

1 MORGAN, LEWIS & BOCKIUS LLP
Barbara J. Miller (SBN 167223)
2 Alexander L. Grodan (SBN 261374)
600 Anton Boulevard, Suite 1800
3 Costa Mesa, CA 92626-7653
Tel: (714) 830-0600
4 Fax: (714) 830-0700
barbara.miller@morganlewis.com
5 alexander.grodan@morganlewis.com

6 Attorneys for Defendant
HOME DEPOT U.S.A., INC.

7 [Additional counsel listed on subsequent pages]
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF SANTA CLARA**

11
12 DOUGLAS PATTON, on behalf of the
State of California, as a private attorney
13 general,

14 Plaintiff,

15 vs.

16 HOME DEPOT U.S.A., INC., a
Corporation; and Does 1 through 50,
17 Inclusive,
18 Defendant.

CASE NO. 21CV387956

Hon. Sunil R. Kulkarni

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT
AND RELEASE**

1 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2 Norman B. Blumenthal, Esq. (State Bar No. 068687)

3 Kyle R. Nordrehaug, Esq. (State Bar No. 205975)

4 Aparajit Bhowmik, Esq. (State Bar No. 248066)

5 Christine T. LeVu, Esq. (State Bar No. 288271)

6 Andrew Ronan (State Bar No. 312316)

7 2255 Calle Clara

8 La Jolla, California 92037

9 Tel: (858) 551-1223

10 Fax: (858) 551-1232

11 Email(s): norm@bamlawca.com

12 kyle@bamlawca.com

13 AJ@bamlawca.com

14 christine@bamlawca.com

15 victoria@bamlawca.com

16 andrew@bamlawca.com

17 Attorneys for Plaintiffs

1 **I. INTRODUCTION**

2 1. This joint stipulation is made and entered into by and between the following
3 parties: Plaintiffs Salvador Reynosa, Jr. and Douglas Patton – individually, as class
4 representatives, and in the capacity of a private attorney general representing the state of
5 California – and Defendant Home Depot U.S.A., Inc. The Parties agree to fully and completely
6 settle all litigation by or among them along with claims brought on behalf of the state of
7 California subject to the terms and conditions set forth below and to the approval of the Court.
8 This joint stipulation supersedes any and all prior memoranda of understanding and accurately
9 sets forth the Parties’ class action and PAGA settlement to resolve all claims as detailed below.

10 **II. RECITALS**

11 2. **The *Patton* Class Action.** On January 26, 2021, Plaintiff Salvador Reynosa, Jr.
12 filed a putative class action against Home Depot U.S.A., Inc. in Riverside County Superior
13 Court on behalf of all non-exempt employees of Home Depot who worked in a California
14 Distribution Center. This complaint was removed to federal court, Eastern District of
15 California, Case No. 2:21-CV-01096-WBS-KJN. The complaint alleged claims for: 1) unfair
16 competition in violation of the California Business & Professions Code section 17200, *et seq.*;
17 2) failure to pay overtime wages in violation of Labor Code section 510, *et seq.*; 3) failure to
18 pay minimum wages in violation of Labor Code sections 1194, 1197, and 1197.1; 4) failure to
19 provide compliant meal periods in violation of Labor Code sections 226.7 and 512, and the
20 applicable IWC wage order; 5) failure to provide compliant rest periods in violation of Labor
21 Code sections 226.7 and 512, and the applicable IWC wage order; 6) failure to reimburse
22 employee for required business expenses in violation of Labor Code section 2802; and 7) failure
23 to provide wages when due in violation of Labor Code sections 201, 202, and 203.¹ Home
24 Depot removed the complaint to Central District of California under the Class Action Fairness
25 Act, and the case was then transferred to the Eastern District of California. On October 25,
26 2021, Reynosa filed a First Amended Complaint that added Plaintiff Douglas Patton as the first

27 ¹ Reynosa filed this action along with two other named plaintiffs, Natalie Heredia and Alberto
28 Muniz, both of whom subsequently withdrew from the action and voluntarily dismissed their
claims.

1 named plaintiff. The First Amended Complaint also added additional factual allegations that
2 employees were not paid for all of their wages, were not paid meal and rest period premiums at
3 the regular rate of pay, new off-the-clock allegations regarding unpaid time spent during
4 mandatory COVID-19 health screenings, and a claim that Home Depot failed to provide
5 accurate itemized wage statements in violation of Labor Code section 226.

6 3. **The *Patton* PAGA Action.** Prior to joining the *Patton* Class Action, Plaintiff
7 Patton gave notice to the California Labor and Workforce Development Agency on July 29,
8 2021 of alleged Labor Code violations experienced by non-exempt employees who worked in a
9 California Distribution Center and were classified as non-exempt employees. Plaintiff Patton
10 was represented by the same counsel as Plaintiff Reynosa and the notice letter alleged the same
11 violations as the *Patton* class action as well as an allegation regarding the failure to provide
12 suitable seating. Plaintiff Patton filed a PAGA representative action based on this notice letter
13 in Santa Clara County Superior Court on October 13, 2021, Case No. 21CV387956.² On May
14 10, 2022, Plaintiff Patton gave an amended notice to the State of an additional Labor Code
15 violation based on the purported failure to properly regulate temperature at the worksite in
16 violation of applicable regulations. On August 17, 2022, Plaintiff Patton filed a First Amended
17 Representative Action Complaint adding claims related Defendant's failure to maintain
18 temperature in each work area that provides reasonable comfort consistent with industry-wide
19 standards in compliance with California Code of Regulations, Title 8 Section 1 1070(15) to this
20 Action.

21 4. **Defendant Denies Liability and Asserts Strong Defenses.** Defendant denies
22 the claims alleged in both Actions, and, and asserts that, during all relevant times, employees
23 were properly paid for all hours worked, received all overtime wages to which they were
24 entitled, were provided with compliant meal and rest breaks in accordance with then-existing
25 California law, and were properly reimbursed for all necessary business expenditures.
26 Defendant also asserts that, at all times, employees received wage statements that were

27
28 ² Plaintiff Patton's PAGA complaint excluded the suitable seating claim asserted in the notice letter.

compliant with the Labor Code, were timely paid all wages as required under the Labor Code, and that Class Members who ended their employment with Defendant during the Class Period were properly compensated for all wages due as required by California law. Defendant further asserts that the alleged Wage Order violations relating to suitable seating and temperature regulation have no merit.

5. **Claims Aggressively and Completely Litigated.** After engaging in extensive discovery and motion practice, the parties participated in a mediation with Jeff Ross on November 14, 2022. After months of negotiations involving Mr. Ross, the Parties reached a global settlement and fully executed a memorandum of understanding regarding material settlement terms on April 14, 2023.

6. **The Parties Desire Resolution.** It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising from or related to the Actions.

III. SETTLEMENT DEFINITIONS

7. **“Actions”** means and refers to the lawsuits titled *Patton, et al. v. Home Depot U.S.A., Inc.*, United States District Court for the Eastern District of California, Case No. 21-cv-01096-WBS-KJN and *Patton v. Home Depot U.S.A., Inc.*, Santa Clara County Superior Court, Case No. 21CV387956.

8. **“Affiliates”** of Defendant means and refers to each individual or entity that: (1) during any portion of the Released Period, was Defendant’s subsidiary, related company or entity, division, parent company, sister company, affiliate, predecessor or successor; and/or (2) during any portion of the Released Period, directly or indirectly controlled or owned Defendant, was directly or indirectly controlled or owned by Defendant, or was directly or indirectly under common control or ownership with Defendant.

9. **“Agreement”** or **“Settlement Agreement”** means and refers to this Settlement Agreement.

10. **“Barragan Carved-Out Claims”** means and refers to the following claims: (1) claims for unpaid overtime based on alleged off-the-clock pre-shift and post-shift work; (2)

claims at issue as of November 1, 2022 in the cases *Utne v. Home Depot U.S.A., Inc.*, Northern District of California case number 16-CV-01854-RS and *Utne v. Home Depot U.S.A., Inc.*, Alameda County Superior Court case number 22CV011360; (3) claims based on the factual predicate for time spent on COVID-19 health screens; and (4) claims for waiting time penalties pursuant to California Labor Code Section 203 for Class Members whose employment with Home Depot ended before March 31, 2018.

11. **“Class”** means all Class Members.

12. **“Class Counsel”** means, for settlement purposes only, Blumenthal Nordrehaug Bhowmik De Blouw LLP.

13. **“Class Member(s)”** means any non-exempt, hourly associate employed by Home Depot U.S.A., Inc. (and its past and present Affiliates) in the State of California at a California supply chain facility at any point during the Class Period, excluding those associates who worked at the Tracy RDC prior to June 17, 2021.

14. **“Class Member Allocation”** means the estimated amount a Class Member may receive from this Settlement calculated by multiplying the Class Member Share by an estimated Net Settlement Amount.

15. **“Class Member Share”** means the number of Workweeks worked by the Class Member during the Class Period divided by the aggregate Workweeks worked by the Class during the Class Period.

16. **“Class Notice”** shall mean the document attached hereto as Exhibit A.

17. **“Class Period”** means the period from January 26, 2017 through April 16, 2023, except that the Class Period for Class Members who worked at the Tracy RDC shall be June 17, 2021 through April 16, 2023. The Class Period may be modified in accordance with Paragraph 82.

18. **“Class Representatives”** and/or **“Named Plaintiffs”** means, for settlement purposes only, Salvador Reynosa, Jr. and Douglas Patton.

19. **“Class Representative Released Claims”** means all claims, liabilities, and causes of action of every nature, kind, and description, in law, equity, or otherwise, which have

1 arisen, occurred, or existed at any time during the Class Period. The Class Representative
2 Released Claims include, but are not limited to, all claims, liabilities, and causes of action
3 arising out of or relating to Named Plaintiffs' employment with Defendant or the cessation of
4 that employment, claims for wrongful discharge, breach of contract, breach of the covenant of
5 good faith and fair dealing, fraud, violation of public policy, defamation, discrimination,
6 physical injury, emotional distress, claims under Title VII of the Civil Rights Act of 1964, as
7 amended, the Age Discrimination in Employment Act, the Americans With Disabilities Act, the
8 Federal Rehabilitation Act, the Family and Medical Leave Act, the California Fair Employment
9 and Housing Act, the Equal Pay Act of 1963, the California Family Rights Act, the provisions
10 of the California Labor Code (including all claims for wages, hours, conditions of work, pay,
11 and benefits), the Fair Labor Standards Act, and any other federal, state, or local laws and
12 regulations relating to employment, conditions of employment (including wage and hour laws),
13 and/or employment discrimination. The Class Representative Released Claims do not extend to
14 any claims or actions to enforce this Agreement, or to any claims for vested benefits,
15 unemployment benefits, disability benefits, social security benefits, or workers' compensation
16 benefits, or claims outside the Class Period. For purposes of Class Representative Released
17 Claims Class, Named Plaintiffs expressly waive and relinquish the provisions, rights, and
18 benefits, if any, of section 1542 of the California Civil Code, which reads

19 **A general release does not extend to claims that the creditor or releasing**
20 **party does not know or suspect to exist in his or her favor at the time of**
21 **executing the release and that, if known by him or her, would have**
22 **materially affected his or her settlement with the debtor or released party.**

23 20. **"Class Settlement"** means the settlement and final resolution of Released
24 Claims as set forth in this Agreement.

25 21. **"Complaint(s)"** means any complaint filed in any of the Actions defined as
26 follows:

27 a. **"Patton Class Action"** means *Patton, et al. v. Home Depot U.S.A., Inc.*,
28

b. “Patton PAGA Action” means *Patton v. Home Depot U.S.A., Inc.*, Santa Clara County Superior Court Case No. 21CV387956.

22. “**Court**” means the Santa Clara County Superior Court presiding over the *Patton* PAGA Action.

23. “**Date of Preliminary Approval**” means the date the Court approves this Settlement Agreement, and its exhibits, and enters an Order providing for notice to the Class Members, an opportunity to opt-out of the Settlement Class, an opportunity to submit timely objections to the settlement, a procedure for submitting claims, and setting a hearing for Final Approval of the settlement, including approval of attorneys’ fees and costs. The amount of fees and costs awarded by the Court will not affect approval of the Settlement Agreement.

24. “**Defendant**” means Home Depot U.S.A., Inc.

25. “**Defendant’s Counsel**” means Morgan, Lewis & Bockius LLP.

26. “**Deficient Opt-Out**” means an untimely Request for Exclusion or a Deficient Request for Exclusion that has not been cured of its deficiencies by the submitting Class Member within the time required by this Settlement Agreement.

27. “**Deficient Request for Exclusion**” means a Request for Exclusion that fails to include one or more of the following: (a) a signature; (b) the Class Member’s name; (c) a statement that the Class Member desires to exclude himself or herself from the case; or (d) the last four digits of the Class Member’s social security number or Home Depot employee ID.

28. “**Depository Bank**” means the financial institution where Defendant will deposit the Maximum Settlement Payment.

29. “**Excluded Claims**” mean (1) claims released by the Settlement Agreement filed in *Barragan v. Home Depot U.S.A., Inc.*, San Diego County Superior Court, Case No. 37-2019-00056110-CU-MC-CTL; (2) claims for vested benefits under an ERISA plan; (3) claims for wrongful termination; (4) claims for unemployment insurance, disability benefits, social security benefits, or workers’ compensation benefits; (6) claims based on acts that took place outside of the Class Period; and (7) PAGA claims based on acts that took place outside of the

1 PAGA Period.

2 30. “**Fairness Hearing**” or “**Final Approval Hearing**” means the hearing to be
3 scheduled by the Court after granting preliminary approval of the Settlement Agreement.

4 31. “**Final Approval**” means the date on which the Court enters the Final Approval
5 Order.

6 32. “**Final Approval Order**” means the Court’s order approving the Settlement
7 Agreement after the Fairness Hearing.

8 33. “**Home Depot**” means Defendant and all of its Affiliates.

9 34. “**Judgment**” means the judgment to be executed and entered by the Court
10 pursuant to this Agreement.

11 35. “**LWDA**” means the California Labor and Workforce Development Agency.

12 36. “**LWDA Penalty Amount**” is 75% of the PAGA Penalty Allocation.

13 37. “**Maximum Settlement Payment**” is the sum of One Million One Hundred and
14 Twelve Thousand and Five Hundred U.S. Dollars (\$1,112,500), which represents the maximum
15 amount of money payable under this Agreement, including but not limited to attorneys’ fees
16 and litigation costs, the Service Enhancement payment to the Class Representatives, all
17 settlement administration and distribution fees and costs, the Reserve Fund, the PAGA Penalty
18 Allocation, and all required payments to the Settlement Class but excluding any employer
19 payroll taxes, if any, due on the portion of the Settlement Class Member Share allocated to
20 wages which shall not be paid from the Maximum Settlement Payment and shall be the separate
21 additional obligation of Defendant.

22 38. “**Net Settlement Amount**” is the portion of the Maximum Settlement Payment
23 eligible for distribution to Settlement Class Members. It equals the Maximum Settlement
24 Payment less Class Counsel’s attorneys’ fees and litigation costs as approved by the Court,
25 Settlement Administration Expenses, the Reserve Fund, the LWDA Penalty Amount as
26 approved by the Court, the PAGA Group Payment, Service Enhancement to the Class
27 Representatives as approved by the Court, and all taxes except Defendant’s share of payroll
28

1 taxes.

2 39. **“Notice Period”** shall mean the period of sixty (60) days following the mailing
3 of the Settlement Documents by the Settlement Administrator. If the 60th day falls on a Sunday
4 or holiday, the Notice Period shall end on the next business day that is not a Sunday or holiday.
5 The Notice Period shall be extended by fourteen (14) days in the event of a remailing of a Class
6 Notice.

7 40. **“PAGA”** means the California Labor Code Private Attorneys General Act,
8 California Labor Code §§ 2698 *et seq.*

9 41. **“PAGA Group”** means all PAGA Group Members.

10 42. **“PAGA Group Member”** means any non-exempt, hourly associate employed
11 by Home Depot in the State of California at a supply chain facility at any point during the
12 PAGA Period, excluding those associates who worked at the Tracy RDC prior to June 17, 2021.

13 43. **“PAGA Group Member Amount”** means the PAGA Group Member Share
14 multiplied by the PAGA Group Payment.

15 44. **“PAGA Group Member Share”** means the Pay Periods worked by the PAGA
16 Group Member during the PAGA Period divided by the aggregate number of Pay Periods
17 worked by the PAGA Group during the PAGA Period.

18 45. **“PAGA Group Notice”** means the document attached hereto as Exhibit B.

19 46. **“PAGA Group Payment”** is 25% of the PAGA Penalty Allocation.

20 47. **“PAGA Penalty Allocation”** means the gross amount of Twenty Thousand U.S.
21 Dollars (\$20,000) which the Parties have allocated to settle claims for civil penalties under
22 PAGA or such other amount as ordered and approved by the Court.

23 48. **“PAGA Period”** means January 26, 2020 through April 16, 2023, except that the
24 PAGA Period for PAGA Group Members who worked at the Tracy RDC shall be June 17, 2021
25 through April 16, 2023.

26 49. **“PAGA Released Claims”** means PAGA claims arising during the PAGA
27 Period made on behalf of the LWDA and/or State of California included in any notice provided
28 to the LWDA by any Named Plaintiffs or as pleaded in any Complaint or that could have been

1 pled based on factual allegations contained in the Operative Complaint or any written notice
2 provided to the LWDA, including PAGA claims for or predicated on (1) unpaid wages; (2)
3 unpaid overtime (included alleged violations of Labor Code Sections 210, 221, 510, 558, 1194,
4 1198 and similar provisions of the California Wage Orders); (3) minimum wage violations
5 (including alleged violations of Labor Code Sections 210, 221, 1194, 1197, 1197.1, and similar
6 provisions of the California Wage Orders); (4) failure to provide meal and/or rest breaks in
7 accordance with Labor Code Section 512 (and/or the applicable California Wage Order); (5)
8 failure to properly calculate and/or pay break premiums as required by Labor Code Section
9 226.7 (and/or the applicable California Wage Order); (6) violations of California's sick leave
10 laws (including COVID-related emergency sick leave); (7) miscalculation of the regular rate
11 and/or rate for payment of sick leave and/or emergency sick leave; (8) failure to reimburse for
12 work-related expenditures in violation of Labor Code Section 2802 (and/or the applicable
13 California Wage Order); (9) failure to provide accurate wage statements or otherwise keep
14 accurate payroll records (alleged violations of Labor Code Section 226 and similar provisions
15 of the California Wage Orders); (10) failure to timely pay wages (including wages due upon
16 termination and waiting time penalties) as required by Labor Code Sections 201, 202, 203, 204,
17 and 227.3 (and/or the applicable California Wage Order); (11) any alleged failure to comply
18 with California's Wage Orders including provisions regulating conditions of employment
19 including temperature and suitable seating; and (12) civil penalties pursuant to PAGA based on
20 any of the foregoing alleged violations. PAGA Released Claims include the *Barragan* Carved-
21 Out Claims. PAGA Released Claims, however, do not include the Excluded Claims, as defined
22 herein.

23 50. **"PAGA Settlement"** means the settlement and final resolution of PAGA
24 Released Claims as set forth in this Agreement.

25 51. **"Parties"** means collectively Named Plaintiffs and Defendant.

26 52. **"Pay Period"** means the nearest whole number calculated by determining the
27 number of days worked in the relevant time period based on Defendant's records, dividing by
28

14, and rounding to the nearest whole number.

53. **“Preliminary Approval”** means the Court’s preliminary approval of the terms of this Agreement.

54. **“Qualified Settlement Fund”** means the Qualified Settlement Fund (“QSF”) created under Internal Revenue Code Section 468B, to be overseen by the Settlement Administrator.

55. **“Released Class Claims”** means any claim for restitution, penalties, civil penalties, damages, or any other form of relief asserted or pleaded (or that could have been pleaded based on the factual allegations) in the Operative Complaint and/or notice provided to the LWDA by any Named Plaintiff that accrued during the Class Period, including claims for (1) unpaid wages; (2) unpaid overtime (including alleged violations of Labor Code Sections 210, 221, 510, 558, 1194, 1198 and similar provisions of the California Wage Orders); (3) minimum wage violations (including alleged violations of Labor Code Sections 210, 221, 1194, 1197, 1197.1, and similar provisions of the California Wage Orders); (4) failure to provide meal and/or rest breaks in accordance with Labor Code Section 512 (and/or the applicable California Wage Order); (5) failure to properly calculate and/or pay break premiums as required by Labor Code Section 226.7 (and/or the applicable California Wage Order); (6) violations of California’s sick leave laws (including COVID-related emergency sick leave); (7) miscalculation of the regular rate and/or rate for payment of sick leave and/or emergency sick leave; (8) failure to reimburse for work-related expenditures in violation of Labor Code Section 2802 (and/or the applicable California Wage Order); (9) failure to provide accurate wage statements or otherwise keep accurate payroll records (alleged violations of Labor Code Section 226 and similar provisions of the California Wage Orders); (10) failure to timely pay wages (including wages due upon termination and waiting time penalties) as required by Labor Code Sections 201, 202, 203, 204, and 227.3 (and/or the applicable California Wage Order). Released Class Claims include the *Barragan* Carved-Out Claims. Released Class Claims, however, do not include the Excluded Claims, as defined herein.

56. **“Releasees”** means Home Depot, its past and present Affiliates, and their

1 respective past and present predecessors, successors, assigns, representatives, directors, officers,
2 employees, and agents.

3 57. **“Request for Exclusion”** means a signed request from a Class Member to be
4 excluded from the Class Settlement. A valid Request for Exclusion must contain: (a) the Class
5 Member’s name; (b) a statement that the Class Member desires to exclude himself or herself
6 from the case; and (c) the last four digits of the Class Member’s social security number or
7 Home Depot employee ID.

8 58. **“Reserve Fund”** means the portion of the Maximum Settlement Amount
9 reserved for payment of disputed, untimely, and self-identified claims, after the end of the
10 Notice Period, in the amount of Ten Thousand U.S. Dollars (\$10,000).

11 59. **“Service Enhancement(s)”** means the incentive payments to each Class
12 Representative in an amount not to exceed \$10,000 as approved by the Court.

13 60. **“Settlement Administration Expenses”** are those reasonable expenses incurred
14 by the Settlement Administrator in effectuating the Settlement, not to exceed \$60,000, as
15 approved by the Court.

16 61. **“Settlement Administrator”** means and refers to the entity that will provide the
17 Class Notice to the Settlement Class Members, distribute Settlement Class Awards as described in
18 this Agreement, and administer the Settlement. The parties will mutually agree to a Settlement
19 Administrator. The Settlement Administrator will certify and agree to the data security protocols
20 required by Home Depot and keep all data regarding Class Members confidential. Administration
21 expenses shall not exceed the estimate of the Settlement Administrator to administer the settlement.

22 62. **“Settlement Class”** means all Settlement Class Members

23 63. **“Settlement Class Member”** means any Class Member who does not submit a
24 valid Request for Exclusion or who rescinds their Request for Exclusion in a timely manner.

25 64. **“Settlement Class Member Share”** means the Workweeks worked by the
26 Settlement Class Member during the Class Period divided by the aggregate number of
27 Workweeks worked by the Settlement Class during the Class Period.

28 65. **“Settlement Documents”** means the Class Notice (Exhibit A) and the PAGA

1 Group Notice (Exhibit B).

2 66. **“Settlement Effective Date”** means the date of the Court’s Final Approval
3 Order. If an appeal or motion to intervene is filed, then “Settlement Effective Date” means the
4 date that the Judgment is final and no longer subject to appeal where the resolution of the
5 appeal affirms the Final Approval Order. If an objection is made but no appeal is filed, then
6 “Settlement Effective Date” means the date that the time for filing an appeal has run. The
7 Settlement Effective Date cannot occur until there is no possibility of an appeal or further
8 appeal that could prevent this Settlement Agreement from becoming final and binding. The
9 Parties intend that the Final Approval Order will effectuate the releases and extinguish all
10 released claims, including but not limited to PAGA claims, as set forth in the Settlement
11 Agreement for the periods covered by this Settlement Agreement on the Settlement Effective
12 Date. The Court will retain jurisdiction to enforce the Settlement Agreement after the
13 Settlement Effective Date.

14 67. **“Settlement Payment”** means the Settlement Class Member Share multiplied by
15 the Net Settlement Amount less applicable taxes.

16 68. **“Workweek”** means the nearest whole number calculated by determining the
17 number of calendar days between the start date and end date in a relevant time period based on
18 Defendant’s records, dividing by 7, and rounding to the nearest whole number

19 **IV. REQUIRED AMENDED COMPLAINT**

20 69. **Preparation and Filing of Second Amended Class and Representative**
21 **Action Complaint.** Within five (5) days of the execution on this Stipulation, the Parties will
22 stipulate fore leave for the Class Representatives to file a Second Amended Class and
23 Representative Complaint (referred to herein as the “Operative Complaint”)in the *Patton* PAGA
24 Action that embraces all claims pleaded in the *Patton* PAGA Action, the *Patton* Class Action,
25 any notices Class Representatives provided to the state pursuant to PAGA, and all enumerated
26 claims in the Released Class Claims or the PAGA Released Claims. This Agreement is
27 contingent on the filing and acceptance by the Court of such an amended complaint in a form
28

1 approved by Defendant.

2 70. **Stay of Patton Class Action.** The Parties will stipulate to stay the *Patton* Class
3 Action pending approval of the settlement submitted in the *Patton* PAGA Action.

4 71. **Dismissal of Patton Class Action.** Within fourteen (14) court days after Date of
5 Preliminary Approval of this Settlement by the Court, the Parties will stipulate to dismiss the
6 *Patton* Class Action without prejudice. If the *Patton* Class Action is not dismissed, this
7 Agreement is null and void.

8 72. **Jurisdiction Over Settlement.** This Court has jurisdiction over the Parties and
9 the subject matter of this Action. This Court will have continuing jurisdiction under California
10 Code of Civil Procedure (“CCP”) Section 664.6 to ensure the continuing implementation of the
11 provisions of this Agreement and that the time within which to bring this Action to trial under
12 CCP 583.310 shall be extended for a period of not less than one (1) year starting from the date
13 of the signing of this Agreement by all Parties until the entry of the Final Approval Order and
14 Judgment or, if not entered, the date this agreement shall no longer be of any force or effect.

15 **V. SETTLEMENT TERMS**

16 73. **Barragan Settlement Approval.** This Settlement is expressly conditioned upon
17 approval of the settlement in the case entitled *Barragan v. Home Depot U.S.A., Inc.* (the
18 “*Barragan* Settlement”) pending in San Diego County Superior Court, Case No. 37-2019-
19 00056110-CU-MC-CTL. The failure to obtain approval of the *Barragan* Settlement will nullify
20 the settlement in this Action.

21 74. **No Admission of Liability.** Nothing in this Settlement shall be construed to be
22 or deemed an admission by Defendant of any liability, culpability, negligence, or wrongdoing
23 toward the Class Representatives, the Class Members, the PAGA Group Members, or any other
24 person, and Defendant specifically disclaims any liability, culpability, negligence, or
25 wrongdoing toward the Class Representatives, the Class Members, or any other person, or that
26 class or collective certification is appropriate. In addition, nothing in this Settlement shall be
27 construed to be or deemed an admission by Named Plaintiffs that their claims lacked merit.
28 Each of the Parties have entered into this Settlement Agreement with the intention to avoid

1 further disputes and litigation with the attendant inconvenience, expenses, and contingencies.
2 This Settlement Agreement and any related court documents or orders between the Parties may
3 not be cited or otherwise admitted as evidence of liability or that class certification is
4 appropriate or that a representative action could ever be manageably tried before a court. This
5 provision will survive regardless of whether the other terms of this Settlement Agreement are
6 otherwise voided.

7 75. **Full and Complete Settlement.** This Settlement shall resolve the entirety of the
8 *Patton* Class Action and the *Patton* PAGA Action.

9 76. **Class Certification.** For settlement purposes only, the Parties will stipulate to
10 the certification of the Class as to all Released Class Claims. If for any reason the Court does
11 not approve this Settlement Agreement, fails to enter the Final Approval Order, or fails to enter
12 the Judgment, or if this Settlement Agreement is lawfully terminated for any other reason, the
13 Parties shall return to their pre-Agreement positions relating to certification of the various
14 claims in dispute. Defendant shall retain the absolute right to dispute the propriety of class
15 certification and/or the ability of this action to proceed as a representative action on all
16 applicable grounds that exist in law or fact.

17 77. **Class Counsel and Representatives.** For settlement purposes only, the Parties
18 agree to appointment of Class Counsel as class counsel and to appointment of the Class
19 Representatives as representatives of the Class. Defendant's stipulation to the Class, Class
20 Counsel, and Class Representatives shall not be construed as an admission or acknowledgment
21 of any kind that (1) Class Representatives are adequate or typical; (2) Class Counsel is
22 adequate; (3) any class should be certified; or (4) any Released Class Claim is amenable to class
23 resolution.

24 78. **Court's Failure to Approve.** In the event that this Settlement Agreement is not
25 fully approved by the Court, fails to become effective, or is reversed, withdrawn, or modified
26 by the Court:

- 27 a. The Settlement Agreement shall have no force or effect, other than the
28 confidentiality and no publicity provisions of Paragraphs 86, 123, and 124

1 and the non-admission provisions in Paragraph 74;

2 b. The Settlement Agreement shall not be admissible in any judicial,
3 administrative, or arbitral proceeding for any purpose or with respect to
4 any issue, substantive or procedural.

5 c. The conditional certification of the Class shall become null and void, and
6 the fact of certification shall not be cited to or admissible in any judicial,
7 administrative, or arbitral proceeding for any purpose or with respect to
8 any issue, substantive or procedural; and

9 d. The Parties to this Settlement Agreement will not be deemed to have
10 waived any claim, objection, defense, or argument with respect to the issue
11 of class certification or the merits of Named Plaintiffs' claims.

12 79. **Settlement Allocations.** Defendant agrees to pay the Maximum Settlement
13 Payment plus Defendant's share of employment taxes and no more to the Depository Bank.
14 Under no circumstance will this Settlement Agreement be construed or interpreted to require
15 payment of more than the Maximum Settlement Payment other than any increase attributed to
16 the triggering of the Escalator Clause in Paragraph 81 based on the final count of covered
17 Workweeks. Payment of the Maximum Settlement Payment to the Depository Bank fully and
18 completely satisfies Defendant's obligations under this Agreement. Failure of the Settlement
19 Administrator to perform its obligations will not impact the enforceability of this Agreement or
20 its releases. The Settlement Administrator shall distribute the Maximum Settlement Payment
21 pursuant to the Final Approval Order. The Parties agree, subject to Court approval, to the
22 following allocations to be paid from the Maximum Settlement Payment:

23 a. Class Counsel shall be allocated Class Counsel attorney fees and costs as
24 approved by the Court. Defendant will not oppose a request for a
25 maximum of one-third (1/3) of the Maximum Settlement Payment, or
26 \$370,833 in attorneys' fees and an amount in litigation costs as
27 documented in Class Counsel's billing statement.

28 b. The Settlement Administrator shall be allocated Settlement Administration

Expenses as approved by the Court.

- c. Named Plaintiffs shall be allocated Service Enhancements as approved by the Court.
- d. The LWDA shall be allocated the LWDA Penalty Amount. In connection with settlement approval, the LWDA shall be notified of the existence of the settlement by Class Counsel. Should the LWDA object to the amount of this payment, the Parties agree to work in good faith to negotiate another agreeable amount.
- e. The PAGA Group shall be allocated the PAGA Group Payment. Each PAGA Group Member shall be entitled to receive their PAGA Group Member Amount.
- f. The Reserve Fund will be established to reserve for disputed, untimely, and self-identified claims.
- g. The Settlement Class Members shall be allocated the Net Settlement Amount (the portion of the Maximum Settlement Payment remaining after allocations (a) through (f) above) by payment of the Settlement Payments.
- h. If the Court approves a lesser amount of attorneys' fees, litigation costs, Settlement Administration Expense, or Service Enhancements than those sought by Named Plaintiffs or Class Counsel, any amounts not approved will be reallocated to Settlement Class Members, and the amounts awarded will not affect approval of the Settlement.

80. **Workweeks and Pay Period Calculation.** The Settlement Administrator shall determine the number of Workweeks worked by each Class Member during the Class Period and the number of Pay Periods worked by each PAGA Group Member during the PAGA Period based on Class data to be provided by Defendant.

81. **Escalator Clause.** Defendant estimates covered Workweeks to total approximately 752,000 through March 9, 2023. Should the final number of covered Workweeks add more than 10% of this estimate to the number of covered Workweeks,

1 Defendant will have the option of either a) increasing the Maximum Settlement Payment
2 proportionally, or b) shortening the Class Period so that covered Workweeks do not exceed
3 827,200.

4 82. **Exclusions (Opt-Outs).** PAGA Group Members cannot opt-out of (exclude
5 themselves from) this Settlement. All PAGA Group Members shall be bound by the PAGA
6 Settlement and will release the PAGA Released Claims. Class Members who wish to “opt-out”
7 of and be excluded from the Class Settlement must submit a written Request for Exclusion from
8 the settlement bearing a post-mark during the Notice Period. No Party shall encourage any
9 Class Member to opt-out. Requests for Exclusion that are not post-marked within the Notice
10 Period are Deficient Opt-Outs unless Defendant agrees in writing to accept the untimely
11 Request for Exclusion. Class Members who opt-out of the Class Settlement still release the
12 PAGA Released Claims if they are a PAGA Group Member even if they submit a valid Request
13 for Exclusion, and will still receive a check for their PAGA Group Member Amount. If a Class
14 Member submits a Deficient Request for Exclusion, the Settlement Administrator shall notify
15 the Class Member of the deficiency within five (5) business days of receipt. The Class Member
16 shall have until the end of the Notice Period or five (5) business days after the close of the
17 Notice Period if the notice of deficiency is sent by the Settlement Administrator within five (5)
18 business days of the end of the Notice Period to cure the deficiency or deficiencies. Uncured
19 deficiencies result in a Deficient Opt-Out. Class Members submitting Deficient Opt-Outs shall
20 be bound by the Settlement and its releases and will be considered Settlement Class Members
21 for settlement distribution purposes. Class Members shall be permitted to rescind their Request
22 for Exclusion in writing by submitting a rescission statement to the Settlement Administrator
23 not later than one (1) business day prior to the Fairness Hearing, or as otherwise ordered by the
24 Court. The Settlement Administrator shall not accept untimely Requests for Exclusion without
25 the written authorization of Defendant.

26 83. **Objections.** Only Settlement Class Members (*i.e.*, Class Members who do not
27 submit a valid Request for Exclusion) may object to the settlement. Class Members who submit
28 valid Requests for Exclusion are not eligible to object. All written objections must be sent no

1 later than the end of the Notice Period, and such deadline applies notwithstanding any argument
2 regarding non-receipt of the Class Notice. Settlement Class Members may also appear at the
3 Final Approval Hearing to object, even if they do not send a written objection. Settlement Class
4 Members who either fail to send timely written objections or appear at the Final Approval
5 Hearing to object waive any objections to this Settlement are foreclosed from filing any appeal
6 from any Final Approval Order issued by the Court. The Parties may file a response to any
7 objections submitted by objecting Settlement Class Members at or prior to the Final Approval
8 Hearing. Settlement Class Members shall be permitted to withdraw their objections in writing
9 by submitting a withdrawal statement to the Settlement Administrator not later than one (1)
10 business day prior to the Final Approval Hearing, or as otherwise ordered by the Court.

11 84. **Entry of Judgment.** At the Fairness Hearing, the Parties will request that the
12 Court, among other things: (a) enter a Final Approval Order in accordance with the terms of
13 this Settlement Agreement; (b) approve the settlement as fair, adequate, reasonable, and binding
14 on all Settlement Class Members; and (c) enter Judgment as required pursuant to the terms of
15 this Agreement.

16 **VI. DATA AND NOTICES TO CLASS MEMBERS AND PAGA GROUP MEMBERS**

17 85. **Defendant's Delivery of Data.** Within thirty (30) days after the
18 Date of Preliminary Approval by the Court, Defendant shall provide to the Settlement
19 Administrator information in electronic format regarding all Class Members, including name(s),
20 last known residence addresses, Social Security numbers, and dates worked as Class Members
21 during the Class Period. Defendant shall submit this information in electronic format as
22 specified by the Settlement Administrator and shall thereafter, during the notice, approval, opt-
23 out, and payment processes, assist the Settlement Administrator as necessary or as requested to
24 use, correct, or update this information in order to enable the Settlement Administrator to locate
25 and contact Class Members, and to provide information needed or requested by the Settlement
26 Administrator in order to make determinations on Class Members' challenges.

27 86. **Class Data Confidentiality.** Class data shall only be used by the Settlement
28 Administrator for the purpose of calculating settlement shares and finding and notifying Class

1 Members of the settlement. Class data for Class Members shall not be disclosed to the Named
2 Plaintiffs, Class Counsel, or any other Class Members without the written consent of Defendant
3 and will be subject to the Settlement Administrator's confidentiality agreement.

4 87. **Contact Information Confirmation.** Prior to mailing the Settlement
5 Documents, the Settlement Administrator will update the addresses for the Class Members
6 using the National Change of Address database and other available resources deemed suitable
7 by the Settlement Administrator. Any returned envelopes from the initial mailing with
8 forwarding addresses will be used by the Settlement Administrator to locate Class Members and
9 re-mail the Settlement Documents to the correct or updated address. The Settlement
10 Administrator will use all appropriate tracing methods, including skip tracing, to ensure that the
11 Settlement Documents are received by Class Members. The Settlement Administrator shall
12 also take reasonable steps including skip tracing to locate any Class Member whose Class
13 Notice is returned as undeliverable.

14 88. **Mailing of Notices.** Within thirty (30) days of receiving the class data from
15 Defendant and after it has completed all of the address updates for Class Members, the
16 Settlement Administrator shall mail the Class Notice to Class Members and the PAGA Group
17 Notice to PAGA Group Members. At least five (5) business days prior to this mailing, the
18 Settlement Administrator shall provide Defendant with a report listing the estimated Settlement
19 Payment amounts to each Class Member and PAGA Group Member Amounts for each PAGA
20 Group Member, and provide the same list to Class Counsel using unique identifiers for each
21 Class Member and PAGA Group Member and withholding any names or addresses.

22 89. **Content of Notices.** Each Class Notice mailed to a Class Member will identify
23 the dates of employment and/or number of compensable Workweeks that Defendant's records
24 indicate the individual worked as a Class Member and each Class Member's estimated Class
25 Member Allocation. Each PAGA Group Notice shall state the PAGA Group Member's
26 estimated PAGA Group Member Amount.

27 90. **Timing of Requests for Exclusions or Objections.** Class Members shall have
28 until the end of the Notice Period to submit a Request for Exclusion or object to the Settlement.

1 If the end of the Notice Period falls on a Sunday or holiday, the deadline will be the next
2 business day that is not a Sunday or holiday. Requests for Exclusion not mailed in compliance
3 with the timing requirements of this Paragraph are Deficient Opt-Outs unless Defendant agrees
4 in writing to accept the Request for Exclusion.

5 91. **Workweek Calculation Challenges.** Class Members shall have the right to
6 challenge the dates of employment and/or number of Workweeks worked as shown on the Class
7 Notice, but will bear the burden to prove that Defendant's data is incorrect. Challenges to the
8 dates of employment and/or number of Workweeks worked listed on the Class Notice must be
9 sent directly to the Settlement Administrator at the address indicated on the Class Notice. Any
10 challenge must be made during the Notice Period. The Settlement Administrator will inform
11 Class Counsel and Defendant's Counsel in writing of any challenges. The dates of employment
12 and/or Workweeks listed on the Class Notice are presumed to be accurate unless the Settlement
13 Class Member submits documentation demonstrating otherwise (*i.e.*, a Settlement Class
14 Member who fails to provide written proof will have his or her challenge denied). In the event
15 of any dispute over a Class Member's date(s) of employment, Defendant's Counsel will
16 investigate the challenge and determine whether any additional amount is owed to the
17 Settlement Class Member making the challenge. Defendant will decide whether the Settlement
18 Class Member's challenge shall be accepted. Defendant's decision is final and binding without
19 a right of appeal.

20 92. **Requests for Exclusion.** The Settlement Administrator shall (a) date stamp all
21 original Requests for Exclusion that it receives; (b) serve copies on Class Counsel and
22 Defendant's Counsel no later than five (5) business days after receipt, or immediately if
23 received within five (5) business days of the Fairness Hearing; and (c) attach copies of the date-
24 stamped Requests for Exclusion to the Settlement Administrator declaration in support of Final
25 Approval, which Class Counsel shall file with any personal identifying information other than
26 the names redacted.

27 93. **Rescission of Requests for Exclusion.** The Settlement Administrator shall (a)
28 date stamp all original rescissions of Requests for Exclusion it receives; (b) serve copies on

1 Class Counsel and Defendant's Counsel no later than five (5) business days after receipt, or
2 immediately if received within five (5) business days of the Court's Fairness Hearing; and (c)
3 attach copies of the date-stamped rescissions of Requests for Exclusion to the Settlement
4 Administrator declaration in support of Final Approval, which Class Counsel shall file with any
5 personal identifying information other than the names redacted.

6 94. **Information Tracking and Updates.** The Settlement Administrator shall (a)
7 provide to Class Counsel and Defendant's Counsel a weekly report of activity; and (b) establish
8 a toll-free telephone line and respond to inquiries and requests for information or assistance
9 from Class Members.

10 **VII. SETTLEMENT ADMINISTRATION**

11 95. **Payment of Maximum Settlement Payment.** No later than twenty-one (21)
12 days after the Settlement Effective Date, Defendant shall pay by wire transfer or otherwise
13 transmit to the Depository Bank the Maximum Settlement Payment in an account titled in the
14 name of "Home Depot Wage and Hour Settlement Fund." The account will be organized and
15 exist under the laws of the State of California, intended by the Parties to be a "Qualified
16 Settlement Fund" as described in Section 468B of the Internal Revenue Code of 1986, as
17 amended, and Treas. Reg. Section 1.468B-1, *et seq.* The monies so transferred, together with
18 any interest subsequently earned thereon, shall constitute the Qualified Settlement Fund. The
19 Qualified Settlement Fund by Defendant shall constitute the total Settlement cash outlay by
20 Defendant in connection with the resolution of this matter and this Settlement Agreement.
21 Defendant shall, upon notice from the Settlement Administrator, remit any additional required
22 employer payroll tax payments not covered by the QSF to the Settlement Administrator.

23 96. **Trustee.** The Settlement Administrator shall serve as Trustee of the Qualified
24 Settlement Fund and shall act as a fiduciary with respect to the handling, management, and
25 distribution of the Qualified Settlement Fund, including with regard to payment of valid claims
26 and reporting and paying taxes on such awards. The Settlement Administrator shall act in a
27 manner necessary to qualify the Qualified Settlement Fund as a "Qualified Settlement Fund"
28 under Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section

1.468B-1, *et seq.*, and to maintain that qualification.

97. **Calculation of Settlement Payments.** The Settlement Administrator shall be responsible for (a) determining each Settlement Class Member's Settlement Payment; (b) calculating each PAGA Group Member's PAGA Group Member Amount; (c) reporting to Class Counsel, Defendant's Counsel, and the Court regarding the completion of the tasks identified in this paragraph; and (d) carrying out other related tasks including the proper maintenance of the QSF and reporting required for that account, in accordance with the terms of this Settlement Agreement.

98. **Dispute Resolution.** All disputes relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until all payments and obligations contemplated by the Settlement Agreement have been fully executed.

99. **Tax Allocation.** Except for the Service Enhancement described above to be paid to the Class Representatives, all Settlement Payments to Settlement Class Members shall be allocated as follows: Twenty-five percent (25%) of each Settlement Payment as wages and seventy-five (75%) of each Settlement Payment as interest and penalties under the California Labor Code. All PAGA Group payments are penalties. The Service Enhancement to the Class Representatives shall be treated as compensation for non-wage related claims, injuries, and reimbursement.

100. **Employment Taxes and Indemnity.** Defendant is responsible for paying the employer portion of payroll tax contributions as required by law. The Class Representatives and Settlement Class Members must pay their own portion of payroll and all applicable income taxes. The Settlement Administrator shall be responsible for the timely calculation of the amount of employer payroll tax and inform Defendant of such amount. All Parties represent that they have not received, and shall not rely on, advice or representations from other Parties or their agents or attorneys regarding the tax treatment of payments under federal, state, or local law. To the extent any Settlement Payment results in any overpayment of unemployment

benefits to the Named Plaintiffs and/or any Settlement Class Members, the amount of any such overpayment shall be the responsibility of the individual Named Plaintiff and/or Settlement Class Member.

101. **Dissolution of QSF.** After all payments have been disbursed from the QSF, the Settlement Administrator shall dissolve the QSF and file a return (SF-1120) with the IRS.

VIII. CALCULATION OF SETTLEMENT PAYMENTS AND DISTRIBUTION OF NET SETTLEMENT FUND

102. **Eligibility for Settlement Payments and PAGA Group Member Amounts.** Only Settlement Class Members will be eligible to receive a Settlement Payment. Only PAGA Group Members will be Eligible for PAGA Group Member Amounts.

103. **Final Calculations of Settlement Payments.** Within ten (10) business days after the Settlement Effective Date, the Settlement Administrator shall make the final calculation of the Net Settlement Amount and the individual Settlement Payments and PAGA Group Member Amounts and provide a report of these calculations to Defendant's Counsel. Any unused amounts in the Reserve Fund will be included as part of the Net Settlement Amount. Upon completion of its final calculation of Settlement Payments and PAGA Group Member Amounts, and at least five (5) days prior to the distribution of payments to Settlement Class Members and PAGA Group Members, the Settlement Administrator shall provide the Parties with a redacted report listing the amount of all Settlement Payments to be made to each Settlement Class Member (with personal identifying information redacted) and all PAGA Group Member Amounts to be paid to PAGA Group Members (with personal identifying information redacted). The Settlement Administrator shall also provide Defendant's Counsel with an unredacted copy of the report.

104. **Settlement Payments.** Within thirty (30) days after the Settlement Effective Date, the Settlement Administrator shall issue and mail Settlement Payments to each Settlement Class Member, issue and mail the PAGA Group Member Amounts to each PAGA Group Member, issue and mail a check to the LWDA for the LWDA Penalty Amount, pay Class Counsel's attorney's fees and costs as approved by the Court, and issue checks to the Class

Representatives for the approved Service Enhancement(s) and mail the checks to Class Counsel.

105. **Tax Payments and Documents.** The Settlement Administrator shall be responsible for issuing and mailing any necessary tax reporting forms to Settlement Class Members, the Class Representatives, Class Counsel, and Defendant. The Settlement Administrator shall provide a declaration of payment, which will be filed with the Court and served on Class Counsel and Defendant's Counsel within thirty (30) days after mailing the payments to Settlement Class Members, the PAGA Group Members, the Class Representatives, the LWDA, and Class Counsel.

106. **Uncashed Settlement Checks.** Settlement Class Members who are sent Settlement Payments and PAGA Group Members who are sent PAGA Group Payments shall have one hundred and eighty (180) calendar days after mailing by the Settlement Administrator to cash their checks and will be so advised of such deadline. If such Settlement Class Members and/or PAGA Group Members do not cash their checks within that period, those checks will become void and a stop payment will be placed on the uncashed checks. Within thirty (30) days after the expiration date of the settlement checks, the Settlement Administrator shall provide to Class Counsel and Defendant's Counsel a verification/declaration signed under penalty of perjury that it had mailed the Settlement Payment and PAGA Group Payment checks to the Settlement Class Members and/or PAGA Group members, but that the checks were uncashed within the required timeframe. Replacement checks will be issued upon request until thirty (30) days after mailing of applicable tax documents to Settlement Class Members and PAGA Group Members. Settlement Class Members and PAGA Group Members shall have sixty (60) days to cash such replacement checks at which point they will be null and void. Any unclaimed funds will be sent to the State as unclaimed property.

IX. RELEASE BY SETTLEMENT CLASS MEMBERS, PAGA GROUP MEMBERS, AND CLASS REPRESENTATIVES

107. **Released Class Claims.** As of the Settlement Effective Date, Settlement Class Members for themselves, their respective former and present spouses, representatives, agents,

1 attorneys, heirs, administrators, successors, and assigns, release and discharge Releasees from
2 all Released Class Claims and all claims that may be brought under the Fair Labor Standards
3 Act (“FLSA”) that accrued during the Class Period.

4 108. **PAGA Released Claims.** As of the Settlement Effective Date, Named Plaintiffs
5 in their capacity as a private attorneys general acting on behalf of themselves and as proxy or
6 agent of the LWDA and State of California, release and discharge Releasees from all PAGA
7 Released Claims. As of the Settlement Effective Date, Named Plaintiffs, the LWDA, the State
8 of California, and any other individual or entity acting on behalf of or purporting to act on
9 behalf of the LWDA and/or the State shall be barred from asserting any of the PAGA Released
10 Claims in any future litigation, arbitration, or other legal forum. Any party to this Agreement
11 may use the Agreement to assert that this Agreement and the Judgment to be entered by the
12 Court following approval of this Agreement bars or limits any pending or later-filed action
13 asserting any of the PAGA Released Claims against any of the Releasees. The provisions of
14 this paragraph apply regardless of whether Named Plaintiffs and/or the PAGA Group Members
15 cash their checks for the PAGA Group Member Amounts.

16 109. **Class Representative Released Claims.** As of the Settlement Effective Date, in
17 consideration of the mutual covenants, Named Plaintiffs, for themselves, their respective former
18 and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and
19 assigns, generally release and discharge Releasees from Class Representative Released Claims.
20 Named Plaintiffs each acknowledge that they have not made any claims or allegations related to
21 discrimination, retaliation, or harassment, including sexual harassment, or sexual abuse, and
22 none of the payments set forth as consideration in this Agreement are related to such
23 discrimination, retaliation, or harassment, including sexual harassment or sexual abuse. Named
24 Plaintiffs acknowledge that they may discover facts or law different from, or in addition to, the
25 facts or law that they now know or believe to be true, but agree, nonetheless, that their Release
26 shall be and remain effective in all respects, notwithstanding such different or additional facts
27
28

or Named Plaintiffs' discovery of them.

X. DUTIES OF THE PARTIES

110. **Stay of Litigation.** The Parties agree that upon signing this Agreement, all litigation in the Actions will be stayed for all purposes.

111. **Filing of Amended Complaint.** Class Counsel shall draft a stipulation to amend their complaint in the *Patton* PAGA Action and file an amended complaint that embraces all of the Released Class Claims and provide the drafts to Defendant's Counsel. Upon approval from Defendant's Counsel, Class Counsel shall promptly file the stipulation and proposed amended complaint with the Court. The Court's acceptance of the amended complaint is a condition precedent to effectiveness of this Agreement. Should the Court fail to accept an amended complaint in a form acceptable to Defendant's Counsel, this Agreement shall be null and void.

112. **State Notices:** Class Counsel shall submit this Agreement to the LWDA in accordance with the applicable provisions of the PAGA. Defendant's Counsel shall make any required notices pursuant to the federal Class Action Fairness Act.

113. **Preliminary Approval.** Class Counsel shall prepare a draft motion for Preliminary Approval of the Class Settlement and final approval of the PAGA Settlement, and provide such draft to Defendant's Counsel for review and comment seven (7) days prior to filing the motion. The motion shall seek an order that includes the following:

- a. Preliminarily approving the Class Settlement;
- b. Approving the PAGA Settlement;
- c. Approving as to form and content the proposed Class Notice and PAGA Group Notice;
- d. Directing the mailing of the Class Notice by first class mail to Settlement Class Members and the mailing of the PAGA Group Notice to PAGA Group Members;
- e. Preliminarily certifying the class of the Settlement Class Members for purposes of settlement and preliminarily appointing Named Plaintiffs and

- 1 Class Counsel as representatives of the Settlement Class Members;
- 2 f. Preliminarily approving settlement administration services to be provided
- 3 by the Settlement Administrator;
- 4 g. Preliminarily approving the proposed Service Enhancement payments to
- 5 Named Plaintiffs as Class Representatives;
- 6 h. Preliminarily approving the application for payment of reasonable
- 7 attorneys' fees and costs to Class Counsel;
- 8 i. Scheduling a final Fairness Hearing.

9 114. **Dismissal of Other Lawsuits.** Upon Preliminary Approval of the Settlement,

10 Class Counsel will dismiss the *Patton* Class Action without prejudice.

11 115. **Cooperation.** The Parties shall cooperate with each other and the Settlement

12 Administrator during the process of giving Class Members notice and opportunity to opt out of

13 or object to the Settlement in every way necessary and appropriate to assure effective

14 communication to individual Class Members of information concerning their rights and

15 obligations under this Settlement Agreement. However, the Parties agree not to encourage any

16 Class Members to opt out of the Class Settlement. The Parties also agree not to object to any

17 Court filings consistent with this Agreement, and Plaintiffs will not object to the *Barragan*

18 Settlement. Further, no Party shall be compelled or required to waive the timing and notice

19 requirements contained in this Agreement.

20 116. **Final Approval.** Class Counsel shall provide the Court at least five (5) days

21 prior to the Fairness Hearing a declaration by the Settlement Administrator of due diligence and

22 proof of mailing of the Class Notice required to be mailed to Class Members by this Settlement

23 Agreement, and of the delivery results of the Settlement Administrator's mailings including

24 tracing and re-mailing efforts.

25 **XI. DUTIES OF THE PARTIES AFTER FINAL APPROVAL**

26 117. Class Counsel shall prepare and file a Motion for Final Approval of the

27 Settlement, and provide Home Depot the opportunity to review before filing. The Parties will

28 submit a proposed Final Approval Order, attached as Exhibit C, which shall include the findings

1 and orders:

- 2 a. Approving the Class Settlement, adjudging the terms thereof to be fair,
3 reasonable, and adequate, and directing that its terms and provisions be
4 carried out;
- 5 b. Approving the payment of Service Enhancement to Class Representatives;
- 6 c. Approving Class Counsel's application for an award of attorneys' fees and
7 reimbursement of out-of-pocket litigation costs;
- 8 d. Releasing and extinguishing all claims as provided by this Agreement
9 including Released Class Claims, PAGA Released Claims, and Class
10 Representative Released Claims;
- 11 e. Providing that the Court will retain jurisdiction to oversee administration
12 and enforcement of the terms of the Settlement Agreement and the Court's
13 orders; and
- 14 f. Providing the names of any Class Members who are not Settlement Class
15 Members.

16 118. Following entry of the Court's Final Approval Order, the Parties will each act to
17 assure its timely execution and the fulfillment of all its provisions, including but not limited to
18 the following:

- 19 a. Should an appeal be taken from the Final Approval Order, all Parties will
20 support the Final Approval Order on appeal;
- 21 b. Class Counsel and Defendant's Counsel will assist the Settlement
22 Administrator as needed or requested in the process of identifying and
23 locating Settlement Class Members and PAGA Group Members entitled to
24 payments and assuring delivery of such payments;
- 25 c. Class Counsel and Defendant's Counsel will assist the Settlement
26 Administrator as needed or requested in responding to late requests for
27 payments and the fair administration of that payment;
- 28 d. Class Counsel and Defendant's Counsel will cooperate with each other and

1 assist the Settlement Administrator as needed;

- 2 e. The Parties and Class Counsel will certify to the Court completion of all
3 payments required to be made by this Settlement Agreement.

4 **XII. PRELIMINARY TIMELINE FOR COMPLETION OF SETTLEMENT**

5 119. The preliminary schedule for notice, approval, and payment procedures carrying
6 out this Settlement is set forth below. The schedule may be modified depending on whether
7 and when the Court grants necessary approvals and orders notice to the class and sets further
8 hearings. In the event of such modification, the Parties shall cooperate in order to complete the
9 settlement procedures as expeditiously as reasonably practicable.

11 30 days after the Date of 12 Preliminary Approval	Defendant to provide to the Settlement Administrator information in electronic format regarding all Class Members, including name(s), last known residence addresses, Social Security numbers, and dates worked as Class Members during the Class Period
15 30 days after receipt of class data 16 from Defendant and after all 17 address updates for Class 18 Members are complete.	Settlement Administrator to mail the Class Notice and PAGA Group Notice to Class Members and PAGA Group Members. At least five (5) business days prior to this mailing, the Settlement Administrator shall provide Defendant's Counsel with a report listing the estimated Settlement Payments and PAGA Group Member Amounts, and shall provide the same report to Class Counsel without including names or addresses.
21 60 days after mailing Settlement 22 Documents.	Last day for Class Members to submit Requests for Exclusion or Object to the Class Settlement. PAGA Group Members cannot object. If the 60th day falls on a Sunday or holiday, the deadline will be the next business day that is not a Sunday or holiday

5 business days prior to the Fairness Hearing.	Class Counsel to provide to the Court a declaration by the Settlement Administrator of due diligence and proof of mailings of the Class Notice, and of the delivery results of the Settlement Administrator's mailings including tracing and re-mailing efforts.
1 business day prior to the Fairness Hearing.	Last day to rescind Requests for Exclusion
21 days after the Settlement Effective Date	Defendant to fund the Qualified Settlement Fund.
10 business days after Settlement Effective Date.	Settlement Administrator to make the final calculation of Settlement Payments from the Net Settlement Amount to be distributed to the Settlement Class Members and provide Defendant's Counsel with a report listing the amount of all payments to be made to each Settlement Class Member and/or PAGA Group Member.
At least 5 business days prior to the distribution of payments to Settlement Class Members from the Net Settlement Amount.	Settlement Administrator shall provide the Parties with a redacted report listing the amount of all Settlement Payments to be made to each Settlement Class Member and PAGA Group Member. The Settlement Administrator shall also provide Defendant's Counsel with an unredacted copy of the report.
30 days after the Settlement Effective Date	Settlement Administrator to distribute and pay Settlement Payments, PAGA Group Member Amounts, Service Enhancements, Class Counsel attorney's fees and costs approved by the Court, and the LWDA Penalty Amount.

30 days after distribution.	Settlement Administrator to provide a declaration of payment, which will be filed with the Court and served on Class Counsel and Defendant's Counsel.
180 days after distribution.	Uncashed settlement checks become void and a stop payment will be placed on the uncashed checks.
1 year after uncashed checks become void	Unclaimed settlement payments transferred to the State.
7 days after unclaimed funds transfer to the State	Settlement Administrator to provide Class Counsel and Defendant's Counsel with a verification/declaration signed under penalty of perjury that it had mailed the Settlement Payment and PAGA Group Payment checks to the Settlement Class Members and/or PAGA Group members, but that the checks were uncashed within the time specified herein, and that such amounts have been sent to the State.
1 year after Final Approval	Final Payment to the Settlement Administrator of Settlement Administration Fees.

XIII. MISCELLANEOUS

120. **Right to Withdraw.** Defendant has the right to withdraw from the Settlement if: (a) more than 5% of Class Members exclude themselves from the Class Settlement; (b) the Settlement is construed in such a fashion that Defendant is required to pay more than the Maximum Settlement Payment (excluding any increase attributed to the triggering of the Escalator Clause due to the number of covered work weeks set forth in paragraph 80 above); (c) the court fails to certify the Settlement Class or does not certify a class releasing the claims as provided by this Agreement, or otherwise issues an order inconsistent with any of the terms of this Agreement; (d) the *Barragan* settlement is not approved; (e) Named Plaintiffs or Class Counsel breach this Settlement Agreement or the MOU; or (f) the LWDA or any other state or government agency seeks to intervene in the action and/or commence an enforcement action.

1 Defendant will work with Named Plaintiffs in good faith to appropriately revise the Settlement
2 Agreement if the Court requires non-material changes. Defendant must provide Class Counsel
3 with notice of its intent to withdraw within fifteen (15) business days after receiving notice that
4 the triggering event has occurred. In the event of Defendant's withdrawal, Defendant will pay
5 the costs already incurred by the Settlement Administrator.

6 121. **Consequence of Withdrawal.** If Defendant withdraws from the Settlement, this
7 Settlement Agreement and any related settlement documents will be null and void, other than
8 the confidentiality and non-disclosure provisions of Paragraphs 86, 123, and 124, and the non-
9 admission provisions in Paragraph 74. Any class certified for settlement purposes will be
10 vacated and/or decertified. In such an event, neither this Settlement Agreement, nor any prior
11 settlement MOU, nor the settlement documents, nor the negotiations leading to the Settlement
12 Agreement may be used as evidence for any purpose, and Defendant shall retain the right to
13 challenge all claims and allegations in the action, to assert all applicable defenses, and to
14 dispute the propriety of class certification on all applicable grounds. The Parties and the
15 Actions will return to their status quo as of the date of the MOU.

16 122. **Modification.** Other than as otherwise expressly stated in this Agreement, the
17 Agreement may not be changed, altered, or modified, except in writing and signed by counsel
18 for the Parties hereto, and approved by the Court. This Settlement Agreement may not be
19 discharged except by performance in accordance with its terms or by a writing signed by the
20 Parties.

21 123. **Confidentiality.** Names of Settlement Class Members and their allocation
22 amounts shall be kept strictly confidential by the Settlement Administrator, who will not release
23 such information to Class Counsel and will only file such information under seal if necessary.
24 The Settlement Administrator may share sufficient individual data with Class Counsel to help
25 resolve individual Class Members' questions and issues regarding the distribution of Settlement
26 Payments, should they arise. Class Counsel agrees that any information they receive or have
27 received in connection with this Settlement Agreement, the Class Settlement, or the PAGA
28 Settlement may be used for purposes of the Actions only, and may not be used for any purpose

1 or in any other action or proceeding. This confidentiality provision will survive regardless of
2 whether the other terms of this Settlement Agreement are voided.

3 124. **No Publicity.** Named Plaintiffs and Class Counsel agree not to publicly disclose
4 the terms of this settlement except in court papers to effectuate the terms of the settlement or if
5 required by legal process. Named Plaintiffs and Class Counsel agree that they shall not issue a
6 press release, hold a press conference, publish information about the settlement on any website,
7 over social media, or otherwise publicize the settlement. Named Plaintiffs and Class Counsel
8 agree not to respond to press inquiries except to refer reporters to the papers filed with the
9 Court. Named Plaintiffs and Class Counsel agree not to publicize the Maximum Settlement
10 Payment, except as otherwise required by the Settlement Administrator to post the Judgment
11 and Final Approval Order on its website. This no publicity provision will survive regardless of
12 whether the other terms of this Settlement Agreement are voided.

13 125. **Returns and/or Destruction of Confidential Settlement Materials.** Named
14 Plaintiffs and Class Counsel agree to return, or at Defendant's option destroy, all confidential
15 documents produced to them for settlement purposes in this action after the Settlement
16 Administrator submits the final declaration of distributions.

17 126. **Authority to Enter Into Settlement.** The signatories represent and warrant that
18 they are fully authorized to enter into this Settlement Agreement and bind the Parties to the
19 terms and conditions of this Agreement.

20 127. **Service.** Unless otherwise specifically provided, all notices, demands, or other
21 communications given shall be in writing and shall be sent by both email and United States
22 mail. Notices will be deemed to have been duly given as of the third business day after mailing
23 by United States registered or certified mail addressed as follows:

24 To Plaintiffs' Counsel:

25 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
26 Norman B. Blumenthal (SBN 068687)
27 Kyle R. Nordrehaug (SBN 205975)
28 2255 Calle Clara
La Jolla, CA 92037
Telephone: (858) 551-1223

1 Facsimile: (858) 551-1232
2 norm@bamlawca.com
3 kyle@bamlawca.com
4

5 To Defendant's Counsel:

6 MORGAN, LEWIS & BOCKIUS LLP
7 Barbara J. Miller (SBN 167223)
8 Alexander L. Grodan (SBN 261374)
9 600 Anton Boulevard, Suite 1800
10 Costa Mesa, CA 92626-7653
11 Tel: (714) 830-0600
12 Fax: (714) 830-0700
13 barbara.miller@morganlewis.com
14 alexander.grodan@morganlewis.com
15

16 If the identity of the persons to be notified for any Party changes, or their address changes, that
17 Party shall notify all other Parties of said change in writing.

18 128. **Captions and Titles.** Paragraph titles or captions contained in this Agreement
19 are inserted as a matter of convenience and for reference. Headings do not define, limit, extend,
20 or describe the scope of this Settlement Agreement or any Agreement provision. Each term of
21 this Settlement Agreement is contractual and not merely a recital

22 129. **Drafting.** The Parties agree that the terms and conditions of this Settlement
23 Agreement are the result of lengthy, intensive arms-length negotiations between the Parties.
24 Neither party shall be considered the "drafter" of the Settlement Agreement for purposes of
25 having terms construed against that party, and this Settlement Agreement shall not be construed
26 in favor of or against any Party by reason of the extent to which any Party or his, her, or its
27 counsel participated in the drafting of this Settlement Agreement.

28 130. **Extensions of Time.** If a Party or the Settlement Administrator cannot
reasonably comply with an obligation under this Settlement Agreement by the deadline
applicable to that obligation, the Parties may stipulate to extension of the time period. Consent
to such a request for an extension will not be unreasonably withheld by the other Party.

131. **Governing Law.** The rights and obligations of the Parties hereunder shall be

1 construed and enforced in accordance with, and shall be governed by, the laws of the State of
2 California, without regard to principles of conflict of laws.

3 132. **No Impact on Benefit Plans.** Neither the settlement nor any amounts paid
4 under the Settlement Agreement will modify any previously credited hours or service under any
5 employee benefit plan, policy, or bonus program sponsored by Releasees. Such amounts will
6 not form the basis for additional contributions to, benefits under, or any other monetary
7 entitlement under Releasees' sponsored benefit plans, policies, or bonus programs. The
8 payments made under the terms of this Settlement shall not be applied retroactively, currently,
9 or prospectively, as salary, earnings, wages, or any other form of compensation for the purposes
10 of any Releasees' benefit plan, policy, or bonus program. Releasees retain the right to modify
11 the language of Releasees' benefit plans, policies and bonus programs to effect this intent, and
12 to make clear that any amounts paid pursuant to this Settlement are not for "hours worked,"
13 "hours paid," "hours of service," or any similar measuring term as defined by applicable plans,
14 policies, and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other
15 purpose, and that additional contributions or benefits are not required by this Settlement
16 Agreement.

17 133. **Integration.** This Settlement Agreement, along with attached exhibits, contains
18 the entire agreement between the Parties relating to the settlement, and all prior or
19 contemporaneous agreements, understandings, representations, and statements, whether oral or
20 written and whether by a Party or such Party's legal counsel. No rights created by this
21 Agreement may be waived except in writing.

22 134. **No Prior Assignments.** This Settlement Agreement shall be binding upon and
23 inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators,
24 and successors. The Parties represent, covenant, and warrant that they have not directly or
25 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
26 any person or entity any portion of any liability, claim, demand, action, cause of action, or
27 rights released or discharged by this Agreement.

28 135. **Class Member Signatories.** It is agreed that because the members of the Class

are so numerous, it is impossible or impractical to have each member of the Class execute this Settlement Agreement. The Class Notice attached hereto will advise all Class Members of the binding nature of the releases contained in this Agreement and such shall have the same force and effect as if this Settlement Agreement were executed by each member of the Class.

136. **Counterparts.** This Settlement Agreement may be executed in counterparts with signatures transmitted by facsimile or as an electronic image of the original signature. When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to all Parties. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement. An electronic signature shall have the same force and effect as the original signature.

READ CAREFULLY BEFORE SIGNING

DATED: 10/22/2023, 2023


Douglas Patton (Oct 22, 2023 11:26 PDT)
Plaintiff, Douglas Patton

DATED: 10/19/2023, 2023


Salvador Reynosa Jr (Oct 19, 2023 16:53 PDT)
Plaintiff, Salvador Reynosa, Jr.

DATED: 11/14, 2023

HOME DEPOT U.S.A., INC.

By: David Steele
Its: Vice President & Deputy General Counsel

APPROVED AS TO FORM:

1 DATED: November 30, 2023

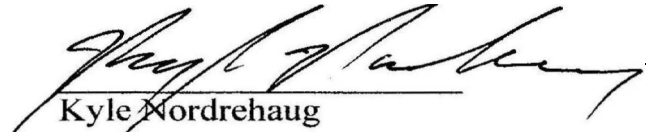
MORGAN, LEWIS & BOCKIUS LLP

2 

3 Barbara J. Miller
4 Alexander L. Grodan
5 Attorneys for Defendant

6 DATED: Nov. 1, 2023, 2023

7 BLUMENTHAL NORDREHAUG
8 BHOWMIK DE BLOUW LLP

9 

10 Kyle Nordrehaug
11 Attorneys for Plaintiffs
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY SANTA CLARA
Patton v. Home Depot U.S.A., Inc., Case No. 21CV387956

NOTICE OF CLASS ACTION SETTLEMENT

PLEASE READ CAREFULLY AS
THIS NOTICE MAY AFFECT YOUR RIGHTS

You are eligible to receive money from an employee class action lawsuit (“Action”) against Defendant Home Depot U.S.A., Inc. (“Defendant”) for alleged wage and hour violations.

Based on Defendant’s records, and the Parties’ current assumptions, **your Class Member Allocation is estimated to be <<\$_____>> (less withholding) and PAGA Group Member Amount is estimated to be <<\$_____>>.** The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your share of the PAGA Penalty Allocation, then according to Defendant’s records you are not eligible for share of the PAGA Penalty Allocation 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 and/or pay periods during either period, you can submit a challenge by the deadline date. See Section of this Notice below.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don’t Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Settlement Class Member, eligible for a Class Member Allocation and a share of the PAGA Penalty Allocation (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Class Claims). Additional information is set forth below.
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Response Deadline is _____.	If you don’t want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Settlement Administrator a written Request for Exclusion. If you request exclusion, you will receive no money from the Class Settlement and you will not be bound by the Class Settlement. Class Members who request exclusion cannot object to any portion of the proposed Settlement. See Section of this Notice. However, you cannot opt-out of the PAGA portion of the proposed Settlement. If you are a PAGA Group Member and exclude yourself, you will still be paid your share of the PAGA Penalty Allocation and will remain subject to the release of the PAGA Released Claims regardless of whether you submit a request for exclusion.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement	All Class Members who do not opt-out (“Settlement Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but

Written Objections Must be Submitted by the Response Deadline (_____)	every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section _____ of this Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Santa Clara County Superior Court, located at 191 North First Street, San Jose, CA 95113, in Department 1 before Judge Sunil R. Kulkarni. This hearing may change as explained below. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section _____ of this Notice.
You Can Challenge the Calculation of Your Workweeks / Pay Periods Witten Challenges Must be Submitted by the Response Deadline (_____)	The amount of your Class Member Allocation and your PAGA Group Member Allocation (if any) depend on how many workweeks you worked at least one day during the Class Period and how many pay periods you worked at least one day during the PAGA Period, respectively. The number of Class Period workweeks and number of PAGA Period pay periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section _____ of this Notice.

I. WHY DID I GET THIS NOTICE?

This notice explains that a settlement has been reached in a lawsuit, Santa Clara County Superior Court Case No. 21CV387956 (the “Action”). You are receiving this notice because the records of the Defendant indicate that you are a current or former non-exempt, hourly associate employed by Home Depot (and/or its past and present Affiliates) in the State of California at a California supply chain facility during the time period of January 26, 2017 through April 16, 2023 (the “Class”).¹ As a result, you are eligible to receive a portion of the settlement amount.

This is **not** a notice of a lawsuit against you. **You are not being sued.** Your participation in the Settlement will not affect your employment with Home Depot.

The purpose of this notice: (i) describes the Settlement, including how the Settlement monies will be allocated and how the Settlement may affect you, and (ii) explains your options with respect to the Settlement.

¹ Current or former non-exempt, hourly associates employed at the Tracy RDC are only included in the Class for the time period from June 17, 2021 through April 16, 2023.

II. WHAT IS THE CLASS ACTION LAWSUIT ABOUT?

This settlement resolves two lawsuits:

1. The *Patton* Class Action. On January 26, 2021, Salvador Reynosa, Jr. filed a putative class action against Home Depot U.S.A., Inc. in Riverside County Superior Court which moved to federal court in the Eastern District of California, Case No. 2:21-CV-01096-WBS-KJN. The complaint alleged claims for: 1) unfair competition; 2) failure to pay overtime wages; 3) failure to pay minimum wages; 4) failure to provide meal breaks as required by California law; 5) failure to authorize and permit rest breaks as required by California law; 6) failure to reimburse reasonable and necessary business expenses; and 7) failure to timely pay wages upon termination of employment. On October 25, 2021, Mr. Reynosa filed a First Amended Complaint that added Douglas Patton. The First Amended Complaint (“FAC”) also added additional factual allegations that Home Depot failed to properly calculate wages, overtime, and break premiums. In addition, the FAC made new allegations regarding COVID-19 health screenings and a claim that Home Depot failed to provide accurate itemized wage statements. Home Depot denied and continues to deny all of the allegations.

2. The *Patton* PAGA Action. On July 29, 2021, Mr. Patton filed a notice with the California Labor and Workforce Development Agency which he later amended on May 10, 2022. Mr. Patton’s notices claim that Home Depot violated applicable wage and hour laws as to non-exempt associates who worked in a California Distribution Center. The notices allege the same violations as those claimed by the FAC and also included allegations that Home Depot failed to provide suitable seating and temperature control. On October 13, 2021, Mr. Patton filed a lawsuit in Santa Clara County Superior Court, Case No. 21CV387956, under the California Private Attorneys General Act (“PAGA”) based on the allegations of these notices. He amended his lawsuit on August 17, 2022.

3. The Combined Lawsuit. As part of the settlement, the parties agreed to combine the *Patton* PAGA action and the *Patton* Class Action by filing a second amended complaint in the *Patton* PAGA action that includes all of the claims contained in the *Patton* Class Action. This settlement will be presented to Santa Clara County Superior Court for approval.

Home Depot denies all of the claims alleged in the Combined Lawsuit. Home Depot believes that it properly paid all associates for all hours worked and all overtime wages. Further, Home Depot contends that it provided all legally compliant meal and rest breaks, paid break premiums at the proper rates, and properly reimbursed business expenses. Home Depot also asserts that, at all times, employees received wage statements that were compliant with the Labor Code, were timely paid all wages as required under the Labor Code, and that Class Members who ended their employment with Home Depot during the Class Period were properly compensated for all wages due as required by California law. Home Depot further asserts that the alleged Wage Order violations relating to suitable seating and temperature regulation have no merit.

Consequently, Home Depot does not believe that any liability to Mr. Reynosa, Mr. Patton, or any other associate exists. Mr. Reynosa and Mr. Patton are called “Plaintiffs.”

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiffs to serve as Class Representatives, and the law firm Blumenthal Nordrehaug Bhowmik De Blouw LLP to serve as Class Counsel.

The Court has not ruled on whether Plaintiffs’ allegations have any merit. However, for the purpose of avoiding the time and expense of further litigation, Plaintiffs and Home Depot have negotiated a settlement and Home

Depot has agreed to pay a Maximum Settlement Payment of one million one hundred twelve thousand five hundred dollars (\$1,112,500). This settlement is **not** an admission by Home Depot of any liability.

III. WHO IS INCLUDED IN THIS CLASS ACTION?

The settlement class is defined as any non-exempt, hourly associate employed by Home Depot U.S.A., Inc. (and its past and present Affiliates) in the State of California at a California supply chain facility at any point from January 26, 2017 through April 16, 2023, excluding those associates who worked at the Tracy RDC prior to June 17, 2021. Members of the settlement class are called “Class Members.” The “Class Period” is January 26, 2017 to April 16, 2023.

IV. WHAT DOES THE PROPOSED SETTLEMENT OFFER?

Under the terms of the parties’ proposed settlement, the following will occur if the settlement is given final approval by the Court:

A. Home Depot will pay a \$1,112,500 Maximum Settlement Payment to an administrator.

B. The “Net Settlement Amount” is the Maximum Settlement Payment of \$1,112,500 less the combined total of attorney fees and litigation costs approved by the Court, costs of administering the settlement, a reserve fund (of no more than \$10,000), and extra payments to Plaintiffs because they brought the litigation (estimated to be no more than \$10,000 each for a total of \$20,000), civil PAGA penalties of \$20,000, and taxes other than Home Depot’s share of payroll taxes. The Net Settlement Amount will be allocated to Class Members in proportion to the number of weeks worked by Class Members. Any Class Member who does not opt-out of the Settlement will be paid from the Net Settlement Amount (Class Members will have checks mailed to them directly and will not have to submit a claim form to participate in the Settlement). All Class Members who worked after January 26, 2020 will get a small payment for PAGA penalties regardless of whether they opt-out.

C. The Net Settlement Amount will be divided among all Class Members. The amount of money you will receive will be based on the following: (1) whether you worked after January 26, 2020; (2) whether you opt-out of this settlement; and (3) the number of weeks you worked for Home Depot after January 26, 2017.

- a. If you do not opt out of the settlement, you will be eligible to receive a settlement payment in the amount of the total number of compensable weeks you worked for Home Depot during the Class Period, less applicable withholdings. **According to Defendant’s records, you worked XX compensable weeks. Your estimated Class Member Allocation is: \$INDIVIDUAL’S AMOUNT.**
- b. If you opt-out of the settlement, you will still be eligible for a small payment of your share of PAGA penalties if you worked after January 26, 2020. Your PAGA Group Member Allocation is set forth on page 1 of this Notice.

V. WHAT DO I RELEASE UNDER THIS SETTLEMENT

If the Court grants final approval of the settlement agreement and you do not opt out of the settlement, then you will release Home Depot from all claims for: restitution, penalties, civil penalties, damages, or any other form of relief asserted or pleaded (or that could have been pleaded based on the factual allegations) in the Operative

Complaint and/or notice provided to the LWDA by any Named Plaintiff that accrued during the Class Period, including claims for (1) unpaid wages; (2) unpaid overtime (including alleged violations of Labor Code Sections 210, 221, 510, 558, 1194, 1198 and similar provisions of the California Wage Orders); (3) minimum wage violations (including alleged violations of Labor Code Sections 210, 221, 1194, 1197, 1197.1, and similar provisions of the California Wage Orders); (4) failure to provide meal and/or rest breaks in accordance with Labor Code Section 512 (and/or the applicable California Wage Order); (5) failure to properly calculate and/or pay break premiums as required by Labor Code Section 226.7 (and/or the applicable California Wage Order); (6) violations of California's sick leave laws (including COVID-related emergency sick leave); (7) miscalculation of the regular rate and/or rate for payment of sick leave and/or emergency sick leave; (8) failure to reimburse for work-related expenditures in violation of Labor Code Section 2802 (and/or the applicable California Wage Order); (9) failure to provide accurate wage statements or otherwise keep accurate payroll records (alleged violations of Labor Code Section 226 and similar provisions of the California Wage Orders); (10) failure to timely pay wages (including wages due upon termination and waiting time penalties) as required by Labor Code Sections 201, 202, 203, 204, and 227.3 (and/or the applicable California Wage Order). Released Class Claims, however, do not include the Excluded Claims, as defined herein.

"Excluded Claims" means (1) claims released by the Settlement Agreement filed in *Barragan v. Home Depot U.S.A., Inc.*, San Diego County Superior Court, Case No. 37-2019-00056110-CU-MC-CTL; (2) claims for vested benefits under an ERISA plan; (3) claims for wrongful termination; (4) claims for unemployment insurance, disability benefits, social security benefits, or workers' compensation benefits; (6) claims based on acts that took place outside of the Class Period; and (7) PAGA claims based on acts that took place outside of January 26, 2020 through April 16, 2023.

If you opt-out, you will still release claims under PAGA as explained in the separate notice that you will receive from the administrator.

VI. WHAT ARE MY OPTIONS?

You have only three options for the class portion of the settlement as described in more detail below:

1. Do Nothing and receive a Settlement Payment
2. Opt-Out of the Settlement
3. Object (you cannot both Opt-Out and Object)

You cannot combine options. If you Opt-Out, you cannot object.

A. *Do nothing which accepts your share of the settlement and you will be bound by the release of all claims described above.* Settlement awards will be paid by check after the settlement is given final approval by the Court. The checks will be mailed to you by the Settlement Administrator. Your check will remain valid and negotiable for one hundred eighty (180) days from the date on which it is issued. After those one hundred eighty (180) days expire, the check will become void; *or*

B. *You may exclude yourself from the class action settlement, in which case you will not receive your share of the class action settlement and you will not be bound by the class action settlement.* You will, however, remain bound by the PAGA settlement for civil penalties on behalf of the State. If you choose to be excluded ("opt-out"), by no later than [REDACTED] (60 calendar days after mailing of this Notice), you must send a written request for exclusion, by fax to [REDACTED] or by mail, to the Settlement Administrator, [Name], located at [Address]. In order to be considered valid, your request for exclusion *must* be timely sent and *must* include your name, a statement that you wish to exclude yourself from the settlement, the last four digits of your social security number or Home Depot employee ID, and your signature. Should you change your mind, you may rescind your

Request for Exclusion in writing by submitting a rescission statement to the Settlement Administrator not later than one (1) business day prior to the Final Approval Hearing listed in **Section VIII**, below, or as otherwise ordered by the Court.

C. *You may object to the class action settlement.* The procedures for objecting to the class action settlement are described below in **Section VIII** of this form. If you opt-out of the settlement (as described above), you cannot object to it.

D. You have no options as to the PAGA portion of the settlement. *You may not opt-out or object to the PAGA portion of this settlement.*

The Settlement Administrator is:

Name of Company: _____

Email Address: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

Website: _____

VII. WHAT ARE THE PROCEDURES FOR PAYMENT?

A. You do not need to do anything further to receive your settlement check. The Settlement Administrator will calculate your share of the settlement and will issue you a check.

B. You will be given IRS tax forms for each of these amounts. You are responsible for paying the correct amount of taxes on each portion of your share of the settlement.

C. It is important for the parties to have your current address in order to be able to send you other mailings regarding the Action. You should contact the Settlement Administrator to report any change of your address after you receive this Notice. Failure to report a change of address may result in you not receiving your share of the settlement money.

VIII. HEARING ON PROPOSED SETTLEMENT

A Final Approval Hearing will be held before the Court on _____, 2024, at _____ a.m., before Hon. Sunil R. Kulkarni in Department 1 of the Santa Clara Superior Court, located on the second floor of the Downtown Superior Courthouse at 191 North Street, San Jose, CA 95113 to decide whether or not the proposed settlement is fair, reasonable, and adequate. The Court may adjourn or continue the hearing without further notice to you.

You are not required to attend the hearing. Counsel for Plaintiffs and the Class will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. The judge overseeing this case encourages remote appearances. (As of August 15, 2022, the Court's remote platform is Microsoft Teams.) Class members who wish to appear remotely should contact class counsel at least three days before the hearing if possible. Instructions for appearing remotely are provided at https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members may appear remotely using the Microsoft Teams link for Department 1 (Afternoon Session) or by calling the toll free conference call number for Department 1. Any class member who wishes to appear in person should check in at Court Services (1st floor, Downtown Superior Courthouse, 191 N. 1st St., San Jose) and wait for a sheriff's deputy to escort him or her to the courtroom for the hearing.

IX. PROCEDURES FOR OBJECTING TO SETTLEMENT

If you don't think the Settlement is fair, you can object to the Settlement and tell the Court that you don't agree with the Settlement or some part of it. You may not pursue this option if you opt-out of the settlement. To object, you must either appear at the Final Approval Hearing or send a letter that: (1) you sign; (2) includes your full name; (3) states the basis for your objection; and (4) if you intend to appear at the Final Approval hearing. If you object by written letter, the letter must be postmarked on or before [REDACTED], 2024 (60 calendar days after mailing of this Notice). If you would like to object to the settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. You may withdraw your objection in writing by submitting a withdrawal statement to the Settlement Administrator not later than one (1) business day prior to the Final Approval Hearing listed in Section VIII, above, or as otherwise ordered by the Court.

X. EXAMINATION OF COURT PAPERS AND QUESTIONS

This Notice summarizes the Settlement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service awards, the motion for final approval or other Settlement documents by going to the Settlement Administrator's website: << [REDACTED] >>. For more detailed information, you may view a complete copy of the settlement agreement, and any papers filed in the Action, which are on file with the Clerk of the Court, case number 21CV387956. The pleadings and all other records from this litigation may be examined by inspecting the Court file at the Downtown Superior Court, located at 191 North First Street, San Jose, CA 95113. You may also obtain more details by examining the Court's file on the internet via the Case Information Portal page for the California Superior Court for the County of Santa Clara at <https://cmportal.sccourt.org/Portal> and entering Case No. 21CV387956.

If you have any questions, you can call the Settlement Administrator at [REDACTED] or Class Counsel (see below for phone numbers.)

ATTORNEYS REPRESENTING THE CLASS

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (SBN 068687)

Kyle R. Nordrehaug (SBN 205975)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858) 551-1223

Facsimile: (858) 551-1232

Email: norm@bamlawca.com

Email: kyle@bamlawca.com

ATTORNEYS REPRESENTING HOME DEPOT U.S.A., INC.

MORGAN, LEWIS & BOCKIUS LLP

Barbara J. Miller (SBN 167223)

Alexander L. Grodan (SBN 261374)
600 Anton Boulevard, Suite 1800
Costa Mesa, CA 92626-7653
Tel: (714) 830-0600
Fax: (714) 830-0700
barbara.miller@morganlewis.com
alexander.grodan@morganlewis.com

**PLEASE DO NOT CALL THE COURT OR HOME DEPOT REGARDING THIS
SETTLEMENT.**

EXHIBIT B

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY SANTA CLARA
Patton v. Home Depot U.S.A., Inc., Case No. 21CV387956

NOTICE OF SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT LAWSUIT

I. WHY DID I GET THIS NOTICE?

This notice explains that a settlement has been reached in the above entitled case name and number, Santa Clara County Superior Court Case No. 21CV387956 (the “Action”). You are receiving this notice because the records of Home Depot U.S.A., Inc. (“Home Depot”) indicate that you are a member of the “PAGA Group” defined as current or former non-exempt, hourly associates employed by Home Depot (and/or its past and present Affiliates) in the State of California at a California supply chain facility other than the Tracy RDC during the time period of January 26, 2020 through April 16, 2023, or at the Tracy RDC during the time period of June 17, 2021 through April 16, 2023 (the “PAGA Period”).

The Action includes a claim under California’s Private Attorneys General Act (“PAGA”) for civil penalties based on alleged violations of California regulations as to a defined group of “Aggrieved Employees.” Under the settlement agreement, all Aggrieved Employees are entitled to receive a small portion of the civil penalties allocated to the State (the allocation of civil penalties totals \$20,000); the State is entitled to most of the \$20,000 penalty allocation. You meet the definition of an Aggrieved Employee and are eligible to receive a portion of the settlement amount allocated to civil penalties in addition to the settlement amount for the related class action settlement. You have separately received a notice for the class action portion of the settlement.

Home Depot will pay \$20,000 in civil penalties to resolve the PAGA claims. Under applicable law, 75% of those civil penalties will be paid directly to the State. The remaining 25%, or \$5,000, is being divided among the members of the PAGA Group based on the number of pay periods that each member worked relative to the total number of covered pay periods for all PAGA Group Members.

You are receiving this notice and the enclosed check because you are entitled to a portion of the penalty component of the settlement. A check for your portion of penalties is enclosed. Your amount was calculated based on the number of pay periods you worked during the PAGA Period.

II. WHAT IS THE PAGA LAWSUIT ABOUT?

Plaintiff Douglas Patton gave notice to the California Labor and Workforce Development Agency of alleged Labor Code violations experienced by non-exempt associates who worked in a California supply chain facility. Plaintiff Patton filed a representative action in Santa Clara County Superior Court on October 13, 2021, Case No. 21CV387956, under the Private Attorneys General Act (“PAGA”) based on this notice letter. On May 10, 2022, Plaintiff Patton gave an amended notice to the State of an additional Labor Code violation based on the purported failure to properly regulate temperature at the worksite in violation of applicable regulations. On August 17, 2022, Plaintiff Patton filed a First Amended Representative Action Complaint adding claims related temperature.

Home Depot denies Plaintiff’s claims, and asserts that, during all relevant times, associates were properly paid for all hours worked and all overtime wages. Further, Home Depot contends that it provided all legally compliant meal and rest breaks, paid break premiums at the proper rates, and properly reimbursed business expenses. Home Depot also asserts that, at all times, employees received wage statements that were compliant with the Labor Code, were timely paid all wages as required under the Labor Code, and that Class Members who ended their employment with Home Depot during the Class Period were properly compensated for all wages due as required

by California law. Home Depot further asserts that the alleged Wage Order violations relating to suitable seating and temperature regulation have no merit.

Consequently, Home Depot does not believe that any liability exists.

The Court has not ruled on whether Plaintiff's allegations have any merit. However, for the purpose of avoiding the time and expense of further litigation, the ultimate outcome of which is uncertain, and to provide a fair and reasonable resolution of this legal dispute, Home Depot has agreed to pay a total of \$20,000 in civil penalties to resolve the PAGA claims.

III. DO I HAVE OPTIONS?

You do not have any options and do not need to take any actions. The enclosed check belongs to you. The Settlement has already been approved by the Judge in this case. The check will remain valid for one hundred eighty (180) days. If you do not cash your check within 180 days, a stop payment will be placed on the check.

IV. WHAT IS THE IMPACT OF THE SETTLEMENT?

As a result of the settlement, you and every member of the PAGA Group releases Home Depot from claims under the PAGA as follows: claims arising from January 26, 2020 through April 16, 2023 and made on behalf of the LWDA and/or State of California contained in the Operative Complaint or any written notice provided to the LWDA, including PAGA claims for or predicated on (1) unpaid wages; (2) unpaid overtime (including alleged violations of Labor Code Sections 210, 221, 510, 558, 1194, 1198 and similar provisions of the California Wage Orders); (3) minimum wage violations (including alleged violations of Labor Code Sections 210, 221, 1194, 1197, 1197.1, and similar provisions of the California Wage Orders); (4) failure to provide meal and/or rest breaks in accordance with Labor Code Section 512 (and/or the applicable California Wage Order); (5) failure to properly calculate and/or pay break premiums as required by Labor Code Section 226.7 (and/or the applicable California Wage Order); (6) violations of California's sick leave laws (including COVID-related emergency sick leave); (7) miscalculation of the regular rate and/or rate for payment of sick leave and/or emergency sick leave; (8) failure to reimburse for work-related expenditures in violation of Labor Code Section 2802 (and/or the applicable California Wage Order); (9) failure to provide accurate wage statements or otherwise keep accurate payroll records (alleged violations of Labor Code Section 226 and similar provisions of the California Wage Orders); (10) failure to timely pay wages (including wages due upon termination and waiting time penalties) as required by Labor Code Sections 201, 202, 203, 204, and 227.3 (and/or the applicable California Wage Order); (11) any alleged failure to comply with California's Wage Orders including provisions regulating conditions of employment including temperature and suitable seating; and (12) civil penalties pursuant to PAGA based on any of the foregoing alleged violations.

V. WHAT IF I NEED ADDITIONAL INFORMATION?

If you have any questions, you may call the third-party claims administrator about this settlement:

[insert Settlement Administrator contact information]

PLEASE DO NOT CALL THE COURT OR HOME DEPOT REGARDING THIS SETTLEMENT.

EXHIBIT C

1
2
3
4
5
6
7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SANTA CLARA**

10 DOUGLAS PATTON, on behalf of the State
11 of California, as a private attorney general, and
12 as an individual, on behalf of himself and on
13 behalf of all persons similarly situated, and
14 SALVADOR REYNOSA, JR., an individual,
on behalf of himself and on behalf of all
persons similarly situated,

15 Plaintiffs,

16 vs.

17 HOME DEPOT U.S.A., INC., a Corporation;
18 and Does 1 through 50, Inclusive,

19 Defendants.
20
21
22
23
24
25
26
27
28

Case No. 21CV387956

Hon. Sunil R. Kulkarni
Dept. 1

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING FINAL
JUDGMENT**

Date: _____, 2024
Hearing Time: _____
Location: Dept. 1

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

On _____, a hearing was held on the motion of Plaintiffs Douglas Patton and Salvador Reynosa, Jr. (“Plaintiffs”) for final approval of class and representative action settlement and for payments to the Plaintiffs, Class Members, PAGA Group Members, Class Counsel, the California Labor and Workforce Development Agency (“LWDA”), and the Settlement Administrator. Blumenthal Nordrehaug Bhowmik De Blouw LLP appeared for Plaintiffs, and Morgan, Lewis & Bockius LLP appeared for Defendant Home Depot U.S.A., Inc. (“Defendant”). Having considered the Joint Stipulation of Settlement (“Settlement Agreement”), which this Court preliminary approved by its Order dated _____ (the “Preliminary Approval Order”), and all papers filed and all arguments made in connection with the Final Approval Hearing, and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Except as otherwise specified herein, the Court for purposes of this Final Approval Order adopts all defined terms set forth in the Settlement Agreement.

2. For the reasons set forth in the Preliminary Approval Order, which are adopted and incorporated herein by reference, this Court finds that the requirements of California Code of Civil Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

3. The Court finds that it has jurisdiction over the subject matter of the action and over all parties to the action, including all Class Members.

4. The Court finds that the Settlement was made and entered into in good faith and hereby approves the Settlement as fair, reasonable, adequate, and in the best interests of the entire Class. The Court hereby directs implementation of all remaining terms, conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were to continue to litigate the case. Additionally, after considering the monetary recovery provided by the settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement provides Class Members with fair and adequate relief.

Class Certification

5. In the Court’s Preliminary Approval Order, the Court certified the Class for purposes of

1 settlement. The Court finds, for purposes of settlement only, that the Class meets the requirements for
2 certification on all other theories under California Code of Civil Procedure section 382. For purposes of
3 effectuating the Settlement, the Court finally certifies the following Class:

4 Any non-exempt, hourly associate employed by Home Depot U.S.A., Inc. (and its past
5 and present Affiliates) in the State of California at a California supply chain facility at
6 any point from January 26, 2017 through April 16, 2023, excluding those associates who
7 worked at the Tracy RDC prior to June 17, 2021. The Class Period for Class Members
8 who worked at the Tracy RDC shall be June 17, 2021 through April 16, 2023.

9 6. In the Court's Preliminary Approval Order, Plaintiffs were appointed as Class
10 Representatives as to the conditionally certified Class. The Court confirms their appointment for purposes
11 of this settlement.

12 7. In the Court's Preliminary Approval Order, Blumenthal Nordrehaug Bhowmik De Blouw
13 LLP were appointed as Class Counsel as to the conditionally certified Class. The Court confirms the
14 appointment of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for purposes of this
15 settlement.

16 **Class Notice**

17 8. Notice of Settlement ("Notice") to Class Members, as set forth in the Settlement
18 Agreement, has been completed in conformity with the terms of the Settlement Agreement and
19 Preliminary Approval Order as to all Class Members who could be identified through reasonable effort.
20 The Court finds that said notice was the best notice practicable under the circumstances. The Notice
21 provided due and adequate notice to Class Members of the proceedings and of the matters set forth therein,
22 including the Settlement, the manner by which objections to the Settlement could be made and Class
23 Members could opt out of the non-PAGA portion of the Settlement, and that any Class Member who opts
24 out will still be bound by the PAGA terms of the Settlement and will be ineligible to pursue any PAGA
25 claims resolved by the Settlement Agreement. The Notice fully satisfied the requirements of due process.

26 **California Private Attorneys General Act**

27 9. The Court finds that Plaintiff Patton was authorized to proceed on behalf of the State of
28 California under the California Private Attorneys General Act (Cal. Labor Code §§2698 *et seq.*) ("PAGA")

1 to resolve the PAGA claims asserted in the Second Amended Class and Representative Action Complaint,
2 that the State had an opportunity to review the PAGA claims that Plaintiff Patton is releasing on the State's
3 behalf pursuant to California Labor Code Section 2699(l) and 2699.3, and that the State has expressed no
4 objection to the PAGA portion of this Settlement. Accordingly, Plaintiff Patton, all Class Members
5 (whether or not they have opted out of the Settlement) on whose behalf Plaintiff Patton has settled these
6 PAGA claims, and the State of California shall be deemed to have expressly waived and relinquished, by
7 operation of law and to the fullest extent permitted by law, the provisions, rights and benefits they
8 otherwise may have had related to the Released PAGA Claims as set forth in Paragraph 49 of the
9 Settlement Agreement.

10 **Objections and Requests for Exclusion**

11 10. ____ objections to the Settlement were submitted by any Class Members. [If objections
12 were submitted: The Court has considered any objections filed along with responses to the objections, and
13 the Court finds that, notwithstanding the objections, the settlement is fair, reasonable and non-collusive
14 and is hereby approved.]

15 11. Requests for Exclusion were submitted by ____ Class Members. The Court finds that the
16 following Class Members submitted a valid and timely Request for Exclusion and therefore shall not be
17 bound by the terms of the Settlement Agreement related to the non-PAGA portion of the Settlement:

- 18 1. _____
- 19 2. _____
- 20 3. _____

21
22 12. Plaintiff and all other Settlement Class Members shall have, by operation of this Judgment,
23 fully, finally, and forever released, relinquished, and discharged the Releasees from the Released Class
24 Claims as set forth in Paragraph 55 of the Settlement Agreement. All Class Members who are PAGA
25 Group Members, as defined in the Settlement Agreement, including the Class Member(s) identified in
26 Paragraph 11 above, shall have, by operation of this Judgment, fully, finally, and forever released,
27 relinquished, and discharged the Releasees from any PAGA Released Claims. Additionally, Plaintiffs
28

1 will be bound by their covenant, as provided in the Settlement Agreement, that they will not participate
2 or receive recovery or monies in connection with any proceeding seeking penalties under the PAGA, or
3 in connection with any other claim which arises during the Class Period for any known or unknown claims.

4 13. Plaintiffs are hereby enjoined from filing or prosecuting any other cases, claims, suits or
5 administrative proceedings involving the Released Class Claims as set forth in the Settlement Agreement.

6 **Payments Pursuant to the Stipulation**

7 14. Within twenty-one (21) days after the Settlement Effective Date, Defendant is to fund the
8 Qualified Settlement Fund. The Court finds that the Maximum Settlement Payment, the Net Settlement
9 Amount, the PAGA Group Payment, and the methodology used to calculate and pay each Settlement Class
10 Member's portion of the Net Settlement Amount and/or PAGA Group Member Payment is fair and
11 reasonable, and authorizes the Settlement Administrator to pay and distribute the Net Settlement Amount
12 and PAGA Group Payment to the Settlement Class Members and PAGA Group Members in accordance
13 with the terms of the Settlement Agreement.

14 15. The funds for any check that remains uncashed one-hundred-eighty (180) days after the
15 payment of first round settlement checks by the Settlement Administrator will be sent by the Settlement
16 Administrator to the Controller of the State of California to be held pursuant to the Unclaimed Property
17 Law, California Civil Code Section 1500, *et seq.* in the name of the Settlement Class Member and/or the
18 PAGA Group Member to whom the uncashed check was addressed, for his or her benefit until such time
19 as they claim their property. In such event, the Settlement Class Members whose checks remain uncashed
20 one-hundred-eighty (180) days after the payment of first round settlement checks by the Settlement
21 Administrator shall nevertheless remain subject to the terms of the Judgment.

22 16. Class Counsel shall be paid \$370,833 as their attorneys' fees and \$___ for reimbursement
23 of actual litigation costs and expenses from the Maximum Settlement Payment in accordance with the
24 terms of the Settlement Agreement. The Court finds that the requested award of attorneys' fees is fair and
25 reasonable for a contingency fee in a class action such as this, *i.e.*, one-third of the common fund created
26 by the settlement. Counsel have also established the reasonableness of the requested award of attorneys'
27 fees via their lodestar crosscheck, and the Court finds that the rates, hours billed, and risk multiplier are
28

1 fair and reasonable.

2 17. Plaintiffs Douglas Patton and Salvador Reynosa, Jr. shall each be paid a Service
3 Enhancement payment of \$10,000.00 from the Maximum Settlement Payment for their roles as Class
4 Representatives in accordance with the terms of the Agreement. The Court finds this amount to be fair,
5 reasonable, and sufficiently supported.

6 18. The Settlement Administrator shall be paid an amount not to exceed \$60,000 from the
7 Maximum Settlement Payment for the costs and expenses of administering the Settlement.

8 19. A payment in the amount of \$15,000 from the Maximum Settlement Payment shall be
9 allocated to penalties under the PAGA, California Labor Code sections 2698, *et seq.*, and paid by the
10 Settlement Administrator directly to the LWDA.

11 **Other Provisions**

12 20. Nothing relating to this Order, or any communications, papers, or orders related to the
13 Settlement, shall be cited to as, construed to be, admissible as, or deemed an admission by Defendant or
14 the Releasees of any liability, culpability, negligence, or wrongdoing toward the Plaintiffs, the Class
15 Members, or any other person, or that class or collective action certification is appropriate in this or any
16 other matter. There has been no determination by any Court as to the merits of the claims asserted by
17 Plaintiffs or as to whether a class should be certified, other than for settlement purposes only. Furthermore,
18 nothing in the Settlement Agreement shall be cited to as, construed to be, admissible as, or considered any
19 form of waiver of any alternative dispute resolution agreements, provisions, or policies by Defendant or
20 Releasees.

21 21. The Parties shall implement the Settlement according to the terms of the Settlement
22 Agreement.

23 22. The Court reserves exclusive and continuing jurisdiction over the Action, Plaintiffs, the
24 Class Members, and Defendant for purposes of supervising the implementation, enforcement, construction,
25 administration and interpretation of the Settlement and this Judgment.

26 23. If the Settlement does not become final and effective in accordance with its terms, this
27 Judgment shall be rendered null and void and shall be vacated and, in such event, all related orders entered
28

and all releases delivered in connection herewith also shall be rendered null and void.

IT IS SO ORDERED.

Date: _____

The Honorable Sunil R. Kulkarni
SUPERIOR COURT JUDGE