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11 Renfro and other similarly situated current and
12 former employees of Defendants

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF KERN**

15 LUIS CALZADILLAS, and TREVIN
16 RENFRO individually and on behalf of all
17 other similarly situated current and former
18 employees of Defendants,

19 Plaintiffs,

20 vs.

21 Innovative Coatings Technology
22 Corporation and DOES 1 through 50
23 inclusive,

24 Defendants.

25 **CASE NO. S-1500-cv-283563**

26 [Assigned for all Purposes to the
27 Hon. Sidney P. Chapin - Dept. 4]

28 **DECLARATION OF FARZAD
RASTEGAR IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AND CERTIFICATION OF
PROVISIONAL SETTLEMENT
CLASS**

Date: November 21, 2016
Time: 8:30 a.m.
Dept.: 4

Reservation No. 18222

DECLARATION OF FARZAD RASTEGAR

I, Farzad Rastegar, respectfully declare as follows:

1. I am now and have been at all times relevant to this Declaration an Active Member of the State Bar of California, the principal of Rastegar Law Group, A Professional Corporation ("Rastegar Law Group"), and counsel of record for Named Plaintiffs Luis Calzadillas and Trevin Renfro ("Named Plaintiffs") in the above-captioned action, filed in the Superior Court of the County of Kern. I make this declaration on the basis of personal firsthand knowledge unless another source of information or belief clearly appears from the

1 context, and as to all such matters I believe them to be true. If called as a witness, I could
2 and would readily and competently testify to all matters stated within.

3 2. I make this declaration in support of Named Plaintiffs' Motion for
4 Preliminary Approval of Class Action Settlement and Certification of Provisional
5 Settlement Class.

6 3. On December 3, 2014, Named Plaintiff Calzadillas filed a class action
7 complaint against Defendant, on behalf of himself and all non-exempt employees working
8 in California, alleging: Failure to provide meal periods; Failure to provide rest breaks;
9 Failure to pay minimum and straight time wages; Failure to pay overtime compensation;
10 Failure to timely pay wages upon termination of employment; Failure to provide accurate
11 statements and maintain required records; Unfair Business Practices [Cal. Bus. & Prof.
12 Code §§ 17200, et seq.]; and a Representative Action for Civil Penalties pursuant to the
13 Private Attorney's General Act [Cal. Lab. Code §§ 2698-2699.5]. Named Plaintiffs' claims
14 are typical of other class members and are not based on unique circumstances that might
15 jeopardize the class claims. There is no antagonism between the interests of Named
16 Plaintiff and those of the class.

17 4. Defendant operates an aero industry facility manufacturing small parts for jet
18 airplanes located at 1347 Poole Street, Mojave, California 93501. Plaintiffs Calzadillas
19 and Renfro were employed by Defendant as non-exempt employees working in
20 INCOTEC's production department from approximately February of 2011 to September of
21 2012 and July of 2013 to November of 2014, respectively. The absent class members are
22 readily ascertainable from Defendant's records. Defendant's records show that there are
23 approximately 567 potential Class Members.

24 5. Named Plaintiff propounded formal written discovery on Defendant.
25 Thereafter, counsel for the Parties met and conferred with respect to Defendant's discovery
26 responses. Named Plaintiff also took Defendant's deposition through its Person Most
27 Qualified. Defendant deposed Plaintiff Calzadillas through three days. The parties then

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1 engaged in fairly extensive motion practice during which time they agreed to mediate the
2 case while their respective motions were pending.

3 6. On July 22, 2016, the Parties mediated with the Hon. Richard A. Stone
4 (Ret.). As a result of the mediation, the parties agreed to settle the action and executed a
5 Memorandum of Understanding that required the parties to draft a more thorough
6 Settlement Agreement and for Plaintiff to file a First Amended Complaint pursuant to
7 stipulation.

8 7. The Settlement Agreement was reached following extensive negotiations
9 during a full day of mediation with the Hon. Richard A. Stone, Ret., as a result of a
10 mediators proposal. The settlement negotiations were at arm's length and, although
11 conducted in a professional manner, were adversarial. The Parties went into the mediation
12 willing to explore the potential for a settlement of the dispute, but each side was also
13 committed and prepared to litigate through trial and appeal if a settlement had not been
14 reached. The proposed Settlement, reached at the end of a process through a mediator's
15 proposal, was neither fraudulent nor collusive. To the contrary, counsel for the Parties
16 advanced their respective positions throughout the settlement negotiations.

17 8. Prior to the mediation, my office conducted an investigation into the claims
18 alleged by Named Plaintiffs. My office met with Named Plaintiffs, propounded formal
19 written discovery on Defendant, and conducted legal research regarding the application of
20 the applicable Labor Code Sections. My office conservatively calculated the damages of
21 the class members for meal period and overtime damages to be approximately
22 \$1,834,392.00, and believes this amount will be the damage potential should the case
23 proceed to trial. This estimate is based on an analysis of Defendant's testimony regarding
24 its overtime policies and the average class size at any given time, as well as anecdotal
25 evidence from Named Plaintiffs and other Class Members. We carefully analyzed the
26 information we had prior to mediation and, based on this information, were able to act
27 intelligently and effectively in negotiating the proposed settlement.

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The Proposed Settlement Is Reasonable

9. The proposed Settlement Agreement is a fair, reasonable, and adequate settlement for Named Plaintiffs and the members of the Settlement Class. There is no doubt that litigation of Named Plaintiffs' claims would be lengthy and expensive for both sides. There was risk that at the end of the litigation process, Class Members might have received nothing. Even if a class was certified and the class prevailed at trial, Class Members would have had to wait several years to receive any relief. In contrast, through the proposed Settlement, Class Members will receive timely relief and will not have to bear the risk of an unfavorable judgment.

10. My office and Named Plaintiffs remain confident of the merits of this case. We considered several factors in reaching the decision to settle at this point in the litigation. My office has calculated the maximum damages of the class members for meal period and overtime violations to be approximately \$1,834,392.00, and believe this amount will be the damage potential should the case proceed to trial. The figure does not include the other claims (i.e., failure to maintain required records, failure to pay all wages due to discharged and quitting employees, etc.) because these claims are largely derivative from the meal period and overtime claims, and are difficult to quantify from the analysis of timekeeping and payroll records and therefore were excluded from the damages analysis. Additionally, while the meal period violations analysis contributed to the overall damage analysis, the potential to not succeed on that issue regarding class certification weighed in on the minds of counsel during the mediation.

11. Given the maximum potential damages, the \$850,000.00 Gross Settlement Amount is reasonable given the substantial risks entailed by this case. Although Named Plaintiffs and I are confident of the merits of this case, we still had to balance the strengths of this case against the risks in further litigating this action. In my experience, a significant risk that the Settlement obviates is whether this action would be deemed suitable for class treatment. *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004 presents a large hurdle in terms of class certification in regard to the meal and rest period claims.

1 Although *Brinker* is favorable to Plaintiffs in many aspects, it established a "provide"
2 standard for meal periods as opposed to an "ensure" standard, creating a higher bar relating
3 to certification of meal period claims. Based on my experience, trial courts frequently have
4 interpreted *Brinker* to find that common issues are outweighed by individual inquiries
5 related to why an employee may not have taken a compliant meal period.

6 12. If the Court denied the motion for class certification, Defendant would end
7 up paying only a tiny fraction of the amount it is agreeing to pay pursuant to this
8 Settlement, with nothing going to the absent class members.

9 13. There is a further risk that, for at least part of their employment, some of the
10 class members were not improperly denied meal periods. Obtaining the cooperation of
11 current employees would also be difficult, given the likely reluctance to aid the prosecution
12 of a lawsuit against a current employer. On the other hand, Defendant would likely be able
13 to obtain the cooperation of its employees. Moreover, even if Named Plaintiffs prevail at
14 class certification, trial and possible appeals would substantially delay any recovery by the
15 class members. In contrast, through the proposed Settlement, Class Members greatly
16 benefit by receiving timely relief and avoiding the risk of an unfavorable judgment.

17 14. When the risks of litigation, the uncertainties involved in achieving class
18 certification, the burdens of proof necessary to establish liability, and the probability of
19 appeal of a favorable judgment are balanced against the merits of Named Plaintiff's claims,
20 it is clear that the settlement amount is fair, adequate, and reasonable.

21 **Enhancement Award and General Release Payment for Named Plaintiffs**

22 15. Throughout this litigation, Named Plaintiffs have cooperated immensely with
23 my office and have taken many actions to protect the interests of the class. Named
24 Plaintiffs provided valuable information regarding the alleged wage and hour violations,
25 kept themselves informed of the developments in this action, informed my office of
26 developments and information relevant in to this action, participated in decisions
27 concerning this action, participated in the mediation, and provided my office with the
28 names and contact information of potential witnesses in these actions. The information and

1 documentation provided by Named Plaintiffs was instrumental in establishing the wage and
2 hour violations alleged in this action, and the recovery provided for in the Settlement
3 Agreement would have been impossible to obtain without their participation.

4 16. At the same time, Named Plaintiffs faced many risks in adding themselves as
5 a class representative in this matter. Named Plaintiffs face actual risks with their future
6 employment, as putting themselves on public record in an employment lawsuit could also
7 very well affect Named Plaintiffs' likelihood for future employment. Named Plaintiffs also
8 placed themselves at substantial risk because if Defendant was to prevail in this action,
9 they could be liable for Defendant's attorneys' fees under California Labor Code § 218.5
10 and costs.

11 17. In turn, approximately 567 class members will now have the opportunity to
12 participate in a settlement, reimbursing them for wage violations they may have never
13 known about on their own or been willing to pursue on their own. If these class members
14 would have each tried to pursue their legal remedies on their own, that would have resulted
15 in each having to expend a significant amount of their own monetary resources and time,
16 which were obviated by Named Plaintiffs acting as a representative on behalf of these other
17 class members.

18 18. The Settlement Agreement also provides an additional payment of \$5,000.00
19 to each Named Plaintiffs in exchange for their general release of all claims against
20 Defendant. The requested General Release Payment is fair and reasonable to compensate
21 Named Plaintiffs for the general release they are providing which other Class Members are
22 not releasing under the Settlement. If Named Plaintiffs' claims were filed as an individual
23 case, they would have been entitled to substantially more than they are receiving as a Class
24 Member in this action. If Named Plaintiffs had filed these claims on an individual basis
25 and prevailed, they would have been entitled to substantially more than the amount of the
26 individual class member payment in this action, which they are now foregoing for the
27 benefit of other Class Members.

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19. In the final analysis, this Class Action would not have been possible without the aid of Named Plaintiffs, who put their own time and effort into this litigation, sacrificed the value of their own individual claims, and placed themselves at risk for the sake of the class members. An Enhancement Award of \$5,000.00 and a General Release Payment of \$5,000.00 are relatively small amounts of money when the time and effort put into the litigation are considered, and are fair and reasonable to compensate Named Plaintiffs for their active participation in this lawsuit and their general release of claims against Defendant.

Attorneys Fees and Costs

20. The Settlement Agreement provides for attorney's fees payable to Class Counsel in an amount up to 35% of the Settlement Amount, for a maximum fees award of \$297,500.00, plus actual costs and expenses not to exceed \$15,000.00. The proposed award of attorneys fees in this case can be justified under either method - lodestar or percentage recovery.

21. I am informed and believe that the fee and costs provision is reasonable. The fee percentage requested is less than that charged by my office for most employment cases. My office invested significant time and resources into the case, with payment deferred to the end of the case, and then, of course, contingent on the outcome. My office's efforts have resulted in substantial benefits to the settlement Class, in the form of substantial settlement funds established to compensate settlement Class Members for Defendant's illegal wage and hour practices. Without the efforts of my office, the claims as alleged in the Complaint would almost certainly have gone completely unremedied.

22. I received a B. A. in Economics in 1986 from UCLA. I received my J.D. from Southwestern University School of Law in 1991. I became an Active Member of the State Bar of California in December 1991, and have been an Active Member in good standing continuously since then. I am a lifetime sustaining member of the Consumer Attorneys Association of Los Angeles (CAALA), a current member of the National Employment Lawyers Association (NELA), and am a current member of the California

1 Employment Lawyers Association (CELA). I have also been named as one of the Super
2 Lawyers of Southern California.

3 23. I founded Rastegar Law Group, A Professional Corporation ("Rastegar Law
4 Group") in 2011. Prior to starting Rastegar Law Group, I was a founding partner of
5 Rastegar & Matern, Attorneys at Law, A Professional Corporation ("Rastegar & Matern")
6 which was founded in 1999. In 1992, I founded the general partnership which was the
7 predecessor of Rastegar & Matern, Attorneys at Law, A Professional Corporation, where I
8 acted as the managing partner of the firm since its inception.

9 24. During the approximately twenty-four years since I began practicing law, I
10 have built my practice to have a heavy emphasis on employment and related litigation. I
11 have been heavily, successfully, and continuously involved in active litigation and trial
12 work, including without limitation, wage and hour class action litigation, employees' rights,
13 civil rights, discrimination, and sexual harassment claims, and other forms of employment
14 litigation.

15 25. Including myself, Rastegar Law Group includes nine attorneys, all of whom
16 are actively and continuously practicing in employment litigation, representing almost
17 entirely employee plaintiffs, in both individual and class actions, in this Superior Court,
18 and other Superior Courts throughout the State, in the Court of Appeal, and in various
19 Federal courts. The attorneys at Rastegar Law Group have litigated hundreds of cases
20 against the largest firms in the country, including but not limited to Gibson Dunn &
21 Crutcher, O'Melveny & Myers, Morrison & Foerster, Littler Mendelson, Jackson Lewis
22 LLP, Kecker & Van Nest, DLA Piper and Skadden Arps. Because of the unique history and
23 nature of our practice, all of the attorneys at my firm have a high level of knowledge and
24 experience in areas of wage and hour class actions, and labor and employment law.
25 Currently, more than one third of Rastegar Law Group's active caseload includes wage and
26 hour class action cases. Besides myself, my firm includes attorneys with the following
27 qualifications:

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- 1 a. Douglas W. Perlman, University of California, Davis School of Law, over 22
2 years of litigation experience;
- 3 b. Thomas S. Campbell, Southwestern University School of Law, over 17 years
4 of litigation experience;
- 5 c. Candace M. Kwon, University of Hawaii School of Law, over 13 years of
6 litigation experience;
- 7 d. S. Emi Ikeda Minne, UCLA School of Law, over 8 years of litigation
8 experience; and
- 9 e. Sharon W. Lin, UCLA School of Law, over 7 years of litigation experience.
- 10 f. Justin F. Marquez, Notre Dame Law School, over 7 years of litigation
11 experience;
- 12 g. Joshua N. Lange, UCLA School of Law, over 6 years of litigation
13 experience.
- 14 h. Daniel Brown, Loyola Law School, first year litigation associate.

15 26. My office is qualified to handle this litigation because we are experienced in
16 litigating Labor Code violations in both individual and class actions. I and the other
17 attorneys at my office have served as lead counsel in numerous wage and hour class
18 actions, and have successfully negotiated several settlements, including multiple
19 seven-figure cases, amounting to over \$100 million in settlements.

20 27. My predecessor firm, Rastegar & Matern, had a number of published
21 appellate victories including several published opinions - Franco v. Athens Disposal
22 Company, Inc. (March 10, 2009) 171 Cal. App. 4th 1277; Gutierrez v. California
23 Commerce Club (August 2, 2010) 187 Cal. App. 4th 969; Pantoja v. Anton (August 9,
24 2011) 198 Cal. App. 4th 87; Fuentes v. Autozone, Inc. (November 16, 2011) 200 Cal.
25 App. 4th 1221; Ventura v. ABM Industries, Inc. (2012) 212 Cal. App. 4th 258; Franco v.
26 Arakelian Enterprises, Inc. (2012) 211 Cal. App. 4th 314 - and other non-published
27 appellate victories. Moreover, Rastegar & Matern was successful in procuring class

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1 certification of several wage and hour class action lawsuits, including Domonique Hines v.
2 KFC U.S. Properties, Inc, Case No. 09cv2422JM (POR) (Southern District of California).

3 28. Class Counsel's efforts in this case included, without limitation, the
4 following: interviews with Named Plaintiffs; review of documents produced by Named
5 Plaintiffs; legal research and investigation regarding the Defendant's practices at numerous
6 points in the litigation; preparation of multiple drafts of the complaint; appearance at the
7 initial status conference; propounding formal written discovery; correspondence with
8 Defendant's counsel to obtain relevant documents and information through discovery;
9 extensive motion practice; in-depth analysis and review of Named Plaintiff's timekeeping
10 and payroll records; review of Defendant's relevant wage and hour policies; responding to
11 telephone calls from class members; interviews with class members regarding the alleged
12 wage and hour allegations; research and preparation of Named Plaintiff's mediation brief;
13 attendance at mediation; drafting the Settlement Agreement and attachments; and
14 preparation of the motion for preliminary approval. Class Counsel's lodestar for the
15 completed and anticipated work on this case is in line with the total amount of attorney fees
16 agreed to by the Parties.

17 29. It is further estimated that my office will need to expend at least another 50
18 hours to monitor the process leading up to the final approval and payments made to the
19 class. My office also bears the risk of taking whatever actions are necessary if Defendant
20 fails to pay. In two recent cases, that has meant over 500 hours spent post final approval in
21 efforts to collect on behalf of the class.

22 30. The risk to my office has been very significant, particularly if we would not
23 be successful in pursuing this class action. In that case, we would have been left with no
24 compensation for all the time taken in litigating this case. Indeed, we have taken on a
25 number of class action cases that have resulted in thousands of attorney hours being
26 expended and ultimately having certification denied or the defendant company going
27 bankrupt. The contingent risk in these types of cases is very real and they do occur

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1 regularly. Furthermore, we were precluded from focusing on, or taking on, other cases
2 which could have resulted in a larger, and less risky, monetary gain.

3 31. Because most individuals cannot afford to pay for representation in litigation
4 on an hourly basis, Rastegar Law Group represents virtually all of its employment law
5 clients on a contingency fee basis. Pursuant to this arrangement, we are not compensated
6 for our time unless we prevail at trial or successfully settle our clients' cases. Because
7 Rastegar Law Group is taking the risk that we will not be reimbursed for our time unless
8 our client settles or wins his or her case, we cannot afford to represent an individual
9 employee on a contingency basis if, at the end of our representation, all we are to receive is
10 our regular hourly rate for services. It is essential that we recover more than our regular
11 hourly rate when we win if we are to remain in practice so as to be able to continue
12 representing other individuals in civil rights employment disputes.

13 32. I am informed and believe that the efforts of my office have resulted in
14 substantial benefits to the settlement class, in the form of a substantial settlement fund
15 established to compensate settlement class members for missed meal and rest periods,
16 among the other wage and hour violations noted above. Through the efforts of my office
17 and Named Plaintiffs in this case, a fair and reasonable resolution has been reached that
18 includes a settlement payment by Defendant of \$850,000.00. I am informed and believe
19 that, without the efforts of my office, the Labor Code and Wage Order violations alleged in
20 the Complaint would have gone completely unremedied. The \$253,750.00 fees award
21 provided for in the settlement is therefore reasonable given the result achieved.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct.

24 Executed on September 21, 2016, at Torrance, California.


25 
26 _____
27 Farzad Rastegar
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EXHIBIT 1

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Attorneys for Defendant Innovative
Coatings Technology Corporation

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

LUIS CALZADILLAS, individually, and on
behalf of all other similarly situated current
and former employees of Defendant; and
TREVIN RENFRO, individually, and on
behalf of all other similarly situated current
and former employees of Defendant,

Plaintiffs,

v.

INNOVATIVE COATINGS
TECHNOLOGY CORPORATION, a
California corporation; and DOES 1 through
50, inclusive,

Defendant.

Case No. S-1500-cv-283563

[Assigned for all Purposes to the
Hon. Sidney P. Chapin - Dept. 4]

CLASS ACTION

**STIPULATION OF CLASS ACTION
SETTLEMENT AND RELEASE**

1 This Stipulation of Class Action Settlement and Release (“Stipulation”) is made and
2 entered into between Plaintiffs LUIS CALZADILLAS, and TREVIN RENFRO (“Plaintiffs” or
3 “Class Representatives”), as individuals and on behalf of the stipulated to certified class for
4 purpose of settlement, and Defendant INNOVATIVE COATINGS TECHNOLOGY
5 CORPORATION (“Defendant”).

6 **1. THE CONDITIONAL NATURE OF THIS STIPULATION.**

7 1.1 This Stipulation and all associated exhibits or attachments are made for the sole
8 purpose of settling the class action and the PAGA action referenced and defined below in
9 section 2.1 and which are jointly referred to herein as the “Action.” This Stipulation and the
10 settlement it evidences are made in compromise of disputed claims. Because the Action was
11 pled as a class action, this Stipulation must receive preliminary and final approval by the
12 Superior Court of California, County of Kern (the “Court”). Accordingly, the Settling Parties
13 (as defined in Paragraph 2.34) enter into this Stipulation and associated settlement on a
14 conditional basis.

15 If the Court does not enter the Order of Final Approval for any reason, the proposed
16 Judgment does not become a Final Judgment for any reason, and/or the Effective Date (as
17 defined in Paragraph 2.19) does not occur for any reason, this Stipulation shall be deemed null
18 and void, and the Stipulation shall have no force or effect whatsoever; the Stipulation shall not
19 be referred to or utilized for any purpose whatsoever; and the negotiation, terms and entry of the
20 Stipulation shall remain subject to the provisions of California Evidence Code Sections 1119
21 and 1152, and any other analogous rules of evidence that are applicable.

22 To the extent this Stipulation is deemed null and void, the Gross Settlement Amount (as
23 defined in Paragraph 2.23), including any interest earned on said funds, shall be returned to
24 Defendant (if applicable), less any and all reasonable administration fees incurred by the Claims
25 Administrator (as defined in Paragraph 2.7) as of the date the Stipulation is deemed null and
26 void. Such funds shall be returned to Defendant within 10 Business Days. The parties stipulate
27 and agree that all deadlines, limitations periods, and compliance periods shall be tolled during
28 the pendency of court review and approval or rejection of the terms of the settlement.

1 1.2 Defendant denies any and all claims as to liability, damages, penalties, interest,
2 attorneys' fees, restitution, injunctive relief and all other forms of relief as well as the class and
3 representative action allegations asserted in the Action (as defined in Paragraph 2.1). Defendant
4 has agreed to resolve the Action via this Stipulation, but to the extent this Stipulation is deemed
5 void or the Effective Date does not occur, Defendant does not waive, but rather expressly
6 reserves, all rights to challenge any and all such claims and allegations in the Action upon all
7 procedural and factual grounds, including, without limitation, the ability to challenge class or
8 representative treatment on any grounds, as well as asserting any and all other potential defenses
9 or privileges. The Class Representatives and Class Counsel (as defined in Paragraphs 2.13 and
10 2.9, respectively) agree that Defendant retains and reserves these rights, and the Class
11 Representatives and Class Counsel agree not to argue or present any argument, and hereby
12 waive any argument that, based on this Stipulation, Defendant cannot challenge claims and
13 allegations in the Action upon any procedural or factual grounds, including, without limitation,
14 challenging class treatment on any grounds or asserting any and all other potential defenses or
15 privileges.

16 **2. DEFINITIONS.**

17 The following terms, when used in this Stipulation, have the following meanings:

18 2.1 "Action" means the following action: "LUIS CALZADILLAS, individually, and
19 on behalf of all other similarly situated current and former employees of Defendant; and
20 TREVIN RENFRO, individually, and on behalf of all other similarly situated current and former
21 employees of Defendant v. INNOVATIVE COATINGS TECHNOLOGY CORPORATION"
22 filed on December 3, 2014, in the Superior Court of the State of California, County of Kern,
23 Case No. S-1500-cv-283563.

24 2.2 "Business Days" means a calendar day that is not a court holiday, a Saturday or
25 Sunday.

26 2.3 "Calendar Days" means any day of the calendar year, including court holidays,
27 Saturdays or Sundays.

1 2.4 “Claim Amount” means an individual Class Member’s Share of the Net
2 Settlement Amount, inclusive of the Employer’s Share of Payroll Taxes on the portion of the
3 Settlement Share allocated as wages which is paid to taxing authorities, to be distributed to the
4 Class Members who timely submit valid Claims Forms as provided by Paragraph 6.10.5(e).

5 2.5 “Claim Deadline” means the date sixty (60) Calendar Days after the date on which
6 the Notice Packet is mailed to Class Members.

7 2.6 “Claim Form” means the document, substantially in the form attached as **Exhibit**
8 **A**, which Class Members must complete and postmark or fax by the Claim Deadline to receive a
9 proportional share of the Net Settlement Amount in the form of Settlement Shares.

10 2.7 “Claims Administrator” means and refers to Phoenix Class Action Settlement
11 Administrators, the entity that will provide the Notice Packet to the Class Members, distribute
12 the settlement amounts as described in this Stipulation, and take all other administrative steps as
13 outlined in this Stipulation.

14 2.8 “Class” means any and all persons currently or formerly employed by Defendant
15 in California on an hourly, non-exempt basis during the Class Period.

16 2.9 “Class Counsel” means Farzad Rastegar and Thomas S. Campbell of Rastegar
17 Law Group, A.P.C.

18 2.10 “Class Member” means each person who is a member of the Class defined above
19 in Paragraph 2.8 and who is eligible to participate in this settlement.

20 2.11 “Class Notice” means the Notice of Proposed Class Settlement to be sent to the
21 Class Members. The Class Notice shall be substantially in the form attached hereto as **Exhibit**
22 **B**.

23 2.12 “Class Period” shall be defined as December 3, 2010 to September 21, 2016, or
24 the date of preliminary approval of the settlement by the Court, whichever occurs earlier.

25 2.13 “Class Representatives” means Plaintiffs Luis Calzadillas and Trevin Renfro.

26 2.14 “Class Representatives’ Released Claims” means in addition to the Class
27 Members' Released Claims, Named Plaintiffs release, acquit, discharge and covenant not to sue
28 any of the Released Parties for any claim, whether known or unknown, which Named Plaintiffs

1 have ever had, or hereafter may claim to have, arising on or before the date that they sign this
2 Agreement, including without limitation to, any claims relating to or arising out of any aspect of
3 their employment, or the termination of their employment, with Defendant, any claims for
4 unpaid compensation, wages, reimbursement for business expenses, penalties, or waiting time
5 penalties under the California Labor Code, the California Business and Professions Code, the
6 federal Fair Labor Standards Act, 29 U.S.C. section 201, et seq., or any federal, state, county or
7 city law or ordinance regarding wages or compensation; any claims for employee benefits,
8 including without limitation, any claims under the Employee Retirement Income Security Act of
9 1974; any claims of employment discrimination, harassment or retaliation on any basis,
10 including without limitation, any claims under Title VII of the Civil Rights Act of 1964, the
11 Civil Rights Act of 1866, 42 U.S.C. section 1981, the Civil Rights Act of 1991, the Americans
12 with Disabilities Act of 1991, the Family and Medical Leave Act of 1993, the California
13 Government Code, or any other federal, state, county or city law or ordinance regarding
14 employment discrimination, harassment or retaliation. Named Plaintiffs acknowledges and
15 agrees that the foregoing general release is given in exchange for the consideration provided to
16 them under this Agreement by Defendant. However, this release shall not apply to claims for
17 workers' compensation benefits, unemployment insurance benefits, pension or retirement
18 benefits, or any other claim or right that as a matter of law cannot be waived or released. The
19 Class Representatives Released Claims shall include a waiver of any rights or benefits they may
20 have under California Civil Code Section 1542, as set forth in Paragraph 6.12.2 below.

21 2.15 "Complaint" means the Complaint filed in this Action (as defined in Paragraph
22 2.1) with this Court on December 3, 2014, and as subsequently amended.

23 2.16 "Court" means the Superior Court of the State of California, County of Kern.

24 2.17 "Database" means the name, social security number, last known mailing address,
25 start and end dates of employment in California for all Class Members during the Class Period.

26 2.18 "Defendant's Counsel" Randall S. Leff, Esq. and Pantea Yashar, Esq. of ERVIN
27 COHEN & JESSUP LLP
28

1 2.19 "Effective Date" of the settlement will be when the final approval of the
2 settlement can no longer be appealed or, if there are no objectors, on the date the Court grants
3 final approval of the settlement pursuant to Paragraph 6.10 below.

4 2.20 "Employer's Share of Payroll Taxes" means the employer's portion of payroll
5 taxes, including, but not limited to FICA and FUTA, on the portion of the Net Settlement Sum
6 allocated as wages, as provided by Paragraph 6.10.5(e)(i). Employer's Share of Payroll Taxes
7 shall be paid out of the Gross Settlement Amount.

8 2.21 "Enhancement Payment" means the amount approved by the Court to be paid to
9 the Class Representative, in the amount of \$5,000.00 to each Plaintiff, in addition to their Claim
10 Amount as a Settling Class Member, in recognition of their efforts as Class Representatives, and
11 an additional \$5,000.00 each as consideration for a full, general, and comprehensive release of
12 the Class Representative's Released Claims pursuant to Paragraph 2.14.

13 2.22 "Final Approval Date" means the date on which the Court grants final approval of
14 this settlement pursuant to Paragraph 6.10 below.

15 2.23 "Gross Settlement Amount" means the maximum settlement amount of up to the
16 sum of Eight Hundred and Fifty Thousand U.S. Dollars and Zero Cents (\$850,000.00) to be paid
17 by Defendant under the terms of the settlement in full satisfaction of all claims arising from this
18 Action. The Gross Settlement Amount includes, without limitation, Settlement Administration
19 Costs, the Enhancement Payments to the Class Representative, a \$7,500 payment to the Labor
20 Workforce Development Agency (the "LWDA") for penalties under the California Private
21 Attorneys' General Act of 2004 ("PAGA"), Employer's Share of Payroll Taxes, Plaintiff's
22 attorneys' fees and litigation costs and payment of Settlement Shares to the Settling Class
23 Members. In no event will Defendant be liable for more than the Gross Settlement Amount. It
24 is expressly understood that if fewer than all Class Members submit valid claims, the total
25 amount distributed by the Claims Administrator will be less than the Gross Settlement Amount.

26 2.24 "Net Settlement Amount" means the funds available for payments to the Damages
27 Class, which shall be the Gross Settlement Amount minus the sum of: (1) Class Counsel's fees,
28 (2) Class Counsel's costs, (3) Settlement Administration Costs, (4) enhancement payment to

1 Named Plaintiffs, (5) General Release Payment to Named Plaintiffs; (6) PAGA penalties to be
2 paid to the California Labor Workforce Development Agency ("LWDA"), and (7) all employee
3 and employer taxes arising from the payments made under this Settlement. A minimum of
4 66.67% of the Net Settlement Amount will be paid to the Class.

5 2.25 "Notice Packet" means the Class Notice, the Claim Form and Request for
6 Exclusion Form.

7 2.26 "Parties" mean Defendant and Plaintiffs in the Action.

8 2.27 "Preliminary Approval Date" means the date the Court approves the Stipulation,
9 and the exhibits thereto, and enters an Order providing for notice to the Class, an opportunity to
10 opt out of the Class, an opportunity to submit timely objections to the settlement, a procedure
11 for submitting disputes, and setting a hearing on the fairness of the terms of settlement,
12 including approval of attorneys' fees and costs.

13 2.28 "Preliminary Approval Order" means the judicial Order to be entered by the Court
14 upon the Plaintiff's motion preliminarily approving this settlement and authorizing the Class
15 Notice.

16 2.29 "Released Claims" means a broad release by Class Members who do not timely
17 request exclusion from the Class, of Released Parties of all claims and/or causes of action
18 arising from or related to this case under any federal, state or local law or administrative order
19 that were pled in this Action, based on the facts alleged in the operative complaint, or which
20 could have been plead based on the factual allegations in the operative complaints whether
21 known or unknown, including but not limited to the failure to pay minimum wages, the failure
22 to pay overtime compensation, the failure to provide required meal periods, the failure to permit
23 rest breaks, the failure to pay waiting-time penalties, the failure to maintain records, the failure
24 to provide accurate itemized statements, the failure to reimburse for business expenses, the
25 failure to permit employee to inspect or copy records, and any other claims whatsoever that were
26 alleged in this case or which could have been plead based upon the factual allegations in the
27 operative complaints, including without limitation all related claims for penalties under the
28 California Attorneys' General Act of 2004 ("PAGA"), restitution and other equitable relief

1 under Cal. Business and Professions Code Sections 17200, et seq., conversion, liquidated
2 damages, punitive damages, waiting-time penalties, and any other related claims and/or
3 penalties of any nature whatsoever.

4 2.30 "Released Parties" mean Defendant and its past, present and future, direct and
5 indirect, officers, directors, employees, agents, representatives, attorneys, insurers, partners,
6 investors, shareholders, parent companies, subsidiaries, affiliates, divisions, predecessors,
7 successors, and assigns.

8 2.31 "Request for Exclusion" means a written and signed request by Class Members to
9 be excluded from the Class, attached hereto as **Exhibit C**, to be submitted in accordance with
10 the process set forth in Paragraph 6.5.1 below.

11 2.32 "Settlement Administration Costs" means the fees and expenses reasonably
12 incurred by the Claims Administrator as a result of the procedures and processes expressly
13 required by this Stipulation, and shall include all costs of administering the settlement,
14 including, but not limited to: all costs and fees associated with all tax document preparation,
15 custodial fees, and accounting fees incurred by the Claims Administrator; all costs and fees
16 associated with preparing, issuing and mailing any and all notices and other correspondence to
17 Class Members and/or Settling Class Members; all costs and fees associated with
18 communicating with Class Members, Class Counsel, and Defendant's Counsel; all costs and
19 fees associated with computing, processing, reviewing, and paying the Claim Amounts, and
20 resolving disputed claims; all costs and fees associated with calculating tax withholdings and
21 payroll taxes, making related payment to federal and state tax authorities, and issuing tax forms
22 relating to payments made under the settlement; all costs and fees associated with preparing any
23 tax returns and any other filings required by any governmental taxing authority or agency; all
24 costs and fees associated with preparing any other notices, reports, or filings to be prepared in
25 the course of administering Claim Amounts; and any other reasonable costs and fees incurred
26 and/or charged by the Claims Administrator in connection with the execution of its duties under
27 this Stipulation. Settlement Administration Costs are currently estimated to be \$13,500.00.
28

1 2.33 "Settling Class Member" means Class Members who timely submit valid Claim
2 Forms.

3 2.34 "Settling Parties" means the Defendant and Plaintiffs and Settling Class Members.

4 2.35 "Settlement Share" means each Settling Class Member's share of the Net
5 Settlement Amount, which shall be distributed proportionally to all Settling Class Members
6 based on the number of work shifts that they worked for Defendant during the Class Period as
7 an hourly, non-exempt employee in California. The Settlement Share shall be designated as
8 one-third wages, and two-thirds interest and penalties, including waiting time penalties.

9 **3. DESCRIPTION OF THE LITIGATION.**

10 3.1 On December 3, 2014, Plaintiff Calzadillas filed a class action complaint against
11 Defendant, on behalf of himself and all non-exempt employees working in California, alleging:
12 failure to provide meal periods; failure to provide rest breaks; failure to pay minimum and
13 straight time wages; failure to pay overtime compensation; failure to timely pay wages upon
14 termination of employment; failure to provide accurate statements and maintain required
15 records; Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and a
16 representative action for civil penalties pursuant to the Private Attorneys General Act [Cal. Lab.
17 Code §§ 2698-2699.5].

18 3.2 Following extensive discovery, on July 22, 2016, the parties mediated with the
19 Hon. Richard A. Stone (Ret.). As a result of the mediation, the parties agreed to settle the action
20 and executed a Memorandum of Understanding that required the parties to draft a more
21 thorough Settlement Agreement and for Plaintiff to file a First Amended Complaint pursuant to
22 stipulation.

23 3.3 Defendant denies all material allegations set forth in the Action, and have asserted
24 numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation,
25 Defendant desire to fully and finally settle all actual or potential claims by the Class Members.

26 3.4 Through the course of discovery, Defendant provided Class Counsel with copies
27 of applicable versions of its applicable policies, including policy manuals, as well as the Class
28 list by which Plaintiffs' counsel was able to determine Defendant's potential liability, as well as

1 the fairness of this settlement. Plaintiff's counsel also diligently investigated the proposed Class
2 Members' claims against Defendant by: (1) Taking a Person Most Qualified deposition; (2)
3 Interviewing potential witnesses and Class members; (3) reviewing Plaintiff's personnel file
4 documents and records, and (4) producing Plaintiff Calzadillas for his multi-day deposition.
5 The complete terms of the Parties' settlement are contained within this Stipulation. At all times,
6 the Parties' settlement negotiations have been non-collusive, adversarial and at arm's length.

7 3.5 Discussions between counsel for the Parties, extensive legal analysis, and the
8 provision of information by Defendant to Plaintiff of data concerning wages and hours, as well
9 as the investigation and evaluation of Plaintiff's claims by the Parties, and assistance of the
10 mediator, have permitted each side to assess the relative merits of the claims and the defenses to
11 those claims.

12 3.6 Defendant has denied each of Plaintiffs' claims throughout the course of this
13 Action and continue to contend that class action treatment is inappropriate. The agreed upon
14 Gross Settlement Amount was reached, with the assistance of the mediator, after evaluating the
15 Parties' theories of potential exposure for the underlying claims, as well as Plaintiff's claims for
16 interest and penalties and potential liability based on the Parties' contentions and defenses.

17 3.7 The Parties agree that the above-described investigation and evaluation are more
18 than sufficient to assess the merits of the respective Parties' positions and to compromise on the
19 issues on a fair and equitable basis. Additionally, this Stipulation is a result of a mediator's
20 proposal.

21 4. **BENEFITS OF THE SETTLEMENT TO THE PROPOSED CLASS.**

22 4.1 Based on the independent investigation and evaluation by Class Counsel, the
23 average Class Member's claims, and the risk of loss, Class Counsel is of the opinion that the
24 settlement with Defendant for the consideration and terms set forth below, is fair, reasonable,
25 and adequate in light of all known facts and circumstances and is in the best interests of the
26 Class. Class Counsel is also of the opinion that the total consideration and payment set forth in
27 this Stipulation is adequate in light of the uncertainties surrounding the risk of further litigation,
28 and the defenses that Defendant has asserted and could assert.

1 4.2 Class Counsel has weighed the monetary benefit under the settlement with the
2 Class against the expenses and length of continued proceedings that would be necessary to
3 prosecute the Action against Defendant through trial and possible appeals. Class Counsel has
4 also taken into account the uncertain outcome and risk of any litigation, especially in complex
5 actions such as class actions, as well as the difficulties and delay inherent in such litigation.
6 Therefore, Class Counsel has determined that the settlement set forth in this Stipulation is in the
7 best interests of the Class.

8 4.3 Class Counsel also evaluated and concluded that apportionment of the Net
9 Settlement Amount between unpaid wages, interest, statutory and civil penalties is fair and
10 reasonable and benefits the individual Class Members as well as benefitting the State of
11 California due to the inherent risks that civil penalties could potentially not have been awarded
12 at all if the Action ultimately failed to obtain any recovery for the Class Members.

13 **5. POSITION OF DEFENDANT AND NON-ADMISSION OF LIABILITY.**

14 5.1 Defendant specifically and generally denies any and all liability or wrongdoing of
15 any sort with regard to any of the claims alleged, makes no concessions or admissions of
16 liability of any sort, and contends that for any purpose other than settlement, the Action is not
17 appropriate for class action treatment. Nonetheless, Defendant has concluded that further
18 litigation of the Action would be undesirable, and Defendant wants the Action to be fully and
19 finally settled in the manner and upon the terms and conditions set forth in this Stipulation.
20 Defendant has also taken into account the uncertainty and risks inherent in any litigation.
21 Defendant, therefore, desires to settle the Action in the manner and upon the terms and
22 conditions set forth in this Stipulation.

23 5.2 Neither this Stipulation, nor any document referred to in it, nor any actions taken
24 pursuant to this Stipulation, is or should be construed as an admission by Defendant of any fault,
25 wrongdoing, or liability whatsoever. Nor should the Stipulation be construed as an admission
26 that Plaintiffs can serve as an adequate class representatives or that class certification is proper.
27 There has been no final determination by any court as to the merits of the claims asserted by
28

1 Plaintiffs against Defendant or as to whether a class should be certified, other than for settlement
2 purposes only.

3 5.3 Defendant and Defendant's Counsel have concluded that it is desirable that the
4 Action be settled in a manner and upon such terms and conditions set forth herein in order to
5 avoid further expense, inconvenience and distraction of further legal proceedings, and the risk of
6 the outcome of the Action. Therefore, Defendant desires to put to rest the claims in the Action.

7 **6. OPERATIVE TERMS OF SETTLEMENT.**

8 6.1 **Cooperation.** The Parties will cooperate in obtaining an order from the Court
9 approving the Stipulation at the earliest possible date. The Parties further agree to fully
10 cooperate in the drafting and/or filing of any further documents or filings reasonably necessary
11 to be prepared or filed, and shall take all steps that may be requested by the Court relating to, or
12 that are otherwise necessary to the approval and implementation of this Stipulation.

13 6.2 **Calculation of Class Members Payment/Claims Process for Current and**
14 **former Employees.**

15 The amount that each individual participating Class Member will be eligible to receive
16 under the settlement will be calculated by dividing each participating Class Member's individual
17 work weeks by the total workweeks of all Class Members, and multiplying the resulting fraction
18 by the Net Settlement Fund.

19 Each participating Class Members' individual settlement award will be designated as
20 follows: 1/3 as wages, 2/3 for interest, penalties, and any other damages. The amounts paid as
21 wages shall be subject to all tax withholdings customarily made from the employee's wages and
22 all other authorized and required withholdings shall be reported by W-2 forms. The amounts
23 paid as penalties and interest shall be subject to all authorized and required withholdings other
24 than the tax withholdings customarily made from employees' wages and shall be reported by
25 IRS 1099 form.

26 Class Members will be provided with a Notice of Class Action Settlement in both English
27 and Spanish providing a summary of the provisions of the formal Stipulation of Class Action
28 Settlement and Class Notice ("Class Notice"). The Class Notice shall list the number of weeks

1 worked during the Class Period and the estimated individual payment each Class Member will
2 receive if they submit a timely and valid claim form. Notice will be provided to Class Members
3 by U.S. Mail at the last known address of the Class Members, as reflected in Defendant's
4 records. However, the Settlement Administrator shall conduct a National Change of Address
5 (Using the United States Postal Service's National Change of Address list) search to confirm the
6 most recent addresses for Class Members and will mail the Class Notice and Claim Form to the
7 most recent address available for each Class Member by first class mail, in the event that the
8 current address differs from Defendant's records. The Settlement Administrator shall send each
9 Class Member for whom a response as not yet been received a postcard reminder.

10 Named Plaintiffs are not required to submit a Claim Form in order to receive an
11 individual Settlement Share from the Net Settlement Amount. Named Plaintiffs will
12 automatically be deemed to have submitted a valid and timely Claim Form, and will receive an
13 individual Settlement Share from the Net Settlement Amount.

14 All Class Members who are current employees of Defendant as of the Preliminary
15 Approval Date are not required to submit a Claim Form in order to receive an individual
16 Settlement Share from the Net Settlement Amount. All Class Members who are current
17 employees of Defendant as of the Preliminary Approval Date who do not submit a timely and
18 valid request to opt-out of the Settlement shall automatically be deemed to have submitted a
19 valid and timely Claim Form, and will receive an individual Settlement Share from the Net
20 Settlement Amount.

21 Class Members who are not current employees of Defendant as of the Preliminary
22 Approval Date must submit a valid and timely claim in order to receive an individual Settlement
23 Share from the Net Settlement Amount. Class Members who do not opt out or request to be
24 excluded and who do not file claims shall be bound by the formal Stipulation of Class Action
25 Settlement and Class Notice.

26 **6.3 Preliminary Approval.** The Parties will submit this Stipulation to the Court for
27 preliminary approval of its terms and for approval of the steps to be taken to obtain its Final
28 Approval. The Parties will request that the Court's preliminary approval of this Stipulation be

embodied in a Preliminary Approval Order, a proposed form of which will be filed with Plaintiffs' Motion for Preliminary Approval.

6.4 Notice to Class Members. The Claims Administrator shall disseminate the Notice Packet in the manner described below, with the Settlement Administration Costs being paid from the Gross Settlement Amount. The Notice Packet will provide: (1) information regarding the nature of the Action; (b) a summary of the settlement's principal terms; (c) the Settling Class Member definition; (d) the total number of shifts each Class Member worked for Defendant during the Class Period; (e) each Class Member's estimated Settlement Share; (f) the dates which comprise the Class Period; (g) instructions on how to submit valid Claim Forms, Requests for Exclusions, or file and serve objections to the settlement; (i) the claims to be released; and (j) the anticipated date for Final Approval Hearing.

6.4.1 No later than 20 Business Days after the entry of the Preliminary Approval Order, Defendant shall provide the Claims Administrator with the Database.

6.4.2 No later than 10 Business Days after receipt of the Database, the Claims Administrator will print and mail to each Class Member the Notice Packet approved by the Court by first-class mail, postage prepaid.

6.4.3 Notice Packages and related forms returned to the Claims Administrator as non-delivered during the sixty (60) Calendar Day period for the filing of claims shall be re-sent within three (3) Business Days to the forwarding address, if any, on the returned envelope. If no forwarding address appears on the returned envelope, then the Claims Administrator shall perform a skip trace using information provided by Defendant and, also within three (3) Business Days after receiving the returned Notice Packages, shall re-mail the Notice Packages to the addresses, if any, discovered through the skip trace. A returned Notice Package and related forms will be forwarded or re-mailed one time per Class Member by the Claims Administrator. Upon completion of these steps by the Claims Administrator, the Claims Administrator shall be deemed to have satisfied its obligation to provide the Class Notice to the affected Class Member. The Class Member shall be bound by all the terms of the Stipulation and the Court's Order and

1 Final Judgment, if he or she does not timely request exclusion from the settlement pursuant to
2 the terms of this Stipulation.

3 6.4.4 All costs of mailing of the Notice Packet, whether foreseen or not, shall
4 be paid from the Gross Settlement Amount, including the cost of searching for Class Members'
5 addresses. All other reasonable costs of the Claims Administrator shall also be paid from the
6 Gross Settlement Amount.

7 6.4.5 Within fifteen (15) Business Days after the Claim Deadline, the Claims
8 Administrator shall provide Class Counsel and Defendant's Counsel with a declaration attesting
9 to completion of the notice process set forth herein, including an explanation of efforts to resend
10 any Notice Packages returned as undeliverable and the total number of disputes, opt-outs and
11 objections received.

12 6.4.6 Compliance with these procedures shall constitute due and sufficient
13 notice to Class Members of this Settlement and shall satisfy the requirement of due process.
14 Nothing else shall be required of, or done by, the Parties, Class Counsel, and Defendant's
15 Counsel to provide notice of the proposed settlement.

16 **6.5 Disputed Information on Notice Packets**

17 6.5.1 For each Class Member, there will be pre-printed information on the
18 Claim Form mailed to the Class Member based on Defendant's records, stating the number of
19 work shifts the Class Member worked during the Class Period and his or her estimated
20 Settlement Share. The pre-printed information based on Defendant's records shall be presumed
21 to be correct. The Notice Packet shall include instructions on how to submit a dispute regarding
22 the number of workweeks and shall notify Class Members that any disputes regarding the
23 workweeks stated in the Notice Packet must be submitted and returned by first class mail or
24 facsimile no later than the Claim Deadline. If the Class Member fails to submit a valid and
25 timely dispute, the number of shifts and the estimated Settlement Share as stated in the Notice
26 Packet will be presumed correct. The Claims Administrator shall promptly notify the Parties of
27 the dispute and check the disputed information against the database of information Defendant
28

1 provided the Claims Administrator. The Claims Administrator's determination as to the correct
2 information shall be final.

3 6.5.2 To be valid, a Claim Form must be fully completed and signed by each
4 Class Member under penalty of perjury and returned to the Claims Administrator at the address
5 or to facsimile number noted on the Claim Form and postmarked or faxed no later than the
6 Claim Deadline. The Class Member must submit information or documents supporting his or
7 her position to the Claims Administrator at the same time as the Class Member postmarks and
8 mails his or her Claim Form to the Claims Administrator. Information or documents submitted
9 after the Claim Form is postmarked and mailed will not be considered by the Claims
10 Administrator, unless otherwise agreed to by the Parties. The date of the postmark on the return
11 envelope or date of the facsimile transmission shall be the exclusive means used to determine
12 whether a Class Member has timely returned the Claim Form on or before the Claim Deadline.
13 In the event that the postmark or date on the facsimile transmission is illegible, the Claim Form
14 shall be deemed untimely unless it is received within five (5) Calendar Days after the Claim
15 Deadline. Claim Forms returned to the Claims Administrator that are postmarked or faxed after
16 the Claim Deadline shall be deemed untimely and invalid. Any Class Member who fails to
17 submit a valid and timely Claim Form and fails to submit a timely and valid Request for
18 Exclusion shall be bound by all terms of the settlement and any final judgment entered in this
19 Action. For purposes of this Stipulation, a Claim Form shall be deemed valid only if: (1) it has
20 been fully completed (without deletion or amendment); (2) the Claim Form contains the Class
21 Member's name (and any others used during the Class Period) and the last four digits of Class
22 Member's social security number; (3) the Class Member has signed the Claim Form under
23 penalty of perjury; (4) the last four digits of the social security number provided by the Class
24 Member on the Claim Form matches Defendant's records; and (5) the name is consistent with
25 Defendant's records, or if not, is explainable or verifiable. In the event of a conflict concerning
26 the information provided on a Claim Form, the Claims Administrator will notify Defendant's
27 Counsel and Class Counsel of the conflict and Defendant's Counsel and Class Counsel will
28 work together to resolve the conflict. Defendant's records shall be determinative. If a Class

Member's Claim Form is defective as to any of these requirements, the Class Member shall be given an opportunity to cure the defect(s). Within five (5) Business Days of the receipt of the defective Claim Form by the Claims Administrator, the Claims Administrator will return by U.S. mail the defective Claim Form to the Class Member, with a notice prepared by the Claim's Administrator informing the Class Member of the defect(s). The Class Member must return, by U.S. mail, a valid Claim Form to the Claims Administrator which is postmarked or faxed no later than ten (10) Business Days after the date the defective notice was mailed by the Claims Administrator, even if this date exceeds the Claim Deadline. The Claims Administrator must provide notice of this deadline with the returned Claim Form and direct the Class Member to contact it or Class Counsel with any questions. Upon receipt of any disputes, the Claims Administrator will notify within three (3) Business Days Defendant's Counsel, who will investigate the facts. In the event of a dispute or discrepancy between a Settling Class Member's claim and the information reflected in Defendant's records, Defendant's records will control.

6.6 Procedure for Requesting Exclusion From or Objecting to Settlement. Class Members who submit objections to the settlement or request exclusion from the Class shall use the following procedures:

6.6.1 Procedure for Requesting Exclusion. The Class Notice shall provide that Class Members who wish to exclude themselves from the Class must submit a written and signed Request for Exclusion Form within the Claim Deadline. The Request for Exclusion must include the Class Member's full legal name, his or her address, his or her social security number, a clear and unmistakable request to exclude himself or herself from the settlement, and his or her signature. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. In the event that the postmark is illegible, the Request for Exclusion shall be deemed untimely unless it is received within five (5) Calendar Days after the Claim Deadline. Any Class Member who properly opts out of the Class using this procedure will not be entitled to any payment or benefit from the settlement and will not be bound by the settlement or have any right to object,

1 appeal or comment thereon. Class Members who fail to submit a valid and timely Request for
2 Exclusion on or before the Claim Deadline shall become Settling Class Members, and thus be
3 bound by all terms of the settlement and any Final Judgment entered in this Action if the
4 settlement is approved by the Court.

5 : 6.6.2 **Procedure for Objecting to the Settlement.** The Class Notice shall
6 provide that only Settling Class Members may object to the settlement and that those who wish
7 to do so must mail to the Claims Administrator a written statement objecting to the settlement
8 by the Claim Deadline, setting forth their name, social security number, and reasons for
9 objecting to the settlement. No Class Member shall be entitled to be heard at the Final Fairness
10 Hearing to object to the settlement (whether individually or through counsel), and no written
11 objections or briefs submitted by any Class Member shall be received or considered by the
12 Court, unless written notice of the Class Member's intention to appear at the Final Fairness
13 Hearing, and copies of any written objections or briefs, shall have been filed with the Court and
14 served on counsel for the Parties at least nine (9) court days before the date of the Final Fairness
15 Hearing. The date of the postmark on the return mailing envelope shall be the exclusive means
16 used to determine whether an objection has been timely submitted. In the event that the
17 postmark is illegible, the objection shall be deemed untimely unless it is received within five (5)
18 Calendar Days after the Claim Deadline. Class Members who fail to file and serve timely
19 written objections in the manner specified above shall be deemed to have waived any objections
20 and shall be foreclosed from making any objection (whether by appeal or otherwise) to the
21 settlement, unless otherwise ordered by the Court.

22 6.6.3 **Responses to Objections.** Class Counsel and Defendant's Counsel may,
23 at least five (5) business days (or such other number of days as the Court shall specify) before
24 the Final Approval Hearing, file any responses to any written objections submitted to the Court
25 by Class Members in accordance with this Stipulation.

26 6.7. **Application for Attorneys' Fees and Expenses.** Class Counsel shall apply to the
27 Court for an award of fees from the Gross Settlement Amount in an amount not to exceed
28 \$297,500.00 (35 percent of the Gross Settlement Amount) and reasonable expenses not to

1 exceed \$15,000.00 at least fourteen (14) Calendar Days prior to the date of the Final Approval
2 Hearing. Said application may be in the form of a joint application contained in a single
3 pleading signed by Class Counsel for both Plaintiffs. Defendant agrees not to oppose Class
4 Counsel's application for fees and expenses.

5 **6.8 Application for Enhancement Payments to Plaintiff.** Class Counsel, on behalf
6 of Plaintiffs, shall apply to the Court for an Enhancement Payment from the Gross Settlement
7 Amount in amount not to exceed \$5,000.00 each, and \$5,000.00 each for a general release of
8 each Plaintiffs' claims, at least fourteen (14) Calendar Days prior to the date of the Final
9 Approval Hearing. Such request may also be supported by a declaration from Plaintiffs
10 outlining the burdens and obligations they assumed in connection with assuming the role of
11 Class Representatives. Defendant agrees not to oppose Plaintiffs' application for the
12 Enhancement Payment and additional money for the general release of all Plaintiffs' claims.

13 **6.9 Defendant's Right to Withdraw Based on Opt-Outs and Increase in Class**
14 **Size Provision.** Prior to the Final Approval Hearing, Defendant may, in its discretion, withdraw
15 from this settlement if more than 10 percent of the putative Class Members opt-out of the
16 settlement. In this event, the settlement and this Stipulation shall be considered void ab initio
17 and shall be of no force or effect whatsoever, and shall be referred to or utilized for any purpose
18 whatsoever.

19 6.9.1 At its own expense, Defendant shall provide such notice of termination of
20 this Stipulation in writing by first-class United States mail to Class Counsel and the Claims
21 Administrator who, in turn, will provide notice in writing by First Class United States mail to
22 each Settling Class Member no later than fourteen (14) Calendar Days before the Final Approval
23 Hearing.

24 6.9.2 In the event Defendant elects to terminate this Stipulation, Defendant
25 shall not be responsible for paying any of Plaintiffs' attorneys' fees and costs or the
26 Enhancement Payment, but shall be responsible for the costs of the Claims Administrator
27 incurred between the date the Stipulation was executed and the date of the termination of the
28 Stipulation. In the event Defendant elects to terminate this Stipulation, such withdrawal shall

1 have the same effect as would non-approval pursuant to Paragraphs 1.1 and 1.2 and the
2 Stipulation will have no force or effect.

3 **6.10 Final Approval Hearing.** On the date set forth in the Notice Packet, which shall
4 not be less than one hundred and twenty (120) days after entry of the Preliminary Approval
5 Order, the Court shall hold the Final Approval Hearing where objections, if any, may be heard.
6 The Final Approval Hearing shall be conducted to determine the fairness of and final approval
7 of the settlement and specifically to determine: (a) whether the Court should give final approval
8 of this Stipulation and certification of the provisional Class; (b) Class Counsel's application for
9 an award of attorneys' fees and costs and Class Representatives' Enhancement; and (c) any
10 timely objections made and all responses by the Parties to such objections. At the Final
11 Approval Hearing, the Parties shall ask the Court to give final approval to this Stipulation, and if
12 such approval is granted, present a proposed Final Approval Order and Final Judgment for the
13 Court's approval and entry. The Court shall retain continuing jurisdiction over the
14 interpretation, implementation and enforcement of the settlement and all orders and judgments
15 entered in connection therewith. Class Counsel shall furnish the Claims Administrator with a
16 copy and serve Defendant's Counsel with notice of entry of the Final Approval Order and Final
17 Judgment within five (5) Business Days of receiving them from the Court. Notice of any Final
18 Judgment will be given by posting a copy of the Judgment on the Settlement Administrator's
19 website or other manner as may be ordered by the Court.

20 **6.11 Attorneys' Fees and Settling Class Member Payment Procedures.**

21 **6.11.1 Settlement Amount**

22 (a) The maximum Gross Settlement Amount shall be \$850,000.00.
23 Within ten (10) Calendar Days of the Effective Date, the Claims Administrator will provide the
24 Parties with an accounting of the amounts to be paid by Defendant pursuant to the terms of the
25 Settlement. Within ten (10) Calendar Days after the Claims Administrator provides the Parties
26 with the accounting of amounts to be paid, Defendant will make a payment into a Qualified
27 Settlement Account (established by the Claims Administrator for the benefit of eligible Class
28 Members and from which the Claim Amounts and payroll taxes shall be paid) of the amount

determined by the Claims Administrator needed to fund payment of all moneys to be paid pursuant to the Court's order. The Parties agree that within ten (10) Calendar Days, the Claims Administrator will then issue payments to the Settling Class Members, the Class Representatives for their Enhancement Payments and General Release, the Labor and Workforce Development Agency, Class Counsel for the Court-approved attorneys' fees and costs and the Claims Administrator for Court-approved services performed in connection with the settlement.

6.11.2 **Attorneys' fees and expenses**

(a) Subject to Court approval, Class Counsel's attorneys' fees will be limited to no more than 35 percent of the Gross Settlement Amount (\$297,500.00). Subject to Court approval, Class Counsel's reasonable litigation expenses that may be awarded from the Gross Settlement Amount will be limited to no more than \$15,000.00. In the event that the Court awards less attorneys' fees or litigation expenses than requested, then any portion of the requested amount not awarded to Class Counsel shall be added to the Net Settlement Amount for disbursement.

(b) Defendant agrees it will not oppose Class Counsel's application to the Court for the payment of \$297,500.00, which represents 35 percent of the Gross Settlement Amount, as Class Counsel's attorneys' fees and will not oppose Class Counsel's application to the Court for payment of up to \$15,000.00 for reasonable litigation costs. In no event shall Class Counsel, the Class Representatives, or the Settling Class Members be liable for or be required to compensate Defendant for their attorneys' fees or costs; Defendant's Counsel have no claim to any portion of the Gross Settlement Amount; and Defendant shall bear its own attorneys' fees and costs.

6.11.3 **Class Representatives' Enhancement Payments.** Subject to Court approval, and in accordance with section 6.11.1, above, Plaintiffs will be paid, in addition to the amount entitled to them as a Settling Class Member, an Enhancement Payment from the Gross Settlement Amount, in an amount of \$5,000.00 to compensate them for the risks, time, and expense of their involvement in the action and an additional \$5,000.00 each in consideration for their general release of all other claims as specified in Paragraph 2.14. In the event that the

1 Court awards less than the amount of the Enhancement Payment requested, then any portion of
2 the requested amount not awarded to the Class Representative shall be added to the Net
3 Settlement Amount.

4 6.11.4 **LWDA Payment.** The Parties recognize and agree that, as a result of the
5 claim for penalties pursuant to PAGA, \$7,500.00 represents seventy-five percent (75% of
6 \$10,000.00 of the PAGA penalties) which must be paid to the LWDA, as mandated by Labor
7 Code Section 2699(i). The \$2,500 portion of the PAGA penalties will be included in the Net
8 Settlement Amount for distribution to eligible Class Members.

9 6.11.5 **Settlement Administrator Expenses.** The Claims Administrator shall be
10 Phoenix Class Action Settlement Administrators and its expenses shall be capped at \$13,500.00,
11 unless otherwise agreed to by the parties.

12 6.11.6 **Payments to Settling Class Members, Class Counsel and Plaintiffs.**

13 (a) **Deceased, Incapacitated, and/or Missing Class Members.**

14 (i) **Deceased Settling Class Members.** In the event that a
15 Settling Class Member is deceased, payment shall be made to: (a) the executor, personal
16 representative, or claims administrator that has obtained letters of appointment to administer the
17 decedent's estate through formal or informal appointment procedures, or (b) such other legal
18 representative that presents legal evidence of entitlement to decedent's payment in form and
19 substance satisfactory to Class Counsel and Defendant's' Counsel (failure to submit such
20 evidence shall result in a determination that the deceased Settling Class Member is not entitled
21 to receive a Settlement Share).

22 (ii) **Incapacitated Settling Class Members.** In the event that a
23 Settling Class Member has been determined by a court of competent jurisdiction not to have the
24 capacity to manage such individual's property, payment shall be made to: (i) the duly appointed
25 conservator or guardian of such legally incompetent person that has obtained letters of
26 appointment to administer such person's estate through formal or informal appointment
27 procedures, or (ii) such other legal representative that presents legal evidence of entitlement to
28

the legally incapacitated person's payment in form and substance satisfactory to Class Counsel and Defendant's Counsel.

(iii) **Missing Class Member**. In the event that a Notice Packet is returned as undeliverable and a valid address for a Class Member cannot be found following the Claims Administrator's compliance with Paragraph 6.3, the amount of that Class Member's Claim Amount shall remain the property of the Defendant, unless the 66.67% floor, set forth in paragraph 2.24, above, has not been met, in which case it shall be reallocated on a pro rata basis to Settling Class Members.

(b) Within ten (10) Calendar Days after the funding of the Net Settlement Amount, in accordance with paragraph 6.11.1(a), above, the Claims Administrator shall issue Claim Amounts to Settling Class Members (other than Missing Class Members) in the form of a check, which shall become null and void if not deposited within ninety (90) Calendar Days of issuance. After ninety (90) Calendar Days of issuance, funds from checks not deposited will be held by the Claims Administrator; if the Class Member to whom the check not deposited is issued does not contact Class Counsel or the Claims Administrator concerning his or her Settlement Share within one-hundred eighty (180) Calendar Days of issuance, the Stipulation, including its release, will be binding on that Class Member, and the amount of that Class Member's Claim Amount shall be sent to the state's unclaimed property fund.

(c) After the funding of the Net Settlement Amount, in accordance with paragraph 6.10.1(a), above, the Claims Administrator shall issue the court approved payment to the Class Representative. The Claims Administrator will issue an IRS Form 1099 for the Enhancement Payment, and the Class Representative will be responsible for correctly characterizing these payments for tax purposes and for paying any taxes due on the amounts received. The Class Representatives agree to pay all taxes due on the Enhanced Payments. To the extent that this Stipulation or any of its attachments is interpreted to contain or constitute advice regarding any federal or state tax issue, such advice is not intended or provided to be used, and cannot be used, by any person for the purpose of avoiding penalties under the United States Internal Revenue Code or related state law.

1 (d) Within ten (10) Calendar Days after the payment into the Gross
2 Settlement Amount, in accordance with paragraph 6.11.1(a), above, the Claims Administrator
3 shall wire the Court-approved attorneys' fees and litigation costs to an account(s) designated by
4 Class Counsel. Class Counsel shall provide the Claims Administrator with the pertinent
5 taxpayer identification number and wire instructions within five (5) Business Days after the final
6 payment into the Gross Settlement, if not earlier.

7 (e) The Parties recognize that the Claim Amounts to be paid to Settling
8 Class Members reflect settlement of a dispute over claimed wages, interest, and penalties. All
9 Claim Amounts to Settling Class Members are allocated as follows:

10 (i) Thirty-three and one-third percent (33 1/3%) of the Claim
11 Amounts shall be allocated for payment of disputed wages to Settling Class Members. For this
12 portion of the Claim Amounts, Settling Class Members shall receive a W-2 form.

13 (ii) Sixty-six and two-thirds percent (66 2/3%) of the Claim
14 Amounts shall be allocated for disputed interest and penalties. This portion of the Claim
15 Amounts consists of other income, not wages, for which the Settling Class Members shall
16 receive a 1099 form, as required by law.

17 (iii) The Employer's Share of Payroll Taxes shall be paid from the
18 Gross Settlement Amount. The Claims Administrator shall determine the amount of the
19 Employer's Share of Payroll Taxes when the amounts allocated to disputed wages from each
20 Claim Amount are calculated for each Settling Class Member as set forth in Paragraph
21 6.11.5(e)(i) & (ii). Plaintiff and all Class Members are responsible for paying all other
22 appropriate taxes due on the Settlement Share they receive. Any Settlement Share made under
23 this Stipulation shall be reported by the Claims Administrator to the applicable governmental
24 authorities on IRS forms W-2 (wages) and Form 1099 (penalties, interest and Enhancement
25 Payments). Neither Class Counsel, nor Defendant's Counsel, nor Defendant intend this
26 communication to constitute legal advice regarding the taxability of any amount paid hereunder,
27 nor shall it be relied upon as such. To the extent that this Stipulation or any of its attachments is
28 interpreted to contain or constitute advice regarding any federal or state tax issue, such advice is

not intended or provided to be used, and cannot be used, by any person for the purpose of avoiding penalties under the United States Internal Revenue Code or related state law.

(f) **Waiver of Appeal.** The Parties agree to waive all appeals from the Court's final approval of this settlement, except that Plaintiffs may appeal any reduction in the attorneys' fees and/or Class Representatives' Enhancement Payments. Any reduction by the Court of Appeal pertaining to the award of attorneys' fees, litigation costs and/or the Class Representatives' Enhancement Payments however, will not constitute a material modification of the settlement and will not be grounds to void the settlement. The settlement will remain binding and enforceable with respect to all Parties including without limitation Settling Class Members (even if Plaintiffs or Class Counsel appeals the final award amount of the attorney's fees, litigation costs and/or Class Representatives' Enhancement Payments).

(g) Plaintiff and all Settling Class Members will indemnify, reimburse and hold each of the Released Parties harmless for any and all taxes, contributions, withholdings, fees or interest owed or claimed to be owed or any penalties, fines or assessments that may be imposed on the amounts paid to and received by each of them and assume any and all liability for all such taxes, contributions, fees, interest, penalties or fines assessed against the Released Parties. Plaintiff and all Settling Class Members also will indemnify the Released Parties for any and all costs they incur as a result of any claim made by any federal, state or local agency to collect monies for taxes, penalties, costs, interest, fees or contributions that allegedly are owing as a result of the amounts paid to Plaintiffs or all Settling Class Members under this Stipulation.

(h) The Claims Administrator shall remit and report the applicable portions of the payroll tax payment to the appropriate taxing authorities on a timely basis pursuant to its duties and undertakings set forth in Paragraph 2.32. Defendant agrees to reasonably cooperate with the Claims Administrator to the extent necessary to determine the amount of the payroll tax payment required under this Paragraph.

6.11.7 **No Additional Contribution by Defendant.**

(a) Defendant's monetary obligation under this Stipulation is limited to

1 the amount defined as the Gross Settlement Amount. Defendant will not be called upon or
2 required to contribute additional monies above the Gross Settlement Amount under any
3 circumstances whatsoever. All costs and expenses arising out of or in connection with the
4 performance of this Stipulation shall be paid from the Gross Settlement Amount, unless
5 expressly provided otherwise herein.

6 (b) When this settlement has been fully implemented, which shall be
7 after completion of any and all procedures set forth in Paragraphs 6.11.1 to 6.11.5 above,
8 Defendant will represent to Class Counsel and certify to the Court by way of a declaration made
9 by Defendant under penalty of perjury: (a) that Defendant has used its best and reasonable
10 efforts to properly identify each Class Member; (b) that Defendant has used its best and
11 reasonable efforts to locate addresses for the Class Members. The Claims Administrator will
12 certify to the Court that the computations of the amounts due to each Settling Class Member
13 have been accurately calculated and that the monies have been paid out pursuant to Paragraph
14 6.11.5 above. The Parties shall jointly file an Implementation Notice with the Court. The
15 Implementation Notice shall be accompanied by the declaration described in this Paragraph and
16 Paragraph 6.3.5. Upon filing of the Implementation Notice and the declaration, the condition
17 subsequent in the Final Judgment shall be satisfied.

18 **6.12 Release of Claims.**

19 6.12.1 Class Members who do not timely opt out of the settlement will, on
20 behalf of themselves, their heirs, spouses, executors, administrators, insurers, attorneys, agents
21 and assigns, fully and finally release and discharge Defendant and its Released Parties, from all
22 claims, rights, demands, liabilities and causes of action that are alleged, or reasonably could
23 have been alleged based on the facts and claims asserted in the Complaint in this Action
24 including, without limitation: (1) failure to provide required meal periods; (2) failure to provide
25 required rest periods; (3) failure to pay overtime compensation; (4) failure to pay minimum
26 wage and straight time wages; (5) failure to provide accurate statements and maintain required
27 records; (6) failure to pay all wages due to discharged or quitting employees; (7) unlawful
28 business practices; (8) failure to permit employee to inspect or copy records; and (9)

1 representative action for civil penalties under Cal. Lab. Code Sections 2698-2699.5. ("Released
2 Claims"). Class Members who do not opt out of the settlement may not sue or otherwise make a
3 claim against any of the Released Parties for the Released Claims. This release shall apply to
4 claims arising at any point up to September 21, 2016, or entry of preliminary approval of the
5 class settlement whichever is earlier.

6 6.12.2 In addition to the Class Members' Released Claims described above, in
7 exchange for a General Release Payment in the amount of \$5,000.00 to each, Named Plaintiffs
8 release, acquit, and discharge and covenant not to sue any of the Released Parties for any claim,
9 whether known or unknown, which Named Plaintiffs has ever had, or hereafter may claim to
10 have, arising on or before the date that each signs this Agreement, including without limitation
11 to, any claims relating to or arising out of any aspect of their respective employment, or the
12 termination of their respective employment, with Defendant, any claims for unpaid
13 compensation, wages, reimbursement for business expenses, penalties, or waiting time penalties
14 under the California Labor Code, the California Business and Professions Code, the federal Fair
15 Labor Standards Act, 29 U.S.C. section 201, et seq., or any federal, state, county or city law or
16 ordinance regarding wages or compensation; any claims for employee benefits, including
17 without limitation, any claims under the Employee Retirement Income Security Act of 1974;
18 any claims of employment discrimination, harassment or retaliation on any basis, including
19 without limitation, any claims under Title VII of the Civil Rights Act of 1964, the Civil Rights
20 Act of 1866, 42 U.S.C. section 1981, the Civil Rights Act of 1991, the Americans with
21 Disabilities Act of 1991, the Family and Medical Leave Act of 1993, the California Government
22 Code, or any other federal, state, county or city law or ordinance regarding employment
23 discrimination, harassment or retaliation. Each Named Plaintiff acknowledges and agrees that
24 the foregoing general release is given in exchange for the consideration provided to them under
25 this Agreement by Defendant. However, this release shall not apply to claims for workers'
26 compensation benefits, unemployment insurance benefits, pension or retirement benefits, or any
27 other claim or right that as a matter of law cannot be waived or released.

1 Named Plaintiffs expressly waive any rights or benefits available to them under the
2 provisions of Section 1542 of the California Civil Code, which provides as follows:

3 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
4 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
5 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
6 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR
7 HER SETTLEMENT WITH THE DEBTOR.

8 Named Plaintiffs understand fully the statutory language of Civil Code section 1542 and,
9 with this understanding, nevertheless elects to, and does, assume all risks for claims that have
10 arisen, whether known or unknown, which he or she ever had, or hereafter may claim to have,
11 arising on or before the date of each Named Plaintiffs' signature to this Agreement, and
12 specifically waives all rights they may have under California Civil Code section 1542.

13 6.12.3 Every Settling Class Member agrees that he or she shall not be entitled to
14 a double recovery and, therefore, will not institute a claim for, nor accept, back pay, penalties or
15 any compensation from any other suit, class, representative or collective action, administrative
16 claim or other claim of any sort or nature whatsoever against any of the Released Parties for any
17 of the Released Claims up through the date of Preliminary Approval.

18 6.12.4 In addition, as long as the Court awards the Enhancement Payments in
19 any amount to the Class Representatives, upon the date of Final Approval, the Class
20 Representatives shall be deemed to have fully, finally, and forever released the Released Parties
21 from the Class Representatives' Released Claims.

22 6.12.5 Class Representatives may hereafter discover facts in addition to or
23 different from those they now know or believe to be true with respect to the subject matter of the
24 Class Representatives' Released Claims, but Class Representatives upon the date of the Final
25 Approval, shall be deemed to have, and by operation of the Final Judgment, shall have, fully,
26 finally, and forever settled and released any and all of the claims released pursuant to the Class
27 Representatives' Released Claims, whether known or unknown, suspected or unsuspected,
28 contingent or non-contingent, which now exist, or heretofore have existed upon any theory of

1 law or equity now existing or coming into existence in the future, including, but not limited to,
2 conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or
3 rule, without regard to the subsequent discovery or existence of such different or additional
4 facts. This includes a waiver of Section 1542, as quoted in full in Paragraph 6.12.2.

5 6.12.6 Plaintiffs warrant and represent that Plaintiffs have not assigned or
6 transferred or purported to assign or transfer to any person or entity all or any part of or any
7 interest in any claim released under this Stipulation. Plaintiffs and Plaintiffs' Counsel agree that
8 they solely are responsible for the satisfaction of any assignment or lien to any lien holder and
9 will indemnify and hold the Released Parties harmless against any liens, damages, penalties,
10 fines, fees, assessments, taxes or attorneys' fees that may be imposed against or incurred by any
11 of the Released Parties as a result of the actions of any lien holder or any lien claimant or any
12 taxing authority or any court in relation to any interest which any third party may have in any
13 claim which Plaintiffs are releasing under this Stipulation or any interest in any of the proceeds
14 paid to Plaintiffs or Plaintiffs' Counsel under this Stipulation.

15 **6.13 Miscellaneous Provisions.**

16 6.13.1 **Non-Admission of Liability.** Neither the acceptance nor the
17 performance by Defendant of the terms of this Stipulation, nor any of the related negotiations or
18 proceedings, is or shall be claimed to be, construed as, or deemed to be, an admission by
19 Defendant of the truth of any of the allegations in the Complaint, the representative character of
20 the Action, the validity of any of the claims that were or could have been asserted by any of
21 Plaintiffs and/or Class Members in the Action, or of any liability or guilt of Defendant in the
22 Action. Nothing in this Stipulation shall be construed to be or deemed an admission by
23 Defendant of any liability, culpability, negligence, or wrongdoing toward Plaintiffs, the Class
24 Members, or any other person, and the Defendant specifically disclaim any liability, culpability,
25 negligence, or wrongdoing toward Plaintiff, the Class Members, or any other person. Each of
26 the Parties has entered into this Stipulation with the intention to avoid further disputes and
27 litigation.

6.13.2 **Communications.** Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States certified mail, return receipt requested, addressed as follows:

To the Plaintiff and the Class:

Farzad Rastegar, Esq.
Thomas S. Campbell, Esq.
RASTEGAR LAW GROUP, APC
22760 Hawthorne Boulevard, Suite 200
Torrance, California 90505
Telephone: (310) 961-9600
Facsimile: (310) 961-9094

To Defendant:

Randall S. Leff, Esq.
Pantea Yashar, Esq.
ERVIN COHEN & JESSUP LLP
9401 Wilshire Boulevard, Ninth Floor
Beverly Hills, California 90212-2974
Telephone: (310) 273-6333
Facsimile: (310) 859-2325

6.13.3 **Construction.** The Parties hereto agree that the terms and conditions of this Stipulation are the result of lengthy, intensive, arm's-length negotiations between the Parties and that this Stipulation shall not be construed in favor of or against any party by reason of the extent to which any party or its counsel participated in the drafting of this Stipulation.

6.13.4 **Public Statements.** The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, or respond to any inquiry from the press about this case other than describing what is available in public documents. Any communication about the settlement to Class Members other than Plaintiffs prior to the Court-approved mailing will be limited to a statement that a settlement has been reached and the details will be communicated in a forthcoming Court-approved notice. Neither Plaintiffs nor Class Counsel shall hold a press conference or otherwise seek to affirmatively contact the media about the settlement. If contacted by the media regarding the settlement, Plaintiffs and Class Counsel will state: "It is a fair settlement and we are happy with the results."

1 6.13.5 **Confidential Nature of Class Information.** All original electronic data
2 and all copies in any form made by or on behalf of Defendant's Counsel of the names,
3 addresses, and telephone numbers of the Class Members provided to Class Counsel, and the
4 original electronic data and all copies in any form made by or on behalf of the Defendant's
5 Counsel of Class Member data shall be maintained in a secure location and shall remain
6 confidential and shall not be used by or disclosed by Class Counsel in any way in any other
7 matter, including in any other potential or actual case, action or proceeding.

8 6.13.6 **No Exclusion by Class Representatives.** The Class Representatives, by
9 signing this Stipulation, are bound by the terms herein and further agree not to request to be
10 excluded from the settlement. Any such request for exclusion shall therefore be void and of no
11 force or effect.

12 6.13.7 **No Other Amounts Due.** Neither Class Counsel nor any other attorneys
13 acting for, or purporting to act for, the Class, Class Members, or Plaintiffs, may recover or seek
14 to recover any amounts for fees, costs, or disbursements from the Release Parties or the Gross
15 Settlement Amount except as expressly provided herein.

16 6.13.8 **Modification.** This Stipulation may not be changed, altered, or modified,
17 except in writing signed by the Parties hereto and approved by the Court. This Stipulation may
18 not be discharged except by performance in accordance with its terms or by a writing used by
19 the Parties hereto.

20 6.13.9 **Binding Nature.** This Stipulation shall be binding upon and inure to the
21 benefit of the Settling Parties hereto and their respective heirs, trustees, executors, claims
22 administrators, successors, and assigns.

23 6.13.10 **Signature by Class Representatives.** Because the proposed Class has
24 not yet been certified, and the members of the proposed Class are so numerous, the Parties agree
25 that it is impossible or impractical to have each Class Member sign this Stipulation. It is agreed
26 that, for purposes of seeking approval of the Class Settlement, this Stipulation may be executed
27 on behalf of the proposed Class by the Class Representatives.

1 6.13.11 **Execution in Counterparts.** This Stipulation shall become effective
2 upon its execution by all of the undersigned. Plaintiffs, Class Counsel, Defendant and
3 Defendant's Counsel may execute this Stipulation in counterparts, and execution of counterparts
4 shall have the same force and effect as if each had signed the same instrument.

5 6.13.12 **Enforcement.** This Stipulation is intended to and shall be full
6 enforceable pursuant to California Code of Civil Procedure section 664.6. The Court shall retain
7 jurisdiction with respect to the implementation and enforcement of the terms of the Stipulation,
8 and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and
9 enforcing the Settlement embodied in the Stipulation.

10 6.13.13 **Attorneys' Fees.** In the event that one or more of the Parties to this
11 Stipulation institutes any legal action, arbitration, or other proceeding to enforce the provisions
12 of this Stipulation or to declare rights and/or obligations under this Stipulation, the successful
13 party or parties shall be entitled to recover from the unsuccessful party or parties, reasonable
14 attorneys' fees and costs, including expert witness fees incurred in connection with any
15 enforcement actions.

16 6.13.14 **Choice of Law.** The Stipulation and the exhibits hereto shall be
17 considered to have been negotiated, executed, and delivered, and to have been wholly
18 performed, in the State of California, and the rights and obligations of the Settling Parties to the
19 Stipulation shall be construed and enforced in accordance with, and governed by, the substantive
20 laws of the State of California without giving effect to that State's choice of law principles.

21 6.13.15 **Paragraph Titles.** Paragraph titles or captions contained in the
22 Stipulation are inserted as a matter of convenience and for reference, and in no way define,
23 limit, extend, or describe the scope of this Stipulation, or any provision thereof.

24 6.13.16 **No Effect on Employee Benefits.** The Claim Amounts paid to eligible
25 Class Members shall be deemed not to be pensionable earnings and shall not have any effect on
26 the eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay,
27 retirement plans, etc.) of the Class Members. The Parties agree that any Settlement Share
28 payments to eligible Class Members under the terms of this Stipulation do not represent any

modification of Class Members' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant. Any amounts paid to former employees of Defendant pursuant to this Agreement shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

6.13.17 **Entire Agreement.** This Stipulation, including the Exhibits referenced herein (which form an integral part hereof), constitutes the entire agreement between the Parties with respect to the subject matter contained herein. Except as expressly provided herein, this Stipulation has not been executed in reliance upon any other oral or written representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary or contradict the Stipulation's terms. In entering into this Agreement, the Parties agree that this Stipulation is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. This Stipulation shall be construed as a whole according to its fair meaning and intent, and not strictly for or against any party, regardless of who drafted or who was principally responsible for drafting this Stipulation and/or any specific term or condition contained herein.

6.13.18 **Waiver.** Any failure of any Party, Defense Counsel, and/or Class Counsel to comply with any obligation, covenant, agreement, or condition of this Stipulation may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective Counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

6.13.19 **Circular 230 Disclaimer.** Each party to this Stipulation acknowledges and agrees: (1) that no provision of this Stipulation, and no written communication or disclosure between or among the Parties or their attorneys and other advisors, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax

1 advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part
2 10, as Amended); (2) that he, she, or it (a) has relied exclusively upon his, her, or its own,
3 independent legal and tax advisors for advice (including tax advice) in connection with this
4 Stipulation, (b) has not entered into this Stipulation based upon the recommendation of any
5 other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
6 communication or disclosure by any attorney or advisor to any other party to avoid any tax
7 penalty that may be imposed on the acknowledging party; and (3) that no attorney or advisor to
8 any other party has imposed any limitation that protects the confidentiality of any such
9 attorneys' or advisor's tax strategies (regardless of whether such limitation is legally binding)
10 upon disclosure by the party of the tax treatment or tax structure of any transaction, including
11 any transaction contemplated by this Stipulation.

12 **IN WITNESS WHEREOF**, this Stipulation of Settlement is executed by the Parties and
13 their duly authorized attorneys, as of the day and year herein set forth.

14 APPROVED AS TO CONTENT AND
15 FORM

16
17 Dated: September 27, 2016

18 By 
19 LUIS CALZADILLAS
20 Plaintiff

21 Dated: September _____, 2016

22 By _____
23 TREVIN RENFRO
24 Plaintiff
25
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27
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1 advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part
2 10, as Amended); (2) that he, she, or it (a) has relied exclusively upon his, her, or its own,
3 independent legal and tax advisors for advice (including tax advice) in connection with this
4 Stipulation, (b) has not entered into this Stipulation based upon the recommendation of any
5 other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
6 communication or disclosure by any attorney or advisor to any other party to avoid any tax
7 penalty that may be imposed on the acknowledging party; and (3) that no attorney or advisor to
8 any other party has imposed any limitation that protects the confidentiality of any such
9 attorneys' or advisor's tax strategies (regardless of whether such limitation is legally binding)
10 upon disclosure by the party of the tax treatment or tax structure of any transaction, including
11 any transaction contemplated by this Stipulation.

12 **IN WITNESS WHEREOF**, this Stipulation of Settlement is executed by the Parties and
13 their duly authorized attorneys, as of the day and year herein set forth.

14 APPROVED AS TO CONTENT AND
15 FORM

16
17 Dated: September ____, 2016

By _____
LUIS CALZADILLAS
Plaintiff

18
19
20 Dated: September 24, 2016

By Trevin Renfro
TREVIN RENFRO
Plaintiff

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RASTEGAR LAW GROUP, APC

Dated: ^{Oct} August 19, 2016

By [Signature]
FARZAD RASTEGAR
Attorneys for Plaintiffs and Class
Representatives LUIS CALZADILLAS
AND TREVIN RENFRO

Dated: August _____, 2016

INNOVATIVE COATINGS
TECHNOLOGY CORPORATION

By [Signature]
Its CEO

Dated: ^{October} August 11, 2016

ERVIN COHEN & JESSUP LLP

By [Signature]
RANDAL S. LEEF
Attorneys for Defendant
INNOVATIVE COATINGS
TECHNOLOGY CORPORATION

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

LUIS CALZADILLAS AND TREVIN RENFRO v. INNOVATIVE COATINGS TECHNOLOGY CORPORATION, Case No. S 1500-CV-283563

**If You Are or Were an Hourly Employee of
Innovative Coatings Technology Corporation,
You May Be Eligible for a Payment from
a Class Action Settlement.**

A court authorized this notice. This is not a solicitation by a lawyer.

- A proposed settlement has been reached in a class action lawsuit against Innovative Coatings Technology Corporation (“INCOTEC”), which alleges that the company failed to provide meal and rest breaks and failed to properly pay overtime wages and other related claims in violation of California law.
- INCOTEC denies that it did anything wrong and disputes the claims made against it. This is a settlement and is not a decision by the Court. The Court has not found that INCOTEC did anything wrong.
- **The approximate amount of your share under the settlement is stated in the Notice of Settlement Benefits enclosed herewith.**
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT THE ENCLOSED CLAIM FORM	If you no longer work for INCOTEC and wish to participate in the settlement, you must submit a completed claim form enclosed herewith, within the time allowed, as explained below. If the Court approves the settlement and it becomes final and effective, you will get a payment.
EXCLUDE YOURSELF	Get no payment. This is the only option that allows you to participate in any other lawsuit against INCOTEC regarding the legal claims in this case.
OBJECT	Write to the Court about why you do not like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	If you are a current employee of INCOTEC and have not excluded yourself from the settlement and the settlement is approved by the Court, you will automatically receive the payment to which you are entitled under the settlement and will give up your right to participate in further litigation against INCOTEC about the claims in this case.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.

- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made *only if* the Court approves the settlement and after appeals, if any, are resolved.

Please be patient.

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BASIC INFORMATION

1. Why did I get this notice?

A Court has authorized this notice because you have the right to know about a proposed settlement of this class action lawsuit and about all of your options before the Court decides whether to give final approval to the settlement. This notice explains the lawsuit, the settlement, and your legal rights.

Judge Sidney P. Chapin of the Bakersfield Superior Court is overseeing this case. This litigation is known as *Calzadillas et al v. Innovative Coatings Technology Corporation*, Case No. S-1500-cv-283563. The persons who sued are called the Plaintiffs and the company they sued, INCOTEC, is called the Defendant.

You received this notice because INCOTEC's records indicate that you are a current or former non-exempt (hourly) employee of INCOTEC who worked one or more eligible weeks between December 3, 2010 and September 21, 2016.

2. What is the lawsuit about?

The lawsuit alleges that INCOTEC failed to provide meal periods, failed to authorize and permit rest breaks and failed to properly pay overtime wages in compliance with California law. Based on those allegations, the lawsuit asserts claims for: (i) failure to provide meal breaks (Lab. Code §§ 226.7 and 512); (ii) failure to authorize and permit rest breaks (Lab. Code § 226.7); (iii) failure to pay minimum and straight time wages; (iv) failure to pay overtime compensation; (v) failure to timely pay wages upon termination of employment; (vi) failure to provide accurate statements and maintain required records; (vii) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and (viii) statutory penalties under the Private Attorneys General Act of 2004 (Lab. Code §§ 2698, et seq.). The First Amended Complaint in the lawsuit is posted on the website [www.\[domain\].com](http://www.[domain].com) and contains all of the allegations and claims asserted against INCOTEC.

INCOTEC denies Plaintiffs' claims and contends that it complied fully with California law and properly paid all amounts owed.

The Court has not decided which side is right.

3. Why is this a class action?

In a class action, one or more people, called Class Representatives (in this case, Luis Calzadillas and Trevin Renfro, sue on behalf of people who have similar claims. Together, all of the people with similar claims (except those who exclude themselves) are members of a "Settlement Class" and are called "Settlement Class Members."

4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Defendant. Instead, both sides agreed to a settlement. That way, they avoid the cost and inherent uncertainty of a trial, and the hourly employees and former employees affected will be eligible for compensation. The Class Representatives and the attorneys think that the settlement is best for everyone who was injured or damaged by the practices alleged in the lawsuit.

WHO IS IN THE SETTLEMENT

If you received this Notice of the Settlement and it is addressed to you, then you are likely a Settlement Class Member. It is possible, even if you did not receive this Notice of Settlement, that you may be a Settlement Class Member, as described below.

5. How do I know if I am part of the settlement?

Everyone who fits into the following description of the “Class” and one or more of the following “Sub-Classes” is a Settlement Class Member:

Class

Any and all persons currently or formerly employed by Defendant in California on an hourly, non-exempt basis from December 2, 2010 through September 21, 2016.

It was determined that you fit within this description based on INCOTEC’s business records.

6. I’m still not sure if I am included.

If you are not sure whether you are in the Settlement Class, or have any other questions about the settlement, visit the settlement website at [www.\[domain\].com](http://www.[domain].com) or call the Settlement Administrator toll free at [phone number].

THE SETTLEMENT BENEFITS – WHAT YOU GET

7. What does the settlement provide?

Under the settlement, INCOTEC has agreed to pay \$850,000.00 (the “Gross Settlement Amount”) to: (i) make payments to eligible Settlement Class Members; (ii) pay PAGA penalties to the State of California in the amount of \$7,500.00; (iii) pay all applicable employee tax withholdings; (iv) pay all employer-paid payroll taxes, including the employer FICA, FUTA and SDI contributions; (v) pay the costs of the Court-appointed Settlement Administrator, who is charged with providing notice to the Settlement Class and administering the settlement; (vi) pay any special service payments that the Court may award to the Class Representatives for bringing the lawsuit; (vii) pay the attorneys’ fees and reimbursement of litigation costs that the Court may award to the attorneys who prosecuted this litigation on behalf of the Settlement Class.

Payments to each Settlement Class Member will be based on a formula that allocates the Settlement Fund *after* the payment of applicable PAGA penalties, deducting the costs of providing notice and administering the settlement, taxes, the service payment awarded to the Class Representative by the Court and the attorneys’ fees and reimbursement of costs awarded by the Court. The amount remaining after deducting these costs from the Settlement Fund is called the Net Settlement Amount.

The Settlement Administrator will allocate the Net Settlement Amount across all Participating Settlement Class Members (i.e., Settlement Class Members who have not opted-out of the settlement) based on the following distribution formula:

[The Net Settlement Amount] divided by [the aggregate total of all eligible weeks worked by all Participating Settlement Class Members]

multiplied by [the number of eligible weeks worked by the individual Participating Settlement Class Member.]

The Net Settlement Amount allocated to each Participating Class Member pursuant to the above formula is called the "Settlement Share."

One-third (33.3%) of the Settlement Share to each Participating Class Member will be allocated as wages and two-thirds (67.7%) of the Settlement Share will be allocated as penalties and interest. The employee and employer portions of the taxes on the wage portion of the Settlement Share to each Participating Class Member will be withheld in accordance with applicable law. You will receive a W-2 for the wage portion of the Settlement Share and you will receive a Form 1099 for the portion of the Settlement Share allocated to interest and penalties. You are responsible for paying your taxes on any amount you receive. This Notice is not tax advice and you should consult your tax advisor. Checks will be valid for 90 days.

8. How much will my payment be?

It is not possible to know at this point exactly how much any Settlement Class Member's payment will be, since the amount of payment will depend on factors that are not presently known, including: (i) the number of Settlement Class Members who ultimately participate in the settlement; (ii) the ultimate costs of providing notice and administering the settlement; and (iii) the amount that the Court ultimately awards as a service payment to the Class Representative and in attorneys' fees and costs.

The approximate amount of your share of the Net Settlement Amount has been calculated using the formula identified in response to Question 7 based on a 100% participation by all Settlement Class Members, an estimated cost of \$13,500 for providing notice and administering the settlement claims, payment of \$7,500 in PAGA penalties, a service payment of \$5,000 to each Class Representative, payment of \$5,000 to each Class Representative for releasing any and all claims they may have against INCOTEC, and an award of attorney's fees of \$297,500.00 and reimbursement of litigation costs of up to \$15,000.

The estimated amount of your share of the Net Settlement Amount, based on the above assumptions, is stated on the Notice of Settlement Benefits that is included with this Notice.

9. When will I receive my payment?

Settlement Class Members, who do not opt-out of the settlement and are entitled to a payment based on the distribution formula explained in response to Question 7, will receive their payments by check only after the Court grants final approval to the settlement and after any appeals are resolved (see "The Final Approval Hearing" below). If there are appeals, resolving them can take time. Please be patient.

10. What I am giving up to stay in the Settlement Class?

Unless you exclude yourself from the settlement, you cannot sue INCOTEC, or be part of any other lawsuit against INCOTEC about the issues in this case. Unless you exclude yourself, all of the decisions by the Court will bind you. The Stipulation of Settlement is available at [www.\[domain\].com](http://www.[domain].com) and fully describes the claims that you give up if you remain in the settlement.

HOW TO RECEIVE PAYMENT

11. How can I receive a payment?

Settlement Class Members who are current employees of INCOTEC who do not opt-out of the settlement will receive payments from the settlement automatically. They do not have to do anything in order to receive that payment. As long as you do not exclude yourself from the Settlement (see Question 12), the payment will be made automatically by check mailed to you at the address INCOTEC has on file or at such updated address as the Settlement Administrator can identify. Please contact the Settlement Administrator if you change your address.

Settlement Class Members who are former employees of INCOTEC who do not opt-out of the settlement will receive payments if they mail in the fully filled out claim form provided herein to the Settlement Administrator by [Month and Day 2016].

You can also contact the Settlement Administrator by email at [email address] or by phone at [phone number].

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want money from this settlement, but you want keep your right to sue (or continue to sue) INCOTEC about the legal issues in this case, then you must take steps to “opt out.” This is called excluding yourself – or is sometimes referred to as “opting out” of the Settlement Class.

12. How do I get out of the settlement?

If you are a Settlement Class Member and do NOT wish to remain part of the Settlement Class, you may elect to exclude yourself (“opt-out”) provided that such request is made in writing and postmarked on or before [Month and Day], 2016. **Do not submit a request to exclude yourself if you want to obtain compensation under the Settlement.** Persons who exclude themselves from the Settlement will not be entitled to share in the benefits of the settlement and they will not be bound by any orders or judgment rendered in this case. If you do not exclude yourself from the Settlement Class by the deadline, you will be bound by the Settlement Agreement, including the release and dismissal, and any consequences the settlement might have on your right to any legal relief not sought in this action. In making a decision whether to remain a Settlement Class Member or to exclude yourself from the Class, please carefully review this notice.

To request exclusion you must submit the exclusion form provided herewith and mailed by [month and Day 2016] to the Settlement Administrator. Your request for exclusion must be signed, dated and mailed by First Class U.S. Mail, or the equivalent, to:

INCOTEC Settlement Administrator
c/o Phoenix Class Action Settlement Administrators
[INSERT ADDRESS OF ADMINISTRATOR]

Your request for exclusion must be postmarked no later than [Month and Day], 2016. **If you submit a Request for Exclusion which is not postmarked by [Month and Day], 2016, your Request for Exclusion will be rejected and you will be bound by the release and all other settlement terms.**

If the request for exclusion is sent from within the United States it must be sent through the United States Postal Service by First Class Mail, or the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your Request for Exclusion.

Any person who submits a complete and timely request for exclusion shall, upon receipt, no longer be a member of the Settlement Class, shall be barred from participating in any portion of the settlement, and shall receive no benefits from the settlement. Any such person, at his or her own expense, may pursue any claims he or she may have against INCOTEC.

13. If I do not exclude myself, can I sue INCOTEC for the same thing later?

No. Unless you exclude yourself, you give up the right to sue INCOTEC for the claims that the Settlement resolves. You must exclude yourself from the Settlement Class in order to try to maintain your own lawsuit.

14. If I exclude myself, can I get money from this settlement?

No. You will not get a payment if you exclude yourself from the settlement.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in this case?

The Court has appointed the law firm of Rastegar Law Group A.P.C. to represent you and all Settlement Class Members. Together, the lawyers are called Class Counsel and can be reached at:

CLASS COUNSEL
Farzad Rastegar, Esq. Thomas S. Campbell, Esq. Rastegar Law Group, A.P.C. 22760 Hawthorne Boulevard, Suite 200 Torrance, CA 90505 Telephone: (310) 961-9600 Facsimile: (310) 961-9094

You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

16. How will the lawyers be paid?

Class Counsel intend to request up to \$297,500.00 (35 percent of the Gross Settlement Amount) for attorneys' fees, plus reimbursement of the costs and expenses of up to \$15,000 for prosecuting the class action. The fees and expenses awarded by the Court will be paid out of the Settlement Fund. The Court will decide the amount of fees to award. Class Counsel will also request that special service payment of \$5,000 be paid from the Gross Settlement Amount to each Class Representative for their service as representatives on behalf of the whole Settlement Class. Class Counsel will also request that each Class

Representative be paid \$5,000.00 for their releasing all the individual claims they may have against INCOTEC beyond those contained in the complaint filed in this case to be paid from the Gross Settlement Amount.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the settlement or some part of it.

17. How do I tell the Court that I don't like the settlement?

If you are a member of the Settlement Class, you can object to any part of the settlement, the settlement as a whole, Class Counsel's requests for fees and expenses, and/or the special service payments to the Class Representatives. However, if the Court rejects your objection, you will still be bound by the terms of the settlement. You will not be allowed to object if you have submitted a valid and timely request for exclusion.

To object, you must check the box marked "I object" on the claim form you will send to the administrator, and also submit a letter that includes the following to the three addresses below:

- Your full name, current address, and telephone number;
- A statement saying that that you object to settlement in *Calzadillas et al v. Innovative Coatings Technology Corporation*, Case No. S-1500-cv-283563;
- The reasons you object to the settlement, along with any supporting materials;
- Whether you intend to appear at the final fairness hearing with or without separate counsel;
- If you intend to appear at the fairness hearing with separate counsel, the names of all attorneys who will separately represent you; and
- Your signature.

You must mail your objection to each of the following three addresses, and your objection must be postmarked by **[Month and Day], 2016**:

THE COURT	CLASS COUNSEL	COUNSEL FOR DEFENDANT
Clerk of the Court Department 4 Bakersfield Superior Court 1415 Truxtun Avenue, Bakersfield, California 93301	Farzad Rastegar RASTEGAR LAW GROUP, APC 22760 Hawthorne Boulevard, Suite 200 Torrance, CA 90505	Randall S. Leff ERVIN COHEN & JESSUP LLP 9401 Wilshire Boulevard, Ninth Floor Beverly Hills, CA 90212-2974

Any member of the Settlement Class who does not make and serve his or her written objections in the manner provided above shall be deemed to have forever waived such objections and shall be foreclosed from making any objections to the settlement, by appearance or otherwise.

If you file your objections but the Court approves the settlement as proposed, you will still be eligible for settlement payment.

18. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want

to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you do not have to.

19. When and where will the Court decide whether to approve the settlement?

The Court has scheduled a Final Approval Hearing on [Month and Day], 2016 at [Time] at Department 4 of the Bakersfield Superior Court, located at 1415 Truxtun Avenue, Bakersfield, California 93301. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.\[domain\].com](http://www.[domain].com) for updates.

At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider any request by Class Counsel for attorney's fees and expenses as well as the request for the award of payments to the Class Representatives. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the settlement. We do not know how long the decision will take.

20. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense.

21. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send a letter saying that you intend to appear and wish to be heard. Your Notice of Intention to Appear must include the following:

- Your name, address, and telephone number;
- A statement that this is your "Notice of Intention to Appear" at the Final Approval Hearing for the settlement in *Calzadillas et al v. Innovative Coatings Technology Corporation*, Case No. S-1500-cv-283563;
- The reasons you want to be heard;
- Copies of any papers, exhibits or other evidence or information that you will present to the Court; and
- Your signature.

You must send copies of your Notice of Intention to Appear, postmarked by [Month Day], 2015, to all three addresses listed in response to Question 19. You cannot speak at the hearing if you exclude yourself from the settlement.

GETTING MORE INFORMATION

22. How do I get more information?

This notice summarizes the proposed settlement. More details are in the Stipulation of Settlement. For a complete, definitive statement of the settlement terms, refer to the Stipulation of Settlement at [www.\[domain\].com](http://www.[domain].com). You also may write with questions to the Settlement Administrator at:

INCOTEC Settlement Administrator
c/o Phoenix Class Action Settlement Administrators
[INSERT ADDRESS OF ADMINISTRATOR]

You can also contact the Settlement Administrator by email at [email address] or by phone at [phone number].

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION

EXHIBIT 3

CLAIM FORM

Calzadillas et al v. Innovative Coatings Technology Corporation,
 Superior Court of California, County of Kern,
 Case No. S-1500-cv-283563

ATTENTION: YOU HAVE BEEN IDENTIFIED AS A MEMBER OF THE CLASS DESCRIBED IN THE NOTICE OF SETTLEMENT THAT WAS SENT TO YOU WITH THIS FORM. IF YOU WISH TO RECEIVE PAYMENT FROM THE PROPOSED SETTLEMENT, YOU MUST SUBMIT THIS FORM TO THE CLAIMS ADMINISTRATOR BY [60 DAYS FROM MAILING OF CLAIM FORM].

INSTRUCTIONS: If you wish to participate in the proposed settlement and receive a monetary award, you must **complete, sign, and return** this claim form in the self-addressed, stamped envelope contained herein to the Claims Administrator at:

Luis Calzadillas v. Innovative Coatings Technology Corporation
 c/o Phoenix Class Action Settlement Administrators
 [address]
 [Insert toll free telephone number]

THE DEADLINE FOR SUBMITTING THIS FORM IS [60 DAYS FROM MAILING OF CLAIM FORM]. IF YOU SUBMIT THIS FORM VIA MAIL, IT MUST BE POSTMARKED BY THIS DATE, OR IT MAY BE REJECTED.

It is your responsibility to ensure that the Claims Administrator has timely received your Claim Form. If you move, it is your responsibility to send the Claims Administrator your new address and contact information to ensure receipt of further notices and your settlement payment. You may contact the Claims Administrator at the toll-free number listed above.

1. CLAIMANT IDENTIFICATION

Id number [CORRECT INFORMATION]

<<Name>>

<<Address>>

<<City>>, <<State>> <<Zip>>

If any of the information above is incorrect, YOU MUST provide the correct information in the space provided above and return this page with page 2.

2. EMPLOYMENT WITH INNOVATIVE COATINGS TECHNOLOGY CORPORATION

Section A: Based on records, it is believed that you were a non-exempt, non-supervisory, hourly employee at some point from December 3, 2010 to [insert September 21, 2016 or date of Preliminary Approval whichever is earlier] at the Innovative Coatings Technology Corporation facility in Mojave, California. Innovative Coatings Technology Corporation records indicate that you worked a total of ___ workweeks during the Class Period. Based on this figure, it is currently estimated that you will receive approximately \$_____ if you submit this Claim Form.

If you **agree** with Section A, the information contained therein, and want to participate in the settlement and receive your monetary recovery, please complete, sign, date, and return, where indicated on the last page, this Claim Form on or before [60 DAYS FROM MAILING OF CLAIM FORM].

If you **disagree** with Section A and the information contained therein, you must submit information regarding the number of workweeks you worked between December 3, 2010 and [insert September 21, 2016 or date of Preliminary Approval whichever is earlier] and any documents supporting your position to the Claims Administrator post-marked no later than [60 days from mailing of claim form]. The determination of the Claims Administrator as to disputed claims shall be conclusive, final and binding on all Parties, including all Class Members.

3. RELEASE OF CLAIMS:

By making a claim, I agree to the terms of the settlement, which include releasing Innovative Coatings Technology Corporation and its agents, officers, employees, successors, or anyone acting on their behalf or related to them in any way ("Released Parties") from the claims set forth in the lawsuit as more fully described in the notice of class action settlement (the "Released Claims"). The Released Claims are defined as the claims that have been brought in the pending class action lawsuit or that reasonably arise out of the facts alleged in the pending lawsuit, including claims for unpaid wages or penalties under Labor Code Sections 203, 226, 226.7, 510, 512, 1194 and 2698, *et seq.* The Released Claims do not include Workers Compensation claims, unemployment claims, pension or retirement benefits, or any other claim or right that as a matter of law cannot be waived or released.

I agree that I will not make a claim against any of the Released Parties that is in any way related to the Released Claims.

I declare under penalty of perjury under the laws of the State of California that the foregoing information is true and accurate, that I have read and understand the Notice that was mailed with this Claim Form and agree to abide by the terms of the Notice and this Claim Form.

Signed: _____ Dated: _____

Print Name: _____

Telephone No.: _____

EXHIBIT 4

REQUEST FOR EXCLUSION FORM

Superior Court of California, County of Kern

Calzadillas et al v. Innovative Coatings Technology Corporation,
Case No. S-1500-cv-283563

**IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT,
DO NOT FILL OUT THIS FORM.**

**IF YOU DO NOT WANT TO BE INCLUDED IN THE CLASS ACTION
SETTLEMENT, YOU MUST SIGN THIS DOCUMENT AND MAIL IT TO THE
ADDRESS BELOW, POSTMARKED NOT LATER THAN
60 days from date of mailing. IT MUST BE MAILED TO:**

Luis Calzadillas v. Innovative Coatings Technology Corporation
c/o Phoenix Class Action Settlement Administrators
[address]

I declare as follows:

I was employed as an hourly non-exempt employee for Innovative Coatings Technology Corporation at any time between December 3, 2010 and September 21, 2016 or date of preliminary approval whichever is earlier. I have received and reviewed the Notice of Pendency of Class Action Settlement in this action and I wish to be *excluded* from the class and *not* participate in the proposed settlement.

Dated: _____

(Signature)

(Typed or Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number, Including Area Code)

(Social Security Number – last 4 digits only)

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA,)
3 COUNTY OF LOS ANGELES) ss

4 I am employed in the County of Orange, State of California. I am over the age of
5 eighteen (18) years and not a party to the within action. My business address is 22760
Hawthorne Boulevard, Suite 200, Torrance, California 90505.

6 On October 20, 2016, I served the following document or documents:

7 **DECLARATION OF FARZAD RASTEGAR IN SUPPORT OF PLAINTIFFS'**
8 **MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION**
9 **SETTLEMENT AND CERTIFICATION OF PROVISIONAL SETTLEMENT**
10 **CLASS**

11 [X] by placing a true copy thereof enclosed in sealed envelope(s) addressed as follows:

12 **Randall S. Leff, Esq.**
13 **Pantea Yashar, Esq.**
14 **ERVIN COHEN & JESSUP, LLP**
15 **9401 Wilshire Blvd, 9th Floor**
16 **Beverly Hills, CA 90212**

17 **Attorneys for Defendant Innovative Coatings Technology Corp.**

18 [] **BY MAIL**

19 [] I caused such envelope(s) to be deposited in the mail at Torrance, California. The
20 envelope(s) was/were mailed with postage thereon fully prepaid.

21 [] I am "readily familiar" with the firm's practice of collection and processing
22 correspondence for mailing. It is deposited with U.S. postal service on that same day with
23 postage thereon fully prepaid at Torrance, California in the ordinary course of business. I
24 am aware that on motion of party served, service is invalid if postal cancellation date or
25 postage meter date is more than 1 day after the date of deposit for mailing in affidavit.

26 [X] **BY NEXT BUSINESS DAY DELIVERY**

27 [X] **BY EMAIL**

28 [] **BY PERSONAL SERVICE**

[X] (State) I declare under the penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

Executed: October 20, 2016, at Torrance, California.


Vicky Hernandez