JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
jlapuyade@jcl-lawfirm.com
Sydney Castillo Johnson (State Bar #343881)
scastillo@jcl-lawfirm.com
John L. Nitti (State Bar #330752)
jnitti@jcl-lawfirm.com
Carolina Faccin (State Bar $340855)
cfaccin@jcl-lawfirm.com
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
shani@zakaylaw.com
Jaclyn Joyce (State Bar #285124)
jaclyn@zakaylaw.com
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047

Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

ALSHA JACKSON, an individual, FRANCISCO CARRILLO GONZALEZ, an individual, on behalf of themselves, and on behalf of all persons similarly situated, Plaintiffs, v. AC PRO INC., a California corporation; and DOES 1-50, Inclusive, Defendants	Case No. CIVSB2407673 **DECLARATION OF SYDNEY CASTILLO-JOHNSON, ESQ. IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT** Date: November 6, 2025 Time: 8:30 a.m. Judge: Hon. Jeffrey R. Erickson Dept.: S14

I, Sydney Castillo-Johnson, Esq., declare as follows:

1. I am over eighteen years of age, and if called as a witness, I could and would competently testify to the following facts from my own personal knowledge. I am an attorney-at-law at JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am co-counsel of record for Plaintiffs ALSHA JACKSON (hereinafter "Plaintiff Jackson") and FRANCISCO CARRILLO GONZALEZ (hereinafter "Plaintiff Carrillo") (collectively "Plaintiffs" or "Plaintiff") in this wage and hour class action filed against AC PRO, INC. (hereinafter "Defendant").

2. This declaration is being submitted in support of Plaintiffs' motion for Preliminary Approval of Class Action Settlement.

I. EXHIBITS

3. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed Class Action and PAGA Settlement Agreement and Release ("Agreement" or "Settlement Agreement"). Attached as **Exhibit "A"** to the Agreement is a true and correct copy of the proposed Notice Packet.

4. Attached hereto as **Exhibit "2"** is a true and correct copy of the proof of filing with the Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement and Motion for Preliminary Approval of Class Action and PAGA Action Settlement evidencing Class Counsel's compliance with California Labor Code Section 2699(l)(2).

II. INTRODUCTION

5. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length. The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases (*see infra).* Indeed, by settling now rather than proceeding to trial, Settlement Class Members will not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being denied or of Defendant prevailing at trial. Given that there are approximately 560 Settlement Class Members, ***the average gross recovery is approximately $799.11*** (Net Settlement Amount divided by Settlement Class Members.)

/ / /

6. As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement approval and falls within the range of reasonableness. The average Individual Settlement Payment to the Settlement Class meets or exceeds awards in similar wage and hour class actions. Moreover, the proposed Class is appropriate for provisional certification. Accordingly, Plaintiffs respectfully request the Court grant preliminary approval of the Settlement.

III. FACTS AND PROCEDURE

A. Overview of the Litigation

7. Defendant is a supplier, distributor, and retailer of HVAC appliances throughout the state of California, including the county of San Bernardino, where Plaintiffs worked. Plaintiff Jackson worked for Defendant from January 2023 to July 2023 as a non-exempt employee and was paid on an hourly basis. Plaintiff Carrillo worked for Defendant from May 8, 2017, to February 19, 2024, as a non-exempt employee, and was paid on an hourly basis. At all times during Plaintiffs' employment, Plaintiffs were classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to legally compliant meal and/or rest periods, and minimum, regular, and overtime wages for all hours worked. Throughout Plaintiffs' employment, Plaintiffs were subject to Defendant's written policies and procedures contained in, among other documents, the "Associate Handbook.".

8. On December 29, 2023, Plaintiff Jackson served Defendant and the Labor and Workforce Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff Jackson's PAGA Notice set forth the facts and theories supporting Defendant's alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and of his intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 et seq. ("PAGA").

9. On March 4, 2024, Plaintiff Jackson filed a Class Action Complaint against Defendant, which was later dismissed on July 12, 2024.

10. On March 6, 2024, Plaintiff Jackson filed a complaint in the San Bernardino Superior Court, Case Number CIVSB2407673 ("Action") alleging a single cause of action for violations of PAGA. On May 24, 2024, Plaintiff Carrillo filed his Complaint in San Bernardino County Superior Court, alleging a single cause of action for violations of PAGA. On August 2, 2024, the San Bernardino

County Superior Court found that Plaintiff Jackson and Plaintiff Carrillo's actions are related.

11. On July 28, 2025, Plaintiffs filed a First Amended Complaint in the Action alleging nine causes of action against Defendant for: (1) Unfair Competition in Violation of California Business and Professions Code §§ 17200 *et seq.*; (2) Failure to Pay Minimum Wages in Violation of California Labor Code §§ 1194, 1197 and 1197.1; (3) Failure to Pay Overtime Wages in Violation of California Labor Code §§ 510 *et seq*.; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (6) Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203 (7) Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code §226; (8) Failure to Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802; and Representative Action (9) Penalties Under The Labor Code Private Attorneys General Act.

12. Generally, Plaintiffs claim that Defendant failed to pay employees for all time worked, failed to provide them with legally compliant meal and rest breaks, failed to reimburse for required business expenses, failed to properly calculate the regular rate of pay for purposes of overtime and sick pay, failed to provide accurate itemized wage statements, and failed to timely pay wages due upon separation of employment. Defendant forcefully deny liability for each of Plaintiffs' claims. Further, Defendant asserts that they fully complied with all applicable employment laws and raised several other significant defenses to Plaintiffs' claims, including but not limited to, payment of minimum wages and overtime, facially compliant meal and rest period polices, reimbursement to its employees for business expenses, properly calculated the regular rate of pay for purposes of overtime and sick pay, provided compliant wage statements, and timely payment of all wages due upon separation of employment.

13. The Parties agreed relatively early in the litigation to attend private mediation. To facilitate settlement negotiations, Defendant agreed to informally produce documents and data points subject to the mediation privilege, including but not limited to, a sampling of the Class Members' time and payroll data, and pertinent written wage and hour policies. As discussed *infra,* Plaintiffs' counsel retained the forensic consultants at Berger Consulting Group ("BCG") to analyze Defendant's time and payroll data.

14. On February 12, 2025, the Parties mediated the Action with Monique Ngo-Bonnici, a mediator of class and PAGA actions. The Parties engaged in arms-length settlement negotiations with Ms. Ngo-Bonnici's assistance. Specifically, Ms. Ngo-Bonnici helped manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. The Parties made substantial progress with Ms. Ngo-Bonnici's assistance. Namely, the Parties exchanged information regarding their respective claims and defenses, including their respective evaluation of the damages. The mediation concluded, and a mediator's proposal was successfully accepted by both Parties. The agreement was subsequently memorialized in the form of a Memorandum of Understanding ("MOU"). After reaching an agreement in principle, the Parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion.

B. Class Counsel Thoroughly Investigated the Factual and Legal Issues

15. Months before filing the Action, Class Counsel began its pre-filing investigation into Plaintiffs' complaints. Class Counsel's investigation started with several lengthy interviews with Plaintiffs. As part of the interview process, Plaintiffs produced documents related to their employment, including, among other things, copies of their wage statements. At the conclusion of the interviews, Class Counsel determined that each of Plaintiffs' complaints justified further inquiry.

16. Class Counsel subsequently requested Plaintiffs' employee file from Defendant. In response, Defendant produced documents, including but not limited to, Plaintiffs' hiring and separation documents, payroll records, and time records. Class Counsel reviewed and analyzed the documents and determined the documents appeared to substantiate Plaintiffs' claim that Defendant failed to, among other things, failed to pay employees for all time worked, failed to provide them with proper meal and rest breaks, failed to reimburse for required business expenses, failed to properly calculate the regular rate of pay for purposes of overtime and sick pay, failed to provide accurate itemized wage statements, and failed to timely pay wages upon termination.

17. Considering the many anticipated factual disputes and the high cost of litigation, the Parties agreed that it would be in the best interest of both Parties to mediate the matter. To prepare for mediation, Class Counsel requested documents and data points to further evaluate Plaintiffs' claims and Defendant's liability exposure to the Class Members. In response to Class Counsel's request,

Defendant produced a sampling of Class Member time and payroll records, aggregate workweek and pay period data, and copies of applicable policies, and agreements containing, *inter alia,* compensation, timekeeping and meal and rest period policies. In total, Defendant produced thousands of pages of pertinent policy documents and payroll data for Class Counsel to analyze.

18. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class Members' payroll and time data. BCG provides data analysis and damage modeling consulting services specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed and experienced experts in their fields and have provided their expertise on thousands of cases. Stated differently, BCG is uniquely qualified to analyze Defendant's time and payroll data.

19. BCG analyzed Defendant's time and payroll data to assist in the development of various damage models. Among other things, BCG determined the approximate number of work shifts, workweeks, pay periods during the Class Period, and the average length of shift and average number of hours worked per week and per pay period during the Class Period. BCG also estimated the amount of meal and rest period premiums paid during the Class Period, the amount of unreimbursed business expenses, the amount of unpaid wages owed, and the amount of off-the-clock work performed by the Class Members during the Class Period.

20. In advance of mediation, Class Counsel created several damage models predicated on the BCG analysis. Class Counsel's models calculated Defendant's potential liability exposure while accounting for the uncertainties of continued litigation. These damage models informed and guided Class Counsel during the mediated settlement discussions.

21. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1) determining Plaintiffs' suitability as a putative class representative through interviews, background investigations, and analysis of his employment files; (2) evaluating all of Plaintiffs' potential claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing the Class' time and payroll records; (5) analyzing Defendant's labor policies and practices; (6) researching settlements in similar cases as well as outstanding issues which could affect settlement approval; (7) evaluating Plaintiffs' claims and estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the

mediation. This investigation allowed Class Counsel to fully assess the nature and magnitude of the claims being settled, as well as the impediments to recovery, such as to make an independent assessment of the reasonableness of the terms to which the Parties have agreed.

1. <u>The Parties Reached the Settlement Through Arm's-Length Bargaining Led by Experienced Counsel.</u>

22. The Parties participated in mediation with Monique Ngo-Bonnici an experienced mediator of wage and hour class and PAGA actions. Ms. Ngo-Bonnici managed the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. (*In re Apple Computer, Inc. Derivative Litig,* No. C 06-4128 JF (HRL), 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator's participation weighs considerably against any inference of a collusive settlement); *D'Amato v. Deutsche Bank* (2d. Cir. 2001) 236 F.3d 78, 85 (a "mediator's involvement in pre-certification settlement negotiations helps to ensure that the proceedings were free of collusion and undue pressure.").) At all times, the Parties' negotiations were at an arm's length, adversarial and non-collusive. The matter resolved only after Ms. Ngo-Bonnici heard arguments, reviewed evidence, evaluated the Parties' respective claims and defenses, and issued a Mediator's Proposal.

23. Once the Parties agreed to Ms. Ngo-Bonnici's Proposal, the Parties engaged in protracted negotiations regarding the written terms of the class action and PAGA settlement. The Parties maintained the arm's length, non-collusive and adversarial negotiations while arriving at the final terms of the Settlement. The Agreement is the final product of these mediated negotiations. Objectively, the Settlement terms are fair, adequate and represent a reasonable compromise of the claims at issue.

24. Class Counsel only agreed to enter the Settlement following this thorough investigation and evaluation of Plaintiffs' claims. Based on this investigation of the facts, applicable law, and marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated with litigation, and the various defenses asserted by Defendant, Class Counsel firmly believes this Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair, reasonable, and adequate, the Court should preliminarily approve the Settlement.

/ / /

IV. ARGUMENT

A. The Court Should Preliminarily Approve the Settlement

25. The Gross Settlement Amount of $850,000.00 is well within the range of reasonableness considering the nature and magnitude of the claims being settled and the various potential impediments to recovery.

26. Class Counsel retained BCG to develop economic damage models measuring Defendant's potential liability exposure with respect to the Class and PAGA claims. The damage models were informed by Class Counsel's investigation, including the analysis of the time and payroll data Defendant produced. Regarding Defendant's liability for class claims, Class Counsel projected Defendant's liability exposure (excluding penalties) at $1,517,400.25 ("Conservative Model") and Defendant's *total* exposure for class claims (including waiting time and wage statement penalties, but exclusive of PAGA penalties) at $4,563,535.87 ("Aggressive Model"). Thus, the Gross Settlement Amount of $850,000.00 represents approximately 56.02% of Defendant's *total* liability exposure and 18.63% of Defendant's *maximum* class-wide exposure.

(1) <u>Estimated Exposure for Regular Rate Violations</u>

27. One of Plaintiffs' primary claims in the Action was that Plaintiffs alleged that Defendant miscalculated the regular rate of pay for purposes of overtime, meal period premiums, and redeemed sick pay. Specifically, Plaintiffs allege that Class Members received non-discretionary incentive compensation labeled on wage statements as "Incentive," "After Hours Incentive," and "Referral Bonus" payments, which were not properly calculated into the regular rate of pay for purposes of overtime, meal period premiums, and redeemed sick pay. Plaintiffs determined that Defendant's miscalculation of the regular rate of pay affected 104 employees out of the 560 Class Members.

28. Defendant, for their part, asserted that the incentive payments identified by Plaintiffs were discretionary in nature and otherwise not required to be included in the regular rate of pay for purposes of calculating overtime or redeemed sick pay. Defendant contends that these payments fell outside the scope of compensation subject to regular rate calculations under applicable California law and dispute that any miscalculation occurred. In light of the above, Plaintiffs applied a 50% discount to this claim and estimated Defendant's exposure ranged between $10,775.50 and $21,551.00.

(2) Estimated Exposure for Failure to Pay for All Hours Worked

29. One of Plaintiffs' claims in the Action was that Defendant failed to pay for all hours worked. Specifically, Plaintiffs alleged that Defendant required employees to perform pre- and post-shift work off-the-clock, including but not limited to cleaning work areas after every week after clocking out. Based on Plaintiffs' testimony, BCG assumed that Class Members performed approximately 10 minutes of unpaid work each workweek.

30. Defendant denied liability for this claim. Defendant asserted that it had in place compliant written policies requiring its employees to accurately record all of their time worked and that its employees were paid for all time worked. Furthermore, Defendant argued that the off-the-clock claim was not suitable for class treatment because individualized issues predominated. Thus, Plaintiffs applied a 50% discount for this claim and estimated Defendant's exposure was between $54,322.47 and $108,644.94.

(3) Estimated Exposure for Meal Period Violations

31. Plaintiffs alleged that Defendant failed to provide compliant meal periods. Specifically, Plaintiffs' expert determined that approximately 50.8% of shifts between 5 and 6 hours were without a recorded first meal break. Plaintiffs' expert also determined that 91.5% of shifts between 10 and 12 hours were without a recorded second meal period. Moreover, Plaintiffs alleged that as a result of their rigorous work schedules, Plaintiffs, Class Members, and Aggrieved Employees were not able to take timely and duty-free meal periods. Further, Plaintiffs allege that Defendant failed to record the actual time that Class Members worked. As a result, a significant share of the meal periods were allegedly rounded to exactly thirty (30) minutes, which Plaintiffs argued creates a presumption of a meal period violation. Because Defendant produced rounded time records, a significant portion of the time records reflect compliant meal periods.

32. Further, Defendant had written policies stating that in order to waive a meal break, an individual form must be filled out for each meal break. Defendant violated its own policies by requiring class members to waive meal periods without requiring them to sign a meal break waiver for each shift where they waived a meal break.

33. Defendant contends that it fully complied with California meal period laws and

maintained compliant policies and practices. Defendant also argued that it did not engage in rounding of meal period start and end times and provided all its employees, i.e., Class Members and Aggrieved Employees, with the opportunity to take compliant meal periods. Further, Defendant argued that it maintained facially complaint meal period policies. Thus, Defendants argued that there was no potential liability for Plaintiffs' alleged meal period violations and any claimed violations required a highly individualized inquiry not suitable to class.

34. In light of the foregoing, and considering Defendant's defenses, Plaintiffs applied a 50% discount and estimated that Defendant's exposure ranged from $349,450.92 to $698,901.84.

(4) Estimated Exposure for Rest Period Violations

35. Plaintiffs also alleged that Defendant failed to provide compliant rest periods. Specifically, Plaintiffs alleged that because of their rigorous work schedules, Plaintiffs, Class Members, and Aggrieved Employees were not able to take timely and duty-free rest periods. Specifically, Plaintiffs argued that they were required to work through their rest periods in order to finish work-related tasks.

36. Again, Defendant denied liability and asserted that it maintained legally compliant written policies and practices concerning rest periods throughout the Class Period. Moreover, Plaintiffs recognize the evidentiary burdens establishing this claim. Establishing Plaintiffs' rest period claim would rely, almost entirely, on Class Member testimony, making it a riskier claim at class certification and liability stages. Certification likely would have required depositions of Class Members who provided declarations, and Defendant would have obtained opposing declarations stating either rest breaks were taken, or rest breaks were voluntarily waived. *See, e.g., Ordonez v. Radio Shack, Inc*. (C.D. Cal. Jan. 17, 2013) 2013 WL 210223, at *11 ("Because of the competing testimony before the Court, Plaintiffs' evidence that Defendants may have an illegal, written rest break policy is insufficient for this Court to find that common issues predominate."); *Villa v. United Site Servs. of California, Inc*. (N.D. Cal. Nov. 13, 2012) 2012 WL 5503550, at *8 ("Indeed, Plaintiffs' own evidence confirms that the written policy does not generate uniform practices"). Accordingly, Plaintiffs' Conservative Model applied a 50% discount to the rest break claim. Plaintiffs estimated the range of potential outcome for this claim was between approximately $349,450.92 to approximately $698,901.84.

(5) Estimated Exposure for Failure to Pay for Mandatory Business Expenses

37. Plaintiffs also alleged that Defendant failed to pay for mandatory business expenses. Specifically, Plaintiffs alleged that Defendant required employees to use their personal cell phones for work-related communications with Defendant's managers and supervisors and to download mandated applications in order to locate worksites to drop off product for their projects. Based on Plaintiffs' testimony BCG assumed a reasonable $3 per month of unreimbursed business expenses.

38. Defendant denied liability and asserted that its employees were paid for all mandatory business expenses. Furthermore, Defendant argued that, even if successful, this claim resulted in minimal actual damage to the Class Members. Thus, Plaintiffs applied an 85% discount to the unreimbursed business expense claim and estimated Defendant's exposure ranged from $3,365.44 to $22,436.25.

(6) Estimated Exposure for Wage Statement Violations

39. Plaintiffs also alleged that Defendant failed to furnish its employees with accurate itemized wage statements. Specifically, Plaintiffs allege that because of Defendant's failure to provide meal and rest periods and calculate the regular rate of pay properly as required by the California Labor Code, Plaintiffs and other Class Members are entitled to *derivative* wage statement penalties.

40. Defendant argued that, as explained above, the violation rate for Plaintiffs' regular rate claims is modest. Further, when there is an objectively reasonable, good faith defense presented by Defendant, Defendant is not liable for civil derivative wage or waiting time penalties. (*See Naranjo v. Spectrum Security Services* (2024) 15 Cal. 5th 1056). Thus, given Defendant's arguments listed above, it highlights the difficulty Plaintiffs faces in succeeding on the merits of a wage statement violation claim. Considering Defendant's defenses and the fact that all of Defendant's wage statement violations were all derivative, Plaintiffs discounted this claim 75% to account for this risk. Plaintiffs estimated that Defendant's exposure on this claim ranged between $747,875.00 and $2,991,500.00.

(7) Estimated Exposure for Waiting Time Penalties

41. Plaintiffs also alleged that the Defendant's labor code violations resulted in derivative liability for waiting time penalties. However, this is Plaintiffs' most uncertain claim. Specifically, Defendant argued that Plaintiffs could not prove the "willful" prong needed to obtain waiting time

penalties under Labor Code section 203. Additionally, for the reasons stated above, *Naranjo, supra,* 15 Cal.App.1056, creates difficulty in Plaintiffs succeeding in a purely derivative waiting time penalty claim. Notwithstanding the uncertain nature of the claims, Plaintiffs discounted the waiting time penalty claim by 90% and estimated Defendant's exposure for these claims ranged between $2,160.00 and $21,600.00.

(8) Defendant's PAGA Exposure

42. Class Counsel's damage models also estimate Defendant's exposure for PAGA penalties arising from the aforementioned violations. At the time of mediation, Plaintiffs conservatively estimated Defendant's PAGA exposure to be approximately $149,575.00 and aggressively estimated $6,095,150.00.

43. Here, the Parties negotiated a good faith PAGA Payment in the amount of $50,000.00 which is 5.9% of the Gross Settlement Amount. This amount falls well within the range of approved PAGA penalties. Seventy-five percent (75%) of the PAGA Payment ($37,500.00) will be paid to the LWDA ("LWDA Payment") with the remaining twenty-five percent (25%) of the PAGA Payment ($12,500.00) will be distributed to the Aggrieved Employees, which is within the range of PAGA penalties approved by courts and should be approved.

44. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), illustrates the risk of PAGA claims. In *Carrington*, while the plaintiff prevailed on his PAGA claim upon trial, the trial court reduced the maximum PAGA penalty amount by 90%, citing the employer's good faith attempt at complying with the law. *Id.* at 517. Upon review, the Court of Appeal found such reduction to be proper. *Id.* at 539. Again, the *Carrington* decision was after Plaintiff actually prevailed at trial, and even then, the PAGA penalties were reduced by 90%. Thus, the PAGA claims likewise face significant uncertainty.

45. For the aforementioned reasons, the PAGA allocation of the Gross Settlement Amount is fair, just, and reasonable.

B. Inherent Risks of Continued Litigation Support Preliminary Approval

46. With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341. There, the Court of Appeal affirmed the Trial Court's denial of class

certification because employees' declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm. *See also Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest period claims based on the predominance of individual issues.

47. Further, even if a class is certified, liability remains uncertain. The risks attendant to the issue of Defendant's liability in similar wage and hour actions are demonstrated by *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31. There, the Court reversed a trial verdict in favor plaintiffs in a wage and hour class action. *See also Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 ("[T]he reason, if any, that employees might not take their breaks were predominantly individualized questions of fact not susceptible to class treatment.").

48. Finally, even if a class is certified and Defendant is found liable for the class claims alleged, post-certification risks remain, including a reversal of a favorable judgment for Plaintiffs and decertification of the class. These post-certification risks are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit vacated reversed and remanded a $110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement in favor of the employer. *See also O'Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action).

49. Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement.

50. Finally, continuing to litigate this action would require continued and extensive resources coupled with significant Court time to proceed through trial and post-trial motions; which can often take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates extensive expert testimony, particularly with regards to damages. But even if Plaintiffs are successful at trial, Plaintiffs are acutely aware that a judgment does not end the litigation. Plaintiffs fully expect

that Defendant would appeal any favorable judgment. As demonstrated by *Magadia, supra,* 999 F.3d 668, the risk of an appeal and subsequent reversal is real.

51. In this matter, Class Counsel negotiated a Gross Settlement Amount of $850,000.00 that is between 18.63% and 56.02% of Defendant's liability exposure for class damages. Given the amount of the settlement here, as compared to potential value of the claims, offset by the various inherent risks to continued litigation, the settlement is fair and reasonable.

C. Proposed Notice Informs the Class About the Case and Settlement

52. The Parties jointly drafted the Notice Packet which fairly and neutrally informs the Class Members of their rights and remedies. The Settlement Administrator will first verify addresses, then mail the proposed Notice Packet to all Class Members. The Notice Packet will include information regarding the nature of the lawsuit, a summary of the substance of the Settlement's terms, the class definition, the procedure and time period within which to requests for exclusions or objections to the Settlement, the date for the final approval hearing, the formula used to calculate settlement payments, and the terms and scope of the Released Class Claims. Agreement at ¶ 21. This method was negotiated by the Parties to ensure delivering the most reasonable method of notice to the Class Members while ensuring cost effective administration of the Settlement.

53. Accordingly, both the method of disseminating the Notice Packet and content of the Notice Packet satisfy due process and the requirements of California law. (*See* C.R.C. 3.776(e)-(f); *State of Cal. v. Levi Strauss* (1986) 41 Cal.3d 460,485 (the class notice must "fairly apprise the class members of the terms of the proposed compromise and of the options open to dissenting class members.").)

D. The Court Should Preliminarily Approve the Service Award

54. Approximately 560 Class Members will share in the Net Settlement Amount due entirely to the effort and commitment of Plaintiffs. Subject to Court approval, therefore, the Settlement provides for a Service Award of $10,000.00 for each Plaintiff. The service award is fair and reasonable compensation for the Plaintiffs' efforts bringing the action, assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on the status of his case and the strategies for prosecuting the claims, reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class.

55. Class Counsel on behalf of Plaintiffs will file a formal motion for the negotiated Service Award once preliminary approval of the Settlement is granted. Plaintiffs respectfully submit that the above showing is sufficient for preliminary approval of the negotiated Service Award.

E. The Court Should Preliminary Approve the Negotiated Class Counsel Award

56. Class Counsel took this matter on a contingency fee basis and invested significant time and expense successfully prosecuting Plaintiffs' claims. As discussed *supra*, the estimated average Individual Settlement Payment illustrates the demonstrably positive outcome for the Class Members. The Agreement provides for a payment of Class Counsel Award and in the amount of up to 35% of the Gross Settlement Amount ($297,500.00) and reimbursable litigations costs in an amount not to exceed $25,000.00. Agreement at ¶ 4. Considering the positive outcome for the Class Members, and in light of the supporting authority, the proposed Class Counsel Award is fair and reasonable. Plaintiffs will file a formal motion for the negotiated Class Counsel Award once preliminary approval of the Settlement is granted. Plaintiffs respectfully submit that the above showing is sufficient for preliminary approval of the negotiated attorneys' fees.

F. The Court Should Provisionally Certify the Settlement Class

57. For Settlement, Plaintiffs contend, and Defendant does not dispute, that provisional certification of the Class is appropriate.

58. Because all Class Members are Defendant's current and former employees, the class is readily ascertainable from Defendant's regular business records, i.e., payroll records.

59. The California statutes relating to each of Plaintiffs' claims apply with equal force and effect to the entire Settlement Class. Factually, Defendant's policies and practices apply class-wide and Defendant's liability can be determined by facts common to all members of the class. The wage and hour issues are both numerous and substantial, and a class action is the most advantageous method of dealing with the claims of the Settlement Class.

60. Plaintiffs' wage and hour claims are typical of the proposed Settlement Class because they arise from the same factual basis and are based on the same legal theories applicable to the other Class Members. Likewise, Plaintiffs' interests are entirely coextensive with the interests of the Settlement Class. Plaintiffs allege that they were injured by the same company-wide practices to which

the proposed Class Members were subject to and seek the same relief. Plaintiffs have already demonstrated their ability to advocate for the interests of the Class Members by initiating this litigation, undertaking extensive class discovery, and evaluating the proposed settlement to ensure that it is fair.

61. A class action is superior to a multitude of individual lawsuits. Given the size and amount of each individual claim, the Class Members likely have little incentive to litigate their claims on an individual basis because the out-of-pocket expense and personal commitment necessary to litigate each claim outweigh any potential recovery. In sum, class treatment is superior to individual, case-by-case adjudication.

G. Class Counsel's Experience

62. Plaintiffs and Class Members are represented by competent and experienced counsel to pursue their claims.

63. Class Counsel is qualified to represent the Plaintiffs, the State of California, and the Class Members. Class Counsel has experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. Class Counsel, will and have adequately represented the interests of the Plaintiffs and Class Members throughout this action.

64. Class Counsel's primary practice is representative plaintiff employment law. Class Counsel has handled a number of wage and hour matters, including individual actions, class actions, and representative PAGA actions, on behalf of plaintiffs. The following is a list of wage and hour class and/or PAGA actions where Class Counsel served as counsel and in which final settlement approval was granted: See generally *Chrestensen v. Northeastern Rural Health Clinics* Lassen, Superior Court Case No. 63703 (April 13, 2023); *Toler v. Total Testing Solutions, LLC,* Los Angeles Superior Court Case No. 21STCV38452 (July 27, 2023); *O'Quinn v. Laugh Factory, Inc.,* Los Angeles Superior Court Case No. 19STCV28155 (August 1, 2023); *Kneisly v. SR Machining, Inc., et al.,* Riverside Superior Court Case No. CVRI2201491 (October 5, 2023); *Anderson v. Barton Myers Associates, Inc., et al.,* Los Angeles Superior Court Case No. 21STCV43314 (October 12, 2023); *Coles v. Carefusion Resources LLC, et. al.* San Diego Supeiror Court Case No. 37-2022-00048696-CU-OE-CTL (March 25, 2024); *Thomas v. Center for Elder's Independence* Alameda Superior Court Case No. 22CV024221 (July 2, 2024); *Klein v. RedZone Security, Inc.,* Riverside Superior Court Case

No. CVRI2202841 (August 15, 2024); *Nunez v. Titan AG, et. al.* Tulare Superior Court Case No. VCU296822 (February 4, 2025); *Rene v. Koch Filter Corporation* Riverside Superior Court Case No. CVRI2300700 (March 11, 2025); *Winn v. City Electric Supply Company* San Diego Superior Court Case No. 37-2023-0004023 1-CU-OE-CTL (March 13, 2025); *Gamble v.* AirX Utility Surveyors, Inc. San Diego Superior Court Case No. 37-2022-00042178-CU-OE-CTL (March 14, 2025); *Garcia v. ConvergeOne* San Bernardino Superior Court Case No. CIVSB2305464 (May 12, 2025).

65. As counsel for Plaintiffs and the proposed Class, Class Counsel has been actively involved in every aspect of this case and believes that the proposed Settlement is an excellent result for the Class.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 10th day of October 2025, at San Diego, California.

JCL LAW FIRM, APC

By: Sydney Castillo-Johnson
Sydney Castillo-Johnson, Esq.
Attorney for PLAINTIFFS

EXHIBIT 1

THE WHEELER LAW FIRM, APC
Scott Ernest Wheeler (SBN 187998)
Justin A. Wheeler (SBN 342226)
250 West First Street, Suite 216
Claremont, California 91711
Telephone: (909) 621-4988
Facsimile: (909) 621-4622
Email: sew@scottwheelerlawoffice.com
jaw@scottwheelerlawoffice.com

JCL LAW FIRM, APC
Jean-Claude Lapuyade (SBN 248676)
Sydney Castillo Johnson (SBN 343881)
John L. Nitti (SBN 330752)
5440 Morehouse Drive, Suite 3600
San Diego, California 92121
Telephone: (619) 599-8292
Email: jlapuyade@jcl-lawfirm.com
scastillo@jcl-lawfirm.com
jnitti@jcl-lawfirm.com

[*Additional Counsel Listed on the Following Page*]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

SAN BERNARDINO JUSTICE CENTER

ALSHA JACKSON, individually; FRANCISCO CARRILLO GONZALEZ, individually; and on behalf of all other aggrieved employees, Plaintiff, v. AC PRO INC., a California corporation; and DOES 1 through 50, inclusive, Defendants.	CASE NO.: CIVSB2407673 [Hon. Jeffrey R. Erickson, Dept. S-14] **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE** Action Filed: March 4, 2024 Trial Date: None Set

ZAKAY LAW GROUP, APLC
Shani O. Zakay (SBN 277924)
Nicole Noursamadi (SBN 357246)
5440 Morehouse Drive, Suite 3600
San Diego, California 92121
Telephone:(619)255-9047
Email: shani@zakavlaw.com
nicole@zakavlaw.com

Attorneys for Plaintiffs and the Putative Class

OFFIT KURMAN, P.C.
Deborah H. Petito, Esq.
445 South Figueroa Street, 18th Floor
Los Angeles, California 90071
Telephone: (213) 629-5700
Facsimile: (213) 624-9441
Email: Deborah.Petito@offitkurman.com

Attorneys for Defendant, AC Pro, Inc.

This Class Action and PAGA Settlement and Release ("Settlement Agreement") is entered into by and between Plaintiffs Alsha Jackson and Carrillo Gonzalez ("Plaintiffs"), on behalf of themselves and the Class, on the one hand, and Defendant AC Pro Inc. ("Defendant"), and the Released Parties, on the other hand. Plaintiffs and Defendant are collectively referred to herein as "Parties" and individually referred to herein as "Party."

In consideration of the mutual covenants, promises, and agreements set forth herein, the Parties agree that, pursuant to the terms and conditions set forth herein, which are subject to approval of the Court, this Action and the Released Claims shall be settled and compromised as between Plaintiffs and the Class on the one hand and Defendant on the other hand.

DEFINITIONS

1. "Actions" means *Jackson v. AC Pro Inc.*, Superior Court of the State of California for the County of San Bernardino, Case Nos. CIVSB2407673; and *Gonzalez v. AC Pro Inc.*, Superior Court of the State of California for the County of San Bernardino, Case No. CIVSB2417579.

2. "Class" means: All current and former non-exempt employees who were employed by Defendant, in the State of California, at any time from December 29, 2022, through April 20, 2025.

3. "Class Counsel" means Scott Ernest Wheeler of The Wheeler Law Firm, APC; Jean-Claude Lapuyade of JCL Law Firm, APC; and Shani O. Zakay of Zakay Law Group, APLC.

4. "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 Plaintiffs and the PAGA Members, consisting of attorneys' fees currently not to exceed 35% of the Gross Settlement Amount currently estimated to be $297,500.00 out of $850,000.00 plus costs of up to $25,000.00. Attorneys' fees will be divided between Class Counsel in the following percentages (30% to JCL Law Firm, APC, 30% to Zakay Law Group, APLC, and 40% to The Wheeler Law Firm, APC).

5. "Class Information" means information regarding Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet or Microsoft Word Document and shall include: each Class Member's full name; social security number; last known address; last known telephone number; and number of Compensable Work Weeks and Compensable PAGA Work Weeks.

6. “Class Member” means each person who is a member of the Class defined above and who is eligible to participate in this Settlement.

7. “Class Period” means the time period from December 29, 2022, through May 12, 2025.

8. “Class Representative” means Plaintiffs Alsha Jackson and Francisco Carrillo Gonzalez.

9. “Compensable Work Week” or “Compensable Work Weeks” means any seven (7) consecutive days beginning on Sunday and ending on Sunday, in which a Class Member was employed by Defendant during the Class Period in California. The Workweeks will be calculated by the Settlement Administrator based on the Class Information and will be presumed to be correct unless a particular Class Member proves otherwise to the Settlement Administrator by credible written evidence. The number of Compensable Work Weeks for each Class Member will be determined by adding all the calendar days within the inclusive dates of employment for the employee and dividing that number by seven. Any partial workweek will be expressed as a percentage of a full workweek. If it can be readily determined, workweeks where a Class Member was employed but did not record any hours, and workweeks where the Class Member only received vacation/PTO and/or sick leave, can be excluded from this calculation. All Workweek disputes will be resolved and decided by the Settlement Administrator, and the Settlement Administrator’s decision on all Workweek disputes will be final.

10. “Compensable PAGA Work Week” or “Compensable PAGA Work Weeks” means a reasonable estimate of weeks worked by each PAGA Member, as a nonexempt employee in California for Defendant, individually and collectively by all PAGA Members, during the period from December 29, 2022, through May 12, 2025, based on Defendant’s records and used as a value to calculate PAGA Payments. The number of Compensable PAGA Work Weeks for each PAGA Member will be determined by adding all the calendar days within the inclusive dates of employment for the employee and dividing that number by seven. Any partial workweek will be expressed as a percentage of a full workweek. If it can be readily determined, workweeks where someone was employed but did not record any hours, and workweeks where the Class Member only received vacation/PTO and/or sick leave, can be excluded from this calculation.

11. "Court" means the Superior Court for the County of San Bernardino, State of California.

12. "Defendant" means AC Pro Inc.

13. "Effective Date" means the date on which the Superior Court's Final Approval Order and Judgment becomes final and Defendant fully funds the settlement. The Superior Court's Final Approval Order and Judgment "becomes final" upon the latter of: (a) if there is no Objection to the Settlement, or if there is an Objection but it is withdrawn, then, the date that the Final Approval Order and Judgment is filed by the Court; (b) if there is an Objection to the Settlement that is not withdrawn, but no appeal is commenced thereafter, then, sixty-five (65) calendar days following the date that the Final Approval Order and Judgment is filed by the Court; or (c) if there is an Objection to the Settlement, that is not withdrawn, and any appeal, writ, or other appellate proceeding opposing the Settlement has been filed within sixty-five (65) calendar days following the date that the Final Approval Order and Judgment is filed by the Court, then, when any such appeal, writ, or other appellate proceeding opposing the validity of the Settlement has been resolved finally and conclusively with no right to pursue further remedies or relief.

14. "Final Approval Order and Judgment" means an order and judgment that the Court will file which finally approves this Settlement and enters a judgment in favor of Plaintiffs. Class Counsel and Plaintiffs 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 Service Award, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Costs. Plaintiffs 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.

15. "Gross Settlement Amount" means the maximum amount which Defendant is obligated to pay under this Settlement Agreement, which is Eight Hundred and Fifty Thousand Dollars and Zero Cents ($850,000.00), subject to increase under the circumstances as set forth in paragraph 58. This is an "all in" non-reversionary Settlement in which Defendant is required to pay the entire

Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant under any circumstances. Payments of any appropriate and lawfully-required employer's share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the Gross Settlement Amount by Defendant at the time the Gross Settlement Amount is funded.

16. "Individual Settlement Payment" means the amount payable from the Net Settlement Amount to each Settlement Class Member.

17. "LWDA" means the California Labor and Workforce Development Agency.

18. "Net Settlement Amount" means the Gross Settlement Amount, less the Class Counsel Award, Service Awards, PAGA Payment, and Settlement Administration Costs.

19. "Notice of Class and PAGA Settlement" means the notice, substantially in the form attached hereto as **Exhibit 1**, which the Settlement Administrator will mail to each Class and PAGA Member, and which explains, *inter alia*, the terms of this Settlement Agreement, the settlement process, and each Class Member's estimated Individual Settlement Payment. Notice of Class Settlement will be provided to the Class in English and Spanish.

20. "Operative Complaint" means the consolidated First Amended Class Action and Representative Action Complaint pursuant to the Private Attorneys General Act, California Labor Code § 2698 ("PAGA). On or before the filing of Plaintiffs' Motion for Preliminary Approval, the Parties agree to file a Stipulation for Leave to Amend for Plaintiffs to file a First Amended Consolidated Class Action and PAGA Representative Complaint, to add the plaintiffs and claims in the *Jackson* Action and *Gonzalez* Action, in order to effectuate the terms of the Settlement.

21. "Objection" means a letter or other written communication submitted by a Class Member to the Settlement Administrator that contains a clear statement by the Class Member that he or she is objecting to any of the terms of the Settlement. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to object to the Settlement may submit to the Settlement Administrator a written statement of objection ("Notice of Objection") by the Response Deadline. The postmark date of mailing shall be deemed the exclusive means for determining that a Notice of Objection was served timely. The Notice of Objection, if in writing, must be signed by the Settlement Class Member and state: (1) the case name and number; (2) the

name of the Settlement Class Member; (3) the address of the Settlement Class Member; (4) the last four digits of the Settlement Class Member's Social Security number; (5) the basis for the objection; and (6) if the Settlement Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Settlement Class Members who fail to make objections in writing in the manner specified above may still make their objections orally at the Final Approval/Settlement Fairness Hearing with the Court's permission. Settlement Class Members will have a right to appear at the Final Approval/Settlement Fairness Hearing to have their objections heard by the Court regardless of whether they submitted a written objection. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to file or serve written objections to the Settlement or appeal from the Order and Final Judgment. Class Members who submit a written request for exclusion may not object to the Settlement. Class Members may not object to the PAGA Payment.

22. "PAGA Member" or "PAGA Members" means any Class Member who was employed or has been employed by Defendant at any time during the time period of December 29, 2022, through May 12, 2025.

23. "PAGA Payment" shall mean Fifty Thousand Dollars and Zero Cents ($50,000.00) to be allocated from the Gross Settlement Amount for settlement of the PAGA Claims asserted in the Action.

24. "Parties" means Plaintiffs and Defendant, collectively, and "Party" means either Plaintiffs or Defendant, individually.

26. "Payment Ratio" means the respective Compensable Work Weeks for each Settlement Class Member divided by the total Compensable Work Weeks for all Settlement Class Members.

27. "PAGA Payment Ratio" means the respective Compensable PAGA Work Weeks for each PAGA Member divided by the total Compensable PAGA Work Weeks for all PAGA Members.

28. "PAGA Period" means the time period from December 29, 2022, through May 12, 2025.

29. "Plaintiffs" means Francisco Carrillo Gonzalez and Alsha Jackson.

30. "Preliminary Approval Date" means the date upon which the Court files an order which grants preliminary approval of the Settlement. Class Counsel will provide an opportunity for Counsel

for Defendant to review the Motions for Preliminary Approval, including the Order Granting Preliminary Approval of Class Action Settlement, and Judgment at least three (3) business days in advance of filing with the Court. The Parties and their counsel will cooperate with each other and use their best efforts to affect the Court's approval of the Motion for Preliminary Approval of the Settlement, and entry of Judgment.

31. "Request for Exclusion" means a letter or other written communication submitted by a Class Member to the Settlement Administrator that contains a clear statement by the Class Member that he or she is electing to be excluded from the Settlement. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to exclude themselves from the Settlement must submit a signed copy of the Request for Exclusion form to the Settlement Administrator by the Response Deadline. A Request for Exclusion form will be mailed together with the Notice Packet to all Class Members. The Request for Exclusion will not be valid if it is not timely submitted, if it is not signed by the Class Member, or if it does not contain the name and address and last four digits of the Social Security number of the Class Member. The date of the postmark on the mailing envelope or fax stamp on the Request for Exclusion shall be the exclusive means used to determine whether the request for exclusion was timely submitted. Any Class Member who submits a timely Request for Exclusion shall be excluded from the Settlement Class will not be entitled to an Individual Settlement Payment and will not be otherwise bound by the terms of the Settlement or have any right to object, appeal, or comment thereon. However, any Class Member that submits a timely Request for Exclusion that is also an Aggrieved Employee will still receive his/her pro rata share of the Aggrieved Employee Payment, as specified below, and in consideration, will be bound by the Release by the PAGA Class as set forth herein. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any final judgment entered in this Action if the Court approves the Settlement. No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Class Members who have timely submitted timely Requests for Exclusion. Defendant retains the right, in the exercise of its sole discretion, to nullify the settlement within twenty-one (21) days after expiration of the exclusion period, if five

percent (5%) or more of Class Members exclude themselves from the Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class to submit Requests for Exclusion from the Settlement.

32. "Released Claims by Plaintiffs" is set forth in paragraph 47 below. Plaintiffs release the "Released Claims by Plaintiffs" as of the date Defendant fully funds this Settlement.

33. "Released Claims by Settlement Class Members" means: As of the date Defendant fully funds this Settlement, Settlement Class Members shall fully and finally release and discharge Released Parties, from December 29, 2022, through May 12, 2025, from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action contingent or accrued for, that are pleaded, or that could have been pleaded, based on the facts and claims alleged in the Operative Complaint, including any claims for: (a) failure to provide required meal periods and pay premium payments, California Labor Code §§ 226.7, 510 and 512; (b) failure to provide required rest periods and pay premium payments, California Labor Code §§ 226.7 and 512; (c) failure to provide recovery periods and pay premium payments, California Labor Code § 226.7, California Code of Regulations, Title 8, § 3395; (d) failure to pay overtime wages, California Labor Code §§ 204, 510, 1194 and 1198; (e) failure to pay minimum wages, California Labor Code §§ 1194 , 1197 and 1197.1; (f) failure to timely pay wages §§ 204 and 210; (g) failure to timely pay all wages during employment and to discharged and quitting employees, California Labor Code §§ 200, 201, 202, 203, 204, 210; (h) failure to maintain required records; (i) failure to furnish accurate, itemized wage statements, California Labor Code §§ 226 and 226.3; (j) failure to indemnify for reasonable and necessary business expenses, California Labor Code §2802; and (k) unlawful business practices under California, Business and Professions Code §17200, et seq.; predicated on any of the violations of the California Labor Code and the applicable IWC Wage Orders as alleged in the Operative Complaint including but not limited to, claims for restitution and other equitable relief, liquidated damages, or penalties; and any other benefit, wages, penalties, or other amounts claimed on account of the allegations asserted or which could have been asserted in the Operative Complaint. This release shall apply to any and all claims arising at any point during the Class Period. Upon entry of the Final Approval Order and funding of the total Gross Settlement Amount, all Settlement Class Members will

forever completely release and discharge the Released Parties from the Released Claims for the Class Period. Plaintiffs and Defendant intend that the Settlement described in this Settlement Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Settlement Class Members to obtain a recovery to any and all of the Released Claims. This release excludes the release of claims not otherwise permitted by law, i.e. Worker's Compensation and unemployment insurance benefits, and class claims outside of the Class Period.

34. "Released Parties" collectively mean: (i) Defendant; (ii) Defendant's respective past, present and future heirs, executors, administrators, parents, subsidiaries and affiliates, successors and assigns; and (iii) the past, present and future shareholders, managers, officers, partners, members, agents, employees, attorneys, insurers, predecessors, successors and assigns of any of the foregoing.

35. "Response Deadline" means forty-five (45) days after the postmark date of the Notice of Class Settlement that the Settlement Administrator shall mail to Class Members, and the last date on which Class Members may: (a) submit a Request for Exclusion; or (b) submit an Objection to the Settlement.

36. "Service Awards" means the amount that the Court authorizes to be paid individually to Plaintiffs in recognition of, *inter alia*, Plaintiffs' efforts and risks in assisting with the prosecution of the Action and in return for executing a general release with Defendant. Defendant shall not oppose service awards to Plaintiffs in the amount of $10,000 each. The Parties agree that the Plaintiffs will execute a full general release with Civil Code Section 1542 waiver.

37. "Settled PAGA Claims", means penalties any under the Private Attorneys General Act ("PAGA"), based upon the Released Claims by PAGA Members that serves the basis for penalties only pursuant to Labor Code § 2699 *et seq.*, which occurred during the PAGA Period including, but not limited to, penalties for : (a) failure to provide required meal periods, California Labor Code §§ 226.7, 510 and 512; (b) failure to provide required rest periods, California Labor Code §§ 226.7 and 512; (c) failure to provide recovery periods and pay premium payments, California Labor Code § 226.7, California Code of Regulations, (d) failure to pay overtime wages, California Labor Code §§510, 1194, 1197 and 1198; (e) failure to pay minimum wages, California Labor Code §§ 1194 and

1197; (f) failure to timely pay all wages due during employment and to discharged and quitting employees, California Labor Code §§ 201-204, 210; (g) failure to furnish accurate, itemized wage statements, California Labor Code §§ 226 and 226.3; (h) failure to maintain required records, California Labor Code §§ 226, (i) failure to reimburse for necessary business expenses, California Labor Code § 2802; (i) unlawful deductions in violation of California Labor Code § 221; (i) failure to provide sick leave pay and pay at the regular rate of pay, California Labor Code § 246; and primary rights alleged in Plaintiffs' Operative Complaint and in Plaintiffs' respective PAGA Notices dated December 29, 2023, and March 15, 2024, for penalties only pursuant to Labor Code §§201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 432, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14 1198, 1198.5, 1199, , 2802, 2804, California Code of Regulations, Title 8, Section 3395, and Industrial Wage Order No., 16-2001, Sections 3, 4, 6, 10 and 11 only.

38. "Settlement" means the disposition of the Action pursuant to this Agreement.

39. "Settlement Administration Costs" means the amount to be paid to the Settlement Administrator from the Gross Settlement Amount for administration of this Settlement.

40. "Settlement Administrator" means APEX Class Action LLC, the Settlement Administrator shall be responsible for, *inter alia*: (a) performing Spanish translations of the Notice of Class Settlement; printing and mailing the Notice of Class Settlement to the Class in English and Spanish; (b) receiving and reporting the Requests for Exclusion and Objections submitted by Class Members; (c) providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; (d) processing and mailing payments to Plaintiffs, Class Counsel, the LWDA, and Settlement Class Members; and (e) any other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities. The Parties agree that they have no financial interest or other relationship with APEX Class Action LLC that could create a conflict of interest. Should a conflict of interest or other issue lead to the disqualification of the selected Settlement Administrator, the Parties will meet and confer as to a suitable replacement.

41. "Settlement Class" or "Settlement Class Members" means all Class Members who

have not opted out of the Class by submitting a valid and timely Request for Exclusion.

RECITALS

42. Procedural History. On March 4, 2024, Plaintiff Alsha Jackson filed a Class Action Complaint against Defendant in San Bernardino Superior Court, Case No. CIVSB2407304 which was later dismissed on July 12, 2024. On March 6, 2024, Plaintiff Jackson filed the *Jackson* Action against Defendant in San Bernardino Superior Court, Case No. CIVSB2407673, alleging a single cause of action for violations of PAGA. Defendant has filed an Answer in the *Jackson* Action. On May 24, 2024, Plaintiff Francisco Carrillo Gonzalez filed a complaint against Defendant in San Bernardino Superior Court, Case No. CIVSB2417579. Defendant has filed an Answer in the *Gonzalez* Action. On August 2, 2024, the San Bernardino County Superior Court found that Plaintiff Jackson's and Plaintiff Carrillo's actions were related.

a. The Parties have agreed to file a First Amended Consolidated Complaint in the *Jackson* Action to add Plaintiff Carrillo and the claims in the *Carrillo* Action in order to effectuate the terms of the Settlement prior to moving for preliminary approval. The Parties agree that Defendant is not required to file a response to the First Amended Consolidated Complaint and maintains all available defenses to the allegations in First Amended Consolidated Complaint.

b. The Class Representatives believe they have claims based on alleged violations of the California Labor Code, and the Industrial Welfare Commission Wage Orders, and that class certification is appropriate because the prerequisites for class certification can be satisfied in the Action, and this action is manageable as a PAGA representative action.

c. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, disputes any wages, damages and penalties claimed by the Class Representative, alleged in the Operative Complaint, and/or alleged in the Class Representative's PAGA notices to the LWDA are owed, and further contend that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendant contends, among other things, that at all times they complied with the California Labor Code and the Industrial Welfare Commission Wage Orders.

/ / /

d. The Class Representative is represented by Class Counsel. Class Counsel investigated the facts relevant to the Action, including conducting an independent investigation as to the allegations, reviewing documents and information exchanged through informal discovery, and reviewing documents and information provided by Defendant pursuant to informal requests for information to prepare for mediation. Defendant produced for the purpose of settlement negotiations certain employment data concerning the Class, which Class Counsel reviewed and analyzed with the assistance of an expert. Based on their own independent investigation and evaluation, Class Counsel are of the opinion that the Settlement with Defendant is fair, reasonable, and adequate, and is in the best interest of the Class considering all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding class certification, and numerous potential appellate issues. Although it denies any liability, Defendant agrees to this Settlement solely to avoid the inconveniences and cost of further litigation. The Parties and their counsel have agreed to settle the claims on the terms set forth in this Agreement.

e. The Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiffs or the Class Members have merit or that Defendant bear any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendant's defenses in the Action have merit.

f. The Parties believe that the Settlement is fair, reasonable, and adequate. The Settlement was arrived at through arm's-length negotiations, considering all relevant factors. The Parties recognize the uncertainty, risk, expense, and delay attendant to continuing the Action through trial and any appeal. Accordingly, the Parties desire to settle, compromise and discharge all disputes and claims arising from or relating to the Action fully, finally, and forever.

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

Action. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on and will not be admissible in connection with any litigation.

43. Investigation and Discovery. The Parties have conducted significant investigation of the facts and law during the prosecution of this Action and before this Settlement was reached. Such discovery and investigation included, *inter alia*, the exchange of information and extensive documents pertaining to Plaintiffs and the Class, and numerous meetings and informal conferences wherein the Parties exchanged information, class data, and theories of the case. Plaintiffs have also investigated the law as applied to the facts of Plaintiffs' claims and Defendant's potential defenses thereto.

44. Mediation. The Parties initially participated in a mediation session with the highly experienced mediator, Monique Ngo-Bonnici, Esq., on February 12, 2025. After a full day of mediation, the Parties were able to reach a proposed settlement regarding the material terms for a proposed class action and PAGA settlement that would fully resolve this matter.

45. Benefits of Settlement to Class Members. Plaintiffs and Class Counsel recognize the expense and length of continued proceedings necessary to litigate Plaintiffs' claims through trial and any possible appeals. Plaintiffs have also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation. Plaintiffs and Class Counsel are also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, both generally and in response to Defendant's defenses thereto, and the difficulties in establishing damages for the Class. Plaintiffs and Class Counsel have also taken into account Defendant's agreement to enter into a settlement that confers substantial relief upon the members of the Class. Based on the foregoing, Plaintiffs and Class Counsel have determined that the Settlement set forth in this Settlement Agreement is a fair, adequate, and a reasonable settlement, and is in the best interests of the Class.

46. Defendant's Reasons for Settlement. Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of Defendant's time, energy, and resources have been and, unless this Settlement is completed, will continue to be devoted to the defense of the claims asserted by Plaintiffs. Defendant has also taken into account the risks of further litigation in reaching its decision to enter into this Settlement. Even though Defendant

continues to contend that it is not liable for any of the claims alleged by Plaintiffs in this Action, Defendant has agreed, nonetheless, to settle in the manner and upon the terms set forth in this Settlement Agreement to put to rest the claims in this Action.

STIPULATION AND AGREEMENT

47. NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

48. It is agreed by and among Plaintiffs and Defendant that this Settlement shall bind the Plaintiffs, Settlement Class Members, and Defendant, subject to the terms and conditions hereof.

49. 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.

50. Released Claims by Plaintiffs. As of the date Defendant fully funds the Settlement, Plaintiffs agree to the Release of Claims by Settlement Class Members. In addition to Release of Claims by Settlement Class Members and as a material inducement to Defendant to enter into this Settlement Agreement, Plaintiffs do hereby, for themselves and for their spouses, heirs, successors,

beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and assign, forever and completely release and discharge the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including back wages, statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of time through the execution of this Settlement Agreement, whether known or unknown, suspected or unsuspected, including but not limited to all claims arising out of, based upon, or relating to Plaintiffs' employment with or work for Defendant or the remuneration for or termination of such employment.

Without limiting the generality of the foregoing, Plaintiffs expressly release all claims arising under the California Labor Code (including, but not limited to, sections 201, 201.3, 202, 203, 204, 210, 216, 218.6, 221, 224, 225, 225.5, 226.7, 227.3, 510, 511, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.2, 1198, and 2698 et seq.,); the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 ("PAGA"); California Business and Professions Code section 17200 et seq.; the California Civil Code, to include, but not limited to, section 3336 and 3294; the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; federal common law; and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq. Plaintiffs' Released Claims also include all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, and wrongful termination such as by way of example only, (as amended) 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act; and the law of contact and tort. This release excludes the release of claims not permitted by law. As to the Plaintiffs' Released Claims only, Plaintiffs expressly waive all rights and benefits under the terms of section 1542 of the California Civil Code. Section 1542 reads as follows:

> **A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release**

and that, if known by him or her, would have materially affected his or her settlement with the debtor or releasing party.

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of all parties, Plaintiffs and Class Counsel expressly acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims that Plaintiffs knew of, as well as all claims that they did not know or suspect to exist in their favor against the Released Parties, or any of them, for the time period from the beginning of time to the execution of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such claims. Plaintiffs and Plaintiffs' Counsel do not currently intend to pursue any claims against Defendant, including, but not limited to, any and all claims relating to or arising from Plaintiffs' employment with Defendant, and that Plaintiffs' Counsel is not currently aware of any facts or legal theories upon which any claims or causes of action could be brought against Defendant, excepting those facts or legal theories alleged in the Operative Complaint in this Action. This release does not include claims which cannot be released such as unemployment or Worker's Compensation benefits.

51. Class Certification. For settlement purposes only, Defendant will stipulate that the Settlement Class Members described herein who do not request exclusion from the Settlement Class may be conditionally certified as a settlement class. This stipulation to certification is in no way an admission that class action certification is proper and shall not be admissible in this or in any other action except for the sole purposes of enforcing this Agreement. Should the Court fail to issue Final Approval for any reason, the Parties' stipulation to class certification as part of the Settlement Agreement shall become null and void *ab initio* and shall have no bearing on but remains protected by California Evidence Code Section 1152 and shall not be admissible in connection with, the issue of whether or not certification would be appropriate in a non-settlement context.

52. Approval of Settlement. Plaintiffs will move the Court to grant preliminary and final approval of this class action Settlement. The Parties agree to work diligently and cooperatively to have this matter presented to the Court for preliminary and final approval.

/ / /

53. Release of Claims by Settlement Class Members. Settlement Class Members release the "Released Claims by Settlement Class Members," as defined, as of the date Defendant fully funds the Settlement.

54. Release of Settled PAGA Claims. PAGA Members release the "Settled PAGA Claims," as defined, as of the date Defendant fully funds the Settlement.

55. Settlement Administration. No later than thirty (30) days after execution of the Memorandum of Understanding, Defendant will provide the Settlement Administrator with the Class Information in order to ensure the Settlement Administrator has sufficient time to prepare a declaration prior to the filing of the motion for Preliminary Approval.

56. Notice to the Class. Upon receipt of the Class Information, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. Within ten (10) calendar days after receiving the Class Information, the Settlement Administrator shall mail copies of the Notice of Class Settlement to all Class Members via regular First Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member.

a. Undeliverable Notices. Any Notice of Class Settlement returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto within ten (10) calendar days. For any undeliverable Notice of Class Settlement returned for which no forwarding address is affixed, the Settlement Administrator will conduct its investigation for an updated address of the Class Member and re-mail the Notice of Class Action Settlement. If an updated address is found, the Settlement Administrator shall have seven (7) days to re-mail the Notice of Class Action Settlement from receipt of the undelivered envelope. The Settlement Administrator will provide a cover letter notifying the Class Member of the extended Response Deadline. Any Class Member who receives a re-mailed Notice of Class Settlement shall have fifteen (15) days after the postmark date of the re-mailed Notice of Class Settlement to: (a) submit a Request for Exclusion; or (b) submit an Objection to the Settlement.

(1) Verification of Class Member Employment Status. If Notice of Class Action Settlement sent to a Class Member is determined to be undeliverable, the Settlement Administrator shall verify the employment status of the Class Member with Defendant within five (5) days of receipt of the undeliverable Notice of Class Action Settlement. If the Class Member is a current employee of Defendant, Defendant shall take all reasonable efforts to obtain the current address from the Class Member and shall provide the same with seven (7) days of notice from the Settlement Administrator.

b. Disputes Regarding Individual Settlement Payments. Class Members will have the opportunity, should they disagree with Defendant's records regarding the dates of employment stated in the Notice of Class Settlement, to provide documentation and/or an explanation to show contrary information by the Response Deadline. The dispute form must: (a) contain the full name, address, and telephone number of the Class Member, and the last four digits of the Class Member's social security number or full employee ID number; (b) contain the case name and case number; (c) include a clear statement by the Class Member that he or she is disputing the number of Compensable Workweeks and the basis for the dispute; (d) include any documentation demonstrating that the number of Compensable Workweeks listed in the Notice of Class Settlement is incorrect; (e) be signed by the Class Member; and (f) be postmarked by the Response Deadline. The date of the postmark on the return mailing envelope on the dispute form shall be the exclusive means used to determine whether it has been timely submitted. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. In addition to U.S. Mail, a Class Member may also submit a dispute form by facsimile or email to the Settlement Administrator within the Response Deadline. The Settlement Administrator shall then determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. In the absence of circumstances indicating fraud, manipulation or destruction, Defendant's records shall be given a rebuttable presumption of accuracy.

/ / /

c. Request for Exclusion. Class Members who wish to exclude themselves from the Settlement must submit to the Settlement Administrator a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (a) contain the full name, address, and telephone number of the Class Member, and the last four digits of the Class Member's social security number or full employee ID number; (b) contain the case name and case number; (c) include a clear statement by the Class Member that he or she is electing to be excluded from the Settlement; (d) be signed by the Class Member; and (e) be postmarked by the Response Deadline if submitted by U.S. Mail. The date of the postmark on the return mailing envelope on the Request for Exclusion submitted by U.S. Mail shall be the exclusive means used to determine whether it has been timely submitted. In addition to U.S. Mail, a Class Member may also submit a Request for Exclusion by facsimile or email to the Settlement Administrator within the Response Deadline. A Request for Exclusion shall not be presumptively invalid if it does not contain the requirements of (a) through (d) if the Settlement Administrator can ascertain the identity of the Class Member who wants to exclude themselves from the Settlement. Any Class Member who requests to be excluded from the Settlement Class shall not be entitled to any recovery under the Settlement and shall not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon except as to any distribution based upon PAGA penalties. PAGA Members will receive their share of the PAGA Payment and the Settled PAGA Claims will be released even if the Class Member submits a timely Request for Exclusion. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Approval Order and Judgment entered in this Action.

d. Objections. Class Members who wish to object to the Settlement can either mail or send by facsimile or email to the Settlement Administrator a written Objection by the Response Deadline. The Objection should: (a) contain the full name, address, and telephone number of the Class Member, and the last four digits of the Class Member's social security number; (b) contain the case name and case number; (c) include the dates of employment of the Class Member; (d) be signed by the Class Member; (e) state the basis for the Objection, including any legal briefs, papers or memoranda in support of the Objection; and (f) be postmarked by the Response Deadline. The date of the postmark on the return mailing envelope on the Objection shall be the exclusive means used to determine whether the Objection has been timely submitted. Class Members who submit a timely Objection will have a right to appear at the final approval hearing in order to have their Objection heard by the Court. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit Objections to the Settlement or appeal from the Final Approval Order and Judgment. Class Counsel shall not represent any Class Members with respect to any such Objections. The Settlement Administrator will provide the Parties with any Objection within five (5) calendar days of receipt of the Objection. Plaintiffs will file any and all Objections with the Court in advance of the Final Approval Hearing. Oral or written Objections may also be made at the Final Approval hearing without a written objection being submitted, but only with the Court's express permission. If the Court rejects the objection, the individual will be bound by the terms of the Settlement.

e. Except for those Class Members who exclude themselves in compliance with the Request for Exclusion procedures set forth above, all Settlement Class Members will: (i) be deemed to be Settlement Class Members for all purposes under this Settlement Agreement; (ii) will be bound by the terms and conditions of this Settlement Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

57. Funding Gross Settlement Amount. After Final Approval by the Court, Defendant agrees to pay a sum equal to $850,000.00 (the "Gross Settlement Amount") to fund the settlement of this action within thirty (30) calendar days. The Settlement is "all-in", non-reversionary and no funds will return to Defendant. Payments of any appropriate and lawfully-required employer share of the payroll taxes on the taxable portion of the settlement payments shall be paid by Defendant separately from and in addition to the Gross Settlement Amount. Defendant shall be jointly and several liable for paying the entire Gross Settlement Amount. Aside from the Defendant's share of any applicable payroll taxes, which will be paid separately by Defendant, in no event will Defendant be obligated to pay more than the Gross Settlement Amount.

58. Allocation of Settlement. Individual Settlement Payments will be paid from the Net Settlement Amount and shall be paid pursuant to the settlement formula set forth herein. Individual

Settlement Payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members' last known mailing address.

a. The Settlement Administrator shall calculate the total Compensable Work Weeks and Compensable PAGA Work Weeks for all Settlement Class Members based on the Class Information provided by Defendant. The respective Compensable Work Weeks for each Settlement Class Member will be divided by the total Compensable Work Weeks for all Settlement Class Members, resulting in the Payment Ratio for each Settlement Class Member; a similar calculation will apply to determining the Payment Ratio for Compensable PAGA Work Weeks. Each Settlement Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to determine his or her Individual Settlement Payment.

b. Individual Settlement Payments due to each Settlement Class Member shall be designated as follows:

1. Twenty percent (20%) of the Individual Settlement Payment shall represent payment for alleged unpaid wages. This payment shall be subject to the withholding of all applicable local, state, and federal taxes. Applicable payroll taxes and/or contributions will be deducted from the amount paid to Settlement Class Members. The Settlement Administrator will issue a W-2 Form to each Settlement Class Member in relation to this payment.

2. Seventy percent (70%) of the Individual Settlement Payment shall represent payment of all penalties. These payments will not be subject to withholding of local, state, and federal taxes. The Settlement Administrator will issue an IRS Form 1099 to each Settlement Class Member in relation to these payments.

3. Ten percent (10%) of the Individual Settlement Payment shall represent payment of all interest. These payments will not be subject to withholding of local, state, and federal taxes. The Settlement Administrator will issue an IRS Form 1099 to each Settlement Class Member in relation to these payments.

(a). <u>Class Members With Missing/Unverifiable Social Security Numbers and Withholdings of Taxes and Applicable Penalties</u>. In the event that an Individual Settlement Payment exceeds the threshold amount that must be reported to the Internal Revenue

Service by means of a Form 1099, Class Counsel, and the Settlement Administrator, will take all necessary and reasonable steps to obtain W-9's from Class Members and to comply with applicable IRS regulations on issuing 1099's without a social security number or tax entity identification number, and shall take all reasonable and necessary steps to avoid imposition of IRS penalties against the Gross Settlement Amount, including, but not limited to limiting payments below the reportable threshold and/or withholding of taxes and any applicable penalties. The Settlement Administrator will contact Class Members who are entitled to payments that exceed the taxable income threshold twice, with at least 30 days between the two contacts.

c. Uncashed Settlement Checks. Individual Settlement Payment checks shall remain negotiable for one hundred and eighty (180) days from the postmark date of issuance. If the Settlement Check is not cashed, deposited, or otherwise negotiated within the 180-day deadline, the check will be voided, and the funds associated with any such voided checks shall be distributed to the State of California Controller's Office, Unclaimed Property Division, in the name of the affected Class Member. The Release will be binding upon all Settlement Class Members, including those who do not cash their checks within the 180-day period. The Parties agree that this disposition results in no "unpaid cash residue," or "unclaimed or abandoned funds" as the entire Net Settlement Amount will be paid out to the Settlement Class Members, whether or not they all cash their payment checks.

d. Certification By Settlement Administrator. The Parties have the right to monitor and review administration of the Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court, under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to counsel for the Parties, and which shall be filed with the Court as necessary.

e. Settlement Awards Do Not Trigger Additional Benefits. All monies received by Settlement Class Members shall be deemed to be income to such Settlement Class Members solely in the year in which such awards actually are received by the Settlement Class Members. It is expressly understood and agreed that the receipt of such Individual Settlement Payments will not entitle any Settlement Class Member to additional compensation or benefits under any company compensation or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle any Settlement Class Member to any increased pension and/or retirement, or other deferred compensation benefits. It is the intent of this Settlement that any Individual Settlement Payments provided for in this Agreement are the sole payments to be made by Defendant to the Settlement Class Members in connection with this Settlement, and that the Settlement Class Members are not entitled to any new or additional compensation or benefits as a result of having received the Individual Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).

f. <u>Service Awards</u>. Defendant agrees not to oppose or object to a Service Award to each Plaintiff of up to Ten Thousand Dollars ($10,000.00) each for a combined total of $20,000.00, subject to Court approval. The Settlement Administrator shall issue an IRS Form 1099 – MISC to Plaintiffs in connection with the Service Award payment. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on their respective Service Award and shall hold harmless Defendant and Class Counsel from any claim or liability for taxes, penalties, or interest arising as a result of the Service Awards payment. The Service Award shall be in addition to Plaintiffs' Individual Settlement Payment. This Settlement is not contingent upon the Court awarding Plaintiffs a Service Awards in any amount, and any amount requested by Plaintiffs for the Service Awards that is not granted by the Court shall return to the Net Settlement Amount and be distributed to Settlement Class Members as provided in this Settlement Agreement.

g. <u>Class Counsel Award</u>. Defendant agrees not to oppose or object to any application or motion by Class Counsel for attorneys' fees not to exceed thirty-five percent from the Gross Settlement Amount, or Two Hundred, Ninety-seven Thousand and Five Hundred Dollars and Zero Cents ($297,500). Defendant further agrees not to oppose any application or motion by Class Counsel for the reimbursement of any costs or expenses associated with Class Counsel's prosecution of this matter from the Gross Settlement Amount not to exceed $25,000. Class Counsel shall divide fees as set out in Class Counsel's Co-Counsel agreement, which states as follows: Thirty percent (30%) to the JCL Law Firm, APC; Thirty percent (30%) to Zakay Law Group APLC; and Forty percent (40%) to the Wheeler Law Firm, APC. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 – MISC to Class Counsel for the payments made pursuant to this paragraph. This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs. Any amount requested by Class Counsel for the Class Counsel Award and costs that are not granted by the Court shall return to the Net Settlement Amount and be distributed to Settlement Class Members as provided in this Agreement.

h. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The costs of notice and administration for the disbursement of the Gross Settlement Amount shall not exceed Ten Thousand Dollars ($10,000.00). Prior to the filing of a motion for final approval of this Settlement, the Settlement Administrator shall provide the Parties with a statement detailing the costs of administration. Any amount requested by the Settlement Administrator for administration costs that is not granted by the Court shall return to the Net Settlement Amount and be distributed to Settlement Class members as provided in this Settlement Agreement. Defendant will pay any fees incurred by the Settlement Administrator if the settlement is not approved but is not responsible for any fees to the Settlement Administrator that are not approved by the Court. If Defendant fails to fully fund the Gross Settlement Amount, Defendant will be responsible for sending a curative notice.

i. PAGA Payment. Fifty Thousand dollars ($50,000) from the Gross Settlement Amount will be allocated to penalties under the Private Attorneys General Act of 2004. Seventy-five percent (75%) of that amount, or $37,500, will be paid to the LWDA and twenty-five (25%) of that amount, or $12,500, will be paid to the PAGA Members based upon Compensable PAGA Work Weeks as determined by the PAGA Payment Ratio as set forth in Paragraph 25. This PAGA Payment is made pursuant to California Labor Code § 2699(i).

59. Tax Liability: Class Counsel and Defendant make no representation as to the tax treatment or legal effect of payments called for hereunder, and Plaintiffs and the Settlement Class

Members are not relying on any statement or representation by Class Counsel or Defendant in this regard. Plaintiffs and Settlement Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective payments described herein. The amount of federal income tax withholding will be based upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made pursuant to applicable state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Settlement Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Settlement Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

60. Distribution of Settlement Payments. Individual Settlement Payments to Settlement Class Members, the Service Awards, the Class Counsel Award, Settlement Administration Costs, Defendant's share of employer payroll taxes and PAGA Payment, shall all be distributed by the Settlement Administrator within ten (10) calendar days of receipt of the full Gross Settlement Amount from Defendant. Prior to distribution of Individual Settlement Payments to the Settlement Class Members and PAGA Members, the Settlement Administrator shall update the Class and PAGA Members addresses using the National Change of Address Database.

61. Additional Class Members. It is currently estimated that there are 560 Class Members who worked 33,000 Workweeks in the Class Period based upon the information provided by Defendant. Defendant shall provide Plaintiffs within ten (10) days of notice that Plaintiffs intends to file a Motion for Preliminary Approval, the current number of Pay Periods at the time that Plaintiffs will file a Motion for Preliminary Approval. If ten percent (10%) percent more than 33,000 Workweeks are identified by Defendant's counsel for the Class Period, the Gross Settlement Amount will be increased on a pro rata basis according to the number of additional compensable workweeks/pay periods worked by all Class Members in excess of ten (10%) percent, i.e. 36,300, with respect to the total number of Pay Periods worked by the entire Class, or (b) the Class Period will be rolled back to the date in which 33,000 workweeks is met.

62. Final Settlement Approval Hearing and Entry of Final Judgment. Upon expiration of the Response Deadline, a final approval hearing shall be conducted to determine, *inter alia*, final approval of the Settlement and amounts properly payable for: (a) Individual Settlement Payments; (b) the Class Counsel Awards; (c) the Service Award; (d) PAGA Payment; and (e) the Settlement Administration Costs. Class Counsel and Plaintiffs 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 Service Award, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Costs. Plaintiffs 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.

a. Declaration by Settlement Administrator. No later than seven (7) 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 full names of any Class Members who opt out of the Settlement, the number of objections received, the amount of the average, lowest, and highest Individual Settlement Payments, the amount of the average, lowest, and highest Aggrieved Employee Payments, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

b. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval.

63. Nullification of Settlement Agreement. In the event: (a) the Court does not enter the Order for preliminary approval of the Settlement; (b) the Court does not finally approve the Settlement; (c) the Court does not enter a Final Approval Order and Judgment as provided herein; (d) the Settlement does not become final for any other reason; or (e) the Court fails or refuses to approve any material condition of this Settlement Agreement which effects a fundamental change of the

Settlement Agreement, this entire Settlement Agreement shall be null and void and unenforceable as to all Parties herein at the option of any Party but remains protected by California Evidence Code Section 1152, and any order or judgment entered by the Court in furtherance of this Settlement shall be treated as void from the beginning. In such cases, the Parties and any funds to be awarded under this Settlement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by Defendant. Further, if the Settlement Agreement is voided or fails for any reason, Plaintiffs and Defendant will have no further obligations under the Settlement Agreement, including any obligation by Defendant to pay the Settlement Amount, or any amounts that otherwise would have been owed under this Settlement Agreement. In the event an appeal is filed from the Court's Final Approval Order and Judgment, or any other appellate review is sought, administration of the Settlement shall be stayed pending final resolution of the appeal or other appellate review, and any fees incurred by the Settlement Administrator prior to it being notified of the filing of an appeal from the Court's Final Approval Order and Judgment, or any other appellate review, shall be paid to the Settlement Administrator by the party or person that filed the appeal, within thirty (30) calendar days of said notification.

64. No Admission by Defendant. Defendant denies any and all claims alleged in this Action and denies all wrongdoing whatsoever. This Settlement Agreement is not a concession or admission and shall not be used against Defendant as an admission or indication with respect to any claim of any fault, concession, or omission by Defendant. Nonetheless, Defendant desires to settle and compromise the matters at issue in the Action to avoid further substantial expense and the inconvenience and distraction of protracted and burdensome litigation. Defendant also has taken into account the uncertainty and risks inherent in litigation, and without conceding any infirmity in the defenses that it has asserted or could assert against Plaintiffs and/or any Settlement Class Member, has determined that it is desirable and beneficial that the claims of Plaintiffs and the Settlement Class be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

65. Mutual Non-Disparagement. The Parties mutually agree that they shall not publicly assert, declare, avow, lay claim to, or in any other manner represent that any of them engaged in actions or conduct with the purpose of attempting to harass, embarrass, ridicule, demean, demote, defame, or otherwise denigrate each other, and any of them, their good name(s), personal and/or professional reputations, and/or community standing. In the event of an employment inquiry regarding the Plaintiffs, Defendant shall only provide dates of employment and last position held. The Parties and their counsel agree not to issue any press releases, initiate contact with press, or respond to press inquiry regarding the Settlement.

66. No Publicity. Plaintiffs and Plaintiffs' Counsel agree not to disclose or publicize the settlement, including the Memorandum of Understanding, the fact of the Settlement, its terms or contents, and the negotiations underlying the Settlement, in any manner or form, directly or indirectly, to any person or entity, except potential class members and as shall be contractually required to effectuate the terms of the Settlement as set forth herein. For the avoidance of doubt, this section means Plaintiffs and Class Counsel will not to issue press releases, communicate with, or respond to any media or publication entities, publish information in manner or form, whether printed or electronic, on any medium or otherwise communicate, whether by print, video, recording or any other medium, with any person or entity concerning the Settlement, including the fact of the Settlement, its terms or contents and the negotiations underlying the Settlement, except as shall be contractually required to effectuate the terms of the Settlement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the name of the Parties in this action and the venue/case number of this action (but not any other settlement details) for such purposes.

67. Exhibits and Headings. The terms of this Settlement Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

/ / /

68. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, holding the Action in abeyance pending the final approval hearing to be conducted by the Court.

69. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning the interpretation, calculation or payment of Settlement claims, or other disputes regarding compliance with this Agreement shall be resolved as follows:

a. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any Settlement Class Member, or Defendant's Counsel, on behalf of Defendant, at any time believe that the other Party has breached or acted contrary to the Agreement, that Party shall notify the other Party in writing of the alleged violation.

b. Upon receiving notice of the alleged violation or dispute, the responding Party shall have ten (10) calendar days to correct the alleged violation and/or respond to the initiating Party with the reasons why the Party disputes all or part of the allegation.

c. If the response does not address the alleged violation to the initiating Party's satisfaction, the Parties shall negotiate in good faith for up to ten (10) calendar days to resolve their differences.

d. If Class Counsel and Defendant's Counsel are unable to resolve their differences after twenty (20) calendar days, either Party shall first contact the mediator (Monique Ngo-Bonnici, Esq.) to try to resolve the dispute. If that proves unsuccessful, the party may file an appropriate motion for enforcement with the Court. The briefing of such motion should be in letter brief form and shall not exceed five (5) single-spaced pages (excluding exhibits).

e. Reasonable attorneys' fees and costs for work done in resolving a dispute under this Section may be recovered by any Party that prevails under the standards set forth within the meaning of applicable law.

70. Notice. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after (i) emailing and (ii) mailing by United States registered or certified mail, return receipt requested, addressed:

To the Settlement Class:

THE WHEELER LAW FIRM, APC
Scott Ernest Wheeler, Esq.
Justin A. Wheeler, Esq.
250 West First Street, Suite 216
Claremont, California 91711
Telephone: (909) 621-4988
Facsimile: (909) 621-4622
Email: sew@scottwheelerlawoffice.com
jaw@scottwheelerlawoffice.com

JCL LAW FIRM, APC
Jean-Claude Lapuyade, Esq.
5440 Morehouse Drive, Suite 3600
San Diego, California 92121
Telephone: (619) 599-8292
Email: jlapuyade@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC
Shani O. Zakay, Esq.
5440 Morehouse Drive, Suite 3600
San Diego, California 92121
Telephone:(619)255-9047
Email: shani@zakaylaw.com

To Defendant:

OFFIT KURMAN, P.C.
Deborah H. Petito, Esq.
445 South Figueroa Street, 18th Floor
Los Angeles, California 90071
Telephone: (213) 629-5700
Facsimile: (213) 624-9441
Email: Deborah.Petito@offitkurman.com

71. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties and approved by the Court.

72. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the entire Agreement among these Parties, and no oral or written representations, warranties, or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties, and covenants contained and memorialized in the Agreement and its Exhibits.

73. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court or the mediator to resolve such disagreement. The persons signing this Agreement on behalf of Defendant represent and warrant that they are authorized to sign this Agreement on behalf of Defendant. Plaintiffs represent and warrant that they are authorized to sign this Agreement and that they have not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

74. No Public Comment: The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the fact, amount, or terms of the Settlement Agreement. Class Counsel further agrees not to use the Settlement Agreement or any of its terms for any marketing or promotional purposes. Nothing herein will restrict Class Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Class Counsel's qualifications and experience. Further, Class Counsel will not include, reference, or use the Settlement Agreement for any marketing or promotional purposes, either before or after the Motion for Preliminary Approval is filed.

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

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

77. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or

encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights released and discharged by this Settlement Agreement.

78. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval Order and Judgment, nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and it, along with all related documents such as the notices, and motions for preliminary and final approval, shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be inadmissible as evidence in any proceeding, except an action or proceeding to approve the Settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for class certification as part of this Settlement Agreement is for settlement purposes only and if for any reason the Settlement is not approved, the stipulation will be of no force or effect.

79. 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, taking into account all relevant factors, present and potential.

80. Jurisdiction of the Court. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Settlement Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith. All terms of this Settlement Agreement are subject to approval by the Court.

81. No Admissions by the Parties. Plaintiffs have claimed and continue to claim that the Released Claims by Settlement Class Members and Settled PAGA Claims have merit and give rise to liability on the part of Defendant. Defendant claims that the Released Class Claims and Released PAGA Claims have no merit and do not give rise to liability. This Agreement is a compromise of

disputed claims. Nothing contained in this Agreement and no documents referred to and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendant or Plaintiffs or Class Counsel as to the merits or lack thereof of the claims asserted. Other than as may be specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's fees and costs.

82. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms'-length negotiations among the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party based on the extent to which any Party or their counsel participated in the drafting of this Settlement Agreement. Plaintiffs and Defendant expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Settlement Agreement shall be in all cases construed as a whole, according to its fair meaning.

83. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

84. Binding On Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

85. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Settlement Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the release provided herein and such Release shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member.

86. Voluntary Agreement. The Parties acknowledge that they have entered into this Settlement Agreement voluntarily, on the basis of their own judgment and without coercion, duress,

or undue influence of any Party, and not in reliance on any promises, representations, or statements made by the other Parties other than those contained in this Settlement Agreement. Each of the Parties hereto expressly waives any right they might ever have to claim that this Settlement Agreement was in any way induced by fraud.

87. Opportunity to Consult with Counsel. Prior to execution of this Settlement Agreement, each Party has read this entire Settlement Agreement and has been given the opportunity to consult with independent counsel of their choosing and to have such independent counsel advise as to the meaning of this Settlement Agreement and its legal effect.

88. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

89. Invalidity of Any Provision. Before declaring any provision of this Settlement 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.

Dated: 6/30/2025 By: Firmado por: Francisco Carrillo F40ABD0D77DD404...
Francisco Carrillo Gonzalez

Dated: ________________ By: ________________________________
Alsha Jackson

Dated: ________________ By: ________________________________

Title: ____________________________
AC PRO INC.

/ / /

or undue influence of any Party, and not in reliance on any promises, representations, or statements made by the other Parties other than those contained in this Settlement Agreement. Each of the Parties hereto expressly waives any right they might ever have to claim that this Settlement Agreement was in any way induced by fraud.

87. Opportunity to Consult with Counsel. Prior to execution of this Settlement Agreement, each Party has read this entire Settlement Agreement and has been given the opportunity to consult with independent counsel of their choosing and to have such independent counsel advise as to the meaning of this Settlement Agreement and its legal effect.

88. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

89. Invalidity of Any Provision. Before declaring any provision of this Settlement 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.

Dated: ________________ By: ______________________________
Francisco Carrillo Gonzalez

Dated: 06/27/2025 By: a.J
Alsha Jackson (Jun 27, 2025 11:58 PDT)
Alsha Jackson

Dated: July 8, 2025 By: [signature]
Eric Petty
Title: Chief Financial Officer
AC PRO INC.

///

APPROVED AS TO FORM:

DATED: April ____, 2025

THE WHEELER LAW FIRM, APC

By: ______________________________

Scott Ernest Wheeler
Justin A. Wheeler

Attorneys for Plaintiff Francisco Carrillo Gonzalez and the Putative Class

DATED: July 1, 2025

JCL LAW FIRM, APC

By:______________________________

Jean-Claude Lapuyade
Sydney Castillo Johnson
John L. Nitti

Attorneys for Plaintiff Alsha Jackson and the Putative Class

DATED: July 1, 2025

ZAKAY LAW GROUP, APLC

By: ______________________________

Shani O. Zakay
Nicole Noursamadi

Attorneys for Plaintiff Alsha Jackson and the Putative Class

DATED: July 7, 2025

OFFIT KURMAN, P.C.

By: ______________________________

Deborah H. Petito

Attorneys for Defendant, AC Pro, Inc.

APPROVED AS TO FORM:

July 2, 2025

DATED: April ____, 2025

THE WHEELER LAW FIRM, APC

By: ______________________________

Scott Ernest Wheeler
Justin A. Wheeler

Attorneys for Plaintiff Francisco Carrillo Gonzalez and the Putative Class

DATED: April ____, 2025

JCL LAW FIRM, APC

By: ______________________________

Jean-Claude Lapuyade
Sydney Castillo Johnson
John L. Nitti

Attorneys for Plaintiff Alsha Jackson and the Putative Class

DATED: April ____, 2025

ZAKAY LAW GROUP, APLC

By: ______________________________

Shani O. Zakay
Nicole Noursamadi

Attorneys for Plaintiff Alsha Jackson and the Putative Class

DATED: April ____, 2025

OFFIT KURMAN, P.C.

By: ______________________________

Deborah H. Petito

Attorneys for Defendant, AC Pro, Inc.

EXHIBIT 2