

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff Avery Joseph ("Plaintiff") and Defendant US Air Conditioning Distributors, LLC ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

- 1.1. "Action" means the Plaintiff's lawsuit for civil penalties under PAGA for alleged wage and hour violations against Defendant captioned *Avery Joseph v. US Air Conditioning Distributors, LLC*, initiated on December 18, 2023, and pending in Superior Court of the State of California, County of Solano, Case No. CU23-06070.
- 1.2. "Administrator" means Simpluris, Inc. the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.
- 1.4. "Aggrieved Employee" means and refers to all current and former nonexempt employees who worked for Defendant in California during the PAGA Period.
- 1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in Defendant's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. "Court" means the Superior Court of California, County of Solano.
- 1.8. "Defense Counsel" means Hill, Farrer & Burrill LLP.
- 1.9. "Defendant" means named Defendant US Air Conditioning Distributors, LLC.
- 1.10. "Effective Date" means the date the Court enters a Judgment on its Order Approving the PAGA Settlement.
- 1.11. "Gross Settlement Amount" means \$340,000.00 (Three Hundred Forty Thousand Dollars and Zero Cents) which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 4.1 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.
- 1.12. "Individual PAGA Payment" means an Aggrieved Employee's pro rata share of 25% of the Net Settlement Amount calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.



- 1.13. "Judgment" means the judgment entered by the Court based upon Approval.
- 1.14. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, previous subd. (i).
- 1.15. "LWDA PAGA Payment" means the 75% of the Net Settlement Amount paid to the LWDA under Labor Code section 2699, previous subd. (i).
- 1.16. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to the LWDA (75%) and to the Aggrieved Employees (25%) as Individual PAGA Payments.
- 1.17. "PAGA Counsel" means Lavi & Ebrahimi, LLP, the attorneys representing the Plaintiff in the Action.
- 1.18. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action, not to exceed one-third of the Gross Settlement Amount.
- 1.19. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.20. "PAGA Period" means the period from October 12, 2022, through September 24, 2024.
- 1.21. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.22. "PAGA Notice" means Plaintiff's October 12, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.23. "Plaintiff" means Avery Joseph, the named plaintiff in the Action.
- 1.24. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.25. "Released PAGA Claims" means the claims being released by the Plaintiff and as described in Paragraph 5 below.
- 1.26. "Released Parties" means Defendant and its parents, subsidiaries, directors, owners, shareholders, officers, and attorneys, past and present, and each of them.
- 1.27. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

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2. RECITALS.

- 2.1. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice on October 12, 2023.
- 2.2. On December 18, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for Civil Penalties Pursuant to the Private Attorneys General Act of 2004 ("PAGA"), Labor Code Section 2698, et seq. The Complaint is the operative complaint in the Action (the "Operative Complaint.") Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.3. On September 24, 2024, the Parties participated in an all-day mediation presided over by Christopher M. Barnes, which led to this Agreement to settle the Action.
- 2.4. Prior to mediation Plaintiff obtained, through informal discovery, pertinent documents and data for the PAGA members so that the Parties could fully investigate the claims at issue and understand their strengths and weaknesses.
- 2.5. The Parties represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 4.1 below, Defendant promises to pay \$340,000.00 (Three Hundred Forty Thousand Dollars and Zero Cents) and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one third of the Gross Settlement Amount (which is currently estimated to be \$113,333.33). Defendant will not oppose Plaintiff's request for reimbursement of reasonable litigation costs not to exceed \$21,000, which will be paid from the Gross Settlement Amount. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator

of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within twenty-one (21) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses Payment, Disbursement of the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.
 - 4.4.1. All Individual PAGA Payments mailed by the Administrator to PAGA Members shall be accompanied by a Notice of PAGA Settlement and Release, a copy of which is attached to this Agreement as **Exhibit A**.
 - 4.4.2. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.4.3. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.4. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.4.5. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASED PAGA CLAIMS. Upon Defendant fully funding the Settlement, all Aggrieved Employees (including Plaintiff), the State of California (including the LWDA) will release the Released Parties from any and all claims arising during the PAGA Period for civil penalties under PAGA, interest, fees, and costs available under PAGA, that were alleged, or reasonably could have been alleged, based on the facts stated in the Action and the PAGA Notice, including but not limited to PAGA claims alleged in the Action, or that reasonably could have been based on the facts stated in the Action and in the relevant LWDA notice letters, including all PAGA claims seeking civil penalties premised upon: (1) failure to pay overtime wages for overtime hours worked, (2) failure to authorize or permit meal periods in violation of Labor Code Sections 512 and 226.7 and/or failure to pay meal period premiums, (3) failure to authorize or permit rest periods in violation of Labor Code Section 226.7 and/or failure to pay rest period premiums, (4) failure to timely pay earned wages during employment in violation of Labor Code Section 204, (5) failure to provide accurate wage statements, (6) and failure to timely pay final wages. The time period governing the PAGA Released Claims shall be the PAGA Period. For avoidance of doubt, claims that cannot be released as a matter of law shall not be released.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iii) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel will state that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Responsibilities of Plaintiff. Plaintiff is responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in

favor of the motion. Plaintiff is responsible for delivering the Court's Order Granting Approval to the Administrator.

- 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, the Parties, by and through PAGA Counsel and Defense Counsel, respectively, will expeditiously work together by meeting and conferring in good faith to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, the Parties, by and through PAGA Counsel and Defense Counsel, respectively, will expeditiously work together by meeting and conferring in good faith to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1. Selection of Administrator. The Parties have jointly selected Simpluris, Inc. to serve as the Administrator and verified that, as a condition of appointment, Simpluris, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2. Employer Identification Number. The administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9. ADDITIONAL PROVISIONS.

- 9.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Action have merit or that Defendant has any liability for

any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 9.2 Integrated Agreement. Upon execution by all Parties, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 9.3 Cooperation. The Parties will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 9.4 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 9.5 No Tax Advice. The Parties acknowledge and agree that neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 9.6 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 9.7 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 9.8 Enforcement Action. 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.

- 9.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 9.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 9.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 9.12 Use and Return of Aggrieved Employee Data. Information provided to Plaintiff pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to Plaintiff by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court.
- 9.13 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.
- 9.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 9.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Alexander J. Aroeste, Esq.
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com

vgranberry@lelawfirm.com
WHTS@lelawfirm.com

To: Defendant:

HILL, FARRER & BURRILL LLP

James A. Bowles (State Bar No. 89383)
jbowles@hillfarrer.com
Elissa L. Gysi (State Bar No. 281338)
egysi@hillfarrer.com
300 So. Grand Ave, 37th Fl.
Los Angeles, CA 90071
Tel: (213) 620-0460

- 9.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign; Vinesign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 9.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the parties shall notify the Court of pending Settlement, and request that the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

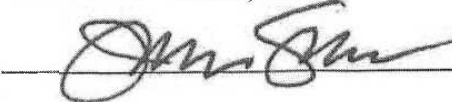
Dated: 02/21, 2025

AVERY L. JOSEPH



Dated: FEB 20, 2025

US AIR CONDITIONING
DISTRIBUTORS, LLC



By: MARK SCARSO

Title: VICE PRESIDENT OF
OPERATIONS & FINANCE

AO

APPROVED AS TO FORM ONLY:

Dated: 2/24/, 2025

LAVI & EBRAHIMIAN, LLP



Joseph Lavi, Esq.

Vincent Granberry, Esq.

Alexander J. Aroeste, Esq.

Attorneys for Avery L. Joseph, on behalf of
himself and all others Aggrieved Employees

Dated: FEB 21, 2025

HILL, FARRER, & BURRILL LLP



James A. Bowles, Esq.

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Attorneys for US Air Conditioning
Distributors, LLC

