

PAGA SETTLEMENT AGREEMENT AND GENERAL RELEASE

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff, Francisco Amezcuita ("Plaintiff"), on behalf of the State of California and all Private Attorneys General Act ("PAGA") Settlement Employees, and Defendant, Kaizen Resources, Inc., a Delaware corporation ("Defendant") (collectively, the "Parties"), subject to the approval of the Court in accordance with California Labor Code section 2699(1)(2), that the Settlement of this Action shall be effectuated upon and subject to the terms and conditions below.

The Parties agree that the Action (as defined in Section I below) against Defendant shall be, upon approval by the Court, ended, settled, resolved, and concluded without any admission of fault or liability, as set forth in this Agreement and for the consideration set forth herein, including a release of claims by Plaintiff and the PAGA Settlement Employees.

I. DEFINITIONS

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- A. "Action" means the civil action, including the operative complaint, entitled *Amezquita v. Kaizen Resources, Inc., et al.*, Case No. ECU003568, pending in the Superior Court of California, Imperial County.
- B. "Agreement" means this Settlement Agreement.
- C. "Approval Date" means the date the Court grants approval of this Agreement by signing and filing the Final Order.
- D. "Arbitration" means the civil arbitration, including the operative demand, entitled *Amezquita v. Kaizen Resources, Inc., et al.*, ADR Case No. 24-0730-MAM, pending before ADR Services, Inc., located at 225 Broadway, Suite 1400, San Diego, California 92101.
- E. "Court" means the Superior Court of California, County of Imperial.
- F. "Defendant" means Kaizen Resources, Inc. ("Kaizen Resources"), a Delaware corporation.
- G. "Defense Counsel" means:

Steven E. Boehmer (SBN 144817)
Matthew A. Thurmer (SBN 298523)
McDOUGAL BOEHMER FOLEY
LYON MITCHELL & ERICKSON
8100 La Mesa Blvd., Suite 200
La Mesa, CA 91942

- H. “Effective Date” means the date the Court has approved the Settlement.
- I. “Final Order” means the final Court order entered in this Action in accordance with the terms herein, the Court adopting and approving this Agreement (and the terms of Settlement described herein), entering judgment consistent with the terms of the Agreement, and the Court retaining jurisdiction over the enforcement, implementation, construction, administration, and interpretation of the Settlement pursuant to Civil Code section 664.6.
- J. “LWDA” means the State of California Labor and Workforce Development Agency.
- K. “Named Plaintiff” or “Plaintiff” means Francisco Amezcuita.
- L. “PAGA” means the Private Attorneys General Act of 2004, California Labor Code section 2698 *et seq.*
- M. “PAGA Claims” means claims for PAGA penalties, pursuant to Labor Code section 2699 *et seq.* that: (1) arose or may be alleged to have arisen at any time from September 5, 2022, up to and including the Approval Date, and (2) are based on or arise from any and all violations of the Labor Code or Industrial Welfare Commission (“IWC”) Orders, including but not limited to, all claims for wages, overtime pay, pay for all time allegedly worked but not compensated, and all other claims of any kind for wages, penalties, interests, costs and attorneys’ fees arising from the alleged violation of any provision of common law, California law and/or Federal law which were or could have been raised in the Action, including but not limited to claims under California Labor Code sections 201, 202, 203, 204, 210, 218, 226, 226.7, 503, 510, 512, 551, 552, 558, 1182, 1194, 1197, 1198, 1199, and 2698 and Business and Professions code sections 17200 *et seq.*
- N. “PAGA Payment” is the payment amount as defined in Section III.C.c below.
- O. “PAGA Settlement Employee(s)” means Plaintiff and all current and former non-exempt employees employed by Defendant at any time from September 5, 2022, through the Approval Date. There were approximately 82 such current and former employees as of on or about November 20, 2024, the date that the Parties participated in mediation.
- P. “Plaintiff’s Counsel” means:

John A. Van Hook, Esq.
VAN HOOK LAW FIRM
14156 Magnolia Blvd, Suite 200,
Sherman Oaks, CA 91423

Adrian Byrne
THE BYRNE LAW GROUP
8605 Santa Monica Blvd., Suite 48497
West Hollywood, CA 90069

- Q. “Putative Aggrieved Employee(s)” means, with respect to the PAGA Claims, Plaintiff and all current and former non-exempt employees employed by Defendant at any time from September 5, 2022, through the Approval Date.
- R. “Putative Aggrieved Employee Penalty Payment” means the portion of the Settlement Sum that shall be paid to each PAGA Settlement Employee per the terms and conditions of this Agreement.
- S. “Released Parties” means Defendant and any and all subsidiaries of Defendant and each of its past, present, and future parents, affiliated companies, subsidiaries, divisions, predecessors, successors, partners, joint venturers, shareholders, consultants, advisors, insurers, reinsurers and assigns, and each of their past, present and future officers, investors, directors, executives, trustees, agents, employees, attorneys, representatives, benefit plans sponsored or administered by the Released Parties, and any other persons or entities acting on behalf of or in concert with any of the foregoing.
- T. “Settlement” means the Parties’ agreement, as detailed herein, to dispose of the Action as to Defendant.
- U. “Settlement Sum” means the total gross settlement amount of Seventy-Eight Thousand Nine Hundred Dollars and Zero Cents (\$78,900.00) to be paid by Defendant as provided by this Agreement to fully and finally settle, resolve and conclude this Action as to Defendant, as provided under this Agreement, without any admission of fault or liability.

II. FACTUAL BACKGROUND

- A. Defendant, a car dealership located in El Centro, California, employed Plaintiff as a service technician for approximately four years from May 10, 2019, to August 2, 2023.
- B. On August 2, 2023, Defendant terminated Plaintiff’s employment.
- C. On September 5, 2023, Plaintiff served a letter to the LWDA and Defendant (“PAGA Notice”), in accordance with the requirements of Labor Code section 2699.3(a), to notify the LWDA of alleged violations of the California Labor Code by Defendants arising from Plaintiff’s alleged employment with Defendant. The LWDA declined to investigate the alleged violations, permitting Plaintiff to initiate a PAGA action in court.
- D. On December 29, 2023, Plaintiff filed a demand for arbitration with ADR Services, Inc., for individual claims of (1) unpaid minimum wages, (2) unpaid overtime, (3) failure to provide meal periods, (4) failure to authorize and permit rest periods, (5) failure to provide accurate itemized wage statements (Lab. Code §226), (6) waiting time penalties (Lab. Code §203), and (7) failure to reimburse business expenses (Lab. Code §2802).
- E. On June 13, 2024, Plaintiff initiated the Action by filing a complaint in the Superior Court of California, County of Imperial, asserting the same claims stated in the Arbitration demand plus violation of Industrial Welfare Commission (“IWC”) Order 4-2001.

- F. On November 20, 2024, the Parties participated in a private mediation and reached this Settlement after engaging in arms-length negotiations.
- G. This Agreement sets forth the terms and conditions of the resolution of all claims asserted in the Action, including the PAGA Claims asserted on behalf of the State of California and the PAGA Settlement Employees.
- H. The Parties engaged in a substantial exchange of documents and information during discovery and mediation. The Parties reached this Settlement only after extensive discovery and investigation were performed.
- I. The Settlement embodied in this Agreement is contingent on (i) issuance by the Court of a Final Order approving the Settlement, entering judgment consistent with the terms of the Agreement, and retaining jurisdiction pursuant to Civil Code section 664.6, (ii) entry of the Final Order enforcing the terms of the Settlement, and retaining jurisdiction pursuant to Civil Code section 664.6 to ensure compliance with the Court's Final Order only, (iii) discharge of Defendant and the Released Parties from liability for all claims released by this Agreement, (iv) release of the PAGA Claims released by this Agreement against the Released Parties by Plaintiff, the State of California and all PAGA Settlement Employees, (v) submission of the Final Order by Plaintiff's Counsel to the LWDA within ten (10) days of entry of the Final Order pursuant to California Labor Code § 2699(1)(3), (vi) all parties bearing their respective fees and costs except as expressly provided in this Agreement, and (vii) Plaintiff dismissing the Arbitration with prejudice and releasing all known and unknown individual claims pursuant to a separate Individual Settlement Agreement and General Release executed contemporaneously herewith. The foregoing are conditions, not mere recitals.
- J. Defendant disputes and denies Plaintiff's allegations and various causes of action asserted in the Action and Arbitration, including, without limitation, Plaintiff's PAGA Claims, which are resolved by this Agreement.

III. IMPLEMENTATION OF SETTLEMENT

- A. Cooperation. The Parties will cooperate in seeking approval of the Settlement described in this Agreement. The Parties further agree to fully cooperate in the drafting and filing of any further documents or filings reasonably necessary to be prepared or filed, including responding to challenges by any third parties, and shall take all steps that may be requested by the Court relating to the approval and implementation of the Settlement described in this Agreement.
- B. Court Approval.
 - a. Because this Action includes PAGA Claims, this Agreement requires review and approval by the Court. *See* Cal. Lab. Code §2699(1)(2). Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is expressly contingent upon the Court's approval of this Settlement and the terms and material

conditions of this Agreement (including, but not limited to, issuance of and entry of the Final Order in accordance therewith). If Court approval is not given and the Final Order is not entered, under the specific material terms requested, this entire Agreement shall automatically be deemed null and void *ab initio*, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever.

- b. Within ten (10) business days after the execution of this Agreement, Plaintiff's Counsel shall prepare and file a motion for approval of the Settlement Agreement and an order approving this Agreement ("Motion for Approval"). If the Court does not grant the request for approval and issue the Final Order (including, but not limited to, entering judgment consistent with this Agreement, retaining jurisdiction pursuant to Civil Code 664.6, and entering the Final Order in accordance with the terms and conditions of this Agreement), under substantially similar material terms the Parties agree to meet and confer to address the Court's concerns and determine whether resolution of the Action can be obtained in a manner consistent with the Court's concerns. However, under no circumstances may a modified settlement be entered by the Court without a written agreement signed by both Parties.
 - c. Plaintiff will fully cooperate to accomplish the terms of this Settlement Agreement, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties will cooperatively oppose any appeal filed with respect to the Final Order.
 - d. Plaintiff shall submit to the LWDA a copy of the Final Order in this Action and a copy of any other order providing for or denying an award of civil penalties within ten (10) days after entry of the Final Order, in compliance with section 2699(1)(3) of the California Labor Code.
- C. Settlement Sum. In exchange for the releases, obligations, and promises set forth in this Agreement (and subject to the terms and conditions contained in this Agreement) and on condition that Plaintiff dismiss the Arbitration with prejudice and release all known and unknown individual claims pursuant to a separate Individual Settlement Agreement and General Release, Defendant agrees to pay the Settlement Sum, which is the total and all-inclusive amount that Defendant will be obligated to pay under the Settlement embodied by this Agreement. Under no circumstances shall the Settlement Sum exceed \$78,900.00, inclusive of attorneys' fees and costs. Other than payment of that portion of the Settlement Sum specifically allocated to settle the PAGA Claims, there shall be no PAGA Claim payments arising out of or related to Putative Aggrieved Employees' allegations for the time period from September 5, 2022, up to and including the date the Court enters the Final Order asserted against Defendant or any of the Released Parties on behalf of Plaintiff, the State of California, any PAGA Settlement Employee, or any other individual or entity. The Settlement Sum shall be allocated as follows:
- a. Claims Administration Fees: All Claims Administration expenses shall be paid

from the Settlement Sum. Claims Administration expenses paid to an outside Claims Administration service must come out of the Settlement Sum. The Parties agree to retain Phoenix Class Administration Solutions (“Claims Administrator”) to serve as the Claims Administrator in this matter. The estimated cost is \$Two Thousand Seven Hundred Fifty Dollars (\$2,750.00) (“Claims Administration Fees”).

- b. Attorneys’ Fees and Costs: Out of the Settlement Sum, Plaintiff’s Counsel will receive attorneys’ fees and reimbursement of costs (“Fee Amount”) in the amount equal to up to one third (1/3) of the Settlement Sum (\$26,300.00) plus actual costs of litigation pursuant to PAGA (\$4,800.00), which provides for the recovery of attorneys’ fees and costs. Should the Court award a lesser sum for attorneys’ fees and costs, the residual will be included in the PAGA Payment. Any modification of the Fee Amount by the Court shall not (i) affect the enforceability of the Settlement Agreement, (ii) provide any of the Parties with the right to terminate the Settlement Agreement, or (iii) impose any obligation on Defendant to increase the consideration paid in connection with the Settlement. Plaintiff’s Counsel’s entitlement to fees and costs is a material condition of this Settlement, but the Fee Amount awarded is not. Plaintiff may appeal the fee and/or cost amounts awarded by the Court.

As part of Plaintiff’s motion for approval of the Settlement, Plaintiff will request an award of Plaintiff’s Counsel’s fees and costs consistent with this Agreement. Defendant will not oppose a fee request of up to one third (1/3) of the Settlement Sum (\$26,300.00) plus actual costs of litigation.

- c. PAGA Payment: The total sum available for payment of PAGA penalties shall be calculated by deducting the Claims Administration Fees and Fee Amount from the \$78,900.00 Settlement Sum (this will yield the “Net Settlement Amount”). Of the Net Settlement Amount, for each PAGA Settlement Employee, seventy-five percent (75%) of his or her allocated share of the Net Settlement Amount shall be distributed to the LWDA (“LWDA Penalty Payment”) and the remaining twenty-five percent (25%) shall be distributed to the PAGA Settlement Employees (“Putative Aggrieved Employee Penalty Payment”) on a pro-rata basis based on the number of pay periods they worked during the PAGA Period.

The “Putative Aggrieved Employee Penalty Payment” for each PAGA Settlement Employee shall be determined based on a formula taking into account the number of each PAGA Settlement Employee’s “Pay Periods.” A “Pay Period” shall be defined as any instance when a Putative Aggrieved Employee received a wage statement between September 5, 2022, and the Approval Date.

The amount paid to each PAGA Settlement Employee will be determined as follows: The Net Settlement Amount will be divided by the total number of Pay Periods for all PAGA Settlement Employees during the relevant time period (September 5, 2022, up to and including the Approval Date) (“Pay Period

Amount”). Each PAGA Settlement Employee will then be paid an amount equal to the Pay Period Amount multiplied by that PAGA Settlement Employee’s total number of Pay Periods.

Plaintiff will also be eligible for the Putative Aggrieved Employee Penalty Payment as PAGA Settlement Employee.

Defendant shall be responsible for providing all the Pay Periods information and calculations necessary for Defendant to determine the Putative Aggrieved Employee Penalty Payment for each PAGA Settlement Employee.

D. Funding and Distribution Process.

- a. Within ten (10) business days after the Effective Date and Defense Counsel’s receipt of (i) Form W-9s completed by Plaintiff and Plaintiff’s Counsel, (ii) a fully executed Request for Dismissal with prejudice of the Action as to all parties and all causes of action pursuant to Section V.C below (not to be filed until after Plaintiff’s Counsel confirms receipt of the check for the Fee Amount), and (iii) a fully executed Individual Settlement Agreement and General Release dismissing the Arbitration with prejudice and releasing all known and unknown individual claims pursuant to said agreement, Defendant will transmit to the Claims Administrator the Settlement Sum and provide to the Claims Administrator the list of “Aggrieved Employees,” defined as non-exempt employees who worked at any time between September 5, 2022, and the Approval Date. Within ten (10) business days after transmitting the Settlement Sum to the Claims Administrator, Defendant shall give written notice to Plaintiff’s Counsel that Defendant has satisfied its obligation to transmit the Settlement Sum to the Claims Administrator. This transmittal and notice wholly satisfies Defendant’s obligations with respect to the funding and disbursement process.
- b. Within ten (10) business days of receipt of the Settlement Sum, the Claims Administrator shall issue payments to Van Hook Law Firm and The Byrne Law Group, for the Fee Amount. Plaintiff’s Counsel will provide the Claims Administrator will instructions for issuance of such payments.
- c. Within ten (10) business days of receipt of the Settlement Sum, the Claims Administrator will disburse Putative Aggrieved Employee Penalty Payments to each PAGA Settlement Employee to the last known physical address on file with Defendant in its regularly maintained records. PAGA Settlement Employees who receive their Putative Aggrieved Employee Penalty Payments via U.S. Mail will receive a letter along with their Putative Aggrieved Employee Penalty Payment explaining the reason for the payment, the content of which will be agreed upon by the Parties. Such mailing as described in this paragraph shall be conclusive evidence of payment of the Putative Aggrieved Employee Penalty Payments and shall satisfy any and all due process requirements. All funds not claimed within 180 days of mailing of payment shall be sent to the California State Controller’s

Office Unclaimed Property Fund with an identification of the amount of unclaimed funds attributable to each PAGA Settlement Employee. If any PAGA Settlement Employee's check is not cashed within 120 days after mailing, the Settlement Administrator will send the PAGA Settlement Employee a letter or postcard informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable. The letter or postcard will also offer to replace the check if it was lost and not cashed.

- d. Within ten (10) business days of receipt of the Settlement Sum, the Claims Administrator shall send a check to the LWDA for the LWDA Penalty Payment in the amount calculated pursuant to the terms of this Settlement, along with a copy of the Final Order, and any other documents required pursuant to California Labor Code section 2699(1).
- e. Within 300 days the Claims Administrator shall provide Plaintiff's Counsel and Defense Counsel and file with the Court a declaration describing how many checks were mailed to the Aggrieved Employees, how many checks were cashed, and for how many employees was money deposited with the State Controller's Office for Unclaimed Property Fund.

E. No Additional Contribution by Defendant.

- a. Based on a review of its records, Defendant estimates that there were approximately 82 Putative Aggrieved Employees who were employed as of the mediation date. Plaintiff's Counsel calculates a total of approximately 2,100 pay periods based on the hire and termination dates of the 82 Putative Aggrieved Employees. These figures were the basis for the Parties' settlement at mediation. If the actual number of total pay periods is more than 5% above this estimate (i.e., if there are more than 2,205 pay periods during the PAGA Period), the PAGA Period shall end as of the first date that the pay period count does not exceed 2,205. Defendant shall have the option to increase the PAGA Settlement Amount by 5%). Except for this escalator clause, Defendant's monetary obligation under this Agreement is limited to the Settlement Sum. Defendant shall not be required to pay more than the Settlement Sum to obtain the relief (including, but not limited to, the Settlement, releases of claims and, issuance of the Final Order) provided in this Agreement or to fully and finally settle and resolve the PAGA Claims.
- b. Notwithstanding the above, in the event that this Agreement is voided or nullified, in whole or in part, however that may occur, or the Settlement of the Action or Arbitration is barred by operation of law, or invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant will cease to have any obligation to pay any portion of the Settlement Sum to anyone under the terms of this Agreement.

F. Taxes.

- a. The Putative Aggrieved Employee Penalty Payments are penalties and shall be

reported on an IRS Form 1099 (to the extent required by law), and will not be subject to local, state, or federal tax withholdings. Plaintiff and each PAGA Settlement Employee shall be responsible for paying all applicable state, local, and federal income taxes on their respective amounts received pursuant to this Settlement, and they shall not seek any indemnification from Defendant or the Released Parties in this regard. Plaintiff and Plaintiff's Counsel shall cooperate with Defendant and provide documentation to the extent possible and as reasonably requested to demonstrate any payment of taxes made by Plaintiff and/or any PAGA Settlement Employee should any taxing authority challenge the allocation or characterization of settlement monies.

- b. In the event any taxing authority asserts that the characterization of Settlement payments hereunder are inappropriate and/or Plaintiff fails to pay any tax liability resulting from the payments made hereunder, and Defendant is made to pay any taxes, settlements, interest, penalties, and/or other sums (hereinafter collectively referred to as "Tax Payments") to a taxing authority as a result of the payments made to Plaintiff, Plaintiff shall fully indemnify and reimburse Defendant for any and all such Tax Payments upon demand and reasonable verification of sums paid.

IV. ADMISSIONS, EVIDENTIARY USE, AND NULLIFICATION

- A. No Admission. Defendant disputes that Plaintiff or any PAGA Settlement Employee is entitled to any additional wages other than those already paid and/or any penalties, disputes the allegations and each and every cause of action and/or claim in the Action and Arbitration, and disputes that the Action may be maintained on a class, collective, or representative basis. This Agreement is entered into solely for the purpose of compromising highly disputed claims. This Agreement and the payment of the Settlement Sum and the other considerations recited herein represent the compromise of disputed claims. Nothing in this Agreement is intended as or may be construed as an admission of liability, unlawful conduct, or wrongdoing by Defendant or any of the Released Parties in any way, shape or form, and Defendant and the Released Parties deny any such liability or wrongdoing.
- B. Non-Evidentiary Use. Except for purposes of effectuating the Settlement pursuant to this Agreement and for Defendant (and/or a Released Party) to establish that a PAGA Settlement Employee has resolved any of his/her claims released through this Agreement, and regardless of whether the Final Order occurs, neither this Agreement nor any of its terms (including, but not limited to, the payment of the Settlement Sum) nor the Settlement itself will be construed as, offered, or admitted in evidence as, received as, or deemed to be evidence, in any further proceeding in the Action, Arbitration, or any other civil, criminal, and/or administrative action or proceeding, for any purpose adverse to Defendant or any of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by Defendant or any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage.
- C. Nullification. If (a) the Court should for any reason fail to approve this Settlement consistent with the material specific terms agreed to by the Parties and set forth herein, (b)

the Court should for any reason fail to enter the Final Order, or (c) the Final Order is reversed, modified, or declared or rendered void, then this Agreement shall automatically be considered null and void *ab initio*. An example of a material change in the terms includes a change in the economic terms of the settlement.

In that instance, (i) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (ii) all Parties to this Agreement and the pleadings in this Action and Arbitration shall stand in the same position they were the day prior to the November 20, 2024, mediation in this Action/Arbitration, without prejudice to either Party; and (iii) Defendant will not have any obligation to pay any portion of the Settlement Sum to anyone under the terms of this Agreement. If this Agreement is invalidated through any proceeding within the Agreement, Plaintiff will return any disbursements from the Settlement Sum under his or his counsel's control to Defendant.

Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety, unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

V. RELEASE, WAIVER OF CLAIMS, AND DISMISSAL

- A. PAGA Settlement Employees Release. Upon entry of the Final Order, Plaintiff, all PAGA Settlement Employees, and the State of California shall be deemed to have fully, finally, and forever waived, released, relinquished, and discharged Defendant and each and all the Released Parties from any and all PAGA Claims as defined herein that arose from Plaintiffs PAGA Notice and operative complaint in this Action for the period of September 5, 2022, up to and including the Approval Date.
- B. No Attorneys' Fees or Costs. Except as expressly provided in this Agreement, the Parties agree to bear their own attorneys' fees and costs related to this Action and Arbitration, and Plaintiff's Counsel waives any and all rights to further attorneys' fees and costs from Defendant in connection with this Action and/or Arbitration.

VI. MISCELLANEOUS PROVISIONS

- A. LWDA Notice. Plaintiff shall give notice of this Settlement to the LWDA pursuant to Cal. Lab. Code §2699(1)(2). Plaintiff will serve a copy of this Agreement to the LWDA on the same day the Settlement is filed with the Court. Additionally, Plaintiff shall submit a copy of the Court's Final Order to the LWDA within ten (10) days after entry of the Final Order, pursuant to California Labor Code §2699(1)(3).
- B. PAGA Settlement Employees Data. All data, if any is required to be provided to the Court, regarding the number of PAGA Settlement Employees and total Pay Periods, and other similar settlement metrics will be filed by Defendant under seal to the extent necessary and permitted under governing legal standards for filing materials under seal.
- C. Voluntariness. This Agreement is executed voluntarily and without duress or undue

influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

- D. Amendments. The terms and provisions of this Agreement may be amended or modified only by an express written agreement that is signed by the Plaintiff and an authorized representative of Defendant.
- E. Assignment. None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Plaintiff's Counsel, or Defense Counsel without the express written consent of each Party. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.
- F. Representation and Warranties. Plaintiff's Counsel and Plaintiff jointly and severally represent and warrant to Defendant that there are no attorneys beyond those named as Plaintiff's Counsel who have claims for fees arising out of the Action, Arbitration, or the Settlement contemplated hereby.
- G. Governing Law. This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.
- H. Entire Agreement. This Agreement contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants, or undertakings governing the subject matter of this Agreement other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the subject matter hereof, including, without limitation, any memorandum of understanding executed by the Parties, which is incorporated herein by reference, but to the extent any of the terms thereof is inconsistent with this Agreement, it is superseded by this Agreement, and this Agreement controls.
- I. Waiver of Compliance. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.
- J. Counterparts. This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or its/their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. A fax or PDF signature on this Agreement shall be as valid as an original signature.
- K. Meet and Confer Regarding Dispute(s). Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, Plaintiff's Counsel and Defense Counsel shall meet and confer in an attempt to resolve such dispute(s).

The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court or otherwise to effectuate this Settlement Agreement and the terms set forth herein. The Parties' counsels can agree to non-material changes to this Settlement Agreement and the Parties agree to act in good faith to address any concerns raised by the Court in connection with the approval hearing.

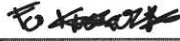
- L. Agreement Binding on Successors. This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.
- M. Cooperation in Drafting. The Parties have cooperated in the negotiation and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Agreement.
- N. Fair Settlement. Plaintiff, Defendant, Plaintiff's Counsel, and Defense Counsel believe that this Agreement reflects a fair, reasonable, and adequate settlement of the Action as to Defendant and have arrived at this Agreement through arms' length negotiation, taking into account all relevant factors, current and potential, and is consistent with public policy, and fully complies with applicable provisions of law.
- O. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement and shall not be considered in interpreting this Agreement.
- P. Continuing Jurisdiction. The Parties agree that upon the occurrence of the Final Order pursuant to the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure section 664.6 and the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties and the PAGA Settlement Employees to the fullest extent to interpret, enforce and effectuate the terms, conditions, intents and obligations of the Agreement.
- Q. No Reliance on Representations. The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other Parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters. No representations, warranties, or inducements have been made to any Party concerning this Agreement.
- R. Confidentiality/Public Statements.

- a. This Settlement and Agreement shall remain confidential in every respect until the Motion for Approval (as defined above in Section III.B.b.) is filed with the Court.
 - b. Plaintiff and Plaintiff's Counsel will not (a) issue any press or other media release, (b) initiate any contact with the press, other media (including social media), or any third party, (c) respond to any inquiry from the press, or media, or (d) have any communication with the press or other media about the Action or Arbitration, including, but not limited to the fact, amount, and terms of the Settlement, either before or after the Court approves this Agreement.
 - c. After the filing of the Motion for Approval, Plaintiff's Counsel agrees to limit any discussion of this case and the Settlement Agreement to reference only information that is contained in the Notice to be sent to the PAGA Settlement Employees, as well as publicly available information about the case (and summaries of same) and the settlement to be posted on Plaintiffs Counsel's website in order to provide additional information to the PAGA Settlement Employees. Plaintiff's Counsel further agrees to provide Defendant's Counsel with a copy of any information specifically referencing this case that will be posted on their website seven days in advance of any such posting, and that such website will be taken down upon conclusion of the case. Plaintiff's Counsel also has the right to respond to inquiries from PAGA Settlement Employees. This section shall not preclude Defendant from sharing the details of this Settlement with opposing counsel in other pending and/or future class and putative class, collective and PAGA actions, as well as mediators and their staff, provided any such disclosure is expressly designated as a "Confidential Settlement Communication."
 - d. To the extent additional limited public disclosures are required to effectuate the Settlement or to notify the court or parties in any pending, related proceeding, such limited and necessary details may be revealed with the consent of all Parties. However, any such disclosures shall not constitute a waiver of confidentiality with respect to any information not publicly disclosed.
- S. No Collateral Attack. The Parties agree that this Agreement may not be subject to collateral attack by any PAGA Settlement Employee or the State of California prior to or after entry of the Final Order, to the fullest extent permitted by law.

[Signatures on next page.]

IN WITNESS WHEREOF, the Parties knowingly and voluntarily executed this Settlement Agreement and Release as of the dates set forth below.

DATED: January 20, 2025


Francisco Amezcua (Jan 20, 2025 10:13 PST)
Francisco Amezcua, an individual

DATED: January Catherine Manten, 2025

Catherine Manten
Kaizen Resources, Inc.,
a Delaware corporation
By: Catherine Manten
Its: Chief Administrative Officer

APPROVED AS TO FORM:

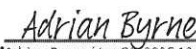
DATED: January 20, 2025

VAN HOOK LAW FIRM

By: 
John A. Van Hook
Attorney for Plaintiff, Francisco Amezcua

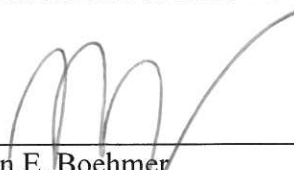
DATED: January 20, 2025

THE BYRNE LAW GROUP

By: 
Adrian Byrne (Jan 20, 2025 10:17 PST)
Adrian Byrne
Attorney for Plaintiff, Francisco Amezcua

DATED: January 27, 2025

MCDUGAL BOEHMER FOLEY
LYON MITCHELL & ERICKSON

By: 
Steven E. Boehmer
Matthew A. Thurmer
Attorneys for Defendant, Kaizen Resources, Inc., a
Delaware corporation