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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

RICHARD WINN, an individual, on behalf of
himself, and on behalf of all persons similarly
situated,

Plaintiff,

v.

CITY ELECTRIC SUPPLY, a Florida
corporation; and DOES 1-50, Inclusive,

Defendants.

Case No: 37-2023-00040231-CU-OE-CTL

**[PROPOSED] ORDER GRANTING
PLAINTIFF’S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: October 11, 2024
Time: 9:00 a.m.

Judge: Hon. James A. Mangione
Dept.: C-75

1 This matter having come before the Honorable Judge James A. Mangione of the Superior Court
2 of the State of California, in and for the County of San Diego, at 9:00 a.m. on October 11, 2024, with
3 Jean-Claude Lapuyade, Esq., of the JCL Law Firm, APC, and Shani O. Zakay, Esq. of the Zakay Law
4 Group, APLC, as counsel for Plaintiff Richard Winn (“Plaintiff”), and Paul Suh, Esq. of K&L Gates
5 LLP, appearing for Defendant CITY ELECTRIC SUPPLY COMPANY (hereinafter “Defendant”). The
6 Court, having carefully considered the briefs, argument of counsel and all the matters presented to the
7 Court, and good cause appearing, hereby GRANTS Plaintiff’s Motion for Preliminary Approval of
8 Class Action Settlement.

9 **IT IS HEREBY ORDERED:**

10 1. The Court preliminarily approves the Stipulation of Settlement of Class and PAGA
11 Action Claims and Release of Claims (“Settlement Agreement” or “Agreement”), a true and correct
12 copy of which is attached hereto as **Exhibit “1”**. This is based on the Court’s determination that the
13 Settlement Agreement is within the range of possible final approval, pursuant to the provisions of
14 Section 382 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

15 2. This Order incorporates by reference the definitions in the Agreement, and all terms
16 defined therein shall have the same meaning in this Order as set forth in the Agreement.

17 3. Subject to the terms of the Settlement Agreement, the Total Settlement Amount that
18 Defendant shall pay is Six Hundred Seventy-Five Thousand Dollars and Zero Cents (\$675,000.00). It
19 appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate, and
20 reasonable as to all Class Members when balanced against the probable outcome of further litigation
21 relating to certification, liability, and damages issues. It further appears that investigation and research
22 have been conducted such that counsel for the Parties are able to reasonably evaluate their respective
23 positions. It further appears to the Court that settlement at this time will avoid substantial additional
24 costs by all Parties, as well as avoid the delay and risks that would be presented by the further
25 prosecution of the litigation. It further appears that the Settlement has been reached as the result of
26 intensive, serious, and non-collusive arms-length negotiations.

27 4. The Court preliminarily finds that the Settlement appears to be within the range of
28 reasonableness of a settlement that could ultimately be given final approval by this Court. The Court

1 has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily
2 finds that the monetary settlement awards made available to the Class Members are fair, adequate, and
3 reasonable when balanced against the probable outcome of further litigation relating to certification,
4 liability, and damages issues.

5 5. Plaintiff seeks a Class Counsel Award in the amount of up to Two Hundred Fifty
6 Thousand Dollars and Zero Cents (\$250,000.00), comprised of up to one-third of the Gross Settlement
7 Amount for attorney's fees, or \$225,000.00, **and** litigation expenses of up to \$25,000.00, to be paid to
8 Class Counsel, as well as a proposed Class Representative Service Award to the Class Representative,
9 Richard Winn, in an amount of not more than Seven Thousand, Five Hundred Dollars and Zero Cents
10 (\$7,500.00). While these awards appear to be within the range of reasonableness, the Court will not
11 approve the Class Counsel Award or Class Representative Service Award until the Final Approval
12 Hearing.

13 6. The Court recognizes that Plaintiff and Defendant stipulate and agree to certification of
14 a class for settlement purposes only. This stipulation will not be deemed admissible in this, or any other
15 proceeding should this Settlement not become final. For settlement purposes only, the Court
16 conditionally certifies the following Class:

17 "All persons who are or previously were employed by Defendant in
18 California ("Class") during the period beginning July 13, 2019, through
19 June 30, 2024 ("Class Period").

20 7. The Court concludes that, for settlement purposes only, the Class meets the requirements
21 for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is
22 ascertainable and so numerous that joinder of all members of the Class Members is impracticable; (b)
23 common questions of law and fact predominate, and there is a well-defined community of interest
24 amongst the Class Members with respect to the subject matter of the litigation; (c) the claims of the
25 Class Representative are typical of the claims of the Class Members; (d) the Class Representative will
26 fairly and adequately protect the interests of the Class Members; (e) a class action is superior to other
27 available methods for the efficient adjudication of this controversy; and (f) Class Counsel are qualified
28 to act as counsel for the Class Representative in his individual capacity and as the representative of the

1 Class Members.

2 8. The Court provisionally appoints Plaintiff Richard Winn as the representatives of the
3 Class.

4 9. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of JCL Law Firm, APC,
5 and Shani O. Zakay, Esq. of Zakay Law Group, APLC, as Class Counsel for the Class Members.

6 10. The Court hereby approves, as to form and content, the Proposed Notice of Pendency of
7 Class and PAGA Representative Action Settlement and Final Hearing Date (“Notice Packet”) attached
8 to the Agreement as Exhibit “A”. The Court finds that the Notice Packet appears to fully and accurately
9 inform the Class Members and Aggrieved Employees of all material elements of the proposed
10 Settlement, including the right of any Class Member to be excluded from the Class by submitting a
11 written request for exclusion, and of each Class Member’s right and opportunity to object to the
12 Settlement. The Court further finds that the distribution of the Notice Packets substantially in the
13 manner and form set forth in the Agreement and this Order meets the requirements of due process, is
14 the most reasonable notice under the circumstances, and shall constitute due and sufficient notice to all
15 persons entitled thereto. The Court orders the mailing of the Notice Packets by first class mail, pursuant
16 to the terms set forth in the Agreement.

17 11. The Court hereby appoints Apex Class Action LLC, as Settlement Administrator. Within
18 fifteen (15) calendar days after the Preliminary Approval Date, Defendants shall provide the Settlement
19 Administrator with the Class Data, including information regarding Class Members that Defendants
20 will in good faith compile from its records, including each Class Member’s full name, last-known
21 address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods. No
22 later than fourteen (14) calendar days after receiving the Class Data from Defendant, the Settlement
23 Administrator shall mail copies of the Notice Packet to all Class Members via first class U.S. Mail.

24 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the
25 Settlement. Any Class Member may individually choose to opt out of and be excluded from the
26 Settlement as provided in the Notice Packet by following the instructions for requesting exclusion from
27 the Settlement as set forth in the Notice Packet. All requests for exclusion must be postmarked or
28 received by the Response Deadline which is forty-five (45) calendar days after the Settlement

1 Administrator mails the Notice Packets to Class Members or, in the case of re-mailed Notice Packet,
2 not more than fifteen (15) days from the original Response Deadline. Any such person who chooses to
3 opt out of and be excluded from the Settlement will not be entitled to an Individual Settlement Payment
4 under the Settlement and will not be bound by the Settlement, or have any right to object, appeal or
5 comment thereon. Class Members who have not requested exclusion shall be bound by all
6 determinations of the Court, the Agreement, and Judgment.

7 13. Any Class Member who has not opted out may appear at the final approval hearing and
8 may object or express the Class Member's views regarding the Settlement and may present evidence
9 and file briefs or other papers that may be proper and relevant to the issues to be heard and determined
10 by the Court as provided in the Notice Packet. Class Members will have forty-five (45) calendar days
11 from the date the Settlement Administrator mails the Notice Packet to postmark their written objections
12 to the Settlement Administrator.

13 14. A hearing on Plaintiff's Motion for Final Approval of Class Action and PAGA
14 Settlement and Plaintiff's Motion for Class Counsel Award and Class Representative Service Award
15 shall be held before this Court on _____ at _____ a.m. in Department C-75 of the San Diego
16 County Superior Court to determine all necessary matters concerning the Settlement, including:
17 whether the proposed settlement of the Action on the terms and conditions provided for in the
18 Agreement is fair, adequate and reasonable and should be finally approved by the Court; whether an
19 Order Granting Final Approval should be entered herein; whether the plan of allocation contained in
20 the Agreement should be approved as fair, adequate and reasonable to the Class; and to finally approve
21 the Class Counsel Award, Class Representative Service Award, and the Settlement Administration
22 Expenses. All papers in support of the motion for final approval and the motion for Class Counsel
23 Award and Class Representative Service Award shall be filed with the Court and served on all counsel
24 within fifteen days (15) days following the expiration of the Response Deadline.

25 15. In the event the Settlement does not become effective in accordance with the terms of the
26 Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become
27 effective for any reason, this Settlement Agreement shall be rendered null and void and shall be vacated,
28 and the Parties shall revert to their respective positions as of before entering into the Agreement. In

1 such an event, the Court's orders regarding the Settlement, including this Preliminary Approval Order,
2 shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to
3 alter the terms of the Settlement Agreement with respect to the effect of the Settlement Agreement if it
4 is not approved.

5 16. The Court reserves the right to adjourn or continue the date of the final approval hearing
6 and all dates provided for in the Agreement without further notice to Class Members and retains
7 jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.
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11 Dated: _____

12 JUDGE OF THE SUPERIOR COURT
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EXHIBIT 1

JCL LAW FIRM, APC

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

RICHARD WINN, an individual, on behalf of
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v.

CITY ELECTRIC SUPPLY COMPANY, a
Florida corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 37-2023-00040231-CU-OE-CTL

[Complaint Filed: September 18, 2023]

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

Judge: Hon. James A. Mangione
Dept.: C-75

This Stipulation of Settlement of Class Action and PAGA Claims and Release of Claims is entered into by and between Plaintiff Richard Winn (hereinafter collectively “Plaintiff”), an individual, on behalf of himself and all other similarly situated current and former employees, and in his representative capacity on behalf of the State of California and the Aggrieved Employees, and Defendant City Electric Supply Company (hereinafter “Defendant”):

I. DEFINITIONS

- A. “Action” shall mean the putative class and PAGA action lawsuit designated *Winn v. City Electric Supply Company*, Case No. 37-2023-00029456-CU-OE-CTL, initiated on July 13, 2023, and removed on August 29, 2023 to the United States District Court, Southern District of California, Case No. 3:23-cv-01577-RBM-BLM (the “Class Action”) and *Winn v. City Electric Supply Company*, San Diego County Superior Court, Case No. 37-2023-00040231-CU-OE-CTL, filed September 18, 2023 (the “PAGA Action”) (collectively referred to as the “Action”).
- B. “Aggrieved Employees” shall mean all non-exempt employees who are or previously were employed by Defendant in California at any time during the PAGA Period.
- C. “Aggrieved Employee Payment” shall mean the Aggrieved Employees’ pro-rata share of the 25% portion of the PAGA Payment allocated and distributed to the Aggrieved Employees.
- D. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims.
- E. “Class Action” means *Winn v. City Electric Supply Company*, Case No. 37-2023-00029456-CU-OE-CTL, initiated on July 13, 2023, and removed on August 29, 2023 to the United States District Court, Southern District of California, Case No. 3:23-cv-01577-RBM-BLM.
- F. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and Shani Zakay of Zakay Law Group, APLC.
- G. “Class Counsel Award” means the award of fees and expenses that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff

1 and the Class in the Action, consisting of attorneys' fees currently not to exceed one-
2 third of the Gross Settlement Amount currently estimated to be \$225,000 out of
3 \$675,000.00, plus costs and expenses in the amount up to \$25,000.00. Class
4 Counsel's award for attorneys' fees will be divided equally between Class Counsel
5 (50% to JCL Law Firm, APC; and 50% to Zakay Law Group, APLC).

6 H. "Class Data" means information regarding Class Members that Defendant will in
7 good faith compile from its records and provide to the Settlement Administrator. It
8 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
9 Member's full name; last known address; Social Security Number; and the
10 information necessary to determine the estimated settlement allocation to each
11 Settlement Class Member, including without limitation, the total number of
12 Workweeks and Pay Period worked by each Class Member and Aggrieved Employee
13 during the Class and PAGA Periods.

14 I. "Class Members" or the "Class" means all persons who are or previously were
15 employed by Defendant in California and classified as non-exempt employees during
16 the Class Period.

17 J. "Class Period" means the period from beginning July 13, 2019 through June 30, 2024.

18 K. "Class Representative" shall mean plaintiff Richard Winn.

19 L. "Class Representative Service Award" means the amount of up to and not to exceed
20 Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) that the Court
21 authorizes to be paid to the Class Representative, in addition to his Individual Class
22 Payment and his Aggrieved Employee Payment, in recognition of his efforts and risks
23 in assisting with the prosecution of the Action.

24 M. "Court" means the Superior Court for the State of California, County of San Diego
25 currently presiding over the Action.

26 N. "Defendant" shall mean City Electric Supply Company.

27 O. "Effective Date" means the date that all of the following events have occurred: (i) the
28 long-form Stipulation of Settlement has been executed by Richard Winn, Defendant,

1 Class Counsel and Defendant's Counsel; (ii) the Court has given preliminary approval
2 to the Settlement; (iii) the Notice has been sent to the Class Members, providing them
3 the opportunity to object to the Settlement, and the opportunity to opt out of the
4 Settlement; (iv) the Court has held a formal fairness hearing and entered the Court's
5 Final Order and Judgment; (v) the later of the following events: (A) when the period
6 for filing any appeal, writ, intervention, or other proceeding opposing the Settlement
7 has elapsed without any appeal, writ, intervention, or other proceeding having been
8 filed; (B) when any appeal, writ, intervention, or other proceeding opposing the
9 Settlement has been dismissed finally and conclusively with no right to pursue further
10 remedies or relief; or (C) when any appeal, writ, intervention, or other proceeding has
11 upheld the Court's Final Order and Judgment with no right to pursue further remedies
12 or relief. If the Court declines to approve the Settlement or the Effective Date
13 otherwise fails to occur, the entire Settlement is deemed void and unenforceable as if
14 no settlement of any claim was ever reached. All negotiations, statements and
15 proceedings and data relating thereto shall be protected by California Evidence Code
16 §1152 and shall be without prejudice to the rights of any of the Parties.
17 Notwithstanding the above, the Release of the Released Class Claims and the
18 Released PAGA Claims shall only be effective upon funding of the Gross Settlement
19 Amount in full by Defendant.

20 P. "Funding Date" shall mean fifteen (15) days after the Effective Date, as defined in
21 I(O), and is the date Defendant transfers the Gross Settlement Amount into the QSF
22 in accordance with the terms of this Agreement, unless the 15th day falls on a bank
23 holiday or weekend, in which case Defendant shall fund the settlement on the next
24 day that is not a holiday or weekend day.

25 Q. "Gross Settlement Amount" means Six Hundred Seventy-Five Thousand Dollars and
26 Zero Cents (\$675,000.00) that Defendant must pay into the QSF in connection with
27 this Settlement, inclusive of the sum of the Individual Settlement Payments, the Class
28 Representative Service Award, the Class Counsel Award, PAGA Payment and the

Settlement Administration Expenses. *Except for* the employer's share of payroll tax, if any, triggered by any payment under this Settlement, and Section III(A)(2) below, \$675,000 shall be the maximum sum that Defendant will be required to pay under this Settlement

R. "Individual Settlement Payment" means the amount payable from the Net Settlement Amount to each Settlement Class Member and excludes any amounts distributed to Aggrieved Employees pursuant to PAGA.

S. "LWDA Payment" shall mean the seventy-five percent (75%) of the PAGA Payment (\$22,500) allocated to the California Labor and Workforce Development Agency.

T. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less Class Counsel Award, Class Representative Service Award, PAGA Payment, and Settlement Administration Expenses. Any amounts not approved by the Court will become part of the Net Settlement Amount for distribution to Settlement Class Members and will not be grounds for voiding the Agreement.

U. "Notice Packet" means the Class Notice to be provided to the Class Members by the Settlement Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator).

V. "Operative Complaint" means a consolidated class and PAGA amended complaint, following remand of the Class Action, Case No. 3:23-cv-01577-RBM-BLM, currently pending in the Southern District of California, and filing of a First Amended Complaint in the PAGA Action, Case No. 37-2023-00040231-CU-OE-CTL, currently pending in the San Diego Superior Court.

W. "PAGA" means the California Labor Code Private Attorneys General Act of 2004, Labor Code § 2698 *et seq.*

X. "PAGA Action" means *Winn v. City Electric Supply Company*, San Diego County Superior Court, Case No. 37-2023-00040231-CU-OE-CTL, filed September 18, 2023.

- 1 Y. "PAGA Payment" shall mean Thirty Thousand Dollars and Zero Cents (\$30,000.00)
2 to be allocated from the Gross Settlement Amount in settlement of the Released
3 PAGA Claims. Seventy-Five percent (75%) of the PAGA Payment shall be allocated
4 to the LWDA and the remaining twenty-five percent (25%) shall be allocated and
5 distributed to the Aggrieved Employees.
- 6 Z. "PAGA Payment Ratio" means the respective pay periods during the PAGA Period
7 for each Aggrieved Employee divided by the sum-total of the pay periods for all
8 Aggrieved Employees during the PAGA Period.
- 9 AA. "PAGA Pay Periods," for purposes of calculating the distribution of the Aggrieved
10 Employee Payment, as defined herein, means the number of pay periods of
11 employment during the PAGA Period that each Aggrieved Employee worked in
12 California.
- 13 BB. "PAGA Period" means the period beginning July 13, 2022, through June 30, 2024.
- 14 CC. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either
15 Plaintiff or Defendant, individually.
- 16 DD. "Payment Ratio" means the respective Workweeks for each Class Member divided
17 by the sum-total Workweeks for all Class Members.
- 18 EE. "Plaintiff" shall mean Richard Winn.
- 19 FF. "QSF" means the Qualified Settlement Fund established, designated, and maintained
20 by the Settlement Administrator to fund the Gross Settlement Amount.
- 21 GG. "Released Class Claims" means all claims that were alleged, or reasonably could have
22 been alleged, based on facts stated in the Operative Complaint which occurred during
23 the Class Period during employment in a non-exempt position in California. Released
24 Class Claims include: (a) the claims set forth in the Action, specifically including but
25 not limited to: alleged failure to pay minimum wages in Violation of California Labor
26 Code sections 1194, 1197 and 1197.1; failure to pay overtime wages in Violation of
27 California Labor Code sections 510 *et seq.*, 204, 510, 512, 518, 558, and 1194; failure
28 to provide required meal periods in Violation of California Labor Code sections 226.7

1 and 512 and the Applicable IWC Wage Order; failure to provide required rest periods
2 in Violation of California Labor Code sections 226.7 and 512 and the Applicable IWC
3 Wage Order; failure to provide wages when due in Violation of California Labor Code
4 sections 201, 202 and 203; failure to provide accurate itemized statements in
5 Violation of California Labor Code section 226; failure to reimburse employees for
6 required business expenses in Violation of California Labor Code section 2802;
7 violation of California Labor Code section 246; violation of California Labor Code
8 section 221, violation of California Labor Code section 204; and, unfair competition
9 in Violation of California Business and Professions Code section 17200 arising from
10 the violations of the California labor code listed herein; and, including but not limited
11 to alleged violations of California Labor Code sections 201, 201.3, 202, 203, 204,
12 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5,
13 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804 and the Applicable
14 Industrial Wage Order(s); (b) premiums in connection therewith, as well as any claims
15 under the California Labor Code and California Industrial Welfare Commission Wage
16 Orders that were alleged or which could have been alleged under the same facts,
17 allegations and/or claims pleaded in the Action; (c) Any claims for injunctive relief,
18 declaratory relief, restitution, fraudulent business practices or punitive damages
19 alleged or which could have been alleged under the facts, allegations and/or claims
20 pleaded in the complaints filed as part of the Action; and (d) Any and all other claims
21 under California common law, the California Labor Code, the Fair Labor Standards
22 Act, California Industrial Welfare Commission Wage Orders, and the California
23 Business and Professions Code alleged in or that could have been alleged under the
24 same facts, allegations and/or claims pleaded in the Action. In addition, to the extent
25 required by law, the cashing of the settlement check by the Settlement Class Member
26 shall be deemed to be an opt-in for purposes of releasing Releasees from any claims
27 predicated under the FLSA that could have been alleged under the same or similar
28 facts, allegations and/or claims pleaded in the Action. The Settlement Administrator

1 shall include a legend on the settlement check stating “By cashing this check, I am
2 opting into the settlement in *Richard Winn v. City Electric Supply Company*, Case
3 No. 37-2023-00040231-CU-OE-CTL, under FLSA, 29 U.S.C. § 216(b), and releasing
4 the Released Claims described in the Settlement Agreement.”

5 HH. “Released PAGA Claims” means all claims for penalties under the Private Attorneys
6 General Act arising from the claims pleaded in the Operative Complaint in the Action
7 and/or which could have reasonably been alleged under the same facts, allegations
8 and/or claims pleaded in the Action, against the Released Parties for work performed
9 during the PAGA Period. Released PAGA Claims specifically include claims for
10 PAGA penalties premised on claims for unpaid wages, failure to timely pay wages
11 upon separation or termination from employment, failure to timely pay wages during
12 employment, failure to provide sick pay wages, non-compliant meal periods, non-
13 compliant rest periods, failure to pay meal and rest break premiums, non-compliant
14 wage statements, reimbursement for business expenses, and claims for interest in
15 connection therewith. “Released PAGA Claims” also include claims for PAGA
16 penalties premised on any claims under the California Labor Code and California
17 Industrial Welfare Commission Wage orders that were alleged or which could have
18 been alleged under the same facts, allegations and/or claims pleaded in the Action or
19 PAGA Notices, and any claims for injunctive relief, declaratory relief, fraudulent
20 business practices alleged or which could have been alleged under the facts,
21 allegations and/or claims pleaded.

22 II. “Released Parties” shall mean Defendant City Electric Supply Company, and any of
23 its past, present and future direct or indirect parents, subsidiaries, predecessors,
24 successors, affiliates, and all entities that could be held to be joint employers, as well
25 as each of its or their past, present and future officers, directors, employees, partners,
26 members, shareholders and agents, attorneys, insurers, reinsurers, and any individual
27 or entity which could be jointly liable with Defendant.
28

- JJ. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- KK. “Response Deadline” means the date forty-five (45) days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit Requests for Exclusion or objections to the Settlement.
- LL. “Settlement” means the disposition of the Action pursuant to this Agreement.
- MM. “Settlement Administrator” means Apex Class Action LLC, 18 Technology Drive, Suite 164 Irvine, CA 92618. The Settlement Administrator establishes, designates and maintains, as a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which the amount of the Gross Settlement Amount is deposited for the purpose of resolving the claims of Settlement Class Members. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendant and any person related to Defendant. *All accrued interest shall be paid and distributed to the Settlement Class Members as part of their respective Individual Settlement Payment.*
- NN. “Settlement Administration Expenses” shall mean the amount to be paid for the costs of administration of the Settlement from the Gross Settlement Amount in an amount not to exceed \$5,200.00.
- OO. “Settlement Class Members” or “Settlement Class” means all Class Members who have not submitted a timely and valid Request for Exclusion as provided in this Agreement.
- PP. “Workweeks”, for purposes of calculating the distribution of the Net Settlement Amount, means the number of weeks of employment during the Class Period that each Class Member was employed by Defendant in California.

II. RECITALS

- A. On July 13, 2023, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendant.

1 B. On July 13, 2023, Plaintiff filed a Class Action complaint in the Superior Court for
2 the State of California, County of San Diego Case No. 37-2023-29456-CU-OE-CTL
3 (“Class Action”) alleging causes of action for:

- 4 1. Unfair Competition in Violation of Cal. Bus. & Prof. Code §17200 et seq.;
- 5 2. Failure To Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197
6 & 1197.1;
- 7 3. Failure To Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, et seq;
- 8 4. Failure To Provide Required Meal Periods in Violation of Cal. Lab. Code §§
9 226.7 & 512 and the Applicable IWC Wage Order;
- 10 5. Failure To Provide Required Rest Periods in Violation of Cal. Lab. Code §§
11 226.7 & 512 and the Applicable IWC Wage Order;
- 12 6. Failure To Provide Wages When Due in Violation of Cal. Lab. Code §§ 201,
13 202 and 203;
- 14 7. Failure To Provide Accurate Itemized Statements in Violation of Cal. Lab.
15 Code § 226; and
- 16 8. Failure To Reimburse Employees For Required Expenses in Violation of Cal.
17 Lab. Code § 2802.

18 C. On August 28, 2023, Defendant filed a Notice of Removal removing the Class Action
19 to the United States District Court, Southern District of California, Case No. 3:23-cv-
20 01577-RBM-BLM.

21 D. On September 18, 2023, Plaintiff filed a separate representative action in the Superior
22 Court for the State of California, County of San Diego Case No. 37-2023-00040231-
23 CU-OE-CTL alleging a single cause of action for violations of PAGA (“PAGA
24 Action”).

25 E. The Class Representative believes he has meritorious claims based on alleged
26 violations of the California Labor Code, and the Industrial Wage Commission Orders,
27 and that class certification is appropriate because the prerequisites for class
28

1 certification can be satisfied in the Action, and this action is manageable as a PAGA
2 representative action.

3 F. Defendant denies any liability or wrongdoing of any kind associated with the claims
4 alleged in the Action, dispute any wages, damages and penalties claimed by the Class
5 Representative are owed, and further contend that, for any purpose other than
6 settlement, the Action is not appropriate for class or representative action treatment.
7 Defendant contends, among other things, that at all times it complied with the
8 California Labor Code and the Industrial Wage Commission Orders.

9 G. Class Counsel represent the Class Representative. Class Counsel conducted a
10 thorough investigation into the facts relevant to the Action, including conducting an
11 independent investigation as to the allegations, reviewing documents and information
12 exchanged through informal discovery, and reviewing documents and information
13 provided by Defendant pursuant to informal requests for information to prepare for
14 mediation. Defendant produced for the purpose of settlement negotiations certain
15 employment data concerning the Settlement Class, which Class Counsel reviewed
16 and analyzed. Class Counsel engaged in a comprehensive review and analysis of
17 Defendant's discovery responses, including relevant data pertaining to the claims.
18 Based on their own independent investigation and evaluation, Class Counsel are of
19 the opinion that the Settlement with Defendant is fair, reasonable and adequate, and
20 is in the best interest of the Settlement Class in light of all known facts and
21 circumstances, including the risks of significant delay, defenses asserted by
22 Defendant, uncertainties regarding class certification, and numerous potential
23 appellate issues. Although it denies any liability, Defendant agrees to this Settlement
24 solely to avoid the inconveniences and cost of further litigation. The Parties and their
25 counsel have agreed to settle the claims on the terms set forth in this Agreement.

26 H. On April 29, 2024, the Parties participated in mediation presided over by Steven
27 Rottman, Esq., a mediator of wage and hour class and PAGA actions. The mediation
28 concluded with a settlement after both sides agreed to a Mediator's proposal which

1 was subsequently memorialized in the form of a Memorandum of Understanding
2 (“MOU”).

3 I. Upon the execution of this Agreement, the Parties shall promptly stipulate to remand
4 the Class Action to the Superior Court for the State of California, County of San Diego
5 and to consolidate the Class Action and PAGA Action for settlement approval
6 purposes. By so stipulating to remand, Defendant does so only for purposes of
7 settlement and does not waive any right, argument, or defense with respect to federal
8 jurisdiction. Should final approval not occur, Plaintiff shall not challenge any efforts
9 by Defendant to remove the claim to federal court on account of timeliness, waiver,
10 or other grounds arising from Defendant’s stipulation to remand for purposes of
11 settlement. Notwithstanding the above, should final approval not occur, and should
12 Defendant remove the claim to federal court, Plaintiff shall reserve the right to seek
13 remand on the basis of lack of jurisdiction under CAFA or otherwise, or any other
14 legal basis other than timeliness or waiver.

15 J. Upon the execution of this Agreement, the Parties will promptly stipulate to the filing
16 of a First Amended Complaint in the PAGA Action to consolidate the Class Action
17 and PAGA Action for purposes of settlement approval.

18 K. This Agreement replaces and supersedes any other agreements, understandings, or
19 representations between the Parties. This Agreement represents a compromise and
20 settlement of highly disputed claims. Nothing in this Agreement is intended or will
21 be construed as an admission by Defendant that the claims in the Action of Plaintiff
22 or the Class Members have merit or that Defendant bears any liability to Plaintiff or
23 the Class on those claims or any other claims, or as an admission by Plaintiff that
24 Defendant’s defenses in the Action have merit.

25 L. The Parties believe that the Settlement is fair, reasonable and adequate. The
26 Settlement was arrived at through arm’s-length negotiations, considering all relevant
27 factors. The Parties recognize the uncertainty, risk, expense and delay attendant to
28 continuing the Action through trial and any appeal. Accordingly, the Parties desire to

1 fully, finally, and forever settle, compromise and discharge all disputes and claims
2 arising from or relating to the Action.

3 M. The Parties agree to certification of the Class for purposes of this Settlement only. If
4 for any reason the settlement does not become effective, Defendant reserves the right
5 to contest certification of any class for any reason and reserves all available defenses
6 to the claims in the Action.

7 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

8 **III. TERMS OF AGREEMENT**

9 A. Settlement Consideration and Settlement Payments by Defendant.

10 1. Settlement Consideration. In full and complete settlement of the Action, and
11 in exchange for the releases set forth below, Defendant will pay the sum of
12 the Individual Settlement Payment, the Class Representative Service Award,
13 the Class Counsel Award, PAGA Payment, and the Settlement Administration
14 Expenses, as specified in this Agreement, equal to the Gross Settlement
15 Amount of Six Hundred Seventy-Five Thousand Dollars and Zero Cents
16 (\$675,000.00). The Parties agree that this is a non-reversionary Settlement and
17 that no portion of the Gross Settlement Amount shall revert to Defendant.
18 Other than the Defendant's share of employer payroll taxes and as provided
19 for in Section III(A)(2) below, if any, Defendant shall not be required to pay
20 more than the Gross Settlement Amount, except as provided for hereinbelow.

21 2. Class Size. At the time of mediation, Defendant estimated that the Settlement
22 Class was comprised of 166 Class Members who collectively worked
23 approximately 12,171 Workweeks ("Projected Workweeks") from July 13,
24 2019 through the date that Defendant supplied the class demographics or
25 approximately March 15, 2024, and 104 Aggrieved Employees who worked
26 a total of 2,541 Pay Periods from July 13, 2022 through the date that
27 Defendant supplied the class demographics or approximately March 15, 2024.
28 In the event the actual number of workweeks worked by class members during

1 the Class Period increases by more than 10%, i.e., more than 1,217.1, then
2 Defendant shall increase its contribution to the Gross Settlement Amount on
3 proportional basis in excess of ten percent. For example, if there were an 11%
4 increase in actual Workweeks during the Class Period, the Gross Settlement
5 Amount shall increase by 1%. Alternatively, Defendant will have the option
6 to cut off the Class Period to the date on which the total Workweeks exceeded
7 one hundred and ten percent of the estimated 12,171 workweeks or
8 approximately 13,388 workweeks. In regard hereto, Defendant will provide
9 the Settlement Administrator with the Class Data within fifteen (15) days
10 before the deadline for filing the motion for preliminary approval of the
11 settlement, confirming the number of applicable Class Members and
12 workweeks they worked during the applicable Class Period.

13 3. Settlement Payment. Defendant shall pay the Gross Settlement Amount to the
14 Settlement Administrator by the Funding Date.

15 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
16 payroll taxes is in addition to the Gross Settlement Amount and shall be paid
17 together with the Gross Settlement Amount.

18 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
19 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
20 release the Released Parties from the Released Class Claims for the Class Period.

21 C. Release by the Plaintiff and State of California. As of the Funding Date, in exchange
22 for the consideration set forth in this Agreement, the Plaintiff, the Aggrieved
23 Employees, the LWDA, and the State of California release the Released Parties from
24 the Released PAGA Claims for the PAGA Period. As a result of this release, the
25 Aggrieved Employees shall be precluded from bringing claims against Released
26 Parties for the Released PAGA Claims.

27 D. General Release of Claims by Plaintiff. Except for those claims specifically excluded
28 in paragraph 2(b) of Plaintiff's Individual Settlement Agreement, upon Plaintiff's

1 receipt of the monetary consideration described in paragraph 4 of his Individual
2 Settlement Agreement, Plaintiff, in his individual capacity only, knowingly and
3 voluntarily releases and forever discharges the Released Parties from any and all
4 actions, claims, demands, obligations, agreements, or proceedings of any kind,
5 whether known or unknown, at this time. Accordingly, Plaintiff, on Plaintiff's own
6 behalf and, insofar as permitted by law, on behalf of Plaintiff's heirs, family members,
7 executors, agents, and assigns (collectively, the "Plaintiff Releasers") hereby and
8 forever releases the Released Parties from, and agrees not to sue concerning, or in any
9 manner to institute, prosecute, or pursue, any claim, complaint, charge, duty,
10 obligation, demand, or cause of action relating to any matters of any kind, whether
11 presently known or unknown, suspected or unsuspected, that Plaintiff or the Plaintiff
12 Releasers may possess against any of the Released Parties arising from any omissions,
13 acts, facts, or damages that have occurred up until and including the Effective Date of
14 this Settlement Agreement, including, without limitation: any and all claims relating
15 to, or arising from, Plaintiff's employment relationship with Defendant and the
16 termination of that relationship, from any and all claims, whether known or unknown,
17 which exist or may exist on his behalf as of the date of this Agreement, including but
18 not limited to any and all tort claims, contract claims, wage claims, wrongful
19 termination claims, disability claims, benefit claims, public policy claims, retaliation
20 claims, statutory claims, personal injury claims, emotional distress claims, invasion of
21 privacy claims, defamation claims, fraud claims, quantum meruit claims, defamation;
22 libel; slander; negligence; personal injury; assault; battery; invasion of privacy; false
23 imprisonment; conversion; and disability benefits; and any and all claims arising under
24 any federal, state or other governmental statute, law, regulation or ordinance, or any
25 state constitution, including, but not limited to claims for violation of the Fair Labor
26 Standards Act, the California Labor Code (except those provisions asserted in the
27 Action), the Wage Orders of California's Industrial Welfare Commission, other state
28 wage and hour laws, the Americans with Disabilities Act, the Age Discrimination in

1 Employment Act (ADEA), the Employee Retirement Income Security Act, Title VII
2 of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Rehabilitation Act
3 of 1973, the Equal Pay Act, the Fair Labor Standards Act, the Fair Credit Reporting
4 Act; the Worker Adjustment and Retraining Notification Act, the Older Worker
5 Benefit Protection Act of 1990, the Sarbanes-Oxley Act of 2002, the Immigration
6 Control and Reform Act; the Genetic Information Non-Discrimination Act, the
7 Occupational Safety and Health Act, the California Fair Employment and Housing
8 Act, the California Family Rights Act, the Family Medical Leave Act, California's
9 Whistleblower Protection Act, California Business & Professions Code Section 17200
10 et seq., any claim for any loss, cost, damage, or expense arising out of any dispute over
11 the non-withholding or other tax treatment of any of the proceeds received by Plaintiff
12 as a result of this Settlement Agreement, any and all claims for attorneys' fees and
13 costs, and any and all claims arising under any federal, state or other governmental
14 statute, law, regulation or ordinance.

15 E. Waiver of California Civil Code section 1542. To affect a full and complete general
16 release as described in his Individual Settlement Agreement, Plaintiff, only on behalf
17 of Plaintiff Releasors, expressly waives and relinquishes all rights and benefits of
18 section 1542 of the Civil Code of the State of California and does so understanding
19 and acknowledging the significance and consequence of specifically waiving section
20 1542. Section 1542 of the Civil Code of the State of California states as follows:

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

26
27 Thus, notwithstanding the provisions of section 1542, and to implement a full and
28 complete release and discharge of the Released Parties, Plaintiff expressly

acknowledges this Settlement Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Settlement Agreement and his Individual Settlement Agreement (collectively, the "Settlement Agreements"), and that the Settlement Agreements contemplate the extinguishment of any such claims. Plaintiff warrants that he has read the Settlement Agreements, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about the Settlement Agreements and specifically about the waiver of section 1542, and that Plaintiff understands these Settlement Agreements and the section 1542 waiver, and so Plaintiff voluntarily, freely, and knowingly enters into the Settlement Agreements. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in the Settlement Agreements, and even so Plaintiff agrees that the releases and agreements contained in the Settlement Agreements shall remain effective in all respects regardless of any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in the Settlement Agreements or with regard to any facts now unknown to Plaintiff relating thereto.

F. Conditions Precedent: This Settlement will become final and effective only upon the occurrence of all of the following events:

1. The Court enters an order granting preliminary approval of the Settlement;
2. The Court enters an order granting final approval of the Settlement and a Final Judgment;
3. If an objector appears at the final approval hearing, the time for appeal of the Final Judgment and Order Granting Final Approval of Class Action Settlement expires; or, if an appeal is timely filed, there is a final resolution of

any appeal from the Judgment and Order Granting Final Approval of Class Action Settlement; and

4. Defendant fully funds the Gross Settlement Amount.

G. Nullification of Settlement Agreement. In the event that this Settlement Agreement is not preliminarily or finally approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court, or in any way prevents or prohibits Defendant from obtaining a complete resolution of the Released Class Claims, or if Defendant fails to fully fund the Gross Settlement Amount, or if Defendant exercises its unilateral right to nullify the Settlement if 10 or more Class Members opt out of the Settlement:

1. This Settlement Agreement and Memorandum of Understanding shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;
2. Defendant shall have no obligation to make any payments to any party, Class Member, the State of California, Aggrieved Employee, or attorney;
3. The conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and
4. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses or arguments in the Action, including with respect to the issue of class certification.
5. All negotiations, statements, and proceedings relating to the Agreement shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions prior to the Settlement. Except as otherwise discoverable, this Agreement, the MOU, their ancillary documents, actions, statements or filings in furtherance of settlement (including all matters

associated with mediation) shall be subject to the mediation privilege and inadmissible as evidence in accordance therewith.

6. If Defendant fails to fully fund the Gross Settlement Amount, Defendant shall bear the sole responsibility for any cost to issue or reissue any curative notice to the Settlement Class Members and all Settlement Administration Expenses incurred to the date of nullification unless Defendant exercises its unilateral right to nullify the Settlement if 10 or more Class Members opt out of the Settlement.

H. Certification of the Settlement Class. The Parties stipulate to conditional class certification of the Class for the Class Period for purposes of settlement only. In the event that this Settlement is not approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court, or in any way prevents or prohibits Defendant from obtaining a complete resolution of the Released Class Claims, the conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural.

I. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments called for, and Class Members and/or Aggrieved Employees are not relying on any statement or representation by the Parties in this regard. Class Members and/or Aggrieved Employees understand and agree that they will be responsible for the payment of any taxes and penalties assessed on the Individual Settlement Payments and/or Aggrieved Employee Payment described and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual Settlement Payments and/or Aggrieved Employee Payment,

J. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section, the “acknowledging party” and each Party to this Agreement other than the acknowledging party, an “other party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the

Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party, and (3) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

K. Preliminary Approval Motion. Class Counsel shall draft and file with the Court a Motion for Order Granting Preliminary Approval and supporting papers within a reasonable period of time after complete execution of this agreement and Defendant provides the Settlement Administrator with the Class Data confirming the number of workweeks Class Members worked during the applicable Class Period, and will provide Defendant with a draft of the Motion at least three (3) business days prior to the filing of the Motion to give Defendant an opportunity to propose changes or additions to the Motion.

L. Settlement Administrator. The Settlement Administrator shall be responsible for: establishing and administering the QSF; calculating, processing and mailing payments to the Class Representative, Class Counsel, LWDA and Class Members; printing and mailing the Notice Packets to the Class Members as directed by the Court; receiving and reporting the objections and requests for exclusion; calculating, deducting and remitting all legally required taxes from Individual Settlement Payments and

1 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
2 Settlement Payments and/or Aggrieved Employee Payment; processing and mailing
3 tax payments to the appropriate state and federal taxing authorities; providing
4 declaration(s) as necessary in support of preliminary and/or final approval of this
5 Settlement; and other tasks as the Parties mutually agree or the Court orders the
6 Settlement Administrator to perform. The Settlement Administrator shall keep the
7 Parties timely apprised of the performance of all Settlement Administrator
8 responsibilities by among other things, sending a weekly status report to the Parties'
9 counsel stating the date of the mailing, the of number of Elections Not to Participate
10 in Settlement it receives (including the numbers of valid and deficient), and number of
11 objections received.

12 M. Notice Procedure.

13 1. Class Data. If any updates are needed to the Class Data provided to the
14 Administrator two weeks prior to the filing of the Motion for Preliminary
15 Approval as contemplated in Paragraph K, no later than fifteen (15) calendar
16 days after the Preliminary Approval Date, Defendant shall provide the
17 Settlement Administrator with the Class Data for purposes of preparing and
18 mailing Notice Packets to the Class Members.

19 2. Notice Packets.

20 a) The Notice Packet shall contain the Notice of Class Action Settlement
21 in a form substantially similar to the form attached as **Exhibit A**. The
22 Notice of Class Action Settlement shall inform Class Members and
23 Aggrieved Employees that they need not do anything in order to
24 receive an Individual Settlement Payment and/or Aggrieved Employee
25 Payment and to keep the Settlement Administrator apprised of their
26 current mailing address, to which the Individual Settlement Payments
27 and/or Aggrieved Employee Payment will be mailed following the
28 Funding Date. The Notice of Class Action Settlement shall set forth

1 the release to be given by all members of the Class who do not request
2 to be excluded from the Settlement Class and/or Aggrieved
3 Employees' in exchange for an Individual Settlement Payment and/or
4 Aggrieved Employee Payment, the number of Workweeks worked by
5 each Class Member during the Class Period and PAGA Period, if any,
6 and the estimated amount of their Individual Settlement Payment if
7 they do not request to be excluded from the Settlement and each
8 Aggrieved Employee's share of the PAGA Payment, if any. The
9 Settlement Administrator shall use the Class Data to determine Class
10 Members' Workweeks and PAGA Pay Periods. The Notice will also
11 advise the Aggrieved Employees that they will release the Released
12 PAGA Claims and will receive their share of the PAGA Payment
13 regardless of whether they request to be excluded from the Settlement.

14 b) The Notice Packet's mailing envelope shall include the following
15 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
16 ENTITLED TO PARTICIPATE IN A CLASS ACTION
17 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
18 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
19 NOTICE."

20 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
21 Settlement Administrator will perform a search based on the National Change
22 of Address Database to update and correct any known or identifiable address
23 changes. No later than fourteen (14) calendar days after receiving the Class
24 Data from Defendant, the Settlement Administrator shall mail copies of the
25 Notice Packet to all Class Members via regular First-Class U.S. Mail. The
26 Settlement Administrator shall exercise its best judgment to determine the
27 current mailing address for each Class Member. The address identified by the
28

1 Settlement Administrator as the current mailing address shall be presumed to
2 be the best mailing address for each Class Member.

3 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
4 Administrator as non-delivered on or before the Response Deadline shall be
5 re-mailed to any forwarding address provided. The Settlement Administrator
6 will re-mail Notices within five (5) days of receiving a returned Notice. If no
7 forwarding address is provided, the Settlement Administrator shall promptly
8 attempt to determine a correct address by lawful use of skip-tracing, or other
9 search using the name, address and/or Social Security number of the Class
10 Member involved, and shall then perform a re-mailing, if another mailing
11 address is identified by the Settlement Administrator. Class Members who
12 received a re-mailed Notice Packet shall have their Response Deadline
13 extended fifteen (15) days from the original Response Deadline.

14 5. Disputes Regarding Individual Settlement Payments. Class Members will
15 have the opportunity, should they disagree with Defendant's records regarding
16 the start and end dates of employment, to provide documentation and/or an
17 explanation to show contrary dates. The Parties agree that if any member of
18 the Settlement Class disputes the basis for determining their share of the Net
19 Settlement Amount, Defendant's records shall presumptively control. The
20 Settlement Administrator shall determine the eligibility for, and the amounts
21 of, any Individual Settlement Payments under the terms of this Agreement.
22 The Settlement Administrator's determination of the eligibility for and
23 amount of any Individual Settlement Payment shall be binding upon the Class
24 Member and the Parties, except as provided herein below in Section III(K)(6).
25 If there is a dispute that the Administrator cannot resolve through
26 documentation or acceptable explanation, the Settlement Administrator will
27 consult with the Parties to determine whether an adjustment is warranted.
28

1 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
2 by the Settlement Administrator concerning the administration of the
3 Settlement will be resolved by the Court under the laws of the State of
4 California. Before any such involvement of the Court, counsel for the Parties
5 will confer in good faith to resolve the disputes without the necessity of
6 involving the Court.

7 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
8 Packet shall state that Class Members who wish to exclude themselves from
9 the Settlement must submit a signed copy of the Request for Exclusion form
10 that will be mailed together with the Notice Packet to all Class Members. The
11 Request for Exclusion will not be valid if it is not timely submitted, if the
12 Class Member does not sign it, or if it does not contain the name and address
13 and last four digits of the Social Security number of the Class Member. The
14 date of the postmark on the mailing envelope or fax stamp on the Request for
15 Exclusion shall be the exclusive means used to determine whether the request
16 for exclusion was timely submitted. Any Class Member who submits a timely
17 Request for Exclusion shall be excluded from the Settlement Class will not be
18 entitled to an Individual Settlement Payment and will not be otherwise bound
19 by the terms of the Settlement or have any right to object, appeal or comment
20 thereon. However, any Class Member that submits a timely Request for
21 Exclusion that is also a member of the Aggrieved Employees will still receive
22 his/her pro rata share of the PAGA Payment, as specified below, and in
23 consideration, will be bound by the Release by the Aggrieved Employees as
24 set forth herein. Settlement Class Members who fail to submit a valid and
25 timely Request for Exclusion on or before the Response Deadline shall be
26 bound by all terms of the Settlement and any final judgment entered in this
27 Action if the Court approves the Settlement. No later than fifteen (15)
28 calendar days after the Response Deadline, the Settlement Administrator shall

1 provide counsel for Defendant with a final list of the Class Members who have
2 timely submitted timely Requests for Exclusion. At no time shall any of the
3 Parties or their counsel seek to solicit or otherwise encourage members of the
4 Class to submit Requests for Exclusion from the Settlement.

- 5 8. Objections. The Notice of Class Action Settlement contained in the Notice
6 Packet shall state that Class Members who wish to object to the Settlement
7 may submit to the Settlement Administrator a written statement of objection
8 by the Response Deadline. The postmark date of mailing shall be deemed the
9 exclusive means for determining that a Notice of Objection was served timely.
10 The Notice of Objection, if in writing, must be signed by the Settlement Class
11 Member and state: (1) the case name and number; (2) the name of the
12 Settlement Class Member; (3) the address of the Settlement Class Member;
13 (4) the last four digits of the Settlement Class Member's Social Security
14 number; and (5) the basis for the objection. Class Members who fail to make
15 objections in writing in the manner specified above may still make their
16 objections orally at the Final Approval/Settlement Fairness Hearing with the
17 Court's permission. Settlement Class Members will have a right to appear at
18 the Final Approval/Settlement Fairness Hearing to have their objections heard
19 by the Court regardless of whether they submitted a written objection. At no
20 time shall any of the Parties or their counsel seek to solicit or otherwise
21 encourage Class Members to file or serve written objections to the Settlement
22 or appeal from the Order and Final Judgment, or to intervene or otherwise
23 challenge the Settlement. Class Members who submit a written request for
24 exclusion may not object to the Settlement. Class Members may not object to
25 the PAGA Payment. Counsel for the Parties shall file any response to the
26 objections submitted by objecting Class Members, if any, at least five (5)
27 calendar days before the date of the Final Approval Hearing.
28

1 9. Class Representative and Class Counsel agree to not appeal, opt out of, object
2 or otherwise challenge the Settlement. Class Counsel shall not represent any
3 Class Member or Aggrieved Employee for any opt out, objection, appeal, or
4 other challenge to the Settlement.

5 N. Funding and Allocation of the Gross Settlement Amount. Defendant is required to pay
6 the Gross Settlement Amount on or before the Funding Date, plus any employer's
7 share of payroll taxes as mandated by law within the time specified herein.

8 1. Individual Settlement Payments. Individual Settlement Payments shall be
9 paid from the Net Settlement Amount and shall be paid pursuant to the
10 formula set forth herein. Using the Class Data, the Settlement Administrator
11 shall add up the total number of Workweeks for all Class Members. The
12 respective Workweeks for each Class Member will be divided by the total
13 Workweeks for all Class Members, resulting in the Payment Ratio for each
14 Class Member. Each Class Member's Payment Ratio will then be multiplied
15 by the Net Settlement Amount to calculate each Class Member's estimated
16 Individual Settlement Payments. Each Individual Settlement Payment will be
17 reduced by any legally mandated employee tax withholdings (e.g., employee
18 payroll taxes, etc.). Individual Settlement Payments for Class Members who
19 submit valid and timely requests for exclusion will be redistributed to
20 Settlement Class Members who do not submit valid and timely requests for
21 exclusion on a pro rata basis based on their respective Payment Ratios.

22 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
23 Class Data, the Settlement Administrator shall add up the total number of
24 PAGA pay periods for all Aggrieved Employees during the PAGA Period.
25 The respective PAGA Pay Periods for each Aggrieved Employee will be
26 divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting
27 in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
28 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the

Aggrieved Employee Payment to calculate each Aggrieved Employee's estimated share of the PAGA Payment.

3. Allocation of Individual Settlement Payments. For tax purposes, Individual Settlement Payments shall be allocated and treated as follows: 20% as wages ("Wage Portion"); 80% as penalties and interest ("Non-Wage Portion"). The Wage Portion is subject to wage withholdings and shall be reported on IRS Form W-2. The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099.

4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved Employee Payments shall be allocated and treated as 100% penalties and shall be reported on IRS Form 1099.

5. No Credit Toward Benefit Plans. The Individual Settlement Payments and Aggrieved Employee Payment made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

6. All monies received by Settlement Class Members under the Settlement which are attributable to wages shall constitute income to such Settlement Class Members solely in the year in which such monies actually are received by the Settlement Class Members. It is the intent of the Parties that Individual Settlement Payments and Aggrieved Employee Payment provided for in this Settlement Agreement are the sole payments to be made by Defendant to Settlement Class Members and/or Aggrieved Employees in connection with this

1 Settlement Agreement, with the exception of Plaintiff, and that the Settlement
2 Class Members and/or Aggrieved Employees are not entitled to any new or
3 additional compensation or benefits as a result of having received the Individual
4 Settlement Payments and/or their shares of the PAGA Payment.

5 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
6 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
7 and/or Aggrieved Employees' last known mailing address no later than fifteen
8 (15) calendar days after the Funding Date by the Settlement Administrator.

9 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
10 Employees shall remain valid and negotiable for one hundred and eighty (180)
11 days from the date of their issuance. If a Settlement Class Member and/or
12 Aggrieved Employee does not cash his or her settlement check within ninety
13 (90) days, the Settlement Administrator will send a letter to such persons,
14 advising that the check will expire after the one hundred eightieth (180th) day,
15 and invite that Settlement Class Member and/or Aggrieved Employee to
16 request reissuance in the event the check was destroyed, lost or misplaced. In
17 the event an Individual Settlement Payment and/or Aggrieved Employee's
18 Aggrieved Employee Payment check has not been cashed within one hundred
19 and eighty (180) days, the check will be voided and the Settlement Class
20 Member and/or Aggrieved Employee will remain bound by the Settlement.
21 The funds from any such uncashed checks shall be paid to the Community
22 Law Project, a Cy Pres, in accordance with California Code of Civil Procedure
23 section 384. The Parties agreed that under this procedure, there is no residue
24 as the entire Gross Settlement Amount will be distributed.

25 9. Class Representative Service Award. In addition to the Individual Settlement
26 Payment and his Aggrieved Employee Payment to be paid to Plaintiff,
27 Plaintiff will apply to the Court for an award of not more than \$7,500, as the
28 Class Representative Service Award. Defendant will not oppose a Class

1 Representative Service Award of not more than \$7,500 for Plaintiff. The
2 Settlement Administrator shall pay the Class Representative Service Award,
3 either in the amount stated herein if approved by the Court or some other
4 amount as approved by the Court, to Plaintiff from the Gross Settlement
5 Amount no later than fifteen (15) calendar days after the Funding Date. Any
6 portion of the requested Class Representative Service Award that is not
7 awarded to the Class Representative shall be part of the Net Settlement
8 Amount and shall be distributed to Settlement Class Members as provided in
9 this Agreement. The Settlement Administrator shall issue an IRS Form 1099
10 — MISC to Plaintiff for his Class Representative Service Award. Plaintiff
11 shall be solely and legally responsible to pay any and all applicable taxes on
12 his Class Representative Service Award and shall hold harmless the Released
13 Parties from any claim or liability for taxes, penalties, or interest arising as a
14 result of the Class Representative Service Award. The Class Representative
15 Service Award shall be in addition to Plaintiff's Individual Settlement
16 Payment as a Settlement Class Member. Approval of this Settlement shall not
17 be conditioned on Court approval of the requested amount of the Class
18 Representative Service Award. If the Court reduces or does not approve the
19 requested Class Representative Service Award, Plaintiff shall not have the
20 right to revoke the Settlement, appeal the Court's order approving this
21 Settlement, or otherwise challenge the Settlement, and it will remain binding.

- 22 10. Class Counsel Award. Defendant understand a motion by Class Counsel for
23 attorneys' fees not to exceed one-third of the Gross Settlement Amount
24 currently estimated to be Two Hundred, Twenty-Five Thousand Dollars and
25 Zero Cents (\$225,000) plus costs and expenses supported by declaration not
26 to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), from
27 the Gross Settlement Amount will be filed. Defendant agrees not to oppose
28 the request for the Class Counsel Award. Any portion of the requested Class

1 Counsel Award that is not awarded to Class Counsel shall be part of the Net
2 Settlement Amount and shall be distributed to Settlement Class Members as
3 provided in this Agreement. The Settlement Administrator shall allocate and
4 pay the Class Counsel Award to Class Counsel from the Gross Settlement
5 Amount no later than fifteen (15) calendar days after the Funding Date. Class
6 Counsel shall be solely and legally responsible to pay all applicable taxes on
7 the payment made pursuant to this paragraph. The Settlement Administrator
8 shall issue an IRS Form 1099 — MISC to Class Counsel for the payments
9 made pursuant to this paragraph. Approval of this Settlement shall not be
10 conditioned on Court approval of the requested amount of the Class Counsel
11 Award. In the event that the Court reduces or does not approve the requested
12 Class Counsel Award, Plaintiff and Class Counsel shall not have the right to
13 revoke the Settlement, or to appeal or otherwise challenge such order, and the
14 Settlement will remain binding.

- 15 11. PAGA Payment. Thirty Thousand Dollars and Zero Cents (\$30,000.00) shall
16 be allocated from the Gross Settlement Amount for settlement of claims for
17 civil penalties under the Private Attorneys General Act of 2004 (“PAGA
18 Payment”). The Settlement Administrator shall distribute the LWDA Payment
19 to the California Labor and Workforce Development Agency no later than
20 twenty-five (25) calendar days after the Funding Date. The Aggrieved
21 Employee Payment will be distributed to the Aggrieved Employees as
22 described in this Agreement. For purposes of distributing the Aggrieved
23 Employee Payments, each Aggrieved Employee shall receive their pro-rata
24 share of the Aggrieved Employee Payment using the PAGA Payment Ratio
25 as defined above. Aggrieved Employees will be bound by the PAGA Release
26 and PAGA Payments will be made regardless of whether Aggrieved
27 Employees opt out of the Settlement.
28

12. Settlement Administration Expenses. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Settlement Administration Expenses is \$5,200. The Settlement Administrator shall be paid the Settlement Administration Expenses no later than fifteen (15) calendar days after the Funding Date.

O. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative Service Award, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Expenses. Plaintiff will provide Defendant with a draft of the Motion at least three (3) business days prior to the filing of the Motion to give Defendant an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than fifteen (15) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment, lowest Individual Settlement Payment, and highest Individual Settlement Payment, the amount of the average Aggrieved Employee Payment, lowest Aggrieved Employee Payment, and highest Aggrieved Employee Payment, the Settlement Administration Expenses, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

- 1 2. Final Approval Order and Judgment. Class Counsel shall present an Order
2 Granting Final Approval of Class Action Settlement to the Court for its
3 approval, and Judgment thereon, at the time Class Counsel files the Motion
4 for Final Approval.
- 5 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
6 an opportunity for Counsel for Defendant to review the Motions for Preliminary and
7 Final Approval, including the Order Granting Final Approval of Class Action
8 Settlement, and Judgment before filing with the Court. The Parties and their counsel
9 will cooperate with each other and use their best efforts to affect the Court's approval
10 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
11 Judgment.
- 12 O. Cooperation. The Parties and their counsel will cooperate with each other and use
13 their best efforts to implement the Settlement.
- 14 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
15 except such proceedings necessary to implement and complete the Settlement, pending
16 the Final Approval/Settlement Fairness Hearing to be conducted by the Court.
- 17 Q. Amendment or Modification. This Agreement may be amended or modified only by
18 a written instrument signed by counsel for all Parties or their successors-in-interest.
- 19 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
20 Agreement among these Parties, and no oral or written representations, warranties or
21 inducements have been made to any Party concerning this Agreement or its Exhibit
22 other than the representations, warranties and covenants contained and memorialized
23 in this Agreement and its Exhibits.
- 24 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
25 represent they are expressly authorized by the Parties whom they represent to negotiate
26 this Agreement and to take all appropriate Action required or permitted to be taken by
27 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
28 documents required to effectuate the terms of this Agreement. The persons signing

1 this Agreement on behalf of Defendant represent and warrant that he/she is authorized
2 to sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that
3 he is authorized to sign this Agreement and that he has not assigned any claim, or part
4 of a claim, covered by this Settlement to a third-party.

5 T. Confidentiality. Plaintiff and Class Counsel will not make any public disclosure of the
6 Settlement until after the filing of the Motion For Preliminary Approval of the
7 Settlement. Plaintiff and Class Counsel represent that they have not made any such
8 disclosure. Defendant, Defense Counsel, Plaintiff and Class Counsel shall not
9 encourage members of the Settlement Class to opt-out or object, or any PAGA
10 Employees to intervene or object. Class Counsel will take all steps necessary to ensure
11 that Plaintiff is aware of, and will encourage them to adhere to, the restriction against
12 any public disclosure of the Settlement until after the Settlement is preliminarily
13 approved by the Court. Before or after the Motion for Preliminary Approval is filed,
14 Class Counsel and Plaintiff agree not to publicize issue any press releases, initiate any
15 contact with the press, respond to any press inquiry, or have any communication with
16 the press about the fact, amount or the terms of this Settlement with the media,
17 including but not limited to, any newspaper, journal, magazine, website and/or online
18 reporter of settlements or on any website. Class Counsel further agrees not to use the
19 Settlement Agreement or any of its terms for any marketing or promotional purposes.
20 Nothing herein will restrict Class Counsel from including publicly available
21 information regarding this settlement in future judicial submissions regarding Class
22 Counsel's qualifications and experience.

23 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
24 to the benefit of, the successors or assigns of the Parties, as previously defined.

25 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
26 shall be governed by and interpreted according to the laws of the State of California.

27 W. Counterparts. This Agreement may be executed in one or more counterparts. All
28 executed counterparts and each of them shall be deemed to be one and the same

instrument provided that counsel for the Parties to this Agreement shall exchange among themselves copies or originals of the signed counterparts.

X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement is a fair, adequate and reasonable settlement of this Action and have arrived at this Settlement after extensive arms-length negotiations, considering all relevant factors, present and potential.

Y. Continuing Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction over this case under CCP section 664.6 to ensure the continuing implementation of the provisions of this settlement and that the time within which to bring this action to trial under CCP section 583.310 shall exclude time pursuant to CCP section 583.340 including the period from the date of the signing of this Agreement by all Parties until the entry of the final approval order and judgment or if not entered the date this Agreement shall no longer be of any force or effect.

Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently intend to pursue any claims against the Released Parties, including, but not limited to, any and all claims relating to or arising from Plaintiff's employment with Defendant, regardless of whether Class Counsel is currently aware of any facts or legal theories upon which any claims or causes of action could be brought against Released Parties, including those facts or legal theories alleged in the Operative Complaint in this Action. The Parties further acknowledge, understand and agree that this representation is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.

BB. Stipulation to Class Certification. The Parties agree to stipulate to class certification for purposes of this settlement only.

1 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
2 Released Claims have merit and give rise to liability on the part of Defendant.
3 Defendant claims that the Released Claims have no merit and do not give rise to
4 liability. This Agreement is a compromise of disputed claims. Nothing contained in
5 this Agreement and no documents referred to and no action taken to carry out this
6 Agreement may be construed or used as an admission by or against the Defendant or
7 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
8 than as may be specifically set forth herein, each Party shall be responsible for and
9 shall bear its/his own attorney's fees and costs.

10 DD. Attorneys' Fees. If Defendant fails to fund the Gross Settlement Amount in accordance
11 with this Agreement, Plaintiff and the Settlement Class shall be entitled to reasonable
12 attorneys' fees and costs incurred in any action seeking to enforce the terms of this
13 Agreement unless Defendant exercises its unilateral right to nullify the Settlement if
14 10 or more Class Members opt out of the Settlement.

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IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: 08/13/2024


Richard Winn (Aug 13, 2024 10:53 PDT)

RICHARD WINN

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

DATED:

CITY ELECTRIC SUPPLY COMPANY

Printed Name

Title

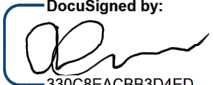
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IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: _____ RICHARD WINN

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

DATED: 8/27/2024 | 4:03 PM PDT

DocuSigned by:

330C8EACBB3D4ED

CITY ELECTRIC SUPPLY COMPANY

John Gray

Printed Name

co-ceo

Title

1 IT IS SO AGREED AS TO FORM BY COUNSEL:
2

3 DATED: August 14, 2024

JCL LAW FIRM, APC

4 By: 

5 Jean-Claude Lapuyade

6 Attorneys for Plaintiff and the Settlement Class
7 Members

8 DATED: August 14, 2024

ZAKAY LAW GROUP, APLC

9 By: 

10 Shani Zakay

11 Attorneys for Plaintiff and the Settlement Class
12 Members

13
14 DATED: August 28, 2024

K&L GATES LLP

15
16 By: 

17 Eugene C. Ryu

18 Penny C. Fox

19 Paul M. Suh

20 Attorneys for Defendant
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EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

**(Winn v. City Electric Supply Company, San Diego County Superior Court Case No. 37-2023-00040231-
CU-OE-CTL)**

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Settlement Payment is: \$<<[REDACTED]>>. Your estimated Aggrieved Employee Payment is <<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendant as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the Settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiff Richard Winn (“Plaintiff”) and Defendant City Electric Supply Company (“Defendant”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

all persons who are or previously were employed by Defendant in California and classified as non-exempt employees during the Class Period.

The “Class Period” is the period of time running from Beginning July 13, 2019 through June 30, 2024.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On July 13, 2023, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of San Diego which Defendant removed to the United States District Court, Southern District of California, Case No. 3:23-cv-01577-RBM-BLM (the “Class Action”). Plaintiff asserted the following claims alleging that Defendant: (1) Unfair Competition in Violation of Cal. Bus. & Prof. Code §17200 et seq.; (2) Failure To Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure To Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, et seq; (4) Failure To Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure To Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (6) Failure To Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; (7) Failure To Provide Accurate Itemized Statements in Violation of Cal. Lab. Code § 226; and (8) Failure To Reimburse Employees For Required Expenses in Violation of Cal. Lab. Code § 2802.

On September 18, 2023, Plaintiff filed a separate representative action Superior Court of the State of California, County of San Diego Case No. 37-2023-00040231-CU-OE-CTL for violations of the Private Attorneys General Act, California Labor Code sections 2698, et seq. (“PAGA Action”) (the “Class Action” and “PAGA Action” are collectively referred to as the “Action”). PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who does so as the proxy or agent of the state’s labor law enforcement agency. The purpose of the PAGA is not to recover damages or restitution, but to create a means of “deputizing” citizens as private attorney general to enforce the Labor Code.

Defendant denies and disputes all claims asserted in the Action. Specifically, Defendant contended (and continues to contend) that the Action could not properly be maintained as a class action; that Defendant properly paid members of the class all wages and sick pay that was due; that Defendant provided members of the class with all legally required meal breaks and rest breaks; that Defendant paid any members of the class all wages due them at the time of their terminations; that Defendant reimbursed members of the class for required business expenses; that Defendant did not violate California Business and Professions Code section 17200.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Six Hundred Seventy-Five Thousand Dollars and Zero Cents (\$675,000.00) (the “Gross Settlement Amount”) to fund the Settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments to Settlement Class Members, Class Counsel Award, Settlement Administration Expenses, PAGA Payment, and the Class Representative Service Award to the Plaintiff.

After the Judgment becomes Final, Defendant will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed, and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$5,200.00 for expenses, including expenses of sending this Notice, processing opt-outs, and distributing settlement payments.
- Class Counsel Award. Payment to Class Counsel attorneys' not to exceed one-third of the Gross Settlement Amount (currently \$225,000) plus costs and expenses not to exceed \$25,000 for all costs and expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Award. Class Representative Service Award of up to Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Payment. A payment of Thirty Thousand Dollars and Zero Cents (\$30,000.00) relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$22,500 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA Payment") and the remaining \$7,500 will be distributed to the Aggrieved Employees ("Aggrieved Employee Payment").
- Calculation of Individual Settlement Payments. After all the above payments of the court-approved Class Counsel Award, the Class Representative Service Award, the PAGA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Individual Settlement Payment for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant's records, a member of the class worked at least one day during any such workweek.
- Calculation of Aggrieved Employee Payments to Aggrieved Employees. The Aggrieved Employee Payment portion of the PAGA Payment shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The Aggrieved Employee Payment will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employees" means all non-exempt employees who are or were previously employed by Defendant in California during the PAGA Period. The PAGA Period means the period beginning July 13, 2022 through June 30, 2024.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Individual Settlement Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

You may find the Settlement Agreement entitled "Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims" filed on **MONTH XX**, 2024, with the San Diego County Superior Court, 330 West

Broadway, San Diego, CA 92101 in Department C-75. You may also find the Settlement Agreement online by visiting the San Diego County Superior Court website <https://www.sandiego.courts.ca.gov/>. The Settlement Agreement can be found at Exhibit 1 of the Lapuyade Declaration filed on **MONTH XX**, 2024.

Tax Matters. Twenty percent (20%) of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Eighty percent (80%) of each Individual Settlement Payment is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld from this portion, and each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from Aggrieved Employee Payments paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendant, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means (a) the claims set forth in the Action, specifically including but not limited to: alleged failure to pay minimum wages in Violation of California Labor Code sections 1194, 1197 and 1197.1; failure to pay overtime wages in Violation of California Labor Code sections 510 *et seq.*, 204, 510, 512, 518, 558, and 1194; failure to provide required meal periods in Violation of California Labor Code sections 226.7 and 512 and the Applicable IWC Wage Order; failure to provide required rest periods in Violation of California Labor Code sections 226.7 and 512 and the Applicable IWC Wage Order; failure to provide wages when due in Violation of California Labor Code sections 201, 202 and 203; failure to provide accurate itemized statements in Violation of California Labor Code section 226; failure to reimburse employees for required business expenses in Violation of California Labor Code section 2802; violation of California Labor Code section 246; violation of California Labor Code section 221, violation of California Labor Code section 204; and, unfair competition in Violation of California Business and Professions Code section 17200 arising from the violations of the California labor code listed herein; ., including but not limited to alleged violations of California Labor Code sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804 and the Applicable Industrial Wage Order(s); (b) premiums in connection therewith, as well as any claims under the California Labor Code and California Industrial Welfare Commission Wage Orders that were alleged or which could have been alleged under the same facts, allegations and/or claims pleaded in the Action; (c) Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or punitive damages alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the complaints filed as part of the Action; and (d) Any and all other claims under California common law, the California Labor Code, the Fair Labor Standards Act, California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code alleged in or that could have been alleged under the same facts, allegations and/or claims pleaded in the Action. In addition, to the extent required by law, the cashing of the settlement check by the Settlement Class Member shall be deemed to be an opt-in for purposes of releasing Releasees from any claims predicated under the FLSA that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Action.

The Released Parties are defined as Defendant City Electric Supply Company, and any of its past, present and future direct or indirect parents, subsidiaries, predecessors, successors, affiliates, and all entities that could be held to be joint employers, as well as each of its or their past, present and future officers, directors, employees,

partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendant.

The Released PAGA Claims shall be released as follows: Upon entry of final judgment and upon funding in full of the Gross Settlement Amount by Defendant, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the Class Settlement and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" means all claims for penalties under the Private Attorneys General Act arising from the claims pleaded in the operative Complaints in the Action and/or which could have reasonably been alleged under the same facts, allegations and/or claims pleaded in the Action, against the Released Parties for work performed during the PAGA Period. Released PAGA Claims specifically include claims for PAGA penalties premised on claims for unpaid wages, failure to timely pay wages upon separation or termination from employment, failure to timely pay wages during employment, failure to provide sick pay wages, non-compliant meal periods, non-compliant rest periods, failure to pay meal and rest break premiums, non-compliant wage statements, reimbursement for business expenses, and claims for interest in connection therewith, as well as claims for PAGA penalties premised on any claims under the California Labor Code and California Industrial Welfare Commission Wage orders that were alleged or which could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Actions or PAGA Notices, and any claims for injunctive relief, declaratory relief, fraudulent business practices alleged or which could have been alleged under the facts, allegations and/or claims pleaded,.

This means that, if you do not timely and formally exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendant's records reflect that you have <<____>> Workweeks worked during the Class Period (Beginning July 13, 2019 through June 30, 2024).

Based on this information, your estimated Individual Settlement Payment is <<____>>.

Defendant's records reflect that you have <<____>> pay periods worked during the PAGA Period (July 13, 2022 through June 30, 2024).

Based on this information, your estimated Aggrieved Employee Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Apex Class Action LLC at 1-800-355-0700.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final

judgment to the Class Members by posting a copy of the Judgment on the administrator's website at <https://apexclassaction.com/>.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the Released PAGA Claims, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Aggrieved Employee Payment.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is 18 Technology Drive, Suite 164, Irvine, CA 92618. The request for exclusion must state in substance: "I wish to opt out of the settlement of the class action lawsuit entitled ***Winn v. City Electric Supply Company, San Diego County Superior Court, Case No. 37-2023-00040231-CU-OE-CTL***. I understand that by requesting to be excluded from the Settlement, I will receive no money from the Settlement described in this Notice." The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

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

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair. All written objections or other correspondence must also state the name and number of the case, which is ***Winn v. City Electric Supply Company, San Diego County Superior Court, Case No. 37-2023-00040231-CU-OE-CTL***. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

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

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is Apex Class Action LLC, 18 Technology Drive, Suite 164, Irvine, CA 92618.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
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Counsel for Defendant:

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Tel: 310.553.5000

Fax: 310.553.5001

E-Mail: Gene.Ryu@klgates.com

Penny.Fox@klgates.com

Paul.Suh@klgates.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at **00:00 AM/PM on**, at the San Diego County Superior Court, 330 West Broadway, San Diego, CA 92101 in Department C-75 before Judge James A. Mangione. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, reasonable, and adequate. At the Final Approval Hearing, the Court will determine whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 1-800-355-0700 or write to ***Winn v. City Electric Supply Company, San Diego County Superior Court, Case No. 37-2023-00040231-CU-OE-CTL***, Settlement Administrator, c/o _____.

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You may receive a copy of the Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims ("Settlement Agreement") filed on **MONTH XX**, 2024, the Final Judgment or other Settlement documents by writing to JCL Law Firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your Individual Settlement Payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks will be paid to the Community Law Project, a Cy Pres, in accordance with California Code of Civil Procedure section 384. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.