CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement ("Agreement" or "Settlement") is made by and between plaintiff Beau Bergman ("Plaintiff") and defendant Johnson Controls Fire Protection LP ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1. "Action" means Plaintiff's lawsuit alleging wage and hour violations against Defendant, captioned *Bergman v. Johnson Controls Fire Protection LP*, San Diego Superior Court Case No. 37-2023-00004575-CU-OE-CTL, as amended.

1.2. "Administrator" means ILYM Group, 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 Preliminary Approval of the Settlement and as approved by the Court.

1.4. "Aggrieved Employee" means all current or former non-exempt employees employed by Defendant in California at any time during the PAGA Period.

1.5. "Class" means all current or former non-exempt employees employed by Defendant in California at any time during the Class Period.

1.6. "Class Counsel" means Kashif Haque, Samuel Wong, Jessica L. Campbell and Alex J. Valle of Aegis Law Firm, PC.

1.7. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action and as approved by the Court.

1.8. "Class Data" means Class Member identifying information in Defendant's possession including the Class Member's name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

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

1.10. "Class Member Address Search" means the Administrator's investigation and search for Class Members' current 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 substantially the same form, without material variation, attached hereto as Exhibit A and incorporated by reference into this Agreement.

1.12. "Class Period" means the period from August 7, 2018 through August 10, 2024 or the date of preliminary approval, whichever occurs first.

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

1.15. "Court" means the Superior Court of California, County of San Diego.

1.16. "Defense Counsel" means Marlene M. Moffitt of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

1.17. "Effective Date" means the date by when the later of the following have occurred: (i) notice of entry of the Court's order of Final Approval, if no motions for reconsideration and no appeals or other efforts to obtain review have been filed; or (ii) in the event that a motion for reconsideration, an appeal, or other effort to obtain review of the Final Judgment has been filed, the date after such reconsideration, appeal or review is finally concluded.

1.18. "Final Approval" means notice of entry of the Court's order granting final approval of the Settlement.

1.19. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.20. "Final Judgment" and "Judgment" means the Judgment entered by the Court upon granting Final Approval of the Settlement.

1.21. "Gross Settlement Amount" means $2,835,000 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount is all-inclusive meaning it will be used to pay all Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the Administrator's Expenses, all as approved by the Court. However, Defendant will be separately responsible for any employer-side payroll taxes on the Individual Class Payments. In the event any amount is not approved by the Court, such amount will become part of the Net Settlement Amount and not be a basis for rescinding, objecting to, or voiding this Settlement.

1.22. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to their respective number of Workweeks worked during the Class Period

1.23. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to their respective number of PAGA Pay Periods worked during the PAGA Period.

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

1.25. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under the Labor Code section 2699, subd. (i).

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

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

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

1.29. "PAGA Period" means the period from February 1, 2022 through August 10, 2024 or the date of preliminary approval, whichever occurs first.

1.30. "PAGA" means the California Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698. et seq.).

1.31. "PAGA Notice" means Plaintiff's February 1, 2023 letter to Defendant and the LWDA, and any subsequent amendments thereto, providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.32. "PAGA Penalties" means $100,000.00, which is the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to the LWDA in settlement of PAGA claims, as approved by the Court.

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

1.34. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.35. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.36. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.37. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.

1.38. "Released Parties" means Defendant and its former and present insurers, affiliates, subsidiaries, parent companies, predecessors, successors, assigns, employees, officers, directors, owners, members, agents, attorneys, administrators, representatives, heirs, estates, powers-of-attorney, and any individual or entity that could be jointly liable with Defendant.

1.39. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement, signed by the Class Member.

1.40. "Response Deadline" means 60 days after the Administrator mails Notice 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 Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice is resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.41. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

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

2. **RECITALS**.

2.1. On February 1, 2023 Plaintiff commenced this Action by filing a complaint alleging various wage-and-hour violations. Plaintiff asserted the claims in his individual capacity and as a class representative. On June 6, 2023, Plaintiff filed a First Amended Complaint that added an additional claim for penalties under PAGA. Plaintiff subsequently filed a Second Amended Complaint, which is the operative complaint in the Action ("Operative Complaint"). The Operative Complaint alleges claims for, among other things: failure to pay wages (including minimum, regular, overtime and doubletime wages including without limitation those based on alleged rounding violations, off-the-clock time, reporting time pay violations, sick pay violations, prevailing wage violations, and vacation pay violations); regular rate of pay violations for overtime, meal and rest period premiums, and sick pay; failure to provide meal periods, failure to permit rest breaks, failure to provide accurate itemized wage statements, failure to pay wages timely during employment, failure to pay all wages due upon separation of employment; failure to keep requisite payroll records; failure to reimburse business expenses; unlawful deductions including by requiring employees to receive wages through a paycard; impermissible use of paycards for payment of wages; and violation of Business and Professions Code Sections 17200 *et seq.* 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 claims alleged.

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

2.3. On May 9, 2024, the Parties participated in an all-day mediation presided over by Gig Kyriacou which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained through formal and informal discovery Defendant's employment policies, and Class Members' timekeeping and payroll records. 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. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the Settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Defendant promises to pay $2,835,000.00 as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant 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 Defendant. Under no circumstances, except as otherwise provided by Paragraph 8 below, shall Defendant be required to pay more than the Gross Settlement Amount and its employer-side payroll taxes.

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 approved by the Court at Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of up to $5,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of up to one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be $945,000 and a Class Counsel Litigation Expenses Payment of up to $30,000. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administration Expenses Payment of up to $9,650, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $9,650 the Administrator will retain the remainder in the Net Settlement

Amount. If a larger Administration Expenses Payment is approved by the Court, such larger amount will still be paid from the Gross Settlement Amount.

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

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

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of $100,000 to be paid from the Gross Settlement Amount, with 75% ($75,000.00) allocated to the LWDA PAGA Payment and 25% ($25,000) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' share of PAGA Penalties (meaning $25,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b) multiplying the result by each Aggrieved Employee's respective PAGA Pay Period. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. If the Court requires a higher allocation of the Gross Settlement Amount to PAGA Penalties, then such amount will still be paid from the Gross Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Members and Class Workweeks. Defendant estimates there are 871 Class Members who collectively worked a total of approximately 122,000 Workweeks, as of May 9, 2024.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously 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. Defendant has a continuing duty to immediately notify the Administrator if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant 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. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 65 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service 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/or Individual PAGA Payments and send them to the Class Members 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 for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA

Payment. Before mailing any checks, the Settlement 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 Class Members 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 Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or 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 State Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

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

5.1. <u>Plaintiff's General Release</u>. In addition to the releases below, Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge Released Parties from all claims, transactions, or occurrences, known or unknown, arising out of or relating in any way to Plaintiff's employment, including, but not limited to those under State or Federal law, in tort, common law, statute, contract, or equity, whether pled in the Actions or not, including but not limited to any claims under the California Labor Code, Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations Code, California Business and Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended) or any Industrial Welfare Commission Wage Order, and law of contract and tort, as well as for discrimination, harassment, retaliation, wrongful termination, lost wages, benefits, other employment compensation, emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs—now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time to the date of execution hereof ("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 based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff 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 or Plaintiff's discovery of them.

5.1.1. This release is intended to cover any claims not covered by the separate release in Plaintiff's Individual Settlement Agreement executed contemporaneously herewith. Plaintiff executes this release with the full knowledge that the release covers all possible claims against the Released Parties, to the fullest extent permitted by law, except claims based on an alleged breach of this Agreement and except claims that are identified in the separate Individual Settlement Agreement and Release and, for those such claims, the Individual Settlement Agreement and Release releases them.

5.1.2. Plaintiff's Waiver of Rights Under California Civil Code Section 1542.
For purposes of Plaintiff's Release, 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.

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this Settlement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Settlement, and that this Settlement contemplates the extinguishment of any such claims. Plaintiff warrants that he has read this Settlement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this Settlement and specifically about the waiver of section 1542, and that Plaintiff understands this Settlement and the section 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Settlement, and even so Plaintiff agrees that the releases and agreements contained in this Settlement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Settlement or with regard to any facts now unknown to Plaintiff relating thereto. Plaintiff further acknowledges this waiver of the provisions of section 1542 was separately bargained for and is an essential and material term of this Agreement.

5.2. Release by Participating Class Members: Plaintiff and all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, causes of action, and primary rights arising during the Class Period that were alleged in the Operative Complaint and PAGA Notice, and any amendments thereto, including those for all wages, damages, penalties, interest, unpaid costs, liquidated damages, attorney's fees, litigation costs, restitution, equitable relief, and other amounts recoverable under said claims, causes of action or legal theories of relief, including without limitation, all claims under the California Labor Code, Industrial Welfare Commission Wage Orders, and applicable law for unpaid wages (minimum, regular, overtime, and doubletime wages including without limitation those based on rounding violations, reporting time pay violations, sick pay violations, prevailing wage violations, and vacation pay violations); regular rate of pay violations for overtime, meal and rest period premiums, and sick pay; meal period violations; rest period violations; untimely wages during employment and at termination; non-compliant wage statements; failure to keep requisite payroll records; failure to reimburse business expenses; unlawful deductions including by requiring employees to receive wages through a paycard; impermissible use of paycards for payment of wages; and unfair business practices (Business and Professions Code §§ 17200 *et seq.* Except as set forth in Section 5.3 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. PAGA Release by Aggrieved Employees
Plaintiff, LWDA, and all 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 penalties asserted or that could have been asserted arising out of the facts alleged in the Operative Complaint and the PAGA Notice, and any amendments thereto, which occurred during the PAGA Period.

6. **MOTION FOR PRELIMINARY APPROVAL.** Within 30 calendar days after execution of this Agreement, Plaintiff shall file with the Court a Motion for Order Granting Preliminary Approval ("Motion") and supporting papers, which shall include this Agreement and which shall comply with all applicable rules for such Motion. Plaintiff will provide Defendant with a draft of the Motion at least five (5) business days prior to the filing of the Motion to give Defendant an opportunity to review and comment upon the Motion.

6.1. As a condition of Settlement, Plaintiff has agreed to file, and did file, a Second Amended Complaint and amended PAGA Notice that clarified and added claims for unpaid regular wages (including prevailing wages, reporting time pay, paid sick leave, and vacation wages) and unreimbursed business expenses.

6.2. Duty to Cooperate. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Agreement and obtain preliminary and final approval of the Agreement. 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, by Zoom or similar means, 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, by Zoom or similar means, 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 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 and provide a W-9 form, wire instructions, and any other necessary tax forms for funding, to Defense Counsel at least 50 days prior to the funding deadline.

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, PAGA Members, Workweeks, and 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 the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3. Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice 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 Notice is returned by the USPS a second time.

7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, Defendant 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 not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members 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 election to be excluded from the Settlement. To be valid, the Request for Exclusion must include the Class Member's full name; current mailing address; current email address or telephone number; and his/her signature. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2. 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 releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of 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; shall not receive an Individual Class Payment; will not have the right to object to the class action components of the Settlement; and will not be bound by the release under Paragraph 5.2. Regardless of whether they submit a Request for Exclusion, however, Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member 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) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail, and must provide any supporting documentation to the Administrator. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct as long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or 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 Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

7.7. Objections to Settlement.

7.7.1. 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 Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. The objection should be signed and include the Participating Class Member's full name, current address, current telephone number or email address, and signature for verification purposes, and describe why they believe the Settlement is unfair and whether they intend to appear at the final approval hearing. Participating Class Members may also or alternatively 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 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).

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

7.7.4. Class Members have no right to object to the PAGA components of the Settlement, as the LWDA is the real party in interest under PAGA.

7.8. <u>Administrator Duties</u>. 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.

7.8.1. <u>Website, Email Address and Toll-Free Number.</u> 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, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service 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.

7.8.2. <u>Requests for Exclusion (Opt-outs) and Exclusion List.</u> The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, 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 ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3. <u>Weekly Reports.</u> 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 undelivered, 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.

7.8.4. Workweek and/or 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 over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5. Administrator's Declaration. Not 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 the Class Notice, the Class Notices returned as undelivered, 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.

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

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE** If the number of Total Workweeks during the Class Period exceeds 122,000 by more than 10% (i.e., exceeds 134,200 Workweeks), the Gross Settlement Amount will increase proportionately by the amount it exceeds 10%. For example, if the number is 11% higher, the Gross Settlement Amount shall increase by 1%. In the alternative, if the number of Total Workweeks during the Class Period exceeds 122,000 by more than 10% (i.e., exceeds 134,200 Workweeks), Defendant may elect to shorten the end date of the Class Period and PAGA Period to May 23, 2024. However, Defendant shall make this election before the Settlement Administrator sends the Class Notice to the Class Members pursuant to Section 7.4.2.

9. **MOTION FOR FINAL APPROVAL**. Not 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 section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment

(collectively "Motion for Final Approval").

9.1. Response to Objections. Each Party retains the right to respond to any objection, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by 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 Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph and shall not be grounds for rescinding, objecting to, or voiding this Agreement.

9.3. 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.

9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9.5. 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 appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

11. ADDITIONAL PROVISIONS.

11.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant 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 class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant 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 Defendant'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).

11.2. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or 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.

11.3. Plaintiff's Individual Claims. In addition to this Agreement and the claims he is releasing hereby, Plaintiff is entering into a separate Individual Settlement Agreement, which shall provide for a separate individual payment, and which shall provide for an additional broad release, including a waiver of Civil Code Section 1542. That release, waiver and discharge of all claims shall include, but will not be limited to, any and all claims not covered by the releases herein, as well as additional claims described in the individual settlement agreement, which are separate and different from the claims alleged in the Action. The Parties acknowledge such approval of this Agreement may require disclosure of the Individual Settlement, and consent to same for that limited purpose.

11.4. Entire Agreement. Except with respect to Plaintiff's Individual Settlement Agreement, described immediately above, this Agreement and any attached Exhibit constitute the entire Agreement among these Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning this Agreement or its Exhibit other than the representations, warranties and covenants contained and memorialized in this Agreement and its Exhibit.

11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, 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.

11.6. 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 a mediator and/or the Court for resolution.

11.7. 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.

11.8. No Tax Advice. Neither Plaintiff, Class 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.

11.9. 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.

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

11.11. 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.

11.12. 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.

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

11.14. 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.

11.15. 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.

11.16. 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:

Aegis Law Firm, PC
Kashif Haque
Samuel Wong
Jessica L. Campbell
jcampbell@aegislawfirm.com
Alex J. Valle
avalle@aegislawfirm.com
9811 Irvine Center Drive, Suite 100
Irvine, California 92618

To Defendant:

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Marlene M. Moffitt
marlene.moffitt@ogletree.com
4660 La Jolla Village Drive, Suite 900
San Diego, California 92122

11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically, (i.e. DocuSign), 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 counterparts will be admissible in evidence to prove the existence and contents of this Agreement.

11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

AGREED AS TO FORM AND CONTENT BY PLAINTIFF AND DEFENDANT:

Date: August 26, 2024

PLAINTIFF BEAU BERGMAN

Beau Bergman (Aug 26, 2024 14:44 PDT)

Beau Bergman

Date: ____________

DEFENDANT JOHNSON CONTROLS FIRE PROTECTION LP

____

By:__________________________

AGREED AS TO FORM BY COUNSEL:

Date: 8/26/2024

AEGIS LAW FIRM, PC

Samuel Wong
Kashif Haque
Jessica Campbell
Alex J. Valle
Attorneys for Plaintiff

Date: ____________

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

____

Marlene M. Moffitt
Attorneys for Defendant

AGREED AS TO FORM AND CONTENT BY PLAINTIFF AND DEFENDANT:

Date: __________

PLAINTIFF BEAU BERGMAN

____
Beau Bergman

Date: August 5, 2024

DEFENDANT JOHNSON CONTROLS FIRE PROTECTION LP

____
By: Heather Brown, Vice President

AGREED AS TO FORM BY COUNSEL:

Date: ____________

AEGIS LAW FIRM, PC

____
Samuel Wong
Kashif Haque
Jessica Campbell
Alex J. Valle
Attorneys for Plaintiff

Date: August 5, 2024

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

____
Marlene M. Moffitt
Attorneys for Defendant

COURT-APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

(*Bergman v. Johnson Controls Fire Protection LP*, San Diego Superior Court Case No. 37-2023-00004575-CU-OE-CTL)

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Johnson Controls Fire Protection LP ("Defendant") for alleged wage and hour violations. The Action was filed by a former employee Beau Bergman ("Plaintiff") and seeks payment of (1) back wages and other relief for a class of non-exempt employees ("Class Members") who worked for Defendant in California during the Class Period (defined as August 7, 2018 to August 10, 2024) and (2) penalties under the California Labor Code Private Attorneys General Act of 2004 ("PAGA") for all non-exempt employees who worked for Defendant in California during the PAGA Period (defined as February 1, 2022 to August 10, 2024) ("Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, among other things, and (2) a PAGA Settlement requiring Defendant to fund individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendant's records, **your Individual Class Payment is estimated to be $______ (less withholding) and your Individual PAGA Payment is estimated to be $______.** The actual amount you receive may be different and will depend on a number of factors including tax withholdings and the number of employees participating in the Settlement. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendant's records showing that **you worked ________ workweeks** during the Class Period and **you worked ______ pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

Do Nothing and Receive Payment	You don't have to take any action to be part of the settlement. If you do nothing, you will be a Participating Class Member and remain eligible for an Individual Class Payment and an Individual PAGA Payment (if any). After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendant as detailed below.
Opt-Out **The Opt-out Deadline is ______________**	If you don't want to fully participate in the proposed Settlement, you can opt-out of the class portion of the Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 5 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and in exchange the Aggrieved Employees will release PAGA claims as detailed below, regardless of whether they opt-out of the class portion of the Settlement.
Object **Written Objections Must be Submitted by** **______________**	All Class Members who do not opt-out ("Participating Class Members") can object to the proposed Settlement. See Section 6 of this Notice.

Defendant will not retaliate against you for any actions you take with respect to the proposed settlement.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating various California employment laws including without limitation failure to pay wages (including minimum, regular, overtime and doubletime wages including without limitation those based on alleged rounding violations, off-the-clock time, reporting time pay violations, sick pay violations, prevailing wage violations, and vacation pay violations); regular rate of pay violations for overtime, meal and rest period premiums, and sick pay; failure to provide meal periods, failure to permit rest breaks, failure to provide accurate itemized wage statements, failure to pay wages timely during employment, failure to pay all wages due upon separation of employment; failure to keep requisite payroll records; failure to reimburse business expenses; unlawful deductions including by requiring employees to receive wages through a paycard; impermissible use of paycards for payment of wages; and violation of Business and Professions Code Sections 17200 *et seq.* Based on the same claims, Plaintiff has also asserted a claim for civil penalties under PAGA). Plaintiff is represented by attorneys in the Action: Samuel A. Wong, Kashif Haque, Jessica L. Campbell, and Alex J. Valle from Aegis Law Firm, PC ("Class Counsel.")

Defendant denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

The Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

A. <u>Defendant Will Pay $2,835,000 as the Gross Settlement Amount (Gross Settlement).</u> Defendant has agreed pay an "all in" amount to the Administrator of $2,835,000 to fund the Settlement. The Administrator will use the Gross Settlement to pay all Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to the California Labor and Workforce Development Agency ("LWDA").

B. <u>Payments from Gross Settlement.</u> At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following payments from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

i. Up to $945,000 (one-third (1/3) of the Gross Settlement) to Class Counsel for attorneys' fees and up to $30,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

ii. Up to $5,000.00 as a Class Representative Award for litigating the Action, working with Class Counsel, and representing the Class.

iii. Up to $9,650 to the Administrator for services administering the Settlement.

iv. Up to $100,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

Participating Class Members have the right to object to these payments. The Court will consider all objections.

C. Net Settlement Distributed to Class Members. After making the above payments in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (called the "Net Settlement") as Individual Class Payments to Participating Class Members based on their Class Period Workweeks. The Administrator may distribute your Individual Class Payment and Individual PAGA Payment by way of a single check that combines both payments.

D. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest, penalties, etc. ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. (Defendant will separately pay employer payroll taxes it owes on the Wage Portion.) The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

E. Deadline to Deposit or Cash Payment Checks. Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Administrator shall pay all funds from such uncashed checks to the California State Controller's Unclaimed Property Fund. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

F. Conditions to Settlement. The Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering Judgment. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that in those instances the Settlement will be void; Defendant will not pay any money; no settlement payments will be made; and no releases will be effective.

G. Administrator. The Court has appointed a neutral third party company ("Administrator"), to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks and Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in

Section 9 of this Notice.

H. Participating Class Members' Release. After Defendant has fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opt out by validly and timely excluding yourself from the Class Settlement, you will be bound by the following release:

> Plaintiff and all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, causes of action, and primary rights arising during the Class Period that were alleged in the Operative Complaint and PAGA Notice, and any amendments thereto, including those for all wages, damages, penalties, interest, unpaid costs, liquidated damages, attorney's fees, litigation costs, restitution, equitable relief, and other amounts recoverable under said claims, causes of action or legal theories of relief, including without limitation, all claims under the California Labor Code, Industrial Welfare Commission Wage Orders, and applicable law for unpaid wages (minimum, regular, overtime, and doubletime wages including without limitation those based on rounding violations, reporting time pay violations, sick pay violations, prevailing wage violations, and vacation pay violations); regular rate of pay violations for overtime, meal and rest period premiums, and sick pay; meal period violations; rest period violations; untimely wages during employment and at termination; non-compliant wage statements; failure to keep requisite payroll records; failure to reimburse business expenses; unlawful deductions including by requiring employees to receive wages through a paycard; impermissible use of paycards for payment of wages; and unfair business practices (Business and Professions Code §§ 17200 *et seq.* Except as set forth in [Paragraph I, below], 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.

I. Aggrieved Employees' PAGA Release. After Defendant has paid the Gross Settlement, all Aggrieved Employees will be barred from asserting PAGA claims against Defendant as set forth in the Settlement, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, will be bound by the following release:

> Plaintiff, LWDA, and all 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 penalties asserted or that could have been asserted arising out of the facts alleged in the Operative Complaint and the PAGA Notice, and any amendments thereto, which occurred during the PAGA Period.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

A. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

B. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing $25,000 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.

C. Workweek/Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records and taking into account leaves of absence, gaps in employment and vacations, are stated in the first page of this Notice. You have until ______________ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax and providing any supporting documentation. Section 9 of this Notice has the Administrator's contact information.

The Administrator will send you a check for the amount of your payment by U.S. mail. Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the administrator as soon as possible.

5. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows. Regardless of whether you exclude yourself from the Settlement or "opt out," you will be bound by the release of PAGA claims if you are an Aggrieved Employee and will receive an Individual PAGA Payment in exchange for such release.

To opt out, you must submit to the Administrator, by First Class Mail, fax or email, a written, signed and dated request for exclusion postmarked no later than _______________. The address for the Administrator is ILYM Group, Inc., ___________; Fax: __________; Email: _______. The request for exclusion must state in substance that the Class Member has read this Notice and he or she wishes to be excluded from the settlement of the class action lawsuit entitled *Bergman v. Johnson Controls Fire Protection LP*, San Diego Superior Court Case No. 37-2023-00004575-CU-OE-CTL. The request for exclusion must contain your full name, current address, current telephone number or email address, and signature for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after , or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

6. HOW DO I OBJECT TO THE SETTLEMENT?

If you have not opted out and believe the Settlement should not be finally approved by the Court for any reason, you may object to the proposed Settlement. Objections may be in writing and state your full name, current address, current telephone number or email address, signature, and last four digits of your Social Security Number for verification purposes, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence should also state the name and number of the case, which is *Bergman v. Johnson Controls Fire Protection LP*, San Diego Superior Court Case No. 37-2023-00004575-CU-OE-CTL. Regardless of whether you submit a written objection, you may also appear at the final approval hearing (described in Section 9 below) and object.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _______________. The address for the Settlement Administrator is in Section ____ below.

Alternatively, you can object by attending (or hiring a lawyer at your own cost to attend for you) the Final Approval Hearing.

7. WHEN IS THE FINAL APPROVAL HEARING?

The Court will hold the Final Approval Hearing on ___________ at _(time)_ in Department C-72 of the San Diego County Superior Court, located at Hall of Justice, Sixth Floor, 330 W. Broadway, San Diego, CA 92101. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making any decisions. You can attend (or hire a lawyer to attend) either personally or virtually, although you are not required to do so. The hearing may be rescheduled by the Court without further notice to you. Check the Court's website for the most current information.

8. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to ___(specify entity)___'s website at ______(url)______. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court's website by going to (https://roa.sdcourt.ca.gov/roa/) and entering the Case Number for the Action, 37-2023-00004575-CU-OE-CTL.

DO NOT TELEPHONE THE SUPERIOR COURT ABOUT THIS NOTICE OR THE SETTLEMENT.

Settlement Administrator: ILYM Group, Inc.
Name of Company:
Email Address:
Mailing Address:
Telephone:
Fax Number:

Class Counsel:
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9. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund https://www.sco.ca.gov/Files-UPD/guide_upd_claiming.pdf for instructions on how to retrieve the funds.

10. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.