

1 ROBBINS ARROYO LLP
2 BRIAN J. ROBBINS (SBN: 190264)
3 brobbins@robbinsarroyo.com
4 DIANE E. RICHARD (SBN: 204897)
5 drichard@robbinsarroyo.com
600 B Street, Suite 1900
San Diego, CA 92101
Telephone: (619) 525-3990
Facsimile: (619) 525-3991

6 THE DENTE LAW FIRM
7 MATTHEW S. DENTE (SBN: 241547)
8 matt@dentelaw.com
9 600 B Street, Suite 1900
San Diego, CA 92101
Telephone: (619) 550-3475
Facsimile: (619) 342-9668

10 JAMES HAWKINS APLC
11 JAMES R. HAWKINS (SBN: 192925)
12 james@jameshawkinsaplc.com
13 DEREK GUIZADO (SBN: 285845)
14 derek@jameshawkinsaplc.com
15 9880 Research Drive, Suite 200
Irvine, CA 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676

15 Attorneys for Plaintiff Bradley Herman

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF RIVERSIDE

18 BRADLEY HERMAN, Individually, and
19 On Behalf of Other Members of the Public
20 Similarly Situated,

20 Plaintiff,

21 v.

22 LOS ANGELES ENGINEERING, INC.
23 and DOES 1-10, inclusive,

24 Defendants.

Case No.: RIC 1211002

CLASS ACTION

**STIPULATED SETTLEMENT
AGREEMENT AND RELEASE OF
CLAIMS**

Action Filed: July 19, 2012

1 **STIPULATED SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

2 **ARTICLE I**

3 **INTRODUCTION**

4 It is stipulated and agreed by and between Plaintiff Bradley Herman (“Representative
5 Plaintiff”) and Defendant Los Angeles Engineering, Inc. (“Defendant”) to effectuate the
6 Settlement reached by the Parties following extensive negotiations. Representative Plaintiff and
7 Defendant collectively are referred to in this Agreement as “the Parties.”

8 Subject to the approval of the Court pursuant to section 382 of the California Code of Civil
9 Procedure, that the Settlement of this action shall be effectuated upon and subject to the following
10 terms and conditions. Capitalized terms used herein shall have the meanings set forth in the
11 “Definitions” section or as defined elsewhere in this Stipulated Settlement Agreement And
12 Release Of Claims (hereafter “Agreement”).

13 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
14 concluded by agreement of Defendant to pay no more than the Maximum Settlement Amount of
15 Three Hundred Seventy Five Thousand Dollars (\$375,000.00) as provided in Section 3.06 below
16 (“Maximum Settlement Amount”) upon the terms and conditions of this Agreement in exchange
17 for a release of all claims by Representative Plaintiff and the Class Members as set forth herein.

18 **ARTICLE II**

19 **DEFINITIONS**

20 As used in the Agreement, the following terms have the meanings specified below:

21 a. “Action” means the civil action commenced on July 19, 2012 by Bradley Herman
22 in the Riverside County Superior Court entitled, “BRADLEY HERMAN, Individually, and On
23 Behalf of Other Members of the Public Similarly Situated, Plaintiff, v. LOS ANGELES
24 ENGINEERING, INC. and DOES 1-10, INCLUSIVE, Defendants”, Case No. RIC 1211002.

25 b. “Agreement” means this Stipulated Settlement Agreement And Release Of Claims,
26 including the attached Exhibits.

27 c. “Claims Administrator” means the third party administrator Phoenix Settlement
28 Administrators located at 600 W. Broadway, Suite 700, San Diego, CA 92101, telephone: (888)

1 613-5553, or other Court approved administrator that will administer the settlement as set forth
2 below.

3 d. "Claims Administration Costs" means all costs incurred by the Claims
4 Administrator in administration of the Settlement, including, but not limited to address verification
5 measures, translation of the class notice and claim form to Spanish, mailing of notice to the Class,
6 calculation of Individual Settlement Payments, preparation and issuance of Individual Settlement
7 Payment checks, administration of unclaimed checks, preparation and issuance of checks to Class
8 Counsel for attorneys' fees and costs, preparation and issuance of the check to Representative
9 Plaintiff for his Enhancement Service Award, preparation and issuance of a check to the LWDA
10 for its share of PAGA penalties, and submission of all tax related documents, all pursuant to the
11 terms of this Agreement.

12 e. "Claim Form" means the Claim Form attached hereto as "Exhibit B" or in
13 substantially the same form as ultimately approved by the Court.

14 f. "Class Counsel" means the attorneys for the Class and the Class Members, who
15 are:

16 Brian J. Robbins
17 Diane E. Richard
18 ROBBINS ARROYO LLP
19 600 B. Street, Suite 1900
20 San Diego, CA 92101
21 Telephone: (619) 525-3990
22 Facsimile: (619) 525-3991

23 Matthew S. Dente
24 THE DENTE LAW FIRM
25 600 B. Street, Suite 1900
26 San Diego, CA 92101
27 Telephone: (619) 550-3475
28 Facsimile: (619) 342-9668

James R. Hawkins
JAMES HAWKINS, APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676

g. "Class Member(s)" means all persons who are or were employed and classified as
hourly, non-exempt production employees or in equivalent positions by Defendant in the State of

1 California from July 19, 2008 through the date the Court enters an order granting preliminary
 2 approval of this Agreement (the "Class Period"). Defendant represents that as of March 2015,
 3 there are approximately 314 Class Members.

4 h. "Class Notice" means the Notice of Proposed Class Action Settlement attached
 5 hereto as Exhibit "A" or in substantially the same form as ultimately approved by the Court.

6 i. "Class Period" means the period from July 19, 2008 through the Preliminary
 7 Approval Date.

8 j. "Defendant" means defendant Los Angeles Engineering, Inc.

9 k. "Defense Counsel" means counsel for Defendant, who are:

10 Scott K. Dauscher
 11 Jon M. Setoguchi
 12 Atkinson, Andelson, Loya, Ruud & Romo LLP
 13 12800 Center Court Drive, Suite 300
 14 Telephone: (562) 653-3200
 15 Facsimile: (562) 653-3333

16 l. "Enhancement Service Award" means a monetary amount not to exceed Five
 17 Thousand Dollars (\$5,000.00) for the Representative Plaintiff which, subject to Court approval,
 18 shall be paid pursuant to Section 3.06.b.3 of the Agreement, as provided below.

19 m. "Exclusion Form" means the Exclusion Form attached hereto as "Exhibit D" or in
 20 substantially the same form as ultimately approved by the Court.

21 n. "Final" means the date on which the Court grants final approval of this Agreement
 22 as to the Class (defined above) on substantially the terms provided herein as the same may be
 23 modified by subsequent written agreement of the Parties.

24 o. "Final Order" refers to the order of the Court granting final approval of this
 25 Agreement as to the Final Settlement Class (defined below) and entering a judgment approving
 26 this Agreement on substantially the terms provided herein or as the same may be modified by
 27 subsequent written agreement of the Parties.

28 p. "Final Effective Date" means the date on which the Court signs the Final Order
 granting final approval of this Agreement.

q. "Final Fairness and Approval Hearing" or "Final Approval Hearing" means the

1 hearing to determine whether the Agreement settling the Action should be finally approved as fair,
 2 reasonable, and adequate; whether the proposed plan of allocation of the Maximum Settlement
 3 Amount should be approved; whether the Representative Plaintiff Enhancement Award should be
 4 approved; and whether the application of Class Counsel for attorneys' fees and costs should be
 5 approved.

6 r. "Final Settlement Class" refers to all Class Members who do not timely and validly
 7 exclude themselves from the class in compliance with the exclusion procedures set forth in Section
 8 3.04.b of this Agreement.

9 s. "Judgment" refers to the judgment entered by the Court in conjunction with the
 10 Final Order.

11 t. "Individual Settlement Payments" means the amounts of money from the Net
 12 Settlement Amount that shall be paid to the Participating Class Members less employee's portion
 13 of required federal and state withholdings. Individual Settlement Payments shall be each
 14 Participating Class Member's share of the Net Settlement Amount (which share shall be
 15 determined by the calculations provided in this Agreement at 3.06.c).

16 u. "LWDA" means the California Labor and Workforce Development Agency.

17 v. "Maximum Settlement Amount" means up to Three Hundred Seventy Five
 18 Thousand Dollars (\$375,000.00) to be paid by Defendant as provided by this Agreement to settle
 19 this Action on a claims-made basis.

20 w. "Minimum Settlement Amount" means 50% of the Net Settlement Amount or
 21 approximately (\$108,125.00).

22 x. "Net Settlement Amount" means the Maximum Settlement Amount of Three
 23 Hundred Seventy Five Thousand Dollars (\$375,000.00) less all of the following: (1) Class
 24 Counsel's attorneys' fees (not to exceed One Hundred and Twenty Five Thousand (\$125,000.00)
 25 which is equivalent to one-third of the Maximum Settlement Amount), (2) Class Counsel's costs
 26 (not to exceed Fifteen Thousand Dollars (\$15,000.00)), (3) an Enhancement Service Award to be
 27 paid to Representative Plaintiff Bradley Herman not to exceed Five Thousand Dollars (\$5,000.00),
 28 (4) PAGA Penalties to the LWDA in the amount of \$3,750.00 for its share of the Five Thousand

1 Dollars (\$5,000.00) PAGA payment, and (5) the Claims Administrator fees in the anticipated
 2 amount not to exceed Ten Thousand Dollars (\$10,000.00). The Net Settlement Amount is
 3 anticipated to be a maximum of Two Hundred Sixteen Thousand Two Hundred Fifty Dollars
 4 (\$216,250.00) depending on the number of claim forms submitted.

5 y. “Non-Participating Class Member(s)” means those Class Members who submit to
 6 the Claims Administrator a valid and timely written request to be excluded from the Class
 7 pursuant to Section 3.04.b below.

8 z. “Objection Form” means the Objection Form attached hereto as “Exhibit C” or in
 9 substantially the same form as ultimately approved by the Court.

10 aa. “Order of Preliminary Approval” means the Proposed Order Preliminarily
 11 Approving Class Action Settlement, Conditionally Certifying a Class, Directing Distribution Of
 12 The Class Notice, Appointing Class Counsel, Appointing Claims Administrator, and Scheduling A
 13 Final Approval Hearing.

14 bb. “PAGA” means the Private Attorneys General Act of 2004, California Labor Code
 15 sections 2698, et seq.

16 cc. “Participating Class Member(s)” means those Class Members who file valid and
 17 timely Claim Forms with the Claims Administrator to register their claim for recovery from the
 18 Net Settlement Amount pursuant to Section 3.04.a below.

19 dd. “Preliminary Approval Date” means the date on which the Court enters the Order
 20 of Preliminary Approval preliminarily approving the Settlement.

21 ee. “Released Parties” means Defendant and Defendant’s past and present officers,
 22 directors, employees, and agents.

23 ff. “Representative Plaintiff” means Plaintiff Bradley Herman.

24 gg. “Settlement” means the disposition of this Action and all related claims effectuated
 25 by this Agreement.

26 **ARTICLE III**

27 **PROCEDURAL FOR APPROVAL AND IMPLEMENTATION OF SETTLEMENT**

28 Because the Parties have stipulated to the certification of a Class for settlement purposes

1 only, this Agreement requires preliminary and final approval by the Court. Accordingly, the
2 Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the
3 approval by the Court. If the Final Effective Date does not occur, the fact that the Parties were
4 willing to stipulate to the certification of the specified class for the purposes of this Agreement
5 shall have no bearing on, or be admissible in connection with, the issue of the certification or non-
6 certification of any class in a non-settlement context. If the Final Effective Date does not occur,
7 this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall
8 not be referred to or used for any purpose whatsoever.

9 The Parties and their respective counsel shall take all steps that may be requested by the
10 Court relating to the approval and implementation of this Agreement and shall otherwise use their
11 respective best efforts to obtain Court approval and implement this Agreement. The procedure for
12 obtaining Court approval of and implementing this Agreement shall be as follows.

13 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

14 Representative Plaintiff shall bring a motion before the Court for an order conditionally
15 certifying the Class based on the preliminary approval of this Agreement, including the Class
16 Notice, Claim Form, Objection Form and Exclusion Form which are attached hereto as Exhibits
17 "A" and "B" and "C" and "D" respectively. The date that the Court grants preliminary approval
18 of this Agreement shall be the "Preliminary Approval Date."

19 **Section 3.02: The Claims Administrator**

20 The Parties will mutually agree upon a third party administrator to administer this
21 Settlement and to act as the Claims Administrator. The Claims Administrator will administer the
22 settlement including: performing address verification for the class members, translating the
23 Notice, Claim Form, and Reminder Postcards from English to Spanish, distributing the Class
24 Notice, Settlement Claim Forms, Reminder Postcards, performing skip traces, receiving
25 completed Settlement Claim Forms and Opt-Outs, delivering confirmation of receipt of Settlement
26 Claim Forms, providing Class Counsel and counsel for Defendant with weekly updates on the
27 status (including Class Member names and percentages) of Opt-Outs, submitted Settlement Claim
28 Forms, approximate amounts claimed by each Participating Class Member, and the total

1 approximate amounts claimed from the Net Settlement Amount, calculating and paying claims and
2 all distributions, handling inquiries about the calculation of the Individual Settlement Amounts,
3 and providing necessary documentation including declarations of compliance/administration
4 results. The actions of the Claims Administrator shall be governed by the terms of this
5 Stipulation. The Settling Parties, through their counsel, may provide written information needed
6 by the Claims Administrator pursuant to the Stipulation.

7 All costs of administering the Settlement, including but not limited to all costs and fees
8 associated with preparing, issuing, and mailing any and all notices to Class Members and/or
9 Participating Class Members, all costs and fees associated with computing, processing, reviewing,
10 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any
11 tax returns and any other filings required by any governmental taxing authority or agency, all costs
12 and fees associated with preparing any other notices, reports, or filings to be prepared in the course
13 of administering disbursements from the Net Settlement Amount, and any other costs and fees
14 incurred and/or charged by the Claims Administrator in connection with the execution of its duties
15 under this Agreement ("Claims Administration Costs"), anticipated to not to exceed Ten Thousand
16 Dollars (\$10,000.00), shall be paid out of the Maximum Settlement Amount.

17 **Section 3.03: Notice to Class Members**

18 **a. Initial Identification of Class Members:** Within fourteen (14) calendar days
19 following entry of the Preliminary Approval Order, Defendant shall provide to the Claims
20 Administrator a confidential list in Excel spreadsheet format containing the name and last known
21 address, telephone number, social security number, and number of Eligible Workweeks of each
22 Class Member ("Class List"). This information shall be treated as confidential.

23 **b. Mailing of Class Notice, Claim Form and Postcard:** Promptly upon receipt of
24 the Class Member information from Defendant, the Claims Administrator shall attempt to obtain
25 updated addresses for Class Members from the U.S. Postal Service, and for non-active Class
26 Members, also through an Accurant search. Within fourteen (14) calendar days after receipt of the
27 Class Member information from Defendant, the Claims Administrator shall mail the Class Notice,
28 Claim Form, Objection Form and Exclusion Form (collectively the "Notice Packet") to all Class

1 Members in both English and Spanish via first-class mail using the updated address information.
2 With respect to each Notice Packet that is returned as undeliverable to the Claim Administrator
3 within thirty (30) calendar days of initial mailing of the Notice Packets, the Claims Administrator
4 shall promptly attempt to determine a correct address using Experian and shall re-send the Notice
5 Packet via first-class mail to any new address thereby determined within five (5) business days. If
6 no address can be determined by the Claims Administrator after these efforts, no further efforts to
7 determine an address shall be required. For those Class Members that the Claims Administrator
8 has not received a response by the thirtieth (30th) calendar day after the initial mailing of the
9 Notice Packet, the Claims Administrator shall mail a reminder postcard (in English and Spanish)
10 by the thirty-third (33rd) calendar day of initial mailing of the Notice Packet after performing the
11 additional address searches specified in this section.

12 **c. Notification to Counsel:** No later than twenty (20) calendar days prior to the Final
13 Fairness and Approval Hearing, the Claims Administrator shall provide Defense Counsel and
14 Class Counsel with a declaration attesting to completion of the notice process, including any
15 attempts to obtain valid mailing addresses for and re-sending of any returned Class Notices, as
16 well as the number of valid Claim Forms and opt-outs that the Claims Administrator received.
17 Compliance with the procedures described in this Section 3.03.d shall constitute due and sufficient
18 notice to Class Members of this proposed Settlement and the Final Fairness and Approval
19 Hearing, and shall satisfy the requirement of due process. Nothing else shall be required of the
20 Parties, Class Counsel, Defense Counsel, or the Claims Administrator to provide notice of the
21 proposed Settlement and the Final Fairness and Approval Hearing.

22 **Section 3.04: Responses to Notice**

23 **a. Claim Form:** For a Class Member to receive an Individual Settlement Payment
24 from the Net Settlement Amount, his or her Claim Form must be signed by the Class Member or
25 his or her authorized representative attesting that he or she is a bona fide member of the Class, by
26 providing information as more specifically set forth in the Claim Form. The Claim Form must be
27 returned by mail, fax or the designated website to the Claims Administrator no later than sixty (60)
28 calendar days after the date the Claims Administrator initially mails the blank Claim Forms to

1 Class Members. Any completed Claim Form that is returned to the Claims Administrator and is
 2 postmarked, submitted on-line or faxed more than sixty (60) calendar days after the date of the
 3 initial mailing of the blank Claim Forms to Class Members shall not be accepted and processed
 4 unless otherwise agreed to by the Parties.

5 If any Class Member timely submits a deficient Claim Form which deviates from the
 6 instructions embodied in the Class Notice, then the Claims Administrator shall promptly mail a
 7 notice to such Class Member informing him or her of the deficiency and that he or she has until
 8 the expiration of the claims period or fifteen (15) calendar days from the date of remailing of the
 9 deficiency notice, whichever is later, to cure the deficiency. If the deficiency is not cured within
 10 this period, then the deficient Class Member shall automatically be deemed a member of the Final
 11 Settlement Class whose rights and claims with respect to the issues raised in the Action are
 12 determined by the Court's Final Order, and by the other rulings in the Action. Thus, said Class
 13 Member's rights to pursue any claims covered by the Action shall be extinguished and said Class
 14 Member shall not be permitted to recover from the Net Settlement Amount.

15 **b. Requests for Exclusion from Class:** For any Class Member to validly exclude
 16 himself or herself from the Class and this Settlement (i.e., to validly opt-out), a signed and
 17 completed Exclusion Form or a written request for exclusion must be signed by the Class Member
 18 or his or her authorized representative, and must be sent to the Claims Administrator, postmarked
 19 by no later than sixty (60) calendar days after the date the Claims Administrator initially mails the
 20 Notice Packet to the Class Members. The Notice Packet shall contain instructions on how to opt-
 21 out, including the Exclusion Form or, alternatively, the language to be used in a request for
 22 exclusion. The date of the initial mailing of the Notice Packet and the date the signed request for
 23 exclusion was postmarked, shall be conclusively determined according to the records of the
 24 Claims Administrator. Any Class Member who timely and validly requests exclusion from the
 25 Class and this Settlement shall become a Non-Participating Class Member and shall not be entitled
 26 to any Individual Settlement Payment, shall not be bound by the terms and conditions of this
 27 Agreement, and shall not have any right to object, appeal, or comment thereon.

28 In the event a Class Member returns both a valid and timely Claim Form and a request for

1 exclusion, the request for exclusion shall be deemed void, and of no force and effect, while the
2 Claim Form shall be processed pursuant to the terms of the Settlement.

3 **c. Objections to Settlement:** For any Class Member to object to this Agreement, or
4 any term of it, the person making the objection must not submit a request for exclusion (i.e., must
5 not opt-out), and must, by no later than sixty (60) calendar days after the Notice Packet was
6 initially mailed to the Class Members, file with the Court and serve on Class Counsel and Defense
7 Counsel, a completed Objection Form, signed by the objecting Class Member or his or her
8 attorney, along with all supporting papers. The date of mailing or re-mailing of the Notice Packets
9 to the objecting Class Member shall be conclusively determined according to the records of the
10 Claims Administrator. The Court retains final authority with respect to the consideration and
11 admissibility of any Objection Form filed by a Class Member.

12 Counsel for the Parties may file a response to any Objection Form submitted by objecting
13 Class Members at least ten (10) court days before the date of the Final Fairness and Approval
14 Hearing.

15 **d. Failure to Object:** Any Class Member who fails to timely file and serve an
16 Objection Form shall be foreclosed from making any objection to this settlement, unless otherwise
17 ordered by the Court.

18 **e. Failure to Submit Claim Form:** Any Class Member who fails to submit a timely
19 Claim Form (as defined in Section 3.04.a. above) to the Claims Administrator by following the
20 procedure set forth in the Class Notice and who also fails to submit a timely request for exclusion
21 from the Class automatically shall be deemed a member of the Final Settlement Class whose rights
22 and claims with respect to the issues raised in the Action are determined by the Court's Final
23 Order, and by the other rulings in the Action. Thus, said Class Member's rights to pursue any
24 claims covered by the Action and/or released in this Agreement shall be extinguished and said
25 Class Member shall not be permitted to recover from any part of the Net Settlement Amount.

26 **f. Right of Defendant to Void Agreement:** If more than ten percent (10%) of Class
27 Members make a valid request to be excluded from the Class as described in Section 3.04.b above
28 and thus become Non-Participating Class Members, Defendant shall have the right, but not the

1 obligation, to void the Agreement. If Defendant exercises that right to void the Agreement, then
2 the Parties shall have no further obligations under the Agreement, including any obligation by
3 Defendant to pay the Maximum Settlement Amount, or any amounts that otherwise would have
4 been owed under this Agreement, except that Defendant shall pay the Claims Administrator's
5 reasonable fees and expenses incurred as of the date that Defendant exercises its right to void the
6 Agreement. Defendant shall notify Class Counsel and the Court whether it is exercising this right
7 to void the Agreement not later than seven (7) days after the Claims Administrator notifies the
8 Parties of the final total number of valid requests to be excluded.

9 **Section 3.05: Final Fairness and Approval Hearing**

10 On the date set forth in the Order of Preliminary Approval and Class Notice, which shall
11 be approximately one hundred thirty-five (135) calendar days following entry of the Preliminary
12 Approval Order, a Final Fairness and Approval Hearing shall be held before the Court in order (1)
13 to review this Agreement and determine whether the Court should give it final approval, and (2) to
14 consider any timely objections made pursuant to Section 3.04.c above and all responses by the
15 Parties to such objections. At the Final Fairness and Approval Hearing, the Parties shall ask the
16 Court to give final approval to this Agreement and shall submit to the Court a proposed Final
17 Order approving the Settlement and which shall be entered in the Action.

18 **a. Vacating, Reversal, or Material Modification of Final Order and Judgment on**
19 **Appeal or Review:** If, after a notice of appeal or a petition for a writ of certiorari or any other
20 motion, petition, or application, the reviewing court vacates, reverses, or modifies the Final Order
21 and Judgment such that there is a material modification to the Settlement and that court's decision
22 is not completely reversed, and the Final Order and Judgment is not fully affirmed on review by a
23 higher court, then Representative Plaintiff and Defendant shall each have the right, but not the
24 obligation, to void the Settlement, which the Party must do by giving written notice to the other
25 Parties, the final reviewing court, and the Court not later than ten (10) court days after the final
26 reviewing court's decision vacating, reversing, or materially modifying the Final Order becomes
27 final and non-appealable. A vacation, reversal, or modification of the Court's award of the
28 Enhancement Service Award or Class Counsel's fees or costs shall not constitute a vacation,

1 reversal, or material modification of the Final Order and Judgment within the meaning of this
2 paragraph.

3 **Section 3.06: Settlement Payment Procedures**

4 **a. Settlement Sum:** In exchange for the releases set forth in this Agreement,
5 Defendant agrees to pay an amount up to the Maximum Settlement Amount of Three Hundred
6 Seventy Five Thousand Dollars (\$375,000.00), which is the total and all-inclusive maximum
7 amount Defendant shall be obligated to pay under the Settlement embodied by this Agreement
8 except that Defendant shall be required to pay all required employer side payroll taxes. The
9 Maximum Settlement Amount includes Class Counsel's attorneys' fees and costs, an
10 Enhancement Service Award for Representative Plaintiff, the PAGA penalty payment of Five
11 Thousand Dollars (\$5,000.00), which includes the payment of Three Thousand Seven Hundred
12 Fifty Dollars (\$3,750.00) to the LWDA, the Claims Administration Costs, and the Individual
13 Settlement Payments to Participating Class Members. Under no circumstances shall Defendant be
14 required to pay more than Three Hundred Seventy Five Thousand Dollars (\$375,000.00) pursuant
15 to the terms set forth in this Agreement other than all required employer side payroll taxes.

16 **b. Allocation of Settlement Amount:** In full and complete settlement of the Action
17 and subject to this Settlement being approved by the Court, Defendant shall pay an aggregate sum
18 not to exceed Three Hundred Seventy Five Thousand Dollars (\$375,000.00) (the "Maximum
19 Settlement Amount") plus employer side payroll taxes into an account set up by the Claims
20 Administrator, in the amounts specified and on or before the dates set forth in Section 3.06.e.4.(a)
21 below, to be allocated as follows:

22 **1. Reasonable attorneys' fees and litigation expenses:** Class Counsel have
23 stated they shall request that the Court award them reasonable attorneys' fees in an amount up to
24 One Hundred Twenty Five Thousand Dollars (\$125,000.00) which is equivalent to a percent of the
25 Maximum Settlement Amount of one-third, and litigation costs in an amount up to Fifteen
26 Thousand Dollars (\$15,000.00). Defendant has agreed neither to oppose nor adversely comment
27 on the fees and costs request. The award of reasonable attorneys' fees and litigation costs granted
28 by the Court shall be paid out of the Maximum Settlement Amount. Any award of attorneys' fees

1 and costs shall include and satisfy all past and future fees and costs incurred to prosecute, settle,
 2 and administer the Action and this Agreement, including obtaining the Final Order.

3 **2. Reasonable expenses of the Claims Administrator:** The Claims
 4 Administrator shall be paid out of the Maximum Settlement Amount and such payment shall not
 5 constitute payment to any Participating Class Member(s).

6 **3. Reasonable Enhancement Service Award to Representative Plaintiff:**
 7 Subject to Court approval, Representative Plaintiff Bradley Herman shall receive an enhancement
 8 service award of up to Five Thousand Dollars (\$5,000.00). The Enhancement Service Award shall
 9 be paid by check made payable to the Representative Plaintiff, shall be paid out of the Maximum
 10 Settlement Amount and shall not constitute payment to any Participating Class Member(s).

11 Because it is the intent of the Parties that the Enhancement Service Award represents
 12 payment to Representative Plaintiff for his service to the Class, and not wages, the Claims
 13 Administrator shall not withhold any taxes from the Enhancement Service Award. The
 14 Enhancement Service Award shall be reported on a Form 1099, which shall be provided to
 15 Representative Plaintiff and to the pertinent taxing authorities as required by law. Although it is
 16 the contemplation of the parties that the Enhancement Service Award does not represent wages,
 17 the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority
 18 may take the position that some or the entire Enhancement Service Award constitutes wages for
 19 income tax and withholding purposes. Representative Plaintiff agrees to assume the responsibility
 20 of remitting to the Internal Revenue Service, the California Franchise Tax Board, and any other
 21 relevant taxing authority the amounts required by law, if any, to be withheld by Defendant from
 22 the Enhancement Service Award paid under this Agreement. In addition, Representative Plaintiff
 23 shall hold Defendant and Released Parties harmless and indemnify Defendant and Released
 24 Parties for all taxes, interest, penalties, and costs, including attorneys' fees, incurred by Defendant
 25 by reason of any claims relating to the non-withholding of taxes from the Enhancement Service
 26 Award.

27 **4. PAGA Payment:** A payment of Five Thousand Five Dollars (\$5,000.00)
 28 from the Maximum Settlement Amount shall be allocated to PAGA penalties, Three Thousand

1 Seven Hundred Fifty Dollars (\$3,750.00) of which shall be payable to the California LWDA. The
 2 PAGA penalties shall be paid out of the Maximum Settlement Amount.

3 **5. Defendant's Share of Payroll Taxes:** Based on business records for each
 4 Participating Class Member provided by Defendant to the Claims Administrator, the Claims
 5 Administrator shall calculate Defendant's share of the payroll taxes applicable to the wage portion
 6 of the Net Settlement Amount. That amount shall be paid by the Defendant exclusive from the
 7 Maximum Settlement Amount.

8 **6. Allocation to Participating Class Members:** The amount remaining from
 9 the Maximum Settlement Amount after deducting approved attorneys' fees and litigation costs,
 10 Claims Administration Costs, Enhancement Service Award, and PAGA penalties to the LWDA
 11 (the "Net Settlement Amount") shall be distributed to members of the Class who return valid and
 12 timely claims and who are deemed not to have timely and validly requested exclusion from the
 13 Settlement (i.e. Participating Class Members) in accordance with the formula set forth below.

14 **c. Individual Settlement Payments:** The Individual Settlement Payments shall be
 15 calculated as follows:

16 **1. Calculation:** The Parties have estimated Two Hundred Sixteen Thousand
 17 Two Hundred Fifty Dollars (\$216,250.00) as the maximum Net Settlement Amount to settle all
 18 Class Members claims covered by the Release. The actual Net Settlement Amount shall be
 19 determined by the claims submitted and is subject to a floor as set forth below. Each claim that is
 20 submitted by a Participating Class Member shall have a pro-rata value equal to the Maximum Net
 21 Settlement Amount multiplied by the ratio of (a) the number of Eligible Workweeks (as defined
 22 below) by that Participating Class Member to (b) the total number of Eligible Workweeks worked
 23 by all Class Members. Thus, for example, if the total number of Eligible Workweeks worked by
 24 all Participating Class Members is equal to 50% of the total number of Eligible Workweeks
 25 worked by all Class Members, the Net Settlement Amount will be 50% of the maximum Net
 26 Settlement Amount.

27 **(a) "Eligible Workweek"** means a workweek that occurred during the
 28 Class Period and during which a Class Member worked at least 8 hours as an hourly non-exempt

1 worker for Defendant based on Defendant's payroll records.

2 **2. Failure to Reach Minimum Settlement Amount:** If the Individual
 3 Settlement Payments of the Participating Class Members in the aggregate do not meet or exceed
 4 fifty percent (50%) of the Net Settlement Amount ("Minimum Settlement Amount"), then the
 5 difference between the Minimum Settlement Amount and the total of the Individual Settlement
 6 Payments of the Participating Class Members shall be distributed to Participating Class Members
 7 on a pro-rata basis so that at least 50% of the Net Settlement Amount is distributed to Participating
 8 Class Members.

9 **3. Dispute Resolution:** The Claims Administrator shall have the initial
 10 responsibility of resolving all disputes that arise during the claims administration process,
 11 including, without limitation, disputes, if any, regarding the calculation of each Participating Class
 12 Member's Eligible Workweeks if any, where the information submitted by Defendant based on its
 13 employment records differs from the information submitted by Participating Class Members with
 14 their Claim Forms. In resolving such disputes, Defendant's employment records shall be
 15 presumed to be accurate and correct, and shall be final and binding, unless the information
 16 submitted by the Participating Class Member (e.g., pay stubs, employment records, etc.) proves
 17 otherwise. In the event the Claims Administrator cannot resolve a dispute based on a review of
 18 the available information, the Claims Administrator shall request a conference call between the
 19 Claims Administrator, Class Counsel, and Defense Counsel to discuss and resolve the dispute. In
 20 advance of the conference call, the Claims Administrator shall fax or email copies of all available
 21 information to all counsel. The Parties will resolve any disputes jointly and instruct the Claims
 22 Administration on how to proceed.

23 **4. Fair Formula:** The Parties hereby agree that the formula for allocating
 24 payments to Participating Class Members as provided herein is reasonable and designed to provide
 25 a fair settlement to the Participating Class Members.

26 **d. Allocation of Net Settlement Amount Payments and Taxes:** All Individual
 27 Settlement Payments made to Participating Class Members under this Agreement shall be
 28 allocated as follows: Thirty percent (30%) to wages and seventy-percent (70%) to interest and

1 penalties. The Claims Administrator shall deduct from each Individual Settlement Payment all
2 employee portions of payroll taxes from the amount allocated to wages. The amounts allocated to
3 penalties and interest shall not be subject to tax withholding but Participating Class Members will
4 receive a 1099 for those payments. Defendant shall not make as part of this Agreement, nor be
5 required to make, any deductions, nor pay any monthly contributions for any insurance,
6 retirement, 401(k), or profit sharing plans related to monies paid as a result of this Agreement.

7 **e. Timing of Settlement Payments:** Within twenty-one (21) calendar days of the
8 date the Court grants Final Approval of this Settlement, Defendant shall remit to Claims
9 Administrator the amount required to meet the obligations of Section 3.06.b to be deposited into a
10 non-interest bearing account as defined below. Payment of the following from the Maximum
11 Settlement Amount shall be made in accordance with the following subparagraphs:

12 **1. Individual Settlement Payments:** Within fifteen (15) calendar days of the
13 last date for Claims to be timely submitted in accordance with Section 3.04.a, above, the Claims
14 Administrator shall provide to the Parties' counsel a written statement of the total payment
15 Defendant shall send to the Claims Administrator to satisfy the payment of all Individual
16 Settlement Payments to be paid to all Participating Class Members and all required employer
17 payroll taxes. In accordance with funding obligations set forth herein, Defendant shall forward to
18 the Claims Administrator that amount necessary to satisfy the payment of Individual Settlement
19 Payments to be paid to all Participating Class Members and the associate employer payroll taxes.

20 **2. Attorneys' Fees and Costs, LWDA/PAGA Payment, Claims**
21 **Administration Costs and Enhancement Service Award:** Class Counsel shall forward to the
22 Claims Administrator and Defense Counsel a copy of the Final Order which will specify the
23 amount awarded for the PAGA penalty including the amount for the LWDA's share of the PAGA
24 penalty, attorneys' fees and costs, Claims Administration Costs, and the Plaintiff Enhancement
25 Service Award. Defendant shall forward to the Claims Administrator that amount necessary to
26 satisfy the payment of these amounts.

27 **(a) Timing of Payments:** The Claims Administrator shall promptly
28 (but no later than two (2) days after receipt of payment by Defendant) deposit the funds into a non-

1 interest bearing bank account, held in escrow for the purpose of effectuating this Agreement. The
2 Parties agree to treat this account as a “Qualified Settlement Fund” pursuant to Section 468(B) of
3 the Internal Revenue Code of 1986, as amended, and the Claims Administrator shall treat the
4 Qualified Settlement Fund as the “employer” for purposes of federal and state income and
5 employment tax withholding and reporting with respect to the Individual Settlement Payments.

6 (b) Upon receipt of the payment from Defendant, the Claims
7 Administrator shall promptly issue, but not later than fourteen (14) calendar days, to each
8 Participating Class Member a check in the amount of his or her Individual Settlement Payment
9 (less applicable taxes and withholdings) via first-class mail. Checks not negotiated within one
10 hundred twenty (120) calendar days of their issue are void but this Agreement and the release
11 herein shall nonetheless be binding upon them as if they had cashed the checks. For any
12 unclaimed funds in the Claims Administrator’s account as a result of the failure to cash an
13 Individual Settlement Payment check within 120 calendar days, the Claims Administrator shall
14 follow the procedures set by the State of California Department of Industrial Relations with
15 respect to non-negotiated checks, with an identification of the Participating Class Member to
16 whom the funds belong.

17 (c) Upon receipt of the payment from Defendant, the Claims
18 Administrator shall promptly issue, but not later than fourteen (14) calendar days, to the Claims
19 Administrator, Class Counsel, the Plaintiff and the LWDA the amounts respectively approved for
20 Claims Administration Costs, attorneys' fees and costs, Enhancement Service Award, and the
21 LWDA's share of the PAGA payment.

22 **f. No Additional Contribution by Defendant:** Except as provided in Section
23 3.06.b.5 regarding Defendant’s portion of payroll taxes, Defendant shall not be called upon or
24 required to contribute additional monies above the Maximum Settlement Amount under any
25 circumstances whatsoever. All costs and expenses arising out of or in connection with the
26 performance of this Agreement shall be paid from the Maximum Settlement Amount.

27 In the event that this Agreement is canceled, rescinded, terminated, voided, or
28 nullified, however that may occur, or the settlement of the Action is barred by operation of law, or

1 invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant shall
2 cease to have any obligation to pay any portion of the Maximum Settlement Amount to anyone
3 under the terms of this Agreement, and all previous disbursements from the Maximum Settlement
4 Amount shall immediately be paid back to Defendant by the person or entity who received such
5 disbursement, except for costs already incurred by the Claims Administrator.

6 ARTICLE IV

7 LIMITATIONS ON USE OF THIS SETTLEMENT

8 **Section 4.01: No Admission**

9 Defendant denies that it has engaged in any unlawful activity, that it has failed to comply
10 with the law in any respect, that it has any liability to anyone under the claims asserted in the
11 Action, and that but for this Settlement a class should not be certified in this Action. This
12 Agreement is entered into solely for the purpose of compromising highly disputed claims.
13 Nothing in this Agreement is intended or shall be construed as an admission of liability or
14 wrongdoing by Defendant.

15 **Section 4.02: Non-Evidentiary Use**

16 Whether or not the Final Effective Date occurs, neither this Agreement nor any of its terms
17 nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received
18 as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released
19 Parties, including but not limited to, evidence of a presumption, concession, indication, or
20 admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession,
21 or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties
22 in any further proceeding in the Action, or any other civil, criminal, or administrative action or
23 proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement or
24 for Defendant to establish that a Class Member has resolved any of his/her claims released through
25 this Agreement.

26 **Section 4.03: Nullification**

27 The Parties have agreed to the certification of the Class for the sole purpose of effectuating
28 this Agreement. If (a) the Court should for any reason fail to certify the revised class for

1 successors and assigns (the "Releasing Class Members"), do hereby and forever release, acquit,
2 and discharge, and covenant not to sue, Released Parties from all claims and/or causes of action,
3 claims, liens, demands, damages, liquidated damages, penalties including waiting time penalties
4 and penalties under the Labor Code Attorneys General Act of 2004, fines, wages, liquidated
5 damages, restitutionary amounts, attorneys' fees and costs, interest, punitive damages,
6 controversies, and liabilities arising from claims and alleged facts, under any federal, state or local
7 law or administrative order, that were pled in the operative class action complaint, including the
8 failure to pay wages (regular and overtime), the failure to pay wages upon termination, the failure
9 to provide meal periods, the failure to provide rest periods, the failure to maintain or provide
10 accurate itemized wage statements, the failure to maintain records, the failure to reimburse
11 employee expenses, and violation of Business and Professions Code § 17200, during the time in
12 which they worked for Defendant during the Class Period. This release of claims does not include
13 any claim to enforce this Agreement and/or the Settlement ("Final Settlement Class Release").

14 Likewise, Defendant, shall fully, finally and forever release, relinquish, settle, extinguish,
15 and discharge Representative Plaintiff, and Class Counsel from all claims arising out of, relating
16 to, or in connection with the institution, prosecution, assertion, settlement or resolution of the
17 Action or released claims; provided however, this release of claims does not include any claim to
18 enforce this Agreement and/or the Settlement. ("Defendant's Released Claims")

19 **Section 5.03: Representative Plaintiff General Release**

20 **a. Representative Plaintiff General Release:** Representative Plaintiff Bradley
21 Herman does hereby, for himself and his heirs, successors, predecessors, attorneys, agents,
22 representatives and assigns, forever release the Released Parties from any and all charges,
23 complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions,
24 causes of action, suits, rights, demands, costs, losses, debts, and expenses (including back wages,
25 penalties, liquidated damages, and attorneys' fees and costs actually incurred) of any nature
26 whatsoever, from the beginning of time through the date of his signature on this Agreement,
27 known or unknown, suspected or unsuspected, including but not limited to all claims arising out
28 of, based upon, or relating to his employment with Defendant or the remuneration for, or

1 termination of, such employment. Without limiting the generality of the foregoing, Representative
 2 Plaintiff expressly releases all claims which were or could have been raised in the Action and all
 3 claims or rights arising out of alleged violations of any contracts, express or implied (including but
 4 not limited to any contract of employment); any contract or covenant of good faith or fair dealing
 5 (express or implied); any tort, including negligence, fraud, misrepresentation under California
 6 Labor Code 970, negligent infliction of emotional distress, intentional infliction of emotional
 7 distress, and defamation; any “wrongful discharge,” “constructive discharge,” and “retaliation”
 8 claims; any claims relating to any breach of public policy; any legal restrictions on Defendant’s
 9 right to discharge employees or refuse to hire applicants; and any federal, state, or other
 10 governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII of the
 11 Civil Rights Act of 1964 (race, color, religion, sex, and national origin discrimination or
 12 harassment, including retaliation for reporting discrimination or harassment); (2) 42 U.S.C. § 1981
 13 (discrimination); (3) sections 503 and 504 of the Rehabilitation Act of 1973 (handicap
 14 discrimination); (4) Equal Pay Act, 29 U.S.C. § 209(4)(1) (equal pay); (5) Americans with
 15 Disabilities Act, 42 U.S.C. § 12100 et seq. (disability discrimination); (6) Family and Medical
 16 Leave Act, 29 U.S.C. § 2601 et seq. (family/medical leave); (7) California Fair Employment and
 17 Housing Act, Cal. Gov’t Code § 12900 et seq. (discrimination or harassment in employment
 18 and/or housing, including discrimination or harassment based on race, religious creed, color,
 19 national origin, ancestry, disability, marital status, sex (including pregnancy), sexual orientation,
 20 or age, including retaliation for reporting discrimination or harassment); (8) California Family
 21 Rights Act, Cal. Gov’t Code § 12945.1 et seq. (family/medical leave); (9) California Labor Code
 22 or any Industrial Welfare Commission Wage Order; (10) the Fair Labor Standards Act, 29 U.S.C.
 23 § 201 et seq.; (11) Executive Order 11246 (race, color, religion, sex, and national origin
 24 discrimination or harassment); (12) Executive Order 11141 (age discrimination); and (13)
 25 Employee Retirement Income Security Act, 29 U.S.C. § 1000 et seq. (employee benefits).
 26 Representative Plaintiff’s General Release however shall not apply to any claim for workers’
 27 compensation insurance benefits, any unemployment benefits to which Representative Plaintiff
 28 may be entitled to, or any claims that may not be released as a matter of law. It also does not

1 include any claim to enforce this Agreement and/or the Settlement ("Plaintiff's General Release").

2 **Section 5.04: Representative Plaintiff's Release of Unknown Claims**

3 **a. Representative Plaintiff's Release of Unknown Claims:** Representative Plaintiff
4 agrees that with respect to Plaintiff's General Release, there is a risk that each and every injury he
5 may have allegedly or actually suffered by reason of the Released Parties' relationship with him
6 might not now be known, and there is further risk that said injuries, whether known or unknown at
7 the date of this Agreement, might possibly become progressively worse, and that as a result
8 thereof further damages may be sustained by him. Nevertheless, Representative Plaintiff desires
9 to forever and fully release and discharge the Released Parties from the claims encompassed in
10 Plaintiff's General Release, and understands that by the execution of this Agreement no further
11 claims for any such injuries that existed at the time of the execution of this Agreement may ever
12 be asserted by him. Representative Plaintiff expressly waives and relinquishes all rights and
13 benefits afforded by section 1542 of the Civil Code of the State of California with respect to
14 Plaintiff's General Release, and does so understanding and acknowledging the significance of such
15 specific waiver of section 1542. Section 1542 of the Civil Code of the State of California states as
16 follows:

17 **A general release does not extend to claims which the creditor**
18 **does not know or suspect to exist in his or her favor at the time**
19 **of executing the release, which if known by him or her must**
20 **have materially affected his or her settlement with the debtor.**

21 Thus, subject to and in accordance with this Agreement, even if Representative Plaintiff
22 may hereafter discover facts in addition to or different from those he now knows or believes to be
23 true, Representative Plaintiff shall be deemed to have fully, finally, and forever settled and
24 released any and all claims encompassed within Plaintiff's General Release, against the Released
25 Parties that were alleged or could have been alleged in the Action, as well as any other claims,
26 whether known or unknown, suspected or unsuspected, contingent or non-contingent, that now
27 exist, upon any theory of law or equity, including without limitation, conduct which is negligent,
28 intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the
subsequent discovery or existence of such different or additional facts.

1 Agreement and text contained in the Exhibits to this Agreement, the former (i.e., Articles I
2 through VI) shall be controlling. There are no restrictions, promises, representations, warranties,
3 covenants, or undertakings governing the subject matter of this Agreement other than those
4 expressly set forth or referred to herein. This Agreement supersedes all prior agreements and
5 understandings among the Parties hereto with respect to the settlement of the Action including
6 correspondence between Class Counsel and Defense Counsel.

7 **Section 6.05: Counterparts and Fax/Email Signatures**

8 This Agreement, and any amendments hereto, may be executed in any number of
9 counterparts and any Party and/or their respective counsel hereto may execute any such
10 counterpart, each of which when executed and delivered shall be deemed to be an original and all
11 of which counterparts taken together shall constitute one instrument. It shall not be necessary in
12 making proof of this Agreement or any counterpart hereof to produce or account for any of the
13 other counterparts. A fax or emailed signature on this Agreement shall be as valid as an original
14 signature.

15 **Section 6.06: Meet and Confer Regarding Disputes**

16 Should any dispute arise among the Parties or their respective counsel regarding the
17 implementation or interpretation of this Agreement, a representative of Class Counsel and a
18 representative of Defense Counsel shall meet and confer in good faith in an attempt to resolve
19 such disputes prior to submitting such disputes to the Court.

20 **Section 6.07: Agreement Binding on Successors**

21 This Agreement shall be binding upon, and inure to the benefit of, the successors in
22 interest of each of the Parties.

23 **Section 6.08: Cooperation in Drafting**

24 The Parties have cooperated in the negotiation and preparation of this Agreement. This
25 Agreement shall not be construed against any Party on the basis that the Party, or the Party's
26 counsel, was the drafter or participated in the drafting of this Agreement.

27 **Section 6.09: Fair Settlement**

28 Representative Plaintiff, Defendant, Class Counsel, and Defense Counsel believe that this

1 Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at
2 this Agreement through arm's-length negotiation, taking into account all relevant factors, current
3 and potential, and is consistent with public policy, and fully complies with applicable provisions
4 of law.

5 **Section 6.10: Headings**

6 The descriptive heading of any section or paragraph of this Agreement is inserted for
7 convenience of reference only and does not constitute a part of this Agreement and shall not be
8 considered in interpreting this Agreement.

9 **Section 6.11: Notice**

10 All notices, demands, or other communications given under this Agreement shall be in
11 writing and deemed to have been duly given as of the third business day after mailing by first-
12 class United States mail, addressed as follows:

13 *To Plaintiff and the Class:*

14 Brian J. Robbins
15 Diane E. Richard
16 ROBBINS ARROYO LLP
17 600 B. Street, Suite 1900
18 San Diego, CA 92101
19 Telephone: (619) 525-3990
20 Facsimile: (619) 525-3991

21 Matthew S. Dente
22 THE DENTE LAW FIRM
23 600 B. Street, Suite 1900
24 San Diego, CA 92101
25 Telephone: (619) 550-3475
26 Facsimile: (619) 342-9668

27 James R. Hawkins
28 JAMES HAWKINS, APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676

To Defendant:

Scott K. Dauscher
Jon M. Setoguchi
Atkinson, Anderson, Loya Rudd & Romo LLP
12800 Center Court Drive, Suite 300
Cerritos, CA 90703
Telephone: (562) 653-3200
Facsimile: (562) 653-3333

1 **Section 6.12: Enforcement and Continuing Jurisdiction of the Court**

2
3 To the extent consistent with class action procedure, this Agreement shall be enforceable
4 by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain
5 continuing jurisdiction over this Action and over all Parties and Final Settlement Class Members,
6 to the fullest extent to enforce and effectuate the terms and intent of this Agreement.

7 **Section 6.13: Mutual Full Cooperation**

8 The Parties agree to fully cooperate with each other to accomplish the terms of this
9 Agreement, including but not limited to execution of such documents, and to take such other
10 action as may reasonably be necessary to implement the terms of this Agreement. The Parties to
11 this Agreement shall use their best efforts, including all efforts contemplated by this Agreement,
12 to effectuate this Agreement and the terms set forth herein. In the event the Parties are unable to
13 reach agreement on the form or content of any document needed to implement the Settlement, or
14 on any supplemental provisions that may become necessary to effectuate the terms of the
15 Settlement, the Parties agree to seek the assistance of the Court.

16 **Section 6.14: Authorization to Act**

17 Class Counsel warrants and represents that they are authorized by Representative Plaintiff,
18 and Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action
19 required to effectuate the terms of this Agreement, except for signing the documents, including but
20 not limited to this Agreement, that are required to be signed by the Parties.

21 **Section 6.15: No Reliance on Representations**

22 The Parties have made such investigation of the facts and the law pertaining to the matters
23 described herein and to this Agreement as they deem necessary, and have not relied, and do not
24 rely, on any statement, promise, or representation of fact or law, made by any of the other parties,
25 or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or
26 asserted rights, or with regard to the advisability of making and executing this Agreement, or with
27 respect to any such matters that would alter or change the terms of this Agreement. No
28 representations, warranties, or inducements have been made to any party concerning this

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
12800 CLIFTON COURT DRIVE, SUITE 300
CLIFTON, CALIFORNIA 90701-9164
TELEPHONE: (562) 652-3300
FAX: (562) 652-3333

1 Agreement other than those expressly set forth or referred to herein.

2 **Section 6.16: No Collateral Attack**

3 This Agreement shall not be subject to collateral attack by any Class Member or any
4 recipient of the Notice Packet after the Final Effective Date. Such prohibited collateral attacks
5 shall include but not be limited to claims that the Class Member failed for any reason to receive
6 timely the Notice Packet including the notice of the procedure for disputing the calculation of his
7 or her Individual Settlement Payment.

8 **Section 6.17: Implementation of New Employment Policies**


9 Defendant represents that prior to the entry of the Final Order, Defendant will have
10 implemented written employment policies at issue in the Action specifically relating to meal and
11 rest periods, the payment of overtime wages, and reimbursement of expenses.

12
13 **EXECUTION BY PARTIES AND COUNSEL**

14
15 Dated: July ____, 2015 _____

16 Bradley Herman, Representative Plaintiff

17
18 Dated: July 6, 2015 _____

19 By:  _____
Angus O'Brien
Los Angeles Engineering, Inc.

20
21 **APPROVED AS TO FORM:**

22
23 Dated: July ____, 2015 _____

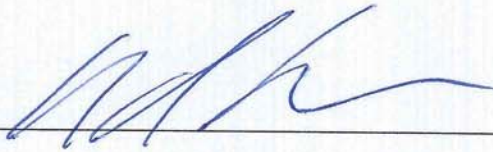
24 James R. Hawkins
JAMES HAWKINS, APLC
Attorneys for Representative Plaintiff

25
26 Dated: July ____, 2015 _____

27 Matthew S. Dente
The Dente Law Firm
Attorneys for Representative Plaintiff

EXECUTION BY PARTIES AND COUNSEL

Dated: July 17, 2015



Bradley Herman, Representative Plaintiff

Dated: July __, 2015

By: Angus O'Brien
Los Angeles Engineering, Inc.

APPROVED AS TO FORM:

Dated: July __, 2015

James R. Hawkins
JAMES HAWKINS, APLC
Attorneys for Representative Plaintiff

Dated: July __, 2015

Matthew S. Dente
The Dente Law Firm
Attorneys for Representative Plaintiff

Dated: July __, 2015

Diane E. Richard
Robbins Arroyo LLP
Attorneys for Representative Plaintiff

Dated: July __, 2015

Scott K. Dauscher
Jon M. Setoguchi
Attorney for Defendant

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- 2) CALIFORNIA COR
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3 ATI

ATKINSON,
ANDELSON,
LOYA, RUUD
& ROMO

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6 timely the Notice Packet including the notice of the procedure for disputing the calculation of his
7 or her Individual Settlement Payment.

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10 implemented written employment policies at issue in the Action specifically relating to meal and
11 rest periods, the payment of overtime wages, and reimbursement of expenses.

12
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14
15 Dated: July ___, 2015 _____

16 Bradley Herman, Representative Plaintiff

17
18 Dated: July ___, 2015 _____

19 By: Angus O'Brien
20 Los Angeles Engineering, Inc.

21 **APPROVED AS TO FORM:**

22
23 Dated: July 17, 2015 _____

24 James R. Hawkins
25 JAMES HAWKINS, APLC
26 Attorneys for Representative Plaintiff

27
28 Dated: July ___, 2015 _____

Matthew S. Dente
The Dente Law Firm
Attorneys for Representative Plaintiff

1 Agreement other than those expressly set forth or referred to herein.

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4 recipient of the Notice Packet after the Final Effective Date. Such prohibited collateral attacks
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6 timely the Notice Packet including the notice of the procedure for disputing the calculation of his
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12
13 **EXECUTION BY PARTIES AND COUNSEL**

14
15 Dated: July __, 2015 _____

16 Bradley Herman, Representative Plaintiff

17
18 Dated: July __, 2015 _____

19 By: Angus O'Brien
20 Los Angeles Engineering, Inc.

21 **APPROVED AS TO FORM:**

22
23 Dated: July __, 2015 _____

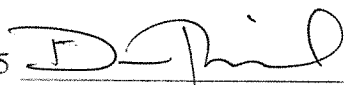
24 James R. Hawkins
25 JAMES HAWKINS, APLC
26 Attorneys for Representative Plaintiff

27 Dated: July 16, 2015 _____



28 Matthew S. Dente
The Dente Law Firm
Attorneys for Representative Plaintiff

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
12800 CENTER COURT DRIVE SOUTH, SUITE 300
CERRITOS, CALIFORNIA 90703-9364
TELEPHONE: (562) 653-3200
FAX: (562) 653-3333

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Dated: July 16, 2015 

Diane E. Richard
Robbins Arroyo LLP
Attorneys for Representative Plaintiff


Dated: July 16, 2015 _____
Scott K. Dauscher
Jon M. Setoguchi
Attorney for Defendant