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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST

JOHN PATTERSON, as an individual and on
behalf of all similarly situated employees,

Plaintiff,

vs.

COOPER SERVICES, INC., a California
corporation; S & S SUPPLIES &
SOLUTIONS, a California corporation; S & S
TOOLS & SUPPLY INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. BC525387

[Assigned to: The Hon. Kenneth R. Freeman
Dept. 310]

**JOINT STIPULATION OF
SETTLEMENT OF CLASS ACTION**

Action Filed: October 23, 2013
Trial Date: None Set

1 IT IS HEREBY STIPULATED AND AGREED, by and among Defendants COOPER
2 SERVICES, INC. and S&S TOOLS & SUPPLY, INC. ("Defendants"), on the one hand, and
3 Plaintiff JOHN PATTERSON ("Plaintiff"), individually and on behalf of the Class (as defined
4 below), by and through his counsel of record (as defined below), on the other hand, subject to the
5 approval of the Court pursuant to California Code of Civil Procedure §382, that the settlement of
6 this action shall be effectuated upon and subject to the following terms and conditions:

7
8 **A. DEFINITIONS**

9 As used in this Joint Stipulation of Settlement of Class Action ("Settlement Agreement"),
10 the following terms shall have the meanings specified below. To the extent terms or phrases used
11 in this Settlement Agreement are not specifically defined below, but are defined elsewhere in the
12 Settlement Agreement, they are incorporated by reference into this definition section.

13 "Action" or "Lawsuit" shall mean the above-entitled Los Angeles County Superior Court
14 Case No. BC525387.

15 "Agreement," "Stipulation," "Joint Stipulation," "Stipulation of Settlement," "Settlement
16 Agreement," or "Stipulation and Agreement" shall mean this Joint Stipulation of Settlement of
17 Class Action, including any attached Exhibits.

18 "AWS Sub-Class" shall mean all non-exempt employees who have been employed by
19 Defendants in the State of California at any time between October 23, 2009 through the date of
20 Preliminary Approval of the Class Action Settlement ("Covered Time Frame") and who worked a
21 9/80 and/or 4/10 work schedule.

22 "Claim Form" shall mean the Claim Form, as set forth in the form of Exhibit B attached
23 hereto, or as otherwise approved by the Court, which is to be mailed to Class Members as part of
24 the Notice Packet, and by which a Class Member shall seek an Individual Settlement Payment and
25 participation in this Class Settlement.

26 "Class Counsel" shall refer to the attorneys of record for the Class Representative, *i.e.*,
27 Sam Kim and Kevin Mahoney of the Mahoney Law Group, APC, 249 East Ocean Boulevard,

1 Suite 814, Long Beach, California 90802.

2 "Class Member" or "Settlement Class Member" or "Settlement Class" shall mean any
3 person who is a member of the Class or, if such person is incompetent or deceased, the person's
4 legal guardian, executor, heir or successor in interest.

5 "Class" shall mean all non-exempt employees who have been employed by Defendants in
6 the State of California during the Covered Time Frame, including the AWS Sub-Class.

7 "Class Notice" shall mean the Notice of Pendency of Class Action Settlement, as set forth
8 in the form of Exhibit A attached hereto, or as otherwise approved by the Court, which is to be
9 mailed to Class Members as part of the Notice Packet.

10 "Class Participant(s)" shall mean any and all Class Members other than those who timely
11 request exclusion (i.e., who elect to "opt out") as provided herein.

12 "Class Representative" and "Named Plaintiff" shall mean JOHN PATTERSON.

13 "Class Settlement" or "Settlement" shall mean the settlement embodied in this Joint
14 Stipulation, which is subject to Court approval.

15 "Complaint" shall mean the Class Action Complaint filed by JOHN PATTERSON on
16 October 23, 2013 in the Los Angeles Superior Court, Case No. BC525387.

17 "Court" shall mean the Los Angeles Superior Court, State of California.

18 "Cy Pres" shall mean the Los Angeles Trade Technical College Foundation located at 400
19 West Washington Blvd, Los Angeles, CA 90015, telephone: 213-763-7149.

20 "Defendants" shall mean Defendants COOPER SERVICES, INC. and S&S TOOLS &
21 SUPPLY, INC.

22 "Defense Counsel" or "Counsel for Defendants" shall mean LEWIS BRISBOIS
23 BISGAARD & SMITH, LLP.

24 "Effective Date" shall mean the later of: (a) the date of entry of the Order granting final
25 approval of Settlement, if no objection to the Settlement is filed, (b) the date on which the time for
26 all appeals from objections to the Settlement has passed, if one or more objections to the Settlement
27 are filed, and (c) if an appeal is taken, the date on which any reviewing court issues a decision, the

1 time for further appeal has expired, the final judgment of such appellate court or courts is no longer
2 subject to any further appellate challenge or procedure, and the trial court re-acquires jurisdiction
3 and renders any decision approving the Settlement as final.

4 “Final Approval Date” shall mean the date upon which the Court enters an Order
5 approving the Class Settlement, after having determined that the Class Settlement is fair, adequate,
6 and reasonable to the Class as a whole, following: (i) notice to the Class; (ii) an opportunity to
7 submit timely objections and/or opt out of the settlement; and (iii) a hearing on the fairness of the
8 terms of the settlement.

9 “Final Approval Hearing” shall mean the final hearing held to ascertain the fairness,
10 reasonableness, and adequacy of the Class Settlement, at which time the Court will enter its Order
11 approving the Class Settlement.

12 “Final Date for Submission of Claim Forms” shall mean the date that is forty-five (45)
13 days after the date that the Class Notice is sent to the Settlement Class.

14 “Individual Settlement Payment” shall mean the amount to be, and which is, distributed to
15 any and each Class Participant, based on a ratio of the Class Member’s Individual Workweeks to
16 the Total Workweeks. A portion of this resulting amount will be subject to tax withholdings, as
17 described below.

18 “Individual Workweeks” shall mean the total verified workweeks worked by an individual
19 Class Member during the Covered Time Frame, as determined by the start and end dates of
20 employment with Defendants, and with no deductions, according to Defendants’ payroll records.

21 “Net Settlement Amount” means the Total Settlement Amount less class representative
22 service payment; payment to the government of \$4,078, which represents its 75% share under the
23 Private Attorneys’ General Act (Labor Code Section 2698 *et seq.*); attorneys’ fees and expenses;
24 and the Claims Administrator’s fees and expenses.

25 “Notice Packet” shall mean the Class Notice, Claim Form and Opt-Out Form, collectively.

26 “Opt-Out(s)” shall mean any and all persons who timely and validly request exclusion
27 from the Class in accordance with the terms of the Class Notice.

1 “Opt-Out Form” or “Exclusion Form” shall mean the Opt-Out Form, as set forth in the
2 form of Exhibit C attached hereto, or as otherwise approved by the Court, which is to be mailed to
3 Class Members as part of the Notice Packet.

4 “Parties” shall mean Defendants and the Class Representative.

5 “Preliminary Approval Date” means the date upon which the Court enters an Order
6 preliminarily approving this Settlement Agreement, pending notice, an opportunity to submit
7 objections, and a fairness hearing thereon.

8 “Preliminary Approval Hearing” shall mean the hearing held on the motion for preliminary
9 approval of the Class Settlement.

10 “Released Claims” means any and all claims, known or unknown, contingent or accrued,
11 against Defendants, its parent or subsidiary corporations and all agents thereof, that could have
12 been pled, or were pled, according to the allegations in the Complaint, including but not limited to
13 claims for unpaid overtime, failure to pay minimum wage, failure to provide meal or rest breaks or
14 pay one hour’s wages in lieu thereof, failure to indemnify for all work related expenditures and
15 losses, failure to pay wages upon termination of employment in a timely manner, failure to
16 provide accurate itemized pay stubs, violations of failure to pay wages, violations of the Private
17 Attorney General Act under California Labor Code section 2698, et seq., violations of Business
18 and Professions Code Section 17000 and 17200 et seq. for Unfair Business Practices limited to the
19 aforementioned Labor Code violations, and all related statutory claims, the relevant Wage Orders
20 issued by the Industrial Welfare Commission, and the Fair Labor Standards Act only as to those
21 Class Members who submit a valid claim form, and all claims for attorneys’ fees and costs at the
22 time of the Preliminary Approval Date. The release also includes all claims for remedies that
23 could have been pled, or were pled, according to the allegations in the Complaint, including all
24 claims for liquidated damages, restitution, disgorgement, conversion, unjust enrichment, penalties,
25 interest, and attorneys’ fees and costs, at the time of the Preliminary Approval Date, during the
26 Covered Time Frame.

27 “Released Parties” shall mean Defendants and any of their former and present subsidiaries,
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parent companies and affiliates and its or their officers, directors, employees, partners, shareholders and agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees), and any other successors, assigns, or legal representatives.

“Settlement Administrator” and “Claims Administrator” shall mean Phoenix Settlement Administrators, who will be responsible for administration of the Settlement and related matters.

“Settlement Fund Account” shall mean the bank account established pursuant to the terms of this Joint Stipulation from which all monies payable under the terms of this Settlement Agreement shall be paid, as set forth herein.

“Settling Parties” shall mean Plaintiff, the Class and Defendants.

“Total Settlement Amount” shall mean Four Hundred Thirty-Five Thousand Dollars (\$435,000.00). The Settlement shall be on a claims-made basis by distributing amounts to Class Members to settle the Released Claims. This Maximum Settlement Amount is inclusive of Class Members’ Individual Settlement Payments, the service payment to Plaintiff as the Class Representative, Plaintiff’s attorneys’ fees, costs and expenses related to the Action (including, without limitation, all fees and costs incurred to date in the Action, as well as all such fees and costs incurred in documenting the Settlement, securing court approval of the Settlement, administering the Settlement, and obtaining a Judgment), payment to the California Labor and Workforce Development Agency of \$4,078.00, which represents its 75 percent share under the Private Attorneys’ General Act (Labor Code Section 2698 *et seq.*) and the Claims Administrator’s fees and expenses (up to a maximum of \$15,000).

“Total Workweeks” shall mean the total workweeks worked by all Class Members during the Covered Time Frame according to Defendants’ payroll records.

“Stale Checks” or “Stale Payments” shall mean any checks or payments issued to Class Participants pursuant to this Stipulation that are not cashed or presented for payment within 120 days from the date of issuance. These checks or payments will escheat to the State of California, Unclaimed Wages Fund, located at Department of Labor Standards and Enforcement, Attention

Centralized Cashier's Unit, 2031 Howe Ave, Suite 100, Sacramento, CA 95825. "Unclaimed Settlement Funds" shall mean any settlement funds from the Net Settlement Amount not claimed and/or remaining in the Settlement Administrator's Settlement Fund Account after 120 days from the date on which class settlement checks are issued. Any unclaimed funds from the Net Settlement Amount will go to the Cy Pres recipient the Parties have agreed to: the Los Angeles Trade Technical College Foundation located at 400 West Washington Blvd, Los Angeles, CA 90015, telephone: 213-763-7149.

B. PRE-TRIAL PROCEEDINGS AND NEGOTIATIONS

1. Discovery, Investigation and Research

Class Counsel has conducted extensive discovery and investigation during the prosecution of the Action. This discovery and investigation has included, among other things: (a) inspection and analysis of a variety of Defendants' documents, including personnel files, time and payroll records, employee manuals, and other relevant documents; (b) analysis of the legal positions taken by Defendants; (c) interviews of material witnesses; (d) analysis of potential class-wide damages; (e) research of the applicable law with respect to the claims asserted in the Complaint and the potential defenses thereto; and (f) taking the depositions of Defendants' Person Most Qualified company designees.

The Class Representative has vigorously prosecuted this case, and Defendants have vigorously contested it. The Parties have engaged in sufficient formal and informal discovery and investigation to assess the relative merits of the claims of the Class Representative and of Defendants' defenses to them.

2. Allegations of the Class Representative and Benefits of Settlement

The Class Representative and Class Counsel believe that the causes of action, allegations and contentions asserted in the Action have merit. However, the Class Representative and Class Counsel recognize and acknowledge the expense and delay of continued lengthy proceedings necessary to prosecute the Action against Defendants through trial and through appeals. Class

1 Counsel has taken into account the uncertain outcome and the risk of any litigation, the risk of
2 continued litigation in complex actions such as this, as well as the difficulties and delays inherent
3 in such litigation. Class Counsel is also mindful of the inherent problems of proof under, and
4 possible defenses to, the claims alleged in the Action. Class Counsel believes that the Settlement
5 set forth in this Stipulation confers substantial benefits upon the Class and each of the members of
6 the Class, and that an independent review of this Settlement Agreement by the Court in the
7 approval process will confirm this conclusion. Based on their own independent investigation and
8 evaluation, Class Counsel has determined that the Settlement set forth in this Settlement
9 Agreement is in the best interests of the Class Representative and the members of the Class.

10 **3. Defendants' Denials of Wrongdoing and Liability.**

11 Defendants have denied and continue to deny generally each and all of the claims and
12 contentions alleged by the Class Representative in the Action. Defendants have expressly denied
13 and continue to deny all charges of wrongdoing or liability against them arising out of any of the
14 conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action.
15 Nonetheless, Defendants have concluded that the further conduct of the Action would be
16 protracted and expensive, and determined that it is desirable that the Action be fully and finally
17 settled in the manner and upon the terms and conditions set forth in this Settlement Agreement in
18 order to limit further expense, inconvenience and distraction, to dispose of burdensome and
19 protracted litigation, to avoid the risk of an adverse judgment, and to permit the operation of
20 Defendants' business without further expensive litigation and the distraction and diversion of their
21 personnel with respect to matters in issue in the Action. Defendants have also taken into account
22 the uncertainty and risks inherent in any litigation, especially in a complex case such as the
23 Action. Defendants have, therefore, determined that it is desirable and beneficial to them that the
24 Action be settled in the manner and upon the terms and conditions set forth in this Stipulation.

25 **a. No Admissions.**

26 The Parties understand and agree that this Settlement Agreement is the result of a good
27 faith compromise settlement of disputed claims, and Defendants are entering into this Agreement

1 solely to resolve doubtful and disputed matters. No part of this Settlement Agreement or any
2 conduct or written or oral statements made in connection with this Settlement and this Settlement
3 Agreement, whether or not the Settlement is finally approved and/or consummated, may be
4 offered as or construed to be an admission or concession of any kind by Defendants or any of the
5 Releasing or Released Parties or anyone else. In particular, but without limiting the generality of
6 the foregoing, nothing about this Settlement Agreement shall be offered or construed as an
7 admission that Defendants have violated any of their obligations under the California Labor Code,
8 or of liability in general, or any wrongdoing, impropriety, responsibility, or fault whatsoever on
9 the part of Defendants and/or the Released Parties. Similarly, nothing about this Settlement
10 Agreement shall be construed as or deemed to be evidence of, or an admission or concession that
11 the Class Representative or any Class Member has suffered any damage. In addition, this
12 Settlement Agreement shall not be offered or be admissible in evidence against Defendants or any
13 Released Party, except in any action or proceeding brought by or against Plaintiff, the Class, Class
14 Members, or Defendants to enforce its terms, or by Defendants in defense of any claims brought
15 by Plaintiff, the Class, Class Members, or any member of the general public, including any and all
16 individuals who opted out of the Class. The provisions of this paragraph shall become effective
17 when this Settlement Agreement is signed and shall be binding on the Settling Parties and their
18 counsel regardless of whether the Settlement Agreement is preliminarily and/or finally approved
19 or terminated for any reason, or rendered null and void.

20 **4. Intent of the Settlement**

21 The Class Settlement set forth herein intends to achieve the following: (1) entry of an
22 Order fully and finally approving the Class Settlement and granting the monetary relief set forth in
23 this Settlement Agreement to the Class Members; (2) entry of Judgment in the Action; and
24 (3) discharge and release of Released Parties from liability for any and all of the Released Claims.

1 **C. PROCEDURAL ISSUES**

2 **1. Preliminary Approval**

3 Class Counsel will submit this Settlement Agreement to the Court and move for its
4 preliminary approval.

5 **2. The Settlement Administrator**

6 The Settlement Administrator will mail the Class Notice to Class Members, receive and
7 process Claim Forms and Opt-Out Forms, administer the Settlement, calculate claims against the
8 Settlement, handle inquiries from Class Members concerning the Class Notice and determination
9 of Individual Settlement Payments or any other issue, resolve any differences between
10 Defendants' payroll records and information provided by a Class Member, and distribute
11 Individual Settlement Payments. Additionally, the Settlement Administrator will handle all tax
12 document preparation and filing, including state and federal tax forms if any.

13 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
14 Defense Counsel updating them as to the number of timely received Claim Forms, Opt-Out Forms
15 as well as any disputes or objections submitted by Settlement Class Members. The Settlement
16 Administrator will serve on Class Counsel and Defense Counsel via e-mail date-stamped copies of
17 the original Opt-Out Forms, challenges and objections no later than five (5) days after their
18 receipt. The Settlement Administrator will provide Class Counsel with a declaration of due
19 diligence and proof of mailing of the Notice Packet, which Class Counsel will file with the Court
20 no later than ten (10) business days prior to the Court's Final Approval Hearing. No later than
21 five (5) business days prior to the Final Approval Hearing, the Settlement Administrator will
22 compile and deliver to Defense Counsel and Class Counsel a final report with information
23 regarding (a) the number of Class Members who timely returned valid Claim Forms; (b) the final
24 number of Opt-Outs; and (c) the final number of objectors.

25 All fees and costs of the Settlement Administrator for administration of the Settlement
26 shall be paid from the Total Settlement Amount and shall not exceed \$15,000.

1 **3. Notice to Class Members**

2 Notice shall be provided to Class Members in the following manner:

3 Within 14 calendar days following Preliminary Approval of the Settlement, Defendants
4 shall provide the Settlement Administrator with the names, most current mailing address,
5 telephone number, social security number, and the respective Individual Workweeks that each
6 Class Member worked during the Covered Time Frame in a readable MS Excel spreadsheet
7 (collectively "Class List and Data"). Said Class List and Data shall not be provided to Class
8 Counsel or Class Representative, and shall be maintained by the Settlement Administrator as
9 strictly confidential information of Defendants.

10 Within 14 days after receipt of the Class List and Data, the Settlement Administrator shall
11 mail the Notice Packet to the Class Members via first-class regular U.S. mail. Prior to mailing, the
12 Settlement Administrator will perform a search based on the National Change of Address
13 Database information to update and correct for any known or identifiable address changes. If a
14 new address is obtained by a way of a returned Notice Packet, then the Settlement Administrator
15 shall promptly forward the original Notice Packet to the updated address via first-class regular
16 U.S. Mail indicating on the original Notice Packet the date of such re-mailing. Where a Notice
17 Packet is returned as undeliverable, without a forwarding address, the Settlement Administrator
18 will perform a computer/SSN and "skiptrace" search to obtain an updated address. The Parties
19 agree to cooperate with the Settlement Administrator to locate a more recent address for Class
20 Members, where necessary.

21 The Notice will include, but shall not be limited to, information regarding the nature of the
22 Lawsuit; a summary of the substance of the Settlement; the Class definition; the claims procedure
23 and time for submission of a Claim Form; the opt-out procedure and the time for submission of an
24 Opt-Out Form; the date for the Final Approval Hearing; and the formula used for the Individual
25 Settlement Payments. The Claim Form shall include the time period during which the Class
26 Member worked during the Covered Time Frame according to Defendants' records, and shall
27 afford the Class Member the opportunity to challenge the number of Individual Workweeks

1 reflected in Defendants' payroll records, and to provide evidence supporting any such challenge.

2 Compliance with the procedures described in this Settlement Agreement shall constitute
3 due and sufficient notice to Class Members of this Settlement and the Final Fairness and Approval
4 Hearing, shall satisfy the requirements of due process, and nothing else shall be required of the
5 named Plaintiffs, Class Counsel, Defendants, Counsel for Defendants, or the Settlement
6 Administrator to provide notice of the Settlement and the Final Fairness and Approval Hearing to
7 Class Members.

8 **4. Response to Notice Packets**

9 In order for a Class Member to receive an Individual Settlement Payment, the Class
10 Member must accurately complete and sign a Claim Form under penalty of perjury, and submit
11 the Claim Form by not later than 45 calendar days after the Notice Packet was first mailed.

12 To avoid being bound by the Settlement, a Class Member or his/her authorized
13 representative must sign his or her Opt-Out Form and submit it to the Settlement Administrator
14 postmarked no later than 45 calendar days after the Notice Packet was first mailed. Any signed
15 Opt-Out Form that is submitted after the 45 day period specified in the Class Notice shall be
16 deemed null and void. The date of personal delivery or the postmark on the mailing envelope
17 shall be the exclusive means used to determine whether a request for exclusion has been timely
18 submitted. Any Class Member who is validly excluded from this Settlement as provided in this
19 paragraph shall not receive any payment pursuant to this Settlement, shall have no right to object
20 to this Settlement, and shall not be bound by any release provided for in this Settlement
21 Agreement or have any right to object or comment thereon. Class Members who fail to submit a
22 valid and timely request for exclusion on or before the expiration of the 45 day period shall be
23 bound by all terms of the Settlement, the release set forth herein, and the Order and Final
24 Judgment. Except for those Class Members who exclude themselves in compliance with the
25 procedures set forth above, all Class Members will be deemed to be bound by the terms and
26 conditions of this Settlement, the Final Approval Order, the judgment, and the releases set forth
27 herein, and except as provided in paragraph 6 below, will be deemed to have waived all objections

1 and opposition to the fairness, reasonableness, and adequacy of the Settlement.

2 Except as set forth above, any Class Member may object to the proposed Settlement, or
3 any portion thereof, by mailing a written objection, and supporting papers, if any, to the Claims
4 Administrator at the address that is set forth in the Class Notice. To be timely, all objections must
5 be postmarked no later than forty five (45) calendar days after the Notice Packet was first mailed.
6 A written objection must contain the objecting person's full name, current address, and include all
7 objections and the reasons therefore, and include any and all supporting papers (including, without
8 limitation, all briefs, written evidence, and declarations). A Class Member who desires to object
9 but who fails to comply with the objection procedure set forth herein shall be deemed to have not
10 objected. The Claims Administrator shall send all objections by .pdf to counsel for Defendants
11 and Class Counsel. If a Class Member wishes to appear at the Fairness Hearing and present his or
12 her objection to the Court orally, the objector's written statement, which must be timely returned
13 as set forth above, must also include the objector's statement of intent to appear at the Fairness
14 Hearing. Only Class Members who specify in their objections that they intend to present
15 objections orally at the Fairness Hearing shall have the right to present their objections orally at
16 the Fairness Hearing. Any Class Member who does not timely file a written objection shall not be
17 permitted to present his or her objection at the Fairness Hearing. Any Class Member who files an
18 objection remains eligible to receive monetary compensation from the Settlement. Class Counsel
19 and Counsel for Defendants shall file any responses to any written objections submitted to the
20 Court in accordance with this Stipulation of Settlement at least five (5) calendar days before the
21 Fairness Hearing.

22 **5. Submission and Review of Claims**

23 Any Class Member who wishes to file a claim to receive payment under the Settlement
24 must complete the Claim Form in full, and return the Claim Form to the Settlement Administrator
25 post-marked by the Final Date for Submission of Claim Forms (i.e., the date that is 45 calendar
26 days after the date that the Class Notice is sent to the Settlement Class).

27 The Settlement Administrator shall determine if each Claim Form has been signed and
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1 completed in full, or is somehow materially deficient. If any Class Member files a defective
2 Claim Form postmarked before the submission deadline, then the Claims Administrator shall send
3 a Cure Letter to such Class Member advising that the claim is defective and must be cured to
4 become valid. The Claims Administrator must mail the Cure Letter within three (3) business days
5 of receiving a defective claim. The Cure Letter shall state that the Class Member has seven (7)
6 calendar days from the date of the Cure Letter or the submission deadline, whichever date is later,
7 to postmark a revised claim. If a Class Member responds to a Cure Letter by filing a defective
8 claim, then the Claims Administrator shall have no further obligation to give notice of a need to
9 cure. Such defective claims will be considered invalid and, if received after the submission
10 deadline, Class Members will have no right to cure them.

11 Any person who fails to submit a timely and valid Claim Form shall receive no monetary
12 distribution from the Settlement Fund Account. Any person who timely submits both a Claim
13 Form and an Opt-Out Form shall be deemed to have submitted only a valid Claim Form and the
14 Opt-Out Form shall be deemed null and void.

15 Only Class Members who submit a timely and valid Claim Form may receive a monetary
16 distribution from the Settlement Fund Account.

17 **6. Resolution of Disputes Concerning Claim Forms**

18 To the extent a Class Member disputes the Individual Workweeks listed on his/her Claim
19 Form, the Class Member may produce evidence to the Claims Administrator indicating the dates
20 the Class Member contends he or she worked during the Covered Time Frame. Defendants'
21 records will be presumed determinative, but the Parties and the Claims Administrator will meet
22 and confer to evaluate and if necessary reconcile the evidence submitted by the Class Member.
23 The Claims Administrator shall make the final decision as to the number of Individual Workweeks
24 worked by a Class Member.

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1 **D. SETTLEMENT TERMS**

2 **1. The Settlement Class and Sub-Class**

3 For the purposes of effectuating this Settlement, the Class shall include all non-exempt
4 employees who were or are employed by Cooper Services, Inc. and/or S&S Tools & Supply, Inc. in
5 the State of California at any time during the Covered Time Frame, which is October 23, 2009
6 through the date of Preliminary Approval of Class Action Settlement.

7 In addition, the AWS Sub-Class shall include all non-exempt employees who were or are
8 employed by Cooper Services, Inc. and/or S&S Tools & Supply, Inc. in the State of California at
9 any time during the Covered Time Frame and who worked a 9/80 and/or 4/10 work schedule during
10 this time.

11 For settlement purposes only, the Parties stipulate that a class and sub-class may be
12 certified, as described below. The Parties agree that certification for settlement purposes under the
13 lenient standard applied to settlements is in no way an admission that class certification is proper
14 under the more stringent standard applied for litigation purposes, and that evidence of this limited
15 stipulation for settlement purposes only will not be admissible in this or any other proceeding.
16 The Parties further agree that if, for any reason, the Settlement is not approved, the certification
17 will have no force or effect and will be immediately revoked. Furthermore, Defendants deny any
18 and all wrongdoing and by entering into this Settlement, Defendants do not admit any violation of
19 the law or any liability to Plaintiff, the Class or the AWS Sub-Class.

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1 **2. Private Attorneys General Act Payment**

2 For purposes of this Settlement only, the Parties recognize and agree that \$4,078 of the
3 Total Settlement Amount represents the amount to be paid to the California Labor and Workforce
4 Development Agency in settlement of all claims made in the Action pursuant to the Labor Code
5 Private Attorneys General Act, Cal. Labor Code § 2698, et seq. The Parties agree that this \$4,078
6 payment represents 75% of the value allocated to these claims by the Parties.

7 **3. Class Representative Service Payment**

8 Plaintiff's counsel will request, and Defendants will not oppose, payment of a service
9 payment of Seven Thousand Five Hundred Dollars (\$7,500.00) to the Class Representative, to be
10 paid out of the Total Settlement Amount. In order to receive this payment, the Class
11 Representative will be required to execute a general release of all known and unknown claims,
12 charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known
13 or unknown, suspected or unsuspected, that he had, now has, or may hereafter claim to have
14 against Defendants arising out of, or relating in any way to, the Class Representative's hiring by,
15 employment with, separation of employment with, or otherwise relating to the Defendants arising
16 or accruing from the beginning of time up through the Preliminary Approval Order Date, and he
17 waives all rights and benefits afforded by California Civil Code section 1542, which provides: "A
18 general release does not extend to claims which the creditor does not know or suspect to exist in
19 his or her favor at the time of executing the release, which if known by him or her must have
20 materially affected his or her settlement with the debtor." This release shall not affect the pending
21 individual wrongful termination, discrimination and/or sexual harassment case filed by Plaintiff
22 against Defendants, Los Angeles Superior Court Case No. BC547865. Defendants will issue to
23 the Class Representative a Form 1099 with respect to the awarded class representative service
24 payment. The Class Representative shall not be required to submit a Claim Form, and shall have
25 no right to opt-out of the Settlement.

26 **4. Class Counsel's Fees and Costs**

27 Plaintiff's counsel will request, and Defendants will not oppose, Plaintiff's application to
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1 the Court for an award of attorneys' fees in an amount not to exceed one-third of the Total
2 Settlement Payment (or \$144,999.99) and expenses not to exceed \$15,000.00. The fees and costs
3 awarded are included in the Total Settlement Amount. Defendants will issue to Plaintiff's counsel
4 a Form 1099 with respect to the awarded attorneys' fees and expenses. The attorneys' fees and
5 costs approved by the Court shall encompass all fees and costs incurred to date in the Action, as
6 well as all such fees and costs incurred in documenting the Settlement, securing court approval of
7 the Settlement, administering the Settlement, and obtaining a final Judgment, including all
8 appeals.

9 Defendants shall bear their own fees and costs of every kind in connection with the Action
10 and the negotiation of the Settlement of the Action.

11 Class Counsel shall be entitled to additional reasonable attorneys' fees and costs, should
12 Class Counsel be required to take action against Defendants to enforce the terms of this Settlement
13 Agreement.

14 **5. Class Member Distribution Formula**

15 Each Class Member's "Individual Settlement Payment" will be based on a ratio of the
16 Class Member's Individual Workweeks to the Total Workweeks. The AWS Sub-Class will
17 share twenty percent (20%) of the Net Settlement Amount and any portion of the Net Settlement
18 Amount they would receive as a Class Member. All Class Members, which may also include
19 the AWS Sub-Class, will share eighty percent (80%) of the Net Settlement Amount. The
20 Individual Settlement Payment will be calculated by dividing the Class Member's Individual
21 Workweeks by the Total Workweeks, pursuant to the aforementioned percentage distribution,
22 and multiplying by the Net Settlement Amount. A portion of this resulting amount will be
23 subject to tax withholdings, as described below.

24 **6. Distributions to Class Members, Plaintiff, and Plaintiffs' Counsel**

25 The amount of the Individual Settlement Payments, Class Representative service payments,
26 Class Counsel's awarded attorneys' fees and costs, and any other amounts due under this Settlement,
27 will be provided by Defendants to the Claims Administrator (which funds shall be placed into an

1 interest-bearing Settlement Fund Account), according to the following schedule. Defendants will
2 pay the Total Settlement Amount within ten (10) days of Final Approval Date. The Claims
3 Administrator shall distribute Individual Settlement Payments within seven (7) calendar days after
4 the Effective Date.

5 **7. Treatment of Class Settlement Payments**

6 The Parties recognize that a portion of the Settlement amounts to be paid to Class
7 Participants (other than the service payment to the Named Plaintiff) for the relief sought in the
8 Action is for wages allegedly owed. All Class Individual Settlement Payments will be allocated as
9 follows: one-third to settlement of wage claims, one-third to settlement of claims for interest on
10 wage claims, and one-third to settlement of claims for statutory penalties. The Parties agree that
11 the Settlement amounts for wages are subject to W-2 reporting and, therefore, normal payroll taxes
12 and withholdings will be deducted pursuant to state and federal law. Class Participants will be
13 solely responsible for reporting and paying taxes, if any, to any State or federal authority for their
14 portion of the Class Individual Settlement Payment designated as the wage claim. Defendants will
15 be solely responsible for reporting and paying taxes, if any, to any State or federal authority for
16 their portion of the employer taxes on the wage claim. The Parties further agree that the
17 Settlement amounts for interest and penalties shall not be subject to withholdings, and will be
18 reported on an IRS Form 1099.

19 **8. Release of Claims by Settlement Class.**

20 Upon approval of the Settlement at the Final Approval Hearing, each Class Member, except
21 those who have validly excluded themselves by timely submission of an Opt-Out Form, shall release
22 and discharge the Released Parties from all Released Claims.

23 **9. Entry of Judgment**

24 The Parties agree that, upon final approval of the Settlement by the Court, a judgment shall
25 be entered, including a provision for the retention of the Court's jurisdiction over the Parties to
26 enforce the terms of the Judgment, in accordance with Cal. Rule of Court 3.769(h).

1 **10. Stale Checks**

2 If a Class Participant fails to cash a check for his or her Individual Settlement Payment
3 within 120 calendar days after it is mailed to the Class Member, the uncashed amount will escheat
4 to the State of California, Unclaimed Wages Fund, located at Department of Labor Standards and
5 Enforcement, Attention Centralized Cashier's Unit, 2031 Howe Ave, Suite 100, Sacramento, CA
6 95825.

7 **11. Unclaimed Settlement Funds**

8 Any settlement funds from the Net Settlement Amount not claimed and/or remaining in the
9 Settlement Administrator's Settlement Fund Account after 120 days from the date on which class
10 settlement checks are issued will escheat to the Cy Pres recipient the Parties have agreed to: the
11 Los Angeles Trade Technical College Foundation located at 400 West Washington Blvd, Los
12 Angeles, CA 90015, telephone: 213-763-7149.

13 **12. Circular 230 Disclaimer**

14 Each party to this Agreement (for purposes of this section, the "Acknowledging Party;"
15 and each party to this Agreement other than the Acknowledging Party, an "Other Party")
16 acknowledges and agrees that: (1) no provision of this Agreement, and no written communication
17 or disclosure between or among the parties or their attorneys and other advisors, is or was intended
18 to be, nor shall any such communication or disclosure constituted or be construed or be relied
19 upon as, tax advice within the meaning of the United States Treasury Department Circular 230 (31
20 CFR Part 10, as amended); (2) the Acknowledging Party (a) has relied exclusively upon his, her,
21 or its own, independent legal and tax advisors for advice (including tax advice) in connection with
22 this Agreement; (b) has not entered into this Agreement based upon the recommendation of any
23 Other Party or any attorney or advisor to any Other Party; and (c) is not entitled to rely upon any
24 communication or disclosure by any attorney or advisor to any Other Party to avoid any tax
25 penalty that may be imposed on the Acknowledging Party; and (3) no attorney or advisor to any
26 Other Party has imposed any limitation that protects the confidentiality of any such attorneys' or
27 advisor's tax strategies (regardless of whether such limitation is legally binding) upon disclosure

1 by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any
2 transaction contemplated by this Agreement. Class Members shall indemnify and hold harmless
3 Defendants from any and all actions, claims or demands brought by any tax or other authority
4 based upon Class Members' tax obligations arising from the payment to be made pursuant to this
5 Stipulation of Settlement. This provision shall not apply to any tax obligations that arise from the
6 employers' share of taxes owed on the wage claim.

7
8 **E. NULLIFICATION OF THE SETTLEMENT AGREEMENT**

9 If the Court does not grant final approval of the Settlement without material modification,
10 or if the Court's final approval of the Settlement is reversed or materially modified on appellate
11 review, then this Settlement and the releases herein will be null and void, and the Parties shall be
12 restored to their respective positions existing prior to the execution of this Agreement, and the
13 Action shall proceed as though the Class and AWS Sub-Class had never been certified for
14 settlement purposes and such findings had never been made.

15 If three percent (3%) or more of the Class Members validly exclude themselves from the
16 Class, Defendants will have the right to rescind the Settlement and all actions taken in its
17 furtherance will be null and void. Defendants must exercise this right in writing to Class Counsel
18 within seven (7) calendar days after the Settlement Administrator has notified the Parties in
19 writing of the valid exclusions received, with the 3% threshold having been met.

20 If the Settlement is nullified, then Defendants shall be solely responsible for the costs of
21 the settlement administration.

22
23 **F. FINAL APPROVAL HEARING.**

24 Plaintiff and Class Counsel will move the Court for final approval of the Settlement, and
25 will move for an award of Class Representative service payments and Class Counsel's attorneys'
26 fees and costs pursuant to the Settlement, which Defendants will not oppose on the conditions set
27 forth herein.

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G. DUTIES OF THE PARTIES

1. Mutual Full Cooperation

The Parties agree to cooperate fully with each another to accomplish and implement the terms of this Settlement Agreement. Such cooperation shall include, but not be limited to, execution of such other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms of this Settlement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by Court Order, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel with the cooperation of Defendants and their Counsel, shall take all necessary and reasonable steps to secure the Court’s Preliminary Approval and Final Approval of this Settlement Agreement. No party, nor any of its attorneys or agents, shall solicit or encourage any Class Members to exclude themselves from the Settlement or object to the Settlement.

2. Duty to Support and Defend the Settlement Agreement

The Parties agree that the Settlement Agreement is fair and reasonable and will so represent to the Court. The Parties hereto agree to abide by all of the terms of the Settlement Agreement in good faith and to support the Settlement Agreement fully, and to use their best efforts to defend this Settlement Agreement from any legal challenge, whether by appeal or collateral attack.

H. MISCELLANEOUS PROVISIONS

1. Waiver of Appeals

1 The Parties agree to stipulate to class certification for purposes of implementing this
2 Settlement only and agree to waive all appeals from the Court's final approval of the Settlement,
3 unless the Court materially modifies the Settlement; provided, however, that Plaintiff may appeal
4 any reduction in the attorneys' fee award.

5 **2. Non-Retaliation**

6 Defendants agree that they will not retaliate against any Class Member for participating in
7 the claims process, and further agree to disseminate reasonable written notices or memoranda to
8 that effect (on company letterhead) during the claims process as necessary, if requested by Class
9 Counsel.

10 **3. Construction**

11 The Parties hereto agree that the terms and conditions of this Settlement Agreement are the
12 result of lengthy, intensive, arm's-length negotiations between the Parties and with the assistance
13 of Mediator Steven Rottman, and that this Settlement Agreement is not to be construed in favor of
14 or against any party by reason of the extent to which any party or its counsel participated in the
15 drafting of this Settlement Agreement.

16 **4. Choice of Law**

17 This Settlement Agreement is intended to and shall be governed by the laws of the State of
18 California, without regard to conflicts of law principles.

19 **5. Captions and Interpretations**

20 Paragraph titles or captions contained herein are inserted as a matter of convenience and
21 for reference only, and in no way define, limit, extend, or describe the scope of this Settlement
22 Agreement or any provision thereof.

23 **6. Modification**

24 This Settlement Agreement may not be changed, altered, or modified, except in writing
25 signed by the Parties hereto and approved by the Court. This Settlement Agreement may not be
26 discharged except by performance in accordance with its terms or by a writing signed by the
27 Parties hereto.

1 **7. Integration Clause**

2 This Settlement Agreement contains the entire agreement between the Parties relating to
3 the settlement of the Action and the transactions contemplated thereby, and all prior or
4 contemporaneous agreements, understandings, representations, and statements, whether oral or
5 written, and whether by a party or such party's legal counsel, are merged herein. No rights under
6 this Settlement Agreement may be waived except in writing.

7 **8. Successors and Assigns**

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

10 **9. Class Counsel Signatories**

11 Because the Members of the Class are so numerous, the Parties agree that it is impossible
12 or impractical to have each Class Member sign this Settlement Agreement. It is agreed that, for
13 purposes of seeking approval of the Class Settlement, this Settlement Agreement may be executed
14 on behalf of the Class by Class Counsel and the Class Representative.

15 **10. Corporate Signatories**

16 Any person executing this Settlement Agreement or any such related document on behalf
17 of a corporate signatory hereby warrants and promises, for the benefit of all Parties hereto, that
18 such person has been duly authorized by such corporation to execute this Settlement Agreement or
19 any such related document.

20 **11. Execution in Counterparts**

21 This Settlement Agreement shall become effective upon its execution by all of the
22 undersigned. The Parties may execute this Settlement Agreement in counterparts, and execution
23 of counterparts shall have the same force and effect as if all Parties had signed the same
24 instrument. A signature transmitted by electronic mail or facsimile shall be considered valid for
25 all purposes.

26 **12. Severability.**

27 In the event that any one or more of the provisions contained in this Settlement Agreement

1 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
2 illegality, or unenforceability shall in no way affect any other provision if Defendants' Counsel
3 and Plaintiff's counsel, on behalf of the Settling Parties and the Class, mutually elect in writing to
4 proceed as if such invalid, illegal, or unenforceable provision had never been included in this
5 Settlement Agreement.

6
7
8 Dated: May 20, 2015

COOPER SERVICES, INC.

By: 

Print Name: TRACY M. TOMKOVICZ

Title: CEO

S&S TOOLS & SUPPLY, INC.

12 Dated: May 20, 2015

By: 

Print Name: TRACY M. TOMKOVICZ

Title: CEO

CLASS REPRESENTATIVE

17 Dated: May 19, 2015

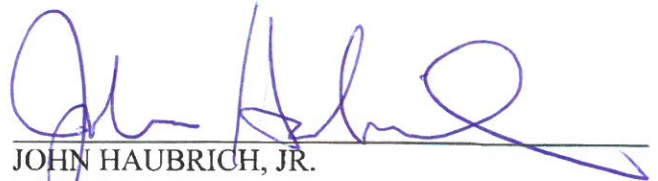
By: 

JOHN PATTERSON

21 **APPROVED AS TO FORM:**


1 DATED: May 20, 2015

LEWIS BRISBOIS BISGAARD & SMITH LLP

2
3 By: 
4 JOHN HAUBRICH, JR.
5 PAUL MATA
6 Attorneys for Defendants Cooper Services, Inc.
7 and S&S Tools & Supply, Inc.

8 DATED: May 19, 2015

MAHONEY LAW GROUP APC

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10 By: 
11 KEVIN MAHONEY
12 SAM KIM
13 Attorneys for Plaintiff John Patterson
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