

JOINT STIPULATION AND SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Jose Gonzalez (“Plaintiff”), individually and on behalf of the putative class, the State of California, and the allegedly aggrieved employees, and Defendant California Custom Power Sports, Inc. (“California Custom”). The Agreement refers to Plaintiff and California Custom collectively as “Parties,” or individually as a “Party.”

1. DEFINITIONS.

- 1.1. **“Action”** means Plaintiff’s lawsuit alleging wage and hour violations against California Custom, captioned *Jose Gonzalez v. California Custom Power Sports, Inc.*, Case No. 24CVP-0190, initiated on May 31, 2024, and pending in the Superior Court of California, County of San Luis Obispo.
- 1.2. **“Administrator”** means ILYM Group, Inc., the neutral third-party administrator which the Parties have agreed to appoint to administer the Settlement, pursuant to Court approval.
- 1.3. **“Administration Expenses Payment”** means the amount the Administrator will be paid from the Gross Settlement Amount (subject to Court approval) to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. **“Aggrieved Employees”** means all current and former non-exempt employees who worked for California Custom in California from June 3, 2023 through the date the Court enters an Order granting preliminary approval of the settlement.
- 1.5. **“Class”** means all current and former non-exempt employees who worked for Defendant California Custom Power Sports, Inc. in California at any time during the Class Period.
- 1.6. **“Class Counsel”** means Paul K. Haines, Sean M. Blakely, and Joel M. Gordon of Haines Law Group, APC.
- 1.7. **“Class Counsel Litigation Expenses Payment”** means the Court-approved amount allocated to Class Counsel for reimbursement of reasonable and actual litigation costs up to Thirty Thousand Dollars and Zero Cents (\$30,000.00) incurred to prosecute the Action.
- 1.8. **“Class Data”** means Class-Member-identifying information in California Custom’s possession, including each Class Member’s name, address, phone number, social security number, position held, and workweek information.
- 1.9. **“Class Member”** means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10. **“Class Member Address Search”** means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. **“Class Notice”** means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a Spanish translation, in the form, without material variation, attached as **Exhibit A** to this Agreement, and incorporated by reference into this Agreement.
- 1.12. **“Class Period”** means the period from May 31, 2020 through the date the Court enters an Order granting preliminary approval of the settlement.
- 1.13. **“Class Representative”** means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. **“Class Representative Enhancement Payment”** means the payment to the Class Representative for initiating the Action and providing services in support of the Action, which will not exceed Ten Thousand Dollars and Zero Cents (\$10,000.00).
- 1.15. **“Court”** means the Superior Court of California, County of San Luis Obispo.
- 1.16. **“Defense Counsel”** means Aaron B. Silva and Matthew H. Green of Murphy Austin Adams Schoenfeld, LLP.
- 1.17. **“Effective Date”** means the earliest date by which both of the following have occurred: (a) the Court enters a Judgment based on its Final Approval of the Settlement; and (b) the Judgment becomes final. The Judgment becomes final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; or (b) if one or more Participating Class Members object to the Settlement, the first day when the Judgment can no longer be appealed, which is either (i) the day after the deadline for filing a notice of appeal from the Judgment, if no timely appeal from the Judgment is filed, or (ii) the day after the appellate court affirms the Judgment and issues a remittitur, if an appeal from the Judgment is timely filed.
- 1.18. **“Fee Award”** means the Court-approved award of attorneys’ fees to be paid to Class Counsel for the services they rendered on behalf of Plaintiff, the Class, and the Aggrieved Employees. Class Counsel will not seek, and California Custom will not oppose, attorneys’ fees of more than one-third of the Gross Settlement Amount, or \$200,000.00, as their Fee Award.
- 1.19. **“Final Approval”** means the Court’s order granting final approval of the Settlement and entering judgment.

- 1.20. **"Final Approval Hearing"** means the Court's hearing on the Motion for Final Approval of the Settlement.
- 1.21. **"Final Judgment"** means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. **"Gross Settlement Amount"** means the non-reversionary total amount that California Custom shall pay in connection with this Settlement, in exchange for the release of claims described in Paragraph 5 of this Agreement. The Gross Settlement Amount is the gross sum of Six Hundred Thousand Dollars and Zero Cents (\$600,000.00), plus California Custom's share of payroll taxes on the portions of the Gross Settlement Amount attributed to wages (which shall be paid separately). The Gross Settlement Amount comprises the total amount California Custom agrees to pay, can ever be required to pay, or can ever cause to be paid, under the Settlement. The Gross Settlement Amount will be used to fund the following payments: (a) the Individual Class Payments, (b) the Individual PAGA Payments, (c) the LWDA PAGA Payment, (d) the Fee Award, (e) the Class Counsel Litigation Expenses Payment, (f) the Class Representative Enhancement Payment, and (g) the Administration Expenses Payment. No portion of the Gross Settlement Amount will revert to California Custom for any reason.
- 1.23. **"Individual Class Payment"** means each Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked by each participating Class Member during the Class Period.
- 1.24. **"Individual PAGA Payment"** means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA period by each Aggrieved Employee.
- 1.25. **"Judgment"** means the judgment entered by the Court upon granting Final Approval.
- 1.26. **"LWDA"** means the California Labor and Workforce Development Agency.
- 1.27. **"LWDA PAGA Payment"** means the 75% of the PAGA Penalties paid to the LWDA pursuant to California Labor Code § 2699(i).
- 1.28. **"Net Settlement Amount"** means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: (a) the Individual PAGA Payments, (b) the LWDA PAGA Payment, (c) the Class Representative Enhancement Payment, (d) the Fee Award, (e) the Class Counsel Litigation Expenses Payment, and (f) the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. **"Non-Participating Class Member"** means any Class Member who opts out of the Settlement's release of class action claims by sending the Administrator a valid and timely Request for Exclusion.

- 1.30. **"PAGA Pay Period"** means any pay period during which an Aggrieved Employee worked for California Custom for at least one day during the PAGA Period.
- 1.31. **"PAGA Period"** means the period from June 3, 2023 through the date the Court enters an Order granting preliminary approval of the settlement.
- 1.32. **"PAGA"** means the Private Attorneys General Act of 2004, at California Labor Code §§ 2698 *et seq.*
- 1.33. **"PAGA Notice"** means Plaintiff's June 3, 2023 notice to California Custom and the LWDA providing notice pursuant to California Labor Code § 2699.3(a).
- 1.34. **"PAGA Penalties"** means the total amount of \$20,000.00 in PAGA penalties to be paid from the Gross Settlement Amount, 25% of which (\$5,000.00) shall be paid to the Aggrieved Employees, and 75% of which (\$15,000.00) shall be paid to the LWDA in settlement of the Released PAGA Claims.
- 1.35. **"Participating Class Member"** means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. **"Plaintiff"** means Jose Gonzalez, the named Plaintiff in the Action.
- 1.37. **"Preliminary Approval"** means the Court's Order Granting Preliminary Approval of the terms and conditions of this Settlement.
- 1.38. **"Preliminary Approval Order"** means the proposed Order Granting Preliminary Approval of the Settlement.
- 1.39. **"Released Class Claims"** means the claims being released as described in Paragraphs 5.2 and 5.4 below.
- 1.40. **"Released PAGA Claims"** means the claims being released as described in Paragraph 5.3 and 5.4 below.
- 1.41. **"Released Parties"** means California Custom Power Sports, Inc. and any of its past, present, and future parents, subsidiaries, divisions, and/or affiliated companies and entities, and each of its/their past, present, and future owners, officers, directors, members, managers, employees, consultants, partners, subsidiaries, shareholders, attorneys, insurers, joint venturers, agents, successors, assigns, legal representatives, and/or any other persons acting on its/their behalf.
- 1.42. **"Request for Exclusion"** means a Class Member's timely and valid submission of a written request to be excluded from the Settlement's release of class action claims signed by the Class Member.
- 1.43. **"Response Deadline"** means 60 days after the Administrator mails Class Notices to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Released Class

Claims of the Settlement, or (b) fax, email, or mail written objections to class components of the Settlement. For Class Members to whom Class Notices are re-mailed after having been returned undeliverable to the Administrator, the Response Deadline shall be extended by an additional 14 days.

- 1.44. **“Settlement”** means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. **“Workweek”** means any week during which a Class Member worked for California Custom for at least one day during the Class Period.

2. **RECITALS.**

- 2.1. On May 31, 2024, Plaintiff filed a putative class action against California Custom in this Court captioned *Jose Gonzalez v. California Custom Power Sports, Inc.*, Case No. 24CVP-0190.
- 2.2. On August 8, 2024, Plaintiff filed a First Amended Class and Representative Action Complaint alleging the following claims against California Custom: (1) Failure to Pay All Overtime Wages under California Labor Code §§ 204, 510, 1194, and 1198; (2) Meal Period Violations under California Labor Code §§ 226.7, 512, and 558; (3) Rest Period Violations under California Labor Code §§ 226.7, 516, and 558; (4) Wage Statement Violations under California Labor Code § 226, *et seq.*; (5) Failure to Indemnify for All Necessary Business Expenditures under California Labor Code §§ 2802 and 2804; (6) Waiting Time Penalties under California Labor Code §§ 201-203; (7) Failure to Pay Sick Pay Wages under California Labor Code § 246; (8) Unfair Competition under California Business & Professions Code §§ 17200 *et seq.*; and (9) Civil Penalties under California Private Attorneys General Act of 2004, § 2698, *et seq.* As a condition of the Settlement, the Parties will stipulate to the filing of a Second Amended Class and Representative Action Complaint (“SAC”) which will add a claim for failure to pay all minimum wages and certain factual allegations pertaining to California Custom’s rounding and timekeeping policies/practices. The SAC shall be the operative complaint in the Action.
- 2.3. Pursuant to California Labor Code § 2699.3(a), Plaintiff gave written notice to California Custom and the LWDA by sending the PAGA Notice.
- 2.4. On January 9, 2025, the Parties participated in an all-day mediation presided over by mediator Michael Ludwig, Esq., which led to this Agreement to settle the Action. The Parties represent that, prior to mediation, they conducted significant investigation of the facts and law through informal discovery. California Custom produced documents relating to its policies, practices, and procedures regarding its wage and hour practices, paying non-exempt employees for all hours worked, meal and rest period policies, meal premiums paid, and payroll and operational policies. As part of California Custom’s production, Class Counsel represent they also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Class Counsel to understand the number of

workweeks and pay periods in the Class Period and the PAGA Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged within the course and scope of the Parties' mediation, are more than sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

- 2.5. The Court has not yet granted class certification.
- 2.6. The Parties, Class Counsel and Defense Counsel 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.** California Custom agrees to pay a total sum of Six Hundred Thousand Dollars and Zero Cents (\$600,000.00) as the Gross Settlement Amount. Under no circumstances will California Custom be required to pay or cause to be paid greater than the Gross Settlement Amount under the terms of this Settlement, except as to California Custom's share of payroll taxes for that portion of the Gross Settlement Amount attributed as wages (which shall be paid separately). California Custom has no obligation to pay the Gross Settlement Amount (or any payroll taxes) 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 Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to California Custom.
- 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 Plaintiff:** Class Representative Enhancement Payment, subject to Court approval, of no more than Ten Thousand Dollars and Zero Cents (\$10,000.00) to the Class Representative in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member and/or Aggrieved Employee. California Custom will not oppose Plaintiff's request for Class Representative Enhancement Payment that does not exceed this amount. Plaintiff will seek Court approval for any Class Representative Enhancement Payment. If the Court approves an amount of Class Representative Enhancement Payment that is less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Class Representative Enhancement Payment using IRS Form 1099. Plaintiff

assumes full responsibility and liability for all employee taxes owed on his Class Representative Enhancement Payment.

- 3.2.2. To Class Counsel: A Class Counsel Fee Award, subject to Court approval, in an amount up to one-third of the Gross Settlement Amount, which is currently estimated to be \$200,000.00, which will compensate Class Counsel for all work performed and to be performed in the Action. In addition, Class Counsel shall, subject to Court approval, request reimbursement of the Class Counsel Expense Payment. California Custom will not oppose requests for these payments that do not exceed these amounts.
- 3.2.3. The Administrator will pay the Class Counsel Fee Award and Class Counsel Litigation Expense Payment using IRS Forms 1099. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fee Award and the Class Counsel Litigation Expenses Payment and holds Released Parties harmless, and indemnifies Released Parties, from any dispute or controversy regarding any division or sharing of these Payments.
- 3.2.4. To the Administrator: Settlement Administration costs shall not exceed \$8,000.00, except for a showing of good cause and as approved by the Court. To the extent the Settlement Administration costs are less, or the Court approves payment of less than \$8,000.00, the Administrator will allocate the remainder to the Net Settlement Amount.
- 3.2.5. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period, and (b) multiplying the result by the total Workweeks worked by each Participating Class Member during the Class Period.
- 3.2.5.1. Tax Allocation of Individual Class Payments. Settlement payments made from the Net Settlement Amount to eligible Class Members will be attributed as 20% wages (reported by W-2), 40% interest and 40% penalties (reported by 1099). The Class Members are responsible for their share of the payroll taxes, which shall be deducted from their individual settlement payments. California Custom is responsible for the employer share of payroll taxes, outside of the Gross Settlement Amount, and these taxes will not be deducted from the Gross Settlement Amount and will be paid separately by California Custom.
- 3.2.5.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. However, Non-Participating Class Members will still receive an Individual PAGA Payment (to the extent otherwise applicable based on the terms of this Settlement) regardless of whether they submit a valid and timely

Request for Exclusion).

3.2.6. To the LWDA and Aggrieved Employees: PAGA Penalties in the total amount of \$20,000.00 to be paid from the Gross Settlement Amount. 75% of PAGA Penalties (\$15,000.00) shall be allocated to the LWDA PAGA Payment, and 25% of PAGA Penalties (\$5,000.00) shall be allocated to the Individual PAGA Payments.

3.2.6.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees, and (b) multiplying the result by the total PAGA Pay Periods worked by each Aggrieved Employee. Each Aggrieved Employee assumes full responsibility and liability for any taxes owed on his or her Individual PAGA Payment.

3.2.6.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS Forms 1099.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Estimated Class Workweeks and PAGA Pay Periods. Based on a review of its records to date, California Custom estimates at the time of mediation that there were approximately 184 Class Members who collectively worked a total of 11,780 Workweeks during the Class Period, and 107 Aggrieved Employees who collectively worked a total of 2,199 PAGA Pay Periods during the PAGA Period.

4.1.1. Escalator Clause: California Custom represents that there are an estimated 11,780 total collective workweeks worked during the Class Period, as of the date of mediation. If the number of workweeks during the Class Period exceeds this figure by more than 10% (i.e., if there are 12,959 or more workweeks), California Custom shall increase the Gross Settlement Amount on a proportional basis above the 10% threshold (i.e., if there was a 12% increase in the number of workweeks, California Custom shall increase the Gross Settlement Amount by 2%). Alternatively, California Custom has the option of shortening the Class Period end date to where total workweeks do not exceed 110% of the workweek representation identified above.

4.2. Delivery of Class Data. Within 30 calendar days after the Court grants Preliminary Approval, California Custom will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to

effect and perform under this Agreement. California Custom has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data to the Administrator as soon as reasonably feasible. Without any extension of the deadline by which California Custom must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. California Custom shall fully fund the Gross Settlement Amount, including all amounts necessary to fully pay California Custom's share of payroll taxes, by transmitting such funds to the Administrator no later than 30 calendar days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 10 business days after California Custom funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fee Award, the Class Counsel Litigation Expenses Payment, and the Class Representative Enhancement Payment. Disbursement of the Class Counsel Fee Award, the Class Counsel Litigation Expenses Payment and the Class Representative Enhancement Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and Individual PAGA Payments and send them to all Participating Class Members and 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. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members, including those whose Class Notices were returned undeliverable. The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved Employees, and including those Aggrieved Employees whose Class Notices were returned undeliverable. The Administrator may send Participating Class Members who are also Aggrieved Employees a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Participating Class Members and Aggrieved Employees whose checks are returned undeliverable without USPS forwarding addresses. Within 3 business days of receiving a returned check, the Administrator must re-mail checks to the forwarding address provided by USPS, or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Participating Class Members

and Aggrieved Employees whose re-mailed checks are returned as undeliverable. The Administrator shall promptly send a replacement check requested by any Participating Class Member or Aggrieved Employee whose original check was lost or misplaced prior to the check void date.

4.4.3. California Custom shall fully discharge its obligations to those Class Members to whom they will pay a Settlement Award through the mailing of a Settlement check, regardless of whether such checks are actually received and/or negotiated by Class Members. Any check that is not negotiated within one hundred eighty (180) days of mailing to a Class Member shall be transferred to cy pres recipient - Legal Services of Northern California.

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate California Custom to confer any additional benefits or make any additional payments to Class Members or Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when California Custom fully funds the entire Gross Settlement Amount, which includes all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees, and Class Counsel will release claims against all Released Parties as follows:

5.1. **Plaintiff's Release.** Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties, in exchange for consideration provided in this Agreement, from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, interest, attorneys' fees, costs, liabilities, expenses, and losses arising from or related to all facts, transactions, and occurrences which occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged based on the facts alleged in the Action and facts alleged in Plaintiff's PAGA Notice; (b) all claims that were, or reasonably could have been, ascertained during the Action, and (c) all claims released pursuant to Paragraph 5.4 below ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or to claims or actions based on occurrences outside the Class Period. Plaintiff acknowledges that he may discover facts or law different from, or in addition to, the facts or law that he now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts, his discovery of those facts.

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

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.

- 5.2. **Release by Participating Class Members Who Are Not Aggrieved Employees:** All Class Members who have not opted out will release and discharge California Custom from liability for all claims that were pled or could have been pled in the Action based on the factual allegations therein, that arose during the Class Period ("Released Class Claims"), including claims for: (1) minimum wages; (2) overtime wages; (3) meal period violations; (4) rest period violations; (5) failure to reimburse for all necessary business expenditures; (6) wage statement penalties; (7) waiting time penalties; (8) failure to pay sick pay; (9) unfair competition; and (10) civil penalties under the PAGA. Except as set forth in Paragraph 5.4 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.
- 5.3. **Release by Non-Participating Class Members Who Are Aggrieved Employees:** All Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA civil penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Action and the PAGA Notice, and ascertained in the course of the Action, including, but not limited to, any right or claim for PAGA penalties predicated on: (1) minimum wages; (2) overtime wages; (3) meal period violations; (4) rest period violations; (5) failure to reimburse for all necessary business expenditures; (6) wage statement penalties; (7) waiting time penalties; (8) failure to pay sick pay; (9) any violation or breach of the California Labor Code arising from or related to the conduct or omission alleged, or could have reasonably been alleged, in the Action and the conduct or omission ascertained in the course of the Action, including without limitation, any violation or breach of California Labor Code §§ 201-204, 226 et seq., 226.7, 245.5, 246, 510, 512, 516, 558, 1194, 1198, 2802, 2804, or any other similar wage orders ("Released PAGA Claims").
- 5.4. **Release by Participating Class Members Who Are Aggrieved Employees:** All Participating Class Members who are Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and discharge Released Parties, in exchange for consideration provided in this Agreement, from all Released Class Claims set forth in Paragraph 5.2 above and all Released PAGA Claims set forth in Paragraph 5.3 above.
6. **MOTION FOR PRELIMINARY APPROVAL.** Plaintiff shall prepare and file a motion for preliminary approval ("Motion for Preliminary Approval").

- 6.1. **Plaintiff's Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code § 2699 (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval, Granting Conditional Certification of the Class for settlement purposes only, and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with any Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve as Class Representative and disclosing all facts relevant to any actual or potential conflicts of interest with any Class Members and/or the Administrator; (vi) a signed declaration from Class Counsel attesting to its competency to represent the Class; its timely transmission to the LWDA of all necessary PAGA documents, including Plaintiff's PAGA Notice, the Operative Complaint, this Agreement; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator..
- 6.2. **Responsibilities of Counsel.** Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval, which they expect will occur no later than 30 days after the full execution of this Agreement. Class Counsel are responsible for obtaining from the Court a prompt hearing date for the Motion for Preliminary Approval and appearing in Court to advocate in favor of the Motion for Preliminary Approval, delivering the Court's Preliminary Approval to the Administrator, and submitting copies of the Motion for Preliminary Approval of the Settlement to the LWDA on the same day that it is filed with the Court.
- 6.3. **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and 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 ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, 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 and their Counsel 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 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. Notice to Class Members.
 - 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.
 - 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice, with Spanish translation, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate (1) the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and (2) the number of Workweeks and/or PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update the Class Members' addresses using the National Change of Address database.
 - 7.4.3. No later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undeliverable, the Administrator shall re-mail the Class Notice, via first-class USPS mail, using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notices are returned by the USPS a second time.
 - 7.4.4. For all Class Members whose Class Notices are re-mailed after having been returned to the Administrative as undeliverable, their Response Deadline to submit written objections, challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended by an additional 14 days beyond the Response Deadline otherwise provided in the Class Notice. The Administrator

shall inform the Class Member in writing of the extended Response Deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, California Custom, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement no later than 14 days after their respective receipt of the Class Notices, or the Response Deadline provided in the Class Notices, whichever is later.

7.5. Class Members' Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves from (or opt-out of) the Settlement's release of class action claims must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion no later than the Response Deadline – *i.e.*, 60 days after the Administrator mails the Class Notice (plus an additional 14 days for any Class Member whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's choice to be excluded from the Settlement and includes the Class Member's name, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. A Class Member who does not request timely exclusion from the Class Settlement will be deemed a Settlement Class Member and will be bound by all terms of the Class Settlement, if the Settlement is granted Final Approval by the Court.

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

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under

Paragraphs 5.2 and 5.4 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are also Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and will still receive an Individual PAGA Payment based on the terms of this Agreement.

7.5.5. Challenges to Calculation of Workweeks and PAGA Pay Periods. Each Class Member and Aggrieved Employee shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed after having been returned undeliverable to the Administrator) to challenge the number of Workweeks and/or PAGA Pay Periods allocated to the Class Member in the Class Notice. The Class Member and/or Aggrieved Employee may communicate such a challenge with the Administrator via fax, email, or mail. The Administrator must encourage the challenging Class Member and/or Aggrieved Employee to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks and/or PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or each Aggrieved Employee's allocation of PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

7.6. Objections to Class Action Components of the Settlement.

7.6.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fee Award, Class Counsel Litigation Expenses Payment, and Class Representative Enhancement Payment.

7.6.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline – *i.e.*, 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for

Class Members whose Class Notice was re-mailed after having been returned as undeliverable).

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

7.7. 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.

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

7.7.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. No later than five (5) days after the expiration of the Response Deadline, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (the "Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; and (c) copies of all Requests for Exclusion submitted (whether valid or invalid).

7.7.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned as undeliverable, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.7.4. Workweek and/or PAGA Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges to the calculation of Workweeks and/or all Aggrieved Employee challenges to the calculation of PAGA Pay

Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.7.5. Administrator's Declaration. No later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undeliverable, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

8. MOTION FOR FINAL APPROVAL. No later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code § 2699(1), a Proposed Final Approval Order, and a proposed Judgment (collectively "Motion for Final Approval").

8.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

8.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material modification to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Enhancement Payment, Class Counsel Fee Award, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

- 8.3. Continuing Jurisdiction of the Court. The Parties agree that, pursuant to Code of Civil Procedure § 664.6, 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 the Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law. 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.
- 8.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fee Award and Class Counsel Litigation Expenses Payment set forth in this Agreement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 8.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the reviewing Court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after any such remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Enhancement Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.
9. AMENDED JUDGMENT. If any amended judgment is required under California Code of Civil Procedure § 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.
10. ADDITIONAL PROVISIONS.
- 10.1. Submissions to the LWDA. At the same time as they submit this Settlement Agreement to the Court for Preliminary Approval, Class Counsel shall submit a copy of this Agreement to the LWDA, as required by California Labor Code § 2699(1)(2). Within ten (10) days following the Effective Date, Class Counsel shall submit a copy

of the Final Approval Order and Judgment entered by the Court to the LWDA, as required by California Labor Code § 2699(1)(3).

- 10.2. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by California Custom that any of the allegations in the Operative Complaint have merit or that California Custom has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that California Custom's defenses in the Action have merit. The Parties agree that class certification and representative treatment are for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval, or enter Judgment, California Custom reserves the right to contest certification of any class, and the manageability of any representative claim, for any reasons, and California Custom reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest California Custom's defenses. The Settlement, this Agreement and 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
- 10.3. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, California Custom and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; (5) in response to an inquiry or subpoena issued by a state or federal government agency; or (6) to the extent disclosure is required, as determined by a Party's counsel, by applicable law or regulation. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, California Custom and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 10.4. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in the Action (including with respect to California Code of Civil Procedure § 583.310), except such proceedings necessary to implement and complete the Settlement. Further, without further order of the Court, the Parties may agree in writing to

reasonable extensions of time to carry out any of the provisions of the Settlement.

- 10.5. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of the Settlement, to object to the Settlement, or appeal from the Judgment. Nothing in this Paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members
- 10.5. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibit(s) 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 concerning the Settlement or the Action.
- 10.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and California Custom, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.7. Cooperation. The Parties and their counsel 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 Mr. Ludwig and/or the Court for resolution.
- 10.8. 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.
- 10.9. No Tax Advice. Neither Plaintiff, Class Counsel, California Custom, nor Defense Counsel is providing any advice regarding taxes or taxability, nor shall anything in this Agreement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.
- 10.10. 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. A waiver or amendment of any provisions of this Agreement will not constitute a waiver of any other provision.

- 10.11. Rescission of Settlement Agreement (by California Custom). If more than ten percent (10%) of the Class Members opt-out of the Settlement by submitting Request for Exclusion forms, California Custom may, at their option, rescind and void the Settlement and all actions taken in furtherance of it will be null and void. California Custom must exercise this right of rescission, in writing, to Class Counsel within fourteen (14) calendar days after the Administrator notifies the Parties of the total number of Request for Exclusion forms received by the Response Deadline. If the option to rescind is exercised, California Custom shall be solely responsible for all costs of the Administrator accrued to that point.
- 10.12. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally approve the Settlement as provided herein; or (b) the Settlement does not become final for any other reason, then this Agreement, and any documents generated to bring it into effect, will be null and void. Any order or judgment entered by the Court in furtherance of this Agreement will likewise be treated as void from the beginning. In such event, if the Court rejects the Settlement despite the Parties' best efforts, the Parties will be equally liable for Administrator costs incurred. If the Court rejects the Settlement for reasons related to the conduct of one Party, that Party will be liable for all the Administrator's costs.
- 10.13. Termination of Settlement. Subject to the obligation(s) of cooperation set forth herein, either Party may terminate this Settlement if the Court declines to enter the Preliminary Approval Order in substantially the form agreed by the Parties, or the Agreement as agreed does not become final because of appellate court action. The Party terminating the Agreement shall give to the other Party (through its counsel) written notice of its decision to terminate no later than ten (10) business days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:
- 10.13.1. The Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms;
- 10.13.2. In the event the Settlement is terminated, California Custom shall have no obligation to make any payments to any Party, Class Member or Class Counsel, except that the Party terminating the Agreement shall pay the Administrator for services rendered up to the date the Administrator is notified that the settlement has been terminated;
- 10.13.3. The Preliminary Approval Order, including any order of class certification, shall be vacated;
- 10.13.4. The Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the settlement
- 10.13.5. Neither this Settlement, nor any ancillary documents, actions, statements or

filings in furtherance of settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

- 10.14. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.15. Applicable Law. All terms and conditions of this Agreement and its exhibit(s) will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.
- 10.16. 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 its drafter or participated in its drafting.
- 10.17. Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (e.g., DocuSign), or scanned copies of the signature page which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be on 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.
- 10.18. No Signature Required by Class Members. Only the Plaintiff will be required to execute this Settlement Agreement. The Settlement Notice will advise all Class Members of the binding nature of the release, and such shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member.
- 10.19. 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.
- 10.20. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by California Custom 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. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final disbursement of the Gross Settlement Amount, Plaintiff shall destroy, all paper and electronic versions of Class Data received from California Custom unless, prior to the Court's discharge of the Administrator's obligation, California Custom makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

- 10.21. Invalidity of Any Provision; Severability. Before declaring any provision of this Settlement invalid, the Parties request that the Court first attempt to construe the provisions valid, to the fullest extent possible, consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected.
- 10.22. 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.
- 10.23. 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.
- 10.24. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed delivered by United States mail, by overnight mail, by email, or by messenger, to the addresses set forth below:

To Plaintiff Jose Gonzalez:	HAINES LAW GROUP, APC Paul K. Haines (phaines@phaineslawgroup.com) Sean M. Blakely (sblakely@haineslawgroup.com) Joel M. Gordon (jgordon@haineslawgroup.com) 2155 Campus Drive, Suite 180 El Segundo, CA 90245
To California Custom:	MURPHY AUSTIN ADAMS SCHOENFELD, LLP Aaron B. Silva (asilva@murphyaustin.com) Matthew H. Green (mgreen@murphyaustin.com) 555 Capital Mall, Suite 850 Sacramento, CA 95814

IT IS SO AGREED.

For Plaintiff Jose Gonzalez:

Dated: 03/19/25, 2025

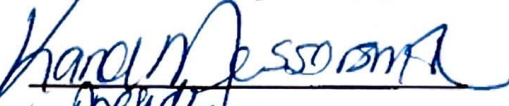


Jose Gonzalez (Mar 19, 2025 09:46 PDT)
Jose Gonzalez

For Defendant:

Dated: 3/27/25, 2025

California Custom Power Sports, Inc.

By: 
Its: President

APPROVED AS TO FORM

Dated: March 19, 2025

HAINES LAW GROUP, APC

By: 

Paul K. Haines
Sean M. Blakely
Joel M. Gordon

Attorneys for Plaintiff

Dated: 3/31/, 2025

MURPHY AUSTIN ADAMS
SCHOENFELD, LLP

By: 

Aaron B. Silva
Matthew H. Green

Attorneys for Defendant