Compensable Workweeks," or the total number of workweeks worked by each Participating Class Member from April 5, 2019, to March 31, 2024 ("Class Period"). The Individual Settlement Payment for each Participating Class Member shall be calculated as follows:

Defendant John Griffin Construction, Inc. ("Defendant") shall provide the Settlement Administrator with the Compensable Workweeks for each Participating Class Member; the Settlement Administrator shall then (1) divide each Participating Class Member's Compensable Workweeks by the total Compensable Workweeks worked by all Participating Class Members, and (2) multiply the result by the Net Settlement Amount. This calculation yields the amount of the Participating Class Member's "Individual Class Payment." The Individual Class Payment will be reduced by any required legal deductions and/or payroll withholdings.

Your Compensable Workweeks and Estimated Individual Class Payment: According to Defendant's records, your Compensable Workweeks for the Class Period are <<CompWeeks>>. Based on the number of your Compensable Workweeks, **your estimated Individual Class Payment is <<EstSettPayment>>.** Please note that this is only an estimate; your actual payment may be greater or smaller than the amount reported above.

Calculation of Individual PAGA Payments: The Settlement Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$3,750 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period.

Your Compensable Workweeks and Estimated Individual PAGA Payment: According to Defendant's records, your Compensable Workweeks for the PAGA Period are <<CompWeeks>>. Based on the number of your Compensable Workweeks, **your estimated Individual PAGA Payment is <<EstSettPayment>>.** Please note that this is only an estimate; your actual payment may be greater or smaller than the amount reported above.

Procedure for Disputing Information: If you disagree with the number of Compensable Workweeks stated above, you must send a letter to the Settlement Administrator stating the reasons why you dispute the number of Compensable Workweeks and provide any supporting documentation that you have (e.g., any paystubs). The information you provide should include the estimated Compensable Workweeks you claim you worked from April 5, 2019, to March 31, 2024 ("Class Period") or between April 6, 2022 to March 31, 2024. ("PAGA Period").

Any disputes and supporting documentation must be mailed to the Settlement Administrator at the address listed below by First Class U.S. Mail, postmarked no later than [Response Deadline].

Covarrubias et al. v. John Griffin Construction, Inc.
Settlement
[Settlement Administrator
Address]
[City, State Zip, Telephone Number]

If you dispute the number of Compensable Workweeks stated above, Defendant's records will be presumed determinative unless you are able to provide documentation to the Settlement Administrator

Information Sheet
[Class Member]

that establishes otherwise. The Settlement Administrator will evaluate the evidence submitted by you and will make the final decision as to the Compensable Workweeks that should be applied and/or the Individual Settlement Payment to which you may be entitled. Such a determination will be final and binding with no opportunity for further appeal.

REQUEST FOR EXCLUSION

Covarrubias v. John Griffin Construction, Inc.
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*If you want to remain a member of the Class and receive an Individual Class Payment, you should **not** fill out this form; you are not required to do anything at this time.*

This form is to be used only if you want to exclude yourself from the Settlement.

If you exclude yourself from the Settlement: (1) you will not share in any recovery paid to Settlement Class Members as a result of the Settlement, however, if you are determined to be an Aggrieved Employee, you will be bound by the Judgment entered as to the Released PAGA Claims; (2) you will not be bound by any decision of the Court in the Action unless you are an Aggrieved Employee, and if so, you will be bound by the Judgment entered as to the Released PAGA Claims; and (3) you may pursue any claims asserted in the Action that you have against Defendant John Griffin Constructions, Inc. (“Defendant”) by filing your own lawsuit.

If you want to request to be excluded from the Settlement, you must fill out this Request for Exclusion in its entirety, sign it, and mail (or deliver) it to the Settlement Administrator at the address listed below by First Class U.S. Mail postmarked no later than [**Response Deadline**].

Covarrubias v. John Griffin Construction, Inc.
Settlement
[Settlement Administrator]
Address]
[City, State Zip, Telephone Number]

Request for Exclusion

I confirm that I have received notice of the proposed Settlement in the Action. I request to be excluded from the Settlement. I understand that by submitting this Request for Exclusion, I will not receive any money or other benefits under the Settlement, and will not be bound by the Settlement, including the release of Released Class Claims, unless I am determined to be an Aggrieved Employee, and if so, I will be bound by the Judgment as to the Released PAGA Claims, as more fully described in the Settlement Agreement on file with the Court and Notice of Proposed Class Action Settlement.

Please print legibly:

Name: _____ Phone: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Date: _____

Signature

NOTICE OF OBJECTION FORM

Covarrubias v. John Griffin Construction, Inc.
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If you submit a Request for Exclusion form, you may not object to the Settlement. To object to the Settlement, do not fill out the Request for Exclusion form.

This form is to be used only if you wish to object to the Settlement. Settlement Class Members who do not timely make an objection will have waived their right to object to the Settlement.

If you wish to object to the Settlement, you must fill out this Notice of Objection Form in its entirety, sign it, and mail (or deliver) it to the Settlement Administrator at the address listed below by First Class U.S. Mail postmarked no later than **[Response Deadline]**. Settlement Class Members who wish to object to the Settlement may appear at the Final Approval Hearing to have your objection heard by the Court.

Covarrubias v. John Griffin Construction, Inc.
Settlement
[Settlement Administrator]
Address]
[City, State Zip, Telephone Number]

Objection Form

Please print legibly:

Name: _____ Dates of Employment: _____

Phone Number: _____

Last Four of Social Security Number or Employee ID Number: _____

The Reason for the Objection: _____

Date: _____

Signature