

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Richard Soto (“Plaintiff”), as an individual and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Applied BioCode, Inc. (hereinafter “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Fletcher W. Schmidt, and Matthew K. Moen of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Tyler J. Woods of Fisher & Phillips LLP. This Settlement Agreement shall be binding on Plaintiff, the Settlement Class, the State of California as to the employment of PAGA Members (as defined herein), and Defendant, subject to the terms and conditions hereof and the approval of the Court.

On August 23, 2023, Plaintiff provided written notice to the Labor and Workforce Development Agency (“LWDA”) by online submission and to Defendant via certified mail of the specific provisions of the Labor Code alleged to have been violated by Defendant, LWDA-CM-977120-23.

On August 23, 2023, Plaintiff filed a class action complaint against Defendant in the matter entitled *Richard Soto v. Applied BioCode, Inc.*, Los Angeles County Superior Court Case No. 23STCV20199, asserting various wage and hour claims on a class-wide basis.

On October 30, 2023, Plaintiff filed the operative First Amended Class and Representative Action Complaint (“FAC”). The FAC alleges the following causes of action: (1) failure to pay all overtime wages; (2) minimum wage violations; (3) meal period violations; (4) rest period violations; (5) failure to reimburse necessary business expenses; (6) wage statement violations; (7) waiting time penalties; (8) unfair competition; and (9) civil penalties under the Private Attorneys General Act, Labor Code § 2698, *et seq.* (“PAGA”). The FAC and all claims alleged therein shall be referred to as the “Action.” Defendant denies all material allegations set forth in the Action and has asserted numerous affirmative defenses.

Class Counsel diligently investigated the class and PAGA claims against Defendant, including any and all applicable defenses and the applicable law. The investigation included, *inter alia*, the exchange of information, data, and documents, and review of corporate policies and practices. The Parties have engaged in sufficient informal discovery and investigation to assess the relative merits of the claims and contentions of the Parties.

On March 27, 2024, the parties attended a private mediation with Steve Pearl and reached a class-wide settlement which resolves the Action, subject to Court approval. The Parties’ settlement discussions were conducted at arms’ length, and the Settlement is the result of an informed and detailed analysis of Defendant’s potential liability and exposure in relation to the costs and risks associated with continued litigation as well as defenses available to Defendant. Based on Class Counsel’s investigation and evaluation, Class Counsel believes that the settlement with Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members, State of California, and PAGA Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendant.

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective.

1. **“Class or Class Member(s)”**. For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the conditional certification of the following Settlement Class:

All current and former non-exempt and/or hourly employees who worked for Defendant Applied BioCode, Inc., including its family of companies, in California at any time from August 23, 2019 until the date of preliminary approval of the settlement (the “Class Period”).

2. **“Class Action Settlement”** means the settlement and resolution of all Released Class Claims.

3. **“Class List”** means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet containing the following information for each Class Member: (1) full name; (2) last known mailing address; (3) Social Security number; (4) dates worked for Defendant during the Class Period; and (8) such other information as is necessary for the Settlement Administrator to calculate Workweeks of the Class and PAGA Members.

4. **“Class Notice”** means the Notice of Class Action Settlement.

5. **“Class Period”** means the period of August 23, 2019 until the date of preliminary approval.

6. **“Effective Date”** means the date when all of the following events have occurred: (1) the Settlement Agreement has been executed by all Parties, Class Counsel, and Defendant’s Counsel; (2) the Court has given preliminary approval to the Settlement; (3) the Class Notice has been mailed to the Class Members, providing them with an opportunity to object to the terms of the Class Settlement or opt out of the Class Settlement; (4) the Court has had a Final Approval Hearing and entered a Final Approval Order and Judgment; (5) sixty-five calendar days have passed since the Court entered a Final Approval Order and Judgment; and (6) in the event there are written objections to the Class Settlement filed prior to the Final Approval Hearing which are not later withdrawn or denied, the later of the following events: five business days after the period for filing any appeal, writ, or other appellate proceeding opposing the Court’s Final Approval Order and Judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed, or, if any appeal, writ, or other appellate proceeding opposing the Court’s Final Approval Order and Judgment has been filed, five business days after any appeal, writ, or other appellate

proceedings opposing the Court's Final Approval Order and Judgment has finally and conclusively been dismissed with no right to pursue further remedies or relief.

7. **"Enhancement Payments"** means the amount to be paid to Plaintiff, in recognition of his respective efforts and work in prosecuting the Action on behalf of Class Members and PAGA Members in exchange for a general release of claims.

8. **"Final Approval"** means the determination by the Court that the Settlement is fair, reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

9. **"Final Approval Hearing"** means the hearing at which the Court will consider and determine whether the Settlement should be granted Final Approval.

10. **"Final Approval Order and Judgment"** means the order granting final approval of the Settlement and entering judgment thereon, in a form and content mutually agreed to by the Parties, and subject to approval by the Court.

11. **"Gross Fund Value"** means the amount of Two-Hundred Ten Thousand Dollars and Zero Cents (\$210,000.00) to be paid by Defendant in full satisfaction of the Action, which includes all Attorneys' Fees and Costs, the Enhancement Payment, PAGA Amount, PAGA penalties payable to the LWDA, Settlement Administration Costs, and Net Settlement Amount (the "NSA") to be paid to the Settlement Class Members. Defendant shall pay the Employer Taxes separately and in addition to the Gross Fund Value. The Gross Fund Value is non-reversionary; no portion of the Gross Fund Value will return to Defendant.

11. **"Individual PAGA Payment"** means the *pro rata* share that a PAGA Member may be eligible to receive under the PAGA portion of the Settlement.

12. **"Individual Settlement Payment"** means the net payment of each Settlement Class Member's Individual Settlement Share, after reduction for the employee's share of taxes and withholdings with respect to the wage portion of the Individual Settlement Share.

13. **"Individual Settlement Share"** means the *pro rata* share of the Net Settlement Amount that a Settlement Class Member may be eligible to receive under the Class Settlement.

14. **"Net Settlement Amount"** means the portion of the Gross Fund Value that is available for distribution to Settlement Class Members, which is the Gross Fund Value less the Court-approved Attorneys' Fees and Costs, Enhancement Payments, PAGA Amount, PAGA penalties payable to the LWDA, and Settlement Administration Costs.

15. **"PAGA Members"** means all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the PAGA Period.

16. **"PAGA Period"** means the period of August 23, 2022 to the date of preliminary approval.

17. **"PAGA Settlement"** means the settlement and resolution of all Released PAGA Claims.

18. **“Preliminary Approval”** means the date on which the Court enters the Preliminary Approval Order.

19. **“Preliminary Approval Order”** means the order granting preliminary approval of the Settlement, in a form and content mutually agreed to by the Parties, and subject to approval by the Court.

20. **“Released Class Claims”** means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Action, including but not limited to: claims for failure to pay overtime wages; failure to pay minimum wages; any claims for additional wages owed due to “off the clock” work; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to timely pay all wages due; failure to pay all wages earned at least twice during each calendar month; failure to reimburse necessary business expenses; waiting time penalties; wage statement violations failure to keep and maintain accurate payroll records; unfair competition under Bus. & Prof. Code section 17200 *et seq.* (in connection with the allegations brought in the Action); violation of Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 226, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2698, 2699, 2802, 2804, and the applicable Wage Order and/or claims for attorneys’ fees under Code of Civil Procedure section 1021.5 and/or claims for interest under Civil Code Sections 218.6, 3287(b), and 3289 (the “Released Class Claims”). The period of the Released Class Claims shall extend to the limits of the Class Period.

21. **“Released PAGA Claims”** means any and all PAGA claims and/or PAGA causes of action which were alleged or could have been alleged based on the factual allegations in the PAGA Notice and the Action, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*, including but not limited to: PAGA claims for failure to pay overtime wages; failure to pay minimum wages; any claims for additional wages owed due to “off the clock” work; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to timely pay all wages due; failure to reimburse necessary business expenses; waiting time penalties; wage statement violations failure to keep and maintain accurate payroll records; unfair competition under Bus. & Prof. Code section 17200 *et seq.* (in connection with the allegations brought in the Action); violation of Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 226, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2698, 2699, 2802, 2804, and the applicable Wage Order and/or claims for attorneys’ fees under Code of Civil Procedure section 1021.5 and/or claims for interest under Civil Code Sections 218.6, 3287(b) and 3289, which occurred during the PAGA Period (“the Released PAGA Claims”).

22. **“Released Parties”** means Defendant and its past, present, and future respective subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and their current and former employees, managing agents, servants, staffing agencies, PEOs, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, and attorneys.

23. **“Settlement Administrator”** means Phoenix Settlement Administrators, or any other third-party class action settlement administrator agreed to by the Parties and approved by the Court for purposes of administering the Settlement. The Parties and their counsel each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.
24. **“Settlement Administration Costs”** means the costs payable from the Gross Fund Value to the Settlement Administrator for administering the Settlement.
25. **“Settlement Class” or “Settlement Class Member(s)”** means all Class Members who do not submit a timely and valid Request for Exclusion.
26. **“Workweeks”** means the number of weeks each Class Member worked for Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period, which will be calculated by the Settlement Administrator. Workweeks will be calculated by the Settlement Administrator based on each Class Member’s start date or the beginning of the Class Period, whichever is later, and separation date or the last day of the Class Period, whichever is earlier, based on the Class List provided by Defendant.

CLASS CERTIFICATION

27. The Parties agree that certification for purposes of this Settlement Agreement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

TERMS OF THE AGREEMENT

28. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who validly opt out and except as to the PAGA claims specified below) will fully release and discharge Defendant and Released Parties as follows:
- A. **Release of Class Claims.** Upon the Effective Date of this Agreement and Defendant’s deposit of the GFV, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.
 - B. **Release of PAGA Claims.** Upon the Effective Date of this Agreement and Defendant’s deposit of the GFV, Plaintiff, the State of California with respect to all PAGA Members, and all PAGA Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

C. **Plaintiff's Released Claims.** Plaintiff, in his individual capacity, also expressly waives for himself and his spouse, heirs and assigns, will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties from any and all charges, complaints, claims, debts, liabilities, promises, agreements, controversies, actions, suites, rights, demands, obligations, guarantees, costs, losses, penalties, expenses, attorneys' fees, damages, or causes of action of any kind or nature whatsoever, known or unknown, suspected or unsuspected, asserted or unasserted, or that might have been asserted, whether in tort, contract, equity, or otherwise which Plaintiff, at any time prior to the execution of this Settlement Agreement, had or claimed to have or may have, including but not limited to any and all claims arising out of, relating to, or resulting from their employment, payment of wages during that employment and/or separation of employment with the Released Parties, including any claims arising under any federal, state, or local law, statute, ordinance, rule, or regulation or Executive Order relating to employment, including, but in no way limited to, any claim under Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 1981; the Americans with Disabilities Act ("ADA"); the Family and Medical Leave Act ("FMLA"); the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income Security Act ("ERISA"); the California Family Rights Act ("CFRA"); the California Fair Employment and Housing Act ("FEHA"); all claims for wages or penalties under the Fair Labor Standards Act ("FLSA"); all claims for wages or penalties under the California Labor Code; Business and Professions Code sections 17200 *et seq.*; all laws relating to violation of public policy, retaliation, or interference with legal rights; any and all other employment or discrimination laws; whistleblower claims; any tort, fraud, or constitutional claims; and any breach of contract claims or claims of promissory estoppel. It is agreed that this is a general release and is to be broadly construed as a release of all claims, provided that, notwithstanding the foregoing, this Paragraph expressly does not include a release of any claims that cannot be released hereunder by law. Plaintiff understands and expressly agrees that this Settlement Agreement extends to claims that he has against Defendant, of whatever nature and kind, known or unknown, suspected or unsuspected, vested or contingent, past, present, or future, arising from or attributable to an incident or event, occurring in whole or in part, on or before the execution of this Settlement Agreement. Any and all rights granted under any state or federal law or regulation limiting the effect of this Settlement Agreement, including the provisions of Section 1542 of the California Civil Code, ARE HEREBY EXPRESSLY WAIVED. Section 1542 of the California Civil Code reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT 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.

Nothing contained herein shall constitute a release of any rights or claims that cannot be waived as a matter of law (including but not limited to claims arising under workers' compensation laws). Nor shall anything contained herein be construed to exclude the filing of an administrative charge or complaint with the Equal Employment Opportunity Commission or National Labor Relations Board, or participation in an administrative investigation or proceeding. Notwithstanding the foregoing, Plaintiff agrees to waive his right to recover monetary damages in any charge, complaint, or lawsuit filed by Plaintiff through such agency or by anyone else on Plaintiff's behalf, asserting any claims released herein.

29. **Gross Fund Value.** As consideration, Defendant agree to pay a non-reversionary "Gross Fund Value" of Two Hundred Ten Thousand Dollars and Zero Cents (\$210,000.00) in full and complete settlement of the Action, Released Class Claims, and the Released PAGA Claims, which includes all Attorneys' Fees and Costs, Enhancement Payments, PAGA Amount, PAGA penalties payable to the LWDA, Settlement Administration Costs, and Net Settlement Amount to be paid to the Settlement Class Members, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement.
- B. Defendant will fund the Gross Fund Value within thirty (30) calendar days after the Effective Date, which shall be deposited with the Settlement Administrator and held in an established Qualified Settlement Fund ("QSF").
- C. This is a non-reversionary settlement. The Gross Fund Value includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Five Thousand Seven Hundred Fifty Dollars and Zero Cents (\$5,750.00);
 - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff, for Plaintiff's Class Representative Enhancement Payment, in recognition of his contributions to the Action and his service to the Settlement Class. Even in the event that the Court reduces or does not approve the requested Class Representative Enhancement Payment, Plaintiff shall not have the right to revoke this Settlement Agreement, and it will remain binding. The Court's ruling on the request for the Enhancement Payment shall not affect the enforceability of this Agreement or the terms contained herein. The enhancement payment is expressly contingent on Plaintiff's execution of a general release, including a Civil Code section 1542 waiver as it pertains to Defendant;
 - (4) Up to one-third of the Gross Fund Value in Class Counsel's attorneys' fees (currently estimated at \$70,000.00), plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which

are currently estimated to be no greater than Fifteen Thousand Dollars and Zero Cents (\$15,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding; and

(5) Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Gross Fund Value has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00), will be payable to the PAGA Members as the "PAGA Amount," which PAGA Amount will be distributed as described below.

(6) Any difference between these requested amounts and the amounts approved by the Court will revert to the Net Settlement Amount for distribution to the Settlement Class members who do not opt out.

E. **Escalator Clause.** Defendant represents that as of the mediation date (March 27, 2024) there are no more than approximately 2,863 workweeks worked by the approximately 32 putative Settlement Class Members during the Class/PAGA Period. Defendant also represents that as of the mediation date (March 27, 2024) there are no more than approximately 533 pay periods during the PAGA Period. If the number of workweeks or pay periods worked increases by more than 10% (i.e., if there are 3,150 or more workweeks or 587 pay periods), Defendant shall increase the Gross Fund Value on a proportional basis (For example, if the number of workweeks increase by 11% through the Class/PAGA Period, then the Gross Fund Value shall increase by 11%)., or cap the Class/PAGA Release Period as of the date that the 10% of the pay periods or 10% of the workweeks is exceeded.

F. **Employer Payroll Taxes.** The Gross Fund Value does not include the employer's share of payroll taxes. Defendant's share of employer-side payroll taxes shall be paid by Defendant separately and apart from, and in addition to, the Gross Fund Value. If Plaintiff's enhancement payment is approved by the Court, such payment will result in the issuance of a Form 1099 to Plaintiff as a Class Representative and as an individual, who shall assume full responsibility and liability for payment of taxes on such award.

30. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Payment") from the Settlement. Individual Settlement Payments will be determined and paid as follows:

A. The Settlement Administrator shall first deduct from the Gross Fund Value the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative Enhancement Payment, the amount set aside as PAGA civil penalties, and the Settlement

Administrator's fees and expenses for administration. The remaining amount shall be known as the "Net Settlement Amount."

B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment based on the following formula:

- i. PAGA Amount: The \$2,500.00 payable to the PAGA Members as their 25% portion of the PAGA civil penalties shall be designated as the "PAGA Amount." Each PAGA Member who was employed by Defendant at any time during the PAGA Period (including those who submit a valid and timely Request for Exclusion from the class action portion of the Settlement), shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the PAGA Period compared to the total number of workweeks worked by all PAGA Members during the PAGA Period.
- ii. Wage Statement Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class Member who was employed by Defendant at any time between August 23, 2022 and the close of the Class Period shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period compared to the aggregate number of workweeks worked by all participating Settlement Class Members during the aforementioned time period.
- iii. Waiting Time Amount: Twenty percent (20%) of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class Member who separated their employment from Defendant at any time between August 23, 2020 and the close of the Class Period.
- iv. The remainder of the Net Settlement Amount will be distributed to all participating Settlement Class members based on each participating Settlement Class member's proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.
- v. For purposes of calculating each Settlement Class member's Individual Settlement Payment, workweeks worked shall be defined as any regular workweeks in which the Settlement Class Member/PAGA Member actually worked one shift.

- C. Within ten (10) business days following Defendant's full deposit of the Gross Fund Value with the Settlement Administrator, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment amounts and provide the same to the Parties' counsel for review and approval. Within seven (7) calendar days of approval by the Parties' counsel, the Settlement Administrator will prepare and mail Individual Settlement Payments, less applicable taxes and withholdings, to participating Settlement Class members.
 - D. For purposes of calculating applicable taxes and withholdings, each Individual Settlement Payment from the NSA shall be allocated as follows: Ninety Percent (90%) as penalties and interest; and Ten Percent (10%) as wages. Any payment from the PAGA Amount shall be allocated as 100% penalties. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Participating Settlement Class Members are responsible for their share of the payroll taxes on portions of the Individual Settlement Payments allocated as unpaid wages, which will be deducted from their Individual Settlement Payments.
 - E. Each member of the Settlement Class who receives an Individual Settlement Payment must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any funds associated with a check that is not negotiated within one hundred eighty (180) days of mailing to a Settlement Class member, plus accrued interest, if any, shall be transferred to Legal Aid Foundation of Los Angeles, the Parties' agreed-upon *cy pres* designee. The Settlement Administrator shall prepare a report regarding the distribution plan pursuant to Code of Civil Procedure section 384, which shall be presented to the Court by Class Counsel along with a proposed amended judgment that is consistent with the provisions of Code of Civil Procedure section 384.
 - F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
31. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Fund Value, which is currently estimated to be Seventy Thousand Dollars and Zero Cents (\$70,000.00). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) from the Gross Fund Value. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated

by those objections. Class Counsel will be issued an IRS Form 1099-MISC by the Settlement Administrator for the fees and costs award approved by the Court.

32. **Class Representative Enhancement Payment.** Defendant will not object to a request for a Class Representative Enhancement Payment of up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff, for his time and risk in prosecuting this case, for his service to the Settlement Class, and in exchange for Plaintiff's general release of claims against Defendant. This award will be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class member and shall be reported on an IRS Form 1099-MISC issued by the Settlement Administrator. In the event that the Court reduces or does not approve the requested Enhancement Payment, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.
33. **Settlement Administrator.** Defendant agrees to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff's request to the Court to pay up to Five Thousand Seven Hundred Fifty Dollars and Zero Cents (\$5,750.00) for its services from the Gross Fund Value. The Settlement Administrator shall be responsible for translating notice packets, sending notices to Settlement Class members in English, Mandarin and Vietnamese, and for calculating Individual Settlement Payments and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, which shall be deducted from the Gross Fund Value, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Fund Value by Class Counsel only after Individual Settlement Payments have been mailed to all participating Settlement Class members. The Settlement Administrator shall also be responsible for posting the Final Judgment to its website.
34. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:
 - A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
 - B. Appointing Paul K. Haines, Fletcher W. Schmidt, and Matthew K. Moen of Haines Law Group, APC as Class Counsel;
 - C. Appointing Plaintiff Richard Soto as Class Representative for the Settlement Class;
 - D. Approving Phoenix Settlement Administrators as Settlement Administrator;
 - E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
 - F. Approving the form and content of the Notice Packet (which is comprised of the Notice of Class Action Settlement and Notice of Individual Settlement Payment), and directing the mailing of same; and
 - G. Scheduling a Final Approval hearing.

35. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Settlement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment, and the number of workweeks worked by each Settlement Class member during the Class Period (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.

Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Individual Settlement Payment for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.

- B. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within forty-five (45) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).

- i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Settlement Class member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PGA settlement and release provisions will apply to all PGA Members whether or not they exclude themselves from the class action portion of the settlement. PGA Members who submit a valid and timely Request for

Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release all Released PAGA Claims, whether they submit a valid and timely Request for Exclusion or not.

- ii. The Parties pledge their good faith and fair dealing in supporting the approval of this Settlement by the Court and at no time shall the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the Settlement or opt-out of the Settlement, or encourage any Settlement Class member to appeal from the Court's final judgment.
 - iii. Defendant's Right to Rescind. Notwithstanding any other provision of this Settlement Agreement, Defendant shall retain the right, in the exercise of its sole discretion, to unilaterally withdraw from and terminate this Settlement no later than five (5) court days prior to the date of the Final Approval Hearing if class members representing more than an aggregate total of ten percent (10%) of the verified workweeks opt out of the Settlement. In such an event, Defendant shall be solely responsible for all settlement administration costs incurred by the Settlement Administrator to date. In the event of Defendant's withdrawal, no party may use the fact that the Parties agreed to the Settlement for any reason. Defendant shall communicate its decision to nullify the Settlement pursuant to this paragraph in writing to the Settlement Administrator and Class Counsel no later than five (5) court days prior to the date of the Final Approval Hearing.
- C. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any written objection should: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; (4) be postmarked no later than the Response Deadline; (5) contain the case name and number of the Action. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing. Members of the Settlement class who request exclusion *may not* object to the Settlement. The Settlement Administrator will certify jointly to Class Counsel and Defendant's Counsel the number of Notices of Objection that are submitted (specifying which ones were timely and complete and which were not), and also attach them to a declaration that is to be filed with the Court in advance of the Final Approval Hearing. At no time will any of the Parties or their counsel seek

to solicit or otherwise encourage Settlement Class Members to object to the Class Settlement or appeal from the Final Approval Order and Judgment. If the Court overrules the objection and approves the Class Settlement, the Settlement Class Member will be bound by the terms of the Class Settlement in the same way and to the same extent as a Settlement Class Member who does not object.

- D. Notice of Individual Settlement Payment / Pay Period Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all of the information that was used from Defendant's records in order to calculate the Individual Settlement Payment. Settlement Class members will have the opportunity to dispute the number of workweeks and/or pay period to which they were credited as stated in the Notice Packet (Workweek/Pay Period Dispute) by submitting to the Settlement Administrator the following: (a) case name and number of the Action; (b) Class Member's full name, signature, address, telephone number, and the last four (4) digits of the Class Member's Social Security number; (c) a clear statement that the Class Member disputes the number of Workweeks and/or Pay Periods credited to the Class Member and what the Class Member contends is the correct number including any supporting documentation; and (d) returning by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. If there is a Workweek/Pay Period Dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. Absent evidence rebutting the accuracy of Defendant's records and data as they pertain to the number of Workweeks and/or Pay Periods to be credited to a disputing Class Member, Defendant's records will be presumed to be correct and determinative of the dispute. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Settlement Class member and the Parties. However, if the Settlement Administrator and the Parties cannot agree on a resolution, the Parties will submit the dispute to the Court for a final determination.
- E. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing,

or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline.

- F. Reports by the Settlement Administrator. The Settlement Administrator shall provide weekly reports to counsel for the Parties providing: (a) the number of undeliverable and re-mailed Class Notices; (ii) the number of Class Members who have submitted Workweek/Pay Period Disputes; (iii) the number of Class Members who have submitted Requests for Exclusion; and (iv) the number of Settlement Class Members who have submitted Notices of Objection. Additionally, the Settlement Administrator will provide to counsel for the Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested, and immediately notify the Parties when it receives a request from an individual or any other entity regarding inclusion in the Class and/or Settlement or regarding a Workweek/Pay Period Dispute.
36. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:
- A. Granting final approval of the Settlement, adjudging the terms thereof to be fair, adequate, and reasonable, and directing consummation of its terms and provisions;
 - B. Approving Plaintiff's and Class Counsel's request for attorneys' fees and reimbursement of costs, Class Representative Enhancement Payment, settlement administration costs, and payment to the LWDA for its share of civil penalties under PAGA; and
 - C. Entering Final Judgment pursuant to California Rule of Court 3.769. Said Judgment shall be posted on the Settlement Administrator's website.
37. Additionally, in the event: (i) the Court does not ultimately enter the Preliminary Approval Order without requiring material changes to the basic Settlement terms (basic Settlement terms include the amount of the Gross Fund Value; the time period of the Released Class Claims; the covered Class Period; revisions to the Escalator Clause; and revisions to Defendant's Option to Rescind Settlement as set forth herein); (ii) the Court does not ultimately finally approve the Settlement as provided herein without requiring material changes to the basic Settlement terms (basic Settlement terms include the amount of the Gross Fund Value; the time period of the Released Class Claims; the covered Class Period; revisions to the Escalator Clause contained herein; and revisions to the Defendant's Option to Rescind Settlement as set forth herein); (iii) Defendant exercises its option to rescind the Settlement Agreement based on an excessive number of opt-outs, as described in the section above; or (iv) the Settlement does not become final for any other reason (*e.g.*, an objection by the LWDA), this Settlement Agreement shall be null and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement shall be treated as void from the beginning, and the Recitals and Terms of the Agreement contained herein shall be of no force or effect and shall not be treated as an admission by the Parties or their

counsel. In such a case, the Parties shall be returned to their respective statuses prior to the reaching of this Settlement, settlement funds placed in trust with the Settlement Administrator shall be returned to Defendant, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by Plaintiff, unless the reason for the Settlement Agreement not becoming final is due to Defendant's exercising of its right to rescind the Settlement Agreement, in which case any fees already incurred by the Settlement Administrator shall be paid by Defendant. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement, the Attorney Fee Award, and/or the Cost Award, will not constitute a material modification to the Settlement within the meaning of this paragraph.

38. **Non-Admission of Liability.** The Parties enter into this Settlement Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In entering into this Settlement Agreement, Defendant does not admit, and specifically denies, it has violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to Federal Evidence Code Section 408 and California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by Federal Evidence Code Section 408 and the California Evidence Code Section 1152.
39. **No Prior Assignments.** Plaintiff and Class Counsel represent, covenant, and warrant that they have not directly or indirectly encumbered, assigned, transferred, or otherwise given away any of the claims, demands, causes of actions, or rights that they are releasing by signing this Settlement Agreement, nor has any of them purported to do so. Plaintiff and Defendant, and each of them, waive any and all claims for fees, costs, indemnity or contribution against Plaintiff, any Class Member, Plaintiff's Counsel, Defendant, or Defendant's Counsel in the Action other than as provided herein.
40. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members, as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein, and as necessary in any filings with the Court in order to seek approval of the Settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other lawsuits, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel.

41. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties or their respective counsel, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.
42. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:
- if to Defendant: Tyler J. Woods of Fisher & Phillips LLP, 2050 Main Street, Suite 1000, Irvine, California 92614; twoods@fisherphillips.com.
- if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com.
43. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.
44. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the Action contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof. Further, all terms of this Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California.
45. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.
46. **Enforcement Action.** The Parties agree that the Los Angeles County Superior Court shall have jurisdiction to enforce this Settlement pursuant to California Code of Civil Procedure section 664.6, and California Rule of Court 3.769. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

IN WITNESS THEREOF, the Parties to this Settlement Agreement each acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained herein, and hereby execute it voluntarily and with full understanding of its consequences.

DATED: July 3, 2024

DEFENDANT APPLIED BIOCODE, INC.

By: Julian C Sanchez
Title: Sr. Director, Human Resources

DATED: _____, 2024

PLAINTIFF RICHARD SOTO

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: July 3, 2024

FISHER & PHILLIPS LLP

By: Tyler J. Woods
Tyler J. Woods
Attorneys for Defendant

DATED: _____, 2024

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Fletcher W. Schmidt
Matthew K. Moen
Attorneys for Plaintiff

IN WITNESS THEREOF, the Parties to this Settlement Agreement each acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained herein, and hereby execute it voluntarily and with full understanding of its consequences.

DATED: _____, 2024

DEFENDANT APPLIED BIOCODE, INC.

By: _____
Title: _____

DATED: Jul 3, 2024, 2024

PLAINTIFF RICHARD SOTO

By: 
Richard Soto (Jul 3, 2024 06:36 EDT)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: _____, 2024

FISHER & PHILLIPS LLP

By: _____
Tyler J. Woods
Attorneys for Defendant

DATED: July 3, 2024

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Fletcher W. Schmidt
Matthew K. Moen
Attorneys for Plaintiff