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FILED
ALAMEDA COUNTY

MAY 17 2023

CLERK OF THE SUPERIOR COURT
Nicole [Signature]

6 Attorneys for Plaintiff, on a representative basis and on behalf of all others similarly situated
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ALAMEDA
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11 ASTRID OROZCO, individually, on a
representative basis, and on behalf of all
12 others similarly situated;

13 Plaintiff,

14 vs.

15 DELPHON INDUSTRIES, LLC, a
16 Delaware Limited Liability Company; and
17 DOES 1 through 20, inclusive;

18 Defendants.
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Case No.: 22CV006597
[Assigned to Hon. Judge Evelio Grillo, Dept. 21,
for all purposes]

~~PROPOSED~~ ORDER:

- 1) PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT;
- 2) CONDITIONALLY CERTIFYING A CLASS FOR SETTLEMENT PURPOSES ONLY;
- 3) DIRECTING DISTRIBUTION TO THE CLASS OF THE SETTLEMENT NOTICE AND EXPLANATION FORM; AND
- 4) SETTING A HEARING FOR FINAL APPROVAL OF THE SETTLEMENT

Complaint filed: February 4, 2022

25 Having reviewed and read the Amended Class and Representative Action Settlement
26 Agreement and Release of Claims (the "Settlement Agreement") between Plaintiff Astrid Orozco
27 and Defendant Delphon Industries, LLC. (collectively, the "Parties"), as well as the
28 Memorandum of Points and Authorities in Support of the Unopposed Motion for Preliminary

1 Approval of Class Action Settlement, the documents submitted in support of the motion, and all
2 supporting legal authorities and documents, IT IS HEREBY ORDERED:

3 1. The Court GRANTS preliminary approval of the Settlement based upon the terms
4 set forth in the Settlement Agreement and finds its terms to be within the range of reasonableness
5 of a settlement that ultimately could be granted final approval by the Court at a Final Approval
6 hearing. The settlement appears to be fair, adequate and reasonable to the Class. Based on a
7 review of the papers submitted by Plaintiff, the Court finds that the Settlement is the result of
8 arms-length negotiations conducted after the Parties adequately investigated and became familiar
9 with the strengths and weaknesses of the claims. The assistance of an experienced mediator in
10 the Settlement process supports the Court's conclusion that the Settlement is non-collusive.

11 2. For settlement purposes only, the Court finds that the proposed Class is
12 ascertainable and that there is a sufficiently defined community of interest among the Class
13 Members in questions of law and fact. The Court, therefore, conditionally certifies the following
14 Class, for settlement purposes only:

15 All current and former non-exempt employees employed by
16 Defendant at any time during the Class Period.

17 3. Additionally, the "Aggrieved Employees" are defined to include: all current and
18 former non-exempt employees employed by Defendant during the PAGA Period.

19 4. As set forth in the Settlement Agreement and as relevant to Class and Aggrieved
20 Employees definitions: (a) "Class Period" means the period of February 4, 2017, through
21 February 13, 2023 or the date of this Order, whichever is earlier, and (b) "PAGA Period" means
22 the period of February 4, 2017, through February 13, 2023 or the date of this Order, whichever is
23 earlier.

24 5. The class action settlement set forth in the Settlement Agreement between
25 Plaintiff and Defendant is preliminarily approved as it appears to be proper, to fall within the
26 range of a fair, reasonable and adequate settlement, and to be presumptively valid, subject only
27 to any objections that may be raised at the Final Approval Hearing.

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1 6. For settlement purposes only, the Court appoints Plaintiff Astrid Orozco as Class
2 Representative, and Brian Mankin and Peter Carlson as Class Counsel.

3 7. The Court approves Phoenix Settlement Administrators to act as the Settlement
4 Administrator.

5 8. The Court approves, as to form and content, the Class Notice, which is attached
6 hereto as **Exhibit A**, and finds that the Class Notice satisfies the requirements of California Rule
7 of Court, rules 3.766 and 3.769, subd. (f), and fairly apprises the Class Members of the terms of
8 the final approval hearing date, the proposed settlement terms and of their options, including: (1)
9 the nature of the action, the definition of the Class, the identity of Class Counsel, and the
10 essential terms of the Settlement; (2) Plaintiff's and Class Counsel's applications for the Class
11 Representative Service Payment, and Class Counsel's request for attorneys' fees and costs; (3) a
12 formula used to determine the Class Member's estimated Individual Settlement Payment; (4)
13 Settlement Class Members' rights to appear through counsel if they desire; (5) how to object to
14 the Settlement or submit an opt-out request if a Class Member wishes to do so; and (6) how to
15 obtain additional information regarding the action and Settlement. Counsel for the Parties are
16 authorized to correct any typographical errors in settlement and make clarifications, to the extent
17 the same are found or needed, so long as such corrections do not materially alter the substance of
18 the documents.

19 9. The Court approves the procedure for Class Members to participate in, request
20 exclusion from or object to, and preserve appeal rights as set forth in the Settlement Agreement
21 and the Class Notice.

22 10. The Court finds that the deadlines and method set forth in the Settlement
23 Agreement for the mailing of the Class Notice meet the requirements of due process, provide the
24 best notice practicable under the circumstances, constitute due and sufficient notice to all persons
25 entitled to notice, and otherwise satisfy the requirements of California law and due process.

26 11. The Court directs the Settlement Administrator to perform address verification
27 measures and mail the Class Notice by first class mail to the Class Members not later than ten
28 (10) calendar days after it receives the "Class Data" as defined in the Settlement Agreement and

1 to otherwise carry out the Settlement according to the terms of the Settlement Agreement and in
 2 conformity with this Order. The Parties are also ordered to carry out the Settlement according to
 3 the terms of the Settlement Agreement.

4 12. All Class Members shall be deemed to participate in the Settlement, although any
 5 Class Member who wishes to comment on or object to the Settlement or who elects not to
 6 participate in the Settlement has until sixty (60) calendar days after the mailing of the Class
 7 Notice to submit his or her objection or request to be excluded, pursuant to the procedures set
 8 forth in the Class Notice.

9 13. The Court approves the handling of unclaimed funds set forth in the Settlement
 10 Agreement, specifically that any unclaimed funds in the Settlement Administrator's account as a
 11 result of a failure to timely cash a settlement check shall be issued to the State Controller's
 12 Office in the name of the Class Member, as set forth in the Settlement Agreement.

13 14. The following dates shall govern for purposes of this settlement:

14 April 11, 2023	Preliminary Approval (PA) hearing
15 May 5, 2023 (24 days after PA)	Deadline for Settlement Administrator to complete first mailing of the Notice Packet to all Settlement Class Members.
16 July 5, 2023 (60 days after mailing Class Notice)	Deadline for Settlement Class Members to submit Requests for Exclusion and Objections to the settlement.
17 16 court days before Final Approval hearing	Deadline for Plaintiff to file and serve Motion for Final Approval and application for award of attorneys' fees, costs and service payments.
18 9 court days before Final Approval hearing	Deadline for filing of any written opposition to Plaintiff's Motion for Final Approval, or filing any response to an objection to the settlement.
19 5 court days before final approval hearing	Deadline for filing of any written reply to opposition Motion for Final Approval
20 TBD (Approximately August 9, 2023 - 120 days after Preliminary Approval)	Final Approval Hearing.
21	<i>Counsel to obtain hearing date through the Court's public Portal.</i>

22 15. A final approval hearing shall be held in this Court on
 23 Friday, 2023 at 9:00 a.m. to determine (1) whether the proposed
 24 settlement is fair, reasonable, and adequate and should be finally approved by the Court; (2) the

1 amount of Attorneys' Fees and Costs Award to Class Counsel; and (3) the amount of the Service
2 Payment to the Class Representative. The Court may continue or adjourn the final approval
3 hearing without further notice to the Class Notice.

4 16. Counsel for the parties shall file memoranda, declarations, or other statements and
5 materials in support of their request for final approval of the Settlement, attorneys' fees,
6 litigation costs, Class Representative's Service Payment, Settlement Administration Costs, and
7 payment to LWDA for PAGA penalties prior to the Final Approval hearing according to the time
8 limits set by the Code of Civil Procedure and the California Rules of Court.

9 17. Neither this Order, the Settlement Agreement, nor any document referred to
10 therein, nor any action taken to carry out the settlement embodied in the Settlement Agreement
11 may be construed as, or may be used as an admission by or against Defendant or any of the other
12 Released Parties (as that term is defined in the Settlement Agreement) of any fault, wrongdoing
13 or liability whatsoever. The entering into or carrying out of the Settlement Agreement, and any
14 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to
15 be evidence of, an admission or concession with regard to the denials or defenses by Defendant
16 or any of the other Released Parties and shall not be offered in evidence in any action or
17 proceeding against Defendant or any of the Released Parties in any court, administrative agency
18 or other tribunal for any purpose whatsoever other than to enforce the provisions of this Order,
19 the Settlement Agreement, or any related agreement or release.

20 18. The Court may, for good cause shown, extend any of the deadlines set forth in
21 this Order.

22 19. In the event that the Settlement Agreement does not receive final approval or the
23 Effective Date of the Settlement does not occur, this Order shall be rendered null and void and
24 shall be vacated.

25 20. Pending the Final Approval hearing, all proceedings in this action, other than
26 proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this
27 Order, are stayed.

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1 21. The terms of the Settlement Agreement, executed March 30, 2023, are fully
2 incorporated and adopted through this Court's order.

3 22. Counsel for the parties are hereby authorized to utilize all reasonable procedures
4 in connection with the administration of the Settlement which are not materially inconsistent
5 with either this Order or the terms of the Settlement.

6
7 Date: MAY 17 2023



Hon. Evelio Grillo

EXHIBIT "A"

NOTICE OF SETTLEMENT OF CLASS AND REPRESENTATIVE ACTION

Astrid Orozco v. Delphon Industries, LLC.

Superior Court of the State of California, County of Alameda, Case No. 22CV006597

To: All current and former nonexempt employees who were employed by Delphon Industries, LLC (“Delphon”) in California at any time between February 4, 2018, and _____, 2023 (*administrator to fill in the earlier of February 13, 2023, or PA Date) (the “Class”):

THIS NOTICE is of a proposed settlement of the above-referenced class action and representative action lawsuit (the “Lawsuit”), and a court hearing that you may attend. Your rights may be affected by the legal proceedings in this Lawsuit. The Court will conduct a hearing on _____, 2023, to address whether the proposed settlement should be approved (the “Final Approval Hearing”). You may be entitled to receive a payment under the terms of this class action settlement (“Settlement”).

[IDENTIFYING INFORMATION]

You have been identified as a Class Member and possible Aggrieved Employee in the above Lawsuit. Under the terms of the proposed settlement, you are estimated to receive \$INSERT AMOUNT based on the number of eligible weeks and pay periods that you worked for Delphon in California between February 4, 2018 and _____, 2023 (*administrator to fill in the earlier of February 13, 2023, or PA Date) (the “Class Period”) as your share of the Settlement should the Court approve the Settlement. Please note your actual share of the Settlement may be more or less than this estimate. Your options and eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	If you want to receive your full settlement payment, no further action is required. You will automatically receive your settlement payment from the Settlement Administrator if the Settlement receives final approval by the Court. By accepting your full settlement payment, you will be bound by the terms of the Settlement and will give up your right to sue on the released class and PAGA claims described in Section IV under the provisions titled “Release of Class Claims” and “Release of PAGA Claims.”
EXCLUDE YOURSELF	If you do not wish to participate in the settlement of the Class Claims, you may “opt-out” of the settlement of the Class Claims. If you choose to opt-out, you must submit a Request for Exclusion by _____, 2023 (see Section V(B) for more details on how to opt-out). If you opt-out of the settlement of the Class Claims, you will no longer be a Class Member, and you will (1) neither receive any settlement payment for the Class Claims nor release any Class Claims as set forth in Section IV, and (2) be barred from filing an objection to the Settlement. You still will receive a payment as part of the civil penalties paid pursuant to the California Private Attorneys General Act of 2004 (“PAGA”).
OBJECT	If you decide to object to the Settlement with respect to the Class Claims because you find it unfair or unreasonable, you must submit an objection by _____, 2023 (see Section V(C) for more details on how to object).

I. Why should I read this Notice?

The Court has granted preliminary approval of a proposed settlement (the “Settlement”) in *Orozco v. Delphon Industries, LLC*, Alameda County Superior Court Case No. 22CV006597 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

Delphon’s records show that you were employed as a nonexempt employee (meaning you were paid hourly or eligible for overtime pay) in California at some point between February 4, 2018, and _____, 2023 (*administrator to fill in the earlier of February 13, 2023, or PA Date) (“Class Period”). The Court ordered this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT: If you were employed by Delphon as a nonexempt employee in California at any time during the Class Period, you are automatically included in the Settlement and do not need to take any further action to receive a payment.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the proposed Settlement, and to discuss your rights and options in connection with the Lawsuit and the Settlement.

II. What is this lawsuit about?

On February 4, 2022, Plaintiff and Class Representative Astrid Orozco, through her attorneys (“Class Counsel”), filed a class action complaint against Delphon and later filed an amended complaint for alleged wage and hour violations on behalf of all current and former nonexempt employees employed by Delphon in California at any time since February 4, 2018. The Lawsuit alleges that Delphon violated various Labor Code sections by failing to pay all required minimum and overtime wages, failing to provide meal periods and rest breaks, failing to timely pay final wages, and failing to provide accurate and complete wage statements during the Class Period. The Lawsuit also sought equitable relief under the Unfair Competition Law. All these claims are called the “Class Claims.” The Lawsuit also sought, on behalf of the California Labor Workforce Development Agency (“LWDA”), civil penalties pursuant to PAGA as a representative action. The civil penalty claims are called “PAGA Claims” and the relevant period for PAGA claims is February 4, 2021, through _____, 2023 (*administrator to fill in the earlier of February 13, 2023, or PA Date) (“PAGA Period”).

The Court has not ruled on the merits of Plaintiff’s factual or legal allegations in the Lawsuit. Delphon has denied, and continues to deny, the factual and legal allegations in the Lawsuit and believes that Delphon has and is in compliance with California law or has valid defenses. By settling, Delphon is not admitting liability on any of Plaintiff’s factual legal allegations in the case or that the case can proceed as a class action and/or a representative action.

After considering the risks, expenses, and inconvenience of continued litigation, Delphon and Plaintiff have concluded that it is in their best interests and the interests of the Settlement Class to settle the Lawsuit on the terms summarized in this Notice. The Settlement was reached following an arm’s length mediation with a respected and experienced mediator after the Parties exchanged extensive information. By approving the Settlement and issuing this Notice, the Court is not suggesting which party would win or lose this case if it went to trial.

The Class Representative and Class Counsel support this Settlement. Among the reasons for their support are the defenses to liability potentially available to Delphon, the risk of denial of class certification or representative status, the inherent risk of trial on the merits, and the delays and uncertainties associated with such litigation.

If you are still employed by Delphon, this Settlement will NOT affect your employment. California law strictly prohibits unlawful retaliation. Delphon will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member regardless of whether the Class Member chooses to participate or not in the Settlement. If a Class Member does not participate as to the Class Claims, his/her share of the settlement of the Class Claims will be paid to those who do participate.

III. Who are the attorneys representing The Parties?

Attorneys for Plaintiff and Class Members:	Attorneys for Delphon:
Brian Mankin <i>brian@LMLfirm.com</i> Peter Carlson <i>peter@LMLfirm.com</i> Lauby Mankin Lauby LLP 4590 Allstate Drive Riverside, CA 92501 Tel: (951) 320-1444	Gregory Iskander <i>giskander@littler.com</i> Daniel XuLi <i>dxuli@littler.com</i> Littler Mendelson P.C. 1255 Treat Boulevard, Suite 600 Walnut Creek, CA 94597 Tel: (925) 932-2468

IV. What are the terms of the Settlement?

On [PA DATE], the Court certified a class, for settlement purposes only, of all current and former nonexempt employees employed by Delphon in California at any time from February 4, 2018, through _____, 2023 (*administrator to fill in the earlier of February 13, 2023, or PA Date) (the “Settlement Class” or “Class Members”) and approved a representative class comprised of all current and former nonexempt employees employed by Delphon in California at any time from February 4, 2021, through _____, 2023 (*administrator to fill in the earlier of February 13, 2023, or PA Date) (“Aggrieved Employees”). Individuals who do not opt out of the Settlement Class, pursuant to the procedures set

forth in this Notice, will become "Participating Class Members", be mailed Settlement checks, and be bound by the Settlement and release certain wage and penalty claims against Delphon.

Without admitting any wrongdoing, Delphon has agreed to pay \$775,000 (the "Gross Settlement Amount") to fully resolve all claims in the Lawsuit. The Parties agreed to the following payments from the Gross Settlement Amount:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. Under the Settlement, a maximum of \$8,000.00 will be paid from the Gross Settlement Amount to pay the Settlement Administration Costs.

Settlement Administrator
Name
Address
Telephone

Penalties to the California Labor Workforce and Development Agency. The Labor Code Private Attorneys General Act ("PAGA") authorizes employees to file lawsuits to attempt to recover civil penalties on behalf of other Aggrieved Employees and the State of California for alleged Labor Code violations. Under the Settlement, \$75,000 of the Gross Settlement Amount will be allocated to Plaintiff's PAGA Claims. Of the \$75,000, \$56,250 will be paid to the California Labor Workforce and Development Agency ("LWDA") in satisfaction of the claims for civil penalties under PAGA, and the remaining \$18,750 will be divided between all Aggrieved Employees based on the number of Pay Periods Worked during the PAGA Period. Aggrieved Employees includes all current and former nonexempt employees employed by Delphon in California at any time during the PAGA Period. You do not have the right to opt-out or exclude yourself from receiving the civil penalties paid to pursuant to PAGA. Review the information below to determine if you are an Aggrieved Employee and eligible to receive a share of the \$18,750 allocation:

Do you Qualify as an Aggrieved Employee?	Pay Periods Worked as an Aggrieved Employee	Your Share of PAGA Penalties
YES/NO	INSERT	\$INSERT

Service Payment to Class Representative. Class Counsel will ask the Court to award the Class Representative a Service Payment in the amount of \$7,500 to compensate her for service and extra work provided on behalf of the Class Members and in exchange for a general release of claims. The Class Representative also will receive her individual share of the Settlement as a Class Member.

Attorneys' Fees and Costs. Class Counsel have been prosecuting the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross Settlement Amount. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or costs. Class Counsel will ask for fees of one-third (\$258,333.33) of the Gross Settlement Amount as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through finalization of the Settlement. Class Counsel also will ask for reimbursement of up to \$20,000 for the costs Class Counsel incurred in connection with the Lawsuit.

Calculation of Individual Settlement Payments to Class Members. After deducting the amounts above from the Gross Settlement Amount, the balance will form the "Net Settlement Amount" for distribution to Participating Class Members. The Net Settlement Amount will total approximately \$_____. Individual Settlement Payments to Class Members will be calculated and apportioned from the Net Settlement Amount based on the number of calendar weeks during which a Settlement Class member was employed by Delphon in California and worked at least one shift (the "Weeks Worked"). Calculations of Individual Settlement Payments will be as follows: the Settlement Administrator will divide the Net Settlement Amount by total Weeks Worked by the Settlement Class to determine a per "Workweek Value." The Workweek Value will be multiplied by the number of Weeks Worked by each Settlement Class member during the Class Period to determine the "Individual Settlement Payment," prior to legal deductions/withholdings, for each Settlement Class member. If any Settlement Class member opts-out of the Settlement, his/her Individual Settlement Payment will be distributed to all Participating Class Members (i.e., those who do not opt-out). Review the information below to determine your share as a Class Member:

Workweeks Worked as a Class Member During the Class Period	Your Share of the Net Settlement Amount
INSERT	\$INSERT

Disputes to Work Weeks or Pay Periods Credited. For each Settlement Class Member, the Weeks Worked during the Class Period and the Pay Periods Worked during the PAGA Period will be calculated from Delphon’s records. If you disagree with the numbers above, you may submit evidence to the Settlement Administrator on or before _____, 2023, to establish the number of Weeks Worked and/or Pay Periods you claim to have actually worked for Delphon in California during the relevant periods. **DO NOT SEND ORIGINALS AS DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.** The Parties and Settlement Administrator will evaluate the evidence submitted by the Settlement Class member and discuss in good faith how many Weeks Worked should be credited to the Settlement Class member.

Payments to Class Members. After the Court grants Final Approval of the Settlement and judgment is entered, settlement checks will be mailed to Participating Class Members and Aggrieved Employees. For Aggrieved Employees who requested to be excluded from the Class Claims settlement, their settlement checks will only be for their share of PAGA civil penalties for release of their PAGA Claims. Participating Class Members and Aggrieved Employees will have 180 days from the issuance of the last check to cash all of the checks. In the event that any Participating Class Member or Aggrieved Employee fails to timely cash a settlement check, a stop payment will be placed on the check and the funds will be paid to the following non-profit organization: Public Justice, which performs work for the benefit of employee rights.

Allocation and Taxes. One-third (1/3) of the Individual Settlement Payment distributed to each Participating Class Member will be considered and reported as wages (Form W-2 reporting). The remaining two-thirds (2/3) will be considered and reported as interest and penalties (Form 1099 reporting). The Settlement Administrator shall take all usual and customary deductions from the Individual Settlement Payments that are distributed as wages, including, but not limited to, state and federal tax withholding, disability premiums, and unemployment insurance premiums. There will be no deduction taken from the interest and penalty distribution; however, the payments will be reported on IRS Form 1099 as income. Payments for PAGA Claims shall be paid one hundred percent (100%) as civil penalties for which no taxes shall be withheld and for which payment will be reported on IRS Form 1099. Participating Class Members and Aggrieved Employees are responsible for the proper income tax treatment of the Individual Settlement Payments and their payments for PAGA Claims. The Settlement Administrator, Delphon and their counsel, and Class Counsel cannot provide tax advice and make no representations as to the tax treatment or legal effect of the Individual Settlement Payments or payments for PAGA Claims. Participating Class Members and Aggrieved Employees will be solely responsible for the proper income tax treatment and payment of any taxes and penalties assessed on their Individual Settlement Payments or payments for PAGA Claims. Participating Class Members and Aggrieved Employees should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release of Class Claims. Upon the final approval of the Settlement by the Court and Delphon’s funding of the Gross Settlement Amount, Plaintiff and all Participating Class Members will fully release and discharge Delphon and its past and present officers, directors, members, partners, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective parent corporations, subsidiaries, divisions, affiliates, attorneys, predecessors, successors and assigns (the “Released Parties”) from the claims stated in the operative complaint or those claims which could have been asserted in the Complaint based upon the facts in the Complaint, including: (a) failure to pay wages or minimum wages (including for off the clock claims and rounding claims), (b) failure to pay overtime wages (including for off the clock, regular rate, invalid alternative work weeks, or rounding claims), (c) failure to provide meal periods, (d) failure to provide rest breaks, (e) failure to timely pay wages, including upon separation of employment, (f) failure to provide accurate itemized wage statements, (g) unfair and unlawful competition, and (i) all other claims for statutory penalties based on the above. These released claims and damages are hereinafter referred to as “Released Class Claims.” The time period governing these Released Class Claims shall be at any time from February 4, 2018, through _____, 2023 (*administrator to fill in the earlier of February 13, 2023, or PA Date) (“Class Period”).

Release of PAGA Claims. Upon the Court’s final approval of the Settlement and Delphon’s funding of the Gross Settlement Amount, Plaintiff—in her individual capacity and on behalf of the State of California and the LWDA—shall completely release and discharge the Released Parties of PAGA claims that Plaintiff alleged against the Released Parties, on behalf of the State of California, based on the facts stated in the Complaint and relevant LWDA notice letter, including all PAGA claims seeking civil penalties premised upon: (a) failure to pay minimum wages, (b) failure to pay overtime wages, (c) failure to provide meal periods, (d) failure to provide rest breaks, (e) failure to pay vested vacation, (f) reimburse business

expenses, (g) failure to timely pay wages each period, (h) failure to timely pay wages upon separation of employment, (i) failure to provide accurate itemized wage statements, and (j) all other claims for civil penalties recoverable under PAGA based on the facts or claims alleged in the Complaint. These released claims and damages are hereinafter referred to as "Released PAGA Claims." The time period governing the PAGA Released Claims shall be any time from February 4, 2021, through _____, 2023 (*administrator to fill in the earlier of February 13, 2023, or PA Date) ("PAGA Period").

Waiver of Labor Code Sections 206.5(e). Participating Class Members will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Lawsuit are disputed, and that the Individual Settlement Payments constitute payment of all sums allegedly due to them. Participating Class Members will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Individual Settlement Payments. Section 206.5 of the Labor Code provides in pertinent part as follows:

"No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made."

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of judgment.

V. What options do I have?

A. **Do Nothing and Participate in the Settlement.** Under the Settlement, you will automatically receive a Settlement Payment unless you exclude yourself from the settlement by following the exclusion procedure set forth below. If you disagree with the number of Work Weeks or Pay Periods credited, as described in this Notice, you may dispute the allocation of the Settlement without excluding yourself or objecting, as described below.

B. **Exclude Yourself from the Class Claims in the Settlement.** If you do not wish to take part in the release of the Class Claims in the Settlement, you may exclude yourself by sending to the Settlement Administrator a "Request for Exclusion from the Class Claims in the Class Action Settlement" letter/card postmarked no later than _____, 2023 with your full name, address, telephone number, last four digits of your social security number or your date of birth, and signature. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE DELPHON INDUSTRIES LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS ACTION PORTION OF THIS LAWSUIT."

Send the Request for Exclusion directly to the Settlement Administrator, [ADDRESS], postmarked no later than _____, 2023. Any person who files a timely Request for Exclusion from the Class Action Settlement, upon receipt: (1) will not have any rights under this Settlement with respect to the Class Claims, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive any money for the Class Claims under this Settlement; and (3) will not be bound by this Settlement, or the Judgment, with respect to the Class Claims. You still will be bound by this Settlement with respect to the PAGA Claims.

C. **Object to Settlement.** You also have the right to object to the terms of the Settlement with respect to the Class Claims if you believe they are unfair or unreasonable. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Class Claims portion of the Settlement, you must submit a written objection stating your full name, your address, your telephone number, the last four digits of your social security number or your date of birth, your dates of employment with Delphon, the case name and number, the name and address of your attorney(s) if you are represented, your signature, and each specific reason in support of your objection. You must also include any documentation or evidence in support of the objection, if any. Objections must be in writing and mailed to the Settlement Administrator, [ADDRESS], by no later than _____, 2023. Objections that do not include all required information, or that are not submitted timely, may not be considered by the Court. You need not object to the Settlement if you only dispute the number of Work Weeks or Pay Periods credited. To dispute the number of the number of Work Weeks or Pay Periods credited, please refer to the directions provided under the provision entitled "Calculation of Individual Settlement Payments to Class Members" in Section IV of this Notice.

If you choose to object to the Class Claims portion of the Settlement, you may also appear at the Final Approval

Hearing scheduled for _____, 2023, at _____ a.m. in Department 21 of the Alameda County Superior Court, located at 24405 Amador Street, Hayward, CA 94544. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before _____, 2023. All objections or other correspondence must state the name and number of the case. If you wish to appear at the Final Approval hearing, please contact Class Counsel or the Settlement Administrator in advance of the scheduled hearing to ensure that the hearing has not been continued by the Court.

If you object to the Settlement, you will remain a Class Member, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Participating Class Members who do not object. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

VI. What is the effect of the settlement?

Released Rights and Claims. The Settlement is intended to settle all claims against the Released Parties that were asserted or could have been asserted in the Lawsuit regarding the alleged violations of wage and hour laws. If you were employed by Delphon in California at any time during the Class Period and do not elect to exclude yourself from the Settlement Class, you will be deemed to have entered into this Release and released the class claims in this Lawsuit, described above in Section IV under the provision titled "Release of Class Claims." If the Settlement is not approved by the Court or does not become final for some other reason, the Lawsuit may continue, and the releases will not take effect.

VII. What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement, the Class Counsel's request for attorneys' fees and reimbursement of documented litigation costs, and the Service Payment to the Class Representative on _____, 2023 at _____ a.m. in Department 21 of the Alameda County Superior Court, located at 24405 Amador Street, Hayward, CA 94544.

You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

VIII. How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you can access an electronic version of this Notice and other important documents in this Lawsuit, including the Settlement Agreement and operative complaint, by visiting this website: INSERT WEBSITE HERE. You may also contact Class Counsel at the contact information listed in Section III above. Additionally, you may inspect the pleadings, records, and other papers on file in this lawsuit by visiting the Records Management Unit for the Alameda County Superior Court, located at 2233 Shore Line Drive, Alameda, CA 94501. Lastly, you can also access records for this Lawsuit by utilizing the online access for such files provided by Alameda County Superior Court, located at: <https://eportal.alameda.courts.ca.gov/?q=node/388>. To access the case file for this Lawsuit, click on "Case Number Search," then create a free online account, then type in the case number (22CV006597) where requested, then click "Search."

IX. Reminder as to time limits

Class Members do not have to take any further action to participate in the Settlement. The deadline for submitting a Request for Exclusion from the Class Claims is _____, 2023. The deadline for mailing an objection to the Settlement Administrator is _____, 2023.

These deadlines will be strictly enforced. To be considered timely, any Requests for Exclusion and objections to the Settlement must be postmarked by the above-stated deadlines. Any Requests for Exclusion and objections to the Settlement that are not postmarked on or before these deadlines will be deemed untimely and disregarded.

PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	FILED Superior Court of California County of Alameda 05/18/2023
PLAINTIFF/PETITIONER: Astrid Orozco	Chad Finke, Executive Officer / Clerk of the Court By: <u><i>Nicole Hall</i></u> Deputy N. Hall
DEFENDANT/RESPONDENT: Delphon Industries, LLC	
CERTIFICATE OF MAILING	CASE NUMBER: 22CV006597

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the attached document upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Brian Jay Mankin
Lauby Mankin & Lauby LLP
5198 Arlington Avenue
PMB 513
Riverside, CA 92504

Gregory G Iskander
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1255 TREAT BLVD., STE 600
WALNUT CREEK, CA 94597

Chad Finke, Executive Officer / Clerk of the Court

Dated: 05/18/2023

By:

Nicole Hall

N. Hall, Deputy Clerk

CERTIFICATE OF MAILING