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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

JOSE L. SANDOVAL VILLAFANA, on behalf of himself and all others similarly situated,

Plaintiff,

v.

SATCO, INC., a California corporation; and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 21STCV17085

[Assigned to the Hon. Yvette M. Palazuelos in Dept. 9]

**CLASS ACTION AND PAGA SETTLEMENT AGREEMENT**

Action Filed: May 5, 2021  
Trial Date: None Set

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and  
2 between plaintiff Jose L. Sandoval Villafana (“Plaintiff”) and defendant Satco, Inc.  
3 (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or  
4 individually as “Party.”

5 **1. DEFINITIONS**

6 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against  
7 Defendant captioned *Jose L. Sandoval Villafana v. Satco, Inc.* initiated on May 5, 2021 and  
8 pending in Superior Court of the State of California, County of Los Angeles.

9 1.2. “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties  
10 have agreed to appoint to administer the Settlement

11 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid  
12 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance  
13 with the Administrator’s “not to exceed” bid submitted to the Court in connection with  
14 Preliminary Approval of the Settlement.

15 1.4. “Aggrieved Employee” means an individual who worked for Defendant as a non-exempt,  
16 hourly-paid employee in California at any time during the PAGA Period.

17 1.5. “Class” means all individuals who worked for Defendant as non-exempt, hourly-paid  
18 employees in California at any time during the Class Period.

19 1.6. “Class Counsel” means David D. Bibiyan of Bibiyan Law Group, P.C.

20 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean  
21 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and  
22 expenses, respectively, incurred to prosecute the Action.

23 1.8. “Class Data” means Class Member identifying information in Defendant’s possession  
24 including the Class Member’s: (1) name; (2) last known mailing address(es); (3) last known  
25 telephone number(s); (4) Social Security Number; and (5) dates of employment, including hire  
26 date, and, if applicable, re-hire date(s), last date(s) worked, separation date(s), and/or date(s) of  
27 any transition between non-exempt and exempt status.

28 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either

1 a Participating Class Member or Non-Participating Class Member (including a Non-Participating  
2 Class Member who qualifies as an Aggrieved Employee).

3 1.10. “Class Member Address Search” means the Administrator’s investigation and search for  
4 current Class Member mailing addresses using all reasonably available sources, methods, and  
5 means including, but not limited to, the National Change of Address database, skip traces, and  
6 direct contact by the Administrator with Class Members.

7 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION  
8 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to  
9 Class Members in English and Spanish in the form, without material variation, attached as Exhibit  
10 A and incorporated by reference into this Agreement.

11 1.12. “Class Period” means the period from November 10, 2018 through July 3, 2022.

12 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the  
13 Action seeking Court approval to serve as a Class Representative.

14 1.14. “Class Representative Service Payment” means the payment to the Class Representative  
15 for initiating the Action and providing services in support of the Action.

16 1.15. “Court” means the Superior Court of California, County of Los Angeles.

17 1.16. “Defendant” means named Defendant Satco, Inc.

18 1.17. “Defense Counsel” means Katherine C. Den Bleyker and William B. Richards, Jr. of  
19 Lewis Brisbois Bisgaard & Smith LLP.

20 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the  
21 Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the  
22 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no  
23 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if  
24 one or more Participating Class Members objects to the Settlement, the day after the deadline for  
25 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the  
26 day after the appellate court affirms the Judgment and issues a remittitur.

27 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

28 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval

1 of the Settlement.

2 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final  
3 Approval.

4 1.22. “Gross Settlement Amount” means \$1,200,00.00 (One Million Two Hundred Thousand  
5 Dollars and Zero Cent) which is the total amount Defendant agrees to pay under the Settlement,  
6 except as provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the  
7 Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to  
8 pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class  
9 Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and the  
10 Administrator’s Expenses.

11 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the  
12 Net Settlement Amount calculated according to the number of Workweeks worked during the  
13 Class Period.

14 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of  
15 the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA  
16 Period.

17 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

18 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency  
19 entitled, under Labor Code section 2699, subd. (i).

20 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA  
21 under Labor Code section 2699, subd. (i).

22 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following  
23 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA  
24 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel  
25 Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to  
26 be paid to Participating Class Members as Individual Class Payments.

27 1.29. “Non-Participating Class Member” means any Class Member who opts out of the  
28 Settlement by sending the Administrator a valid and timely Request for Exclusion.

1 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee was  
2 employed by and worked for Defendant in a non-exempt, hourly paid position in California,  
3 during the PAGA Period, based on hire date, re-hire date(s) (as applicable), last date(s) worked  
4 (as applicable), and date(s) of any transition between non-exempt and exempt status (as  
5 applicable).

6 1.31. “PAGA Period” means the period from May 5, 2020 through July 3, 2022.

7 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

8 1.33. “PAGA Notice” means Plaintiff’s May 5, 2021 letter to Defendant and the LWDA,  
9 providing notice pursuant to Labor Code section 2699.3 subd. (a).

10 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the  
11 Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$7,500.00) and the 75%  
12 to the LWDA (\$22,500.00) in settlement of PAGA claims.

13 1.35. “Participating Class Member” means a Class Member who does not submit a valid and  
14 timely Request for Exclusion from the Settlement.

15 1.36. “Plaintiff” means Jose L. Sandoval Villafana, the named plaintiff in the Action.

16 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the  
17 Settlement.

18 1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval  
19 and Approval of PAGA Settlement.

20 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2  
21 below.

22 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.2  
23 below.

24 1.41. “Released Parties” means: Defendant and each of its former, present and future owners,  
25 parents, and subsidiaries, and all of their current former, and future officers, directors, members,  
26 managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors,  
27 successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

28 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be

1 excluded from the Class Settlement signed by the Class Member.

2 1.43. "Response Deadline" means sixty (60) days after the Administrator mails Notice to Class  
3 Members and Aggrieved Employees, and shall be the last date on which Class Members may:  
4 (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his  
5 or her Objection to the Settlement. Class Members to whom Notice Packets are resent after  
6 having been returned undeliverable to the Administrator shall have an additional 14 days beyond  
7 the Response Deadline has expired.

8 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the  
9 Judgment.

10 1.45. "Workweek" means any week during which a Class Member was employed by and  
11 worked for Defendant in a non-exempt, hourly paid position in California, during the Class  
12 Period, based on hire date, re-hire date(s) (as applicable), last date(s) worked (as applicable), and  
13 date(s) of any transition between non-exempt and exempt status (as applicable).

14 **2. RECITALS**

15 2.1. On May 5, 2021, Plaintiff commenced this Action by filing a Class Action Complaint  
16 alleging causes of actions against Defendant for: (1) failure to pay overtime wages; (2) failure to  
17 pay minimum wages; (3) failure to provide meal periods, or compensation in lieu thereof; (4)  
18 failure to provide rest periods, or compensation in lieu thereof; (5) waiting time penalties; (6)  
19 wage statement violations; (7) failure to timely pay wages; (8) violation of Labor Code section  
20 227.3; and (9) unfair competition. On July 9, 2021, Plaintiff filed a First Amended Class Action  
21 and Representative Complaint alleging causes of action against Defendant for: (1) failure to pay  
22 overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods, or  
23 compensation in lieu thereof; (4) failure to provide rest periods, or compensation in lieu thereof;  
24 (5) waiting time penalties; (6) wage statement violations; (7) failure to timely pay wages; (8)  
25 violation of Labor Code section 227.3; (9) unfair competition; (10) penalties pursuant to Labor  
26 Code section 210; (11) penalties pursuant to Labor Code section 226.3; (12) penalties pursuant  
27 to Labor Code section 558; (13) penalties pursuant to Labor Code section 1174.5; (14) penalties  
28 pursuant to Labor Code section 1197.1; and (15) civil penalties under PAGA pursuant to Labor

1 Code sections 2698, *et seq.* The First Amended Class Action and Representative Complaint is  
2 the operative complaint in the Action (the “Operative Complaint”). Defendant denies the  
3 allegations in the Operative Complaint, denies any failure to comply with the laws identified in  
4 the Operative Complaint and denies any and all liability for the causes of action alleged.

5 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to  
6 Defendant and the LWDA by sending the PAGA Notice.

7 2.3. On May 4, 2022, the Parties participated in an all-day mediation presided over by the  
8 Hon. Carl J. West (Ret.) which led to this Agreement to settle the Action.

9 2.4. Prior to mediation Plaintiff obtained, through informal discovery: (1) a randomized  
10 sampling of time and payroll records for 10% of the estimated 342 Class Members; (2) Class  
11 data points, including, for both current and formerly-employed Class Members between the start  
12 of the Class Period (November 10, 2018) and the date of mediation (May 4, 2022), total numbers  
13 of Class Members, average hourly rates of pay, and approximate total numbers of workweeks  
14 worked, pay periods, and wage statements issued; (3) PAGA (and wage statement penalty) group  
15 data points, including, for current and formerly-employed Aggrieved Employees between  
16 November 1, 2019 and the date of mediation (May 4, 2022), total numbers of Aggrieved  
17 Employees, average hourly rates of pay, and approximate numbers of workweeks worked, pay  
18 periods, and wage statements issued; (4) all wage and hour policy documents and employee  
19 handbooks in effect during the Class and PAGA Periods; (5) a description and explanation of the  
20 various compensation structures, shift schedules, and bell schedule systems for meal and rest  
21 periods in effect during the Class Period; (6) Plaintiff’s personnel records and employment files;  
22 (7) contact information for Class Members and Aggrieved Employees, including names and last  
23 known mailing addresses and phone numbers; and (8) employment dates for Class Members and  
24 Aggrieved Employees, including hire dates and, where applicable, re-hire date(s), last date(s)  
25 worked, separation date(s), and date(s) of any transition between non-exempt and exempt status.  
26 Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk*  
27 *v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail,*  
28 *Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

1 2.5. The Court has not granted class certification.

2 2.6 The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any  
3 other pending matter or action asserting claims that will be extinguished or affected by the  
4 Settlement.

5 **3. MONETARY TERMS**

6 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below,  
7 Defendant promises to pay \$1,200,000.00 as the Gross Settlement Amount and to separately pay  
8 any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments.  
9 Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to  
10 the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire  
11 Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved  
12 Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount  
13 will revert to Defendant.

14 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct  
15 the following payments from the Gross Settlement Amount, in the amounts specified by the Court  
16 in the Final Approval:

17 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative  
18 of not more than \$7,500.00, in addition to any Individual Class Payment and any  
19 Individual PAGA Payment the Class Representative is entitled to receive as a  
20 Participating Class Member. Defendant will not oppose Plaintiff's request for a Class  
21 Representative Service Payment that does not exceed this amount. As part of the motion  
22 for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will  
23 seek Court approval for any Class Representative Service Payments no later than 16  
24 court days prior to the Final Approval Hearing. If the Court approves a Class  
25 Representative Service Payment less than the amount requested, the Administrator will  
26 retain the remainder in the Net Settlement Amount. The Administrator will pay the  
27 Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full  
28 responsibility and liability for employee taxes owed on the Class Representative Service



1 Payment.

2 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which,  
3 unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to  
4 be \$420,000.00 and a Class Counsel Litigation Expenses Payment of not more than  
5 \$25,000.00. Defendant will not oppose requests for these payments provided that they  
6 do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class  
7 Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court  
8 days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees  
9 Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts  
10 requested, the Administrator will allocate the remainder to the Net Settlement Amount.  
11 Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel  
12 arising from any claim to any portion any Class Counsel Fee Payment and/or Class  
13 Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel  
14 Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms.  
15 Class Counsel assumes full responsibility and liability for taxes owed on the Class  
16 Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds  
17 Defendant harmless, and indemnifies Defendant, from any dispute or controversy  
18 regarding any division or sharing of any of these Payments. In the event that  
19 circumstances should arise necessitating a motion to enforce this Agreement, the Parties  
20 reserve the right to request from the Court an award of reasonable attorneys' fees and/or  
21 litigation costs not otherwise provided for herein in connection with any such motion to  
22 enforce the Agreement.

23 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed  
24 \$10,000.00 except for a showing of good cause and as approved by the Court. To the  
25 extent the Administration Expenses are less or the Court approves payment less than  
26 \$10,000.00 the Administrator will retain the remainder in the Net Settlement Amount.

27 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated  
28 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked

1 by all Participating Class Members during the Class Period and (b) multiplying the  
2 result by each Participating Class Member's Workweeks.

3 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating  
4 Class Member's Individual Class Payment will be allocated to settlement of  
5 wage claims (the "Wage Portion"). The Wage Portions are subject to tax  
6 withholding and will be reported on an IRS W-2 Form. The 80% of each  
7 Participating Class Member's Individual Class Payment will be allocated to  
8 settlement of claims for interest and penalties (the "Non-Wage Portion"). The  
9 Non-Wage Portions are not subject to wage withholdings and will be reported  
10 on IRS 1099 Forms. Participating Class Members assume full responsibility  
11 and liability for any employee taxes owed on their Individual Class Payment.

12 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual  
13 Class Payments. Non-Participating Class Members will not receive any  
14 Individual Class Payments. The Administrator will retain amounts equal to  
15 their Individual Class Payments in the Net Settlement Amount for distribution  
16 to Participating Class Members on a pro rata basis.

17 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of  
18 \$30,000.00 to be paid from the Gross Settlement Amount, with 75% (\$22,500.00)  
19 allocated to the LWDA PAGA Payment and 25% (\$7,500.00) allocated to the Individual  
20 PAGA Payments.

21 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a)  
22 dividing the amount of the Aggrieved Employees' 25% share of PAGA  
23 Penalties \$7,500.00 by the total number of PAGA Period Pay Periods worked  
24 by all Aggrieved Employees during the PAGA Period and (b) multiplying the  
25 result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved  
26 Employees assume full responsibility and liability for any taxes owed on their  
27 Individual PAGA Payment.

28 3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested,

1 the Administrator will allocate the remainder to the Net Settlement Amount.  
2 The Administrator will report the Individual PAGA Payments on IRS 1099  
3 Forms.

4 **4. SETTLEMENT FUNDING AND PAYMENTS**

5 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records  
6 to date, Defendant estimates there are 342 Class Members who collectively worked a total of  
7 approximately 47,608 Workweeks (between the start of the Class Period on November 10, 2018  
8 and the date of mediation on May 4, 2022), and 303 Aggrieved Employees who worked a total  
9 of approximately 32,486 PAGA Pay Periods (between November 1, 2019 and the date of  
10 mediation on May 4, 2022).

11 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the  
12 Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the  
13 form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the  
14 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes  
15 of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator  
16 employees who need access to the Class Data to effect and perform under this Agreement.  
17 Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class  
18 Data omitted class member identifying information and to provide corrected or updated Class  
19 Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant  
20 must send the Class Data to the Administrator, the Parties and their counsel will expeditiously  
21 use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or  
22 omitted Class Data.

23 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement  
24 Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by  
25 transmitting the funds to the Administrator no later than 14 days after the Effective Date.

26 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the  
27 Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments,  
28 all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses

1 Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and  
2 the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment,  
3 the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment  
4 shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

5 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or  
6 Individual PAGA Payments and send them to the Class Members via First Class U.S.  
7 Mail, postage prepaid. The face of each check shall prominently state the date (not less  
8 than 180 days after the date of mailing) when the check will be voided. The  
9 Administrator will cancel all checks not cashed by the void date. The Administrator  
10 will send checks for Individual Settlement Payments to all Participating Class Members  
11 (including those for whom Class Notice was returned undelivered). The Administrator  
12 will send checks for Individual PAGA Payments to all Aggrieved Employees including  
13 Non-Participating Class Members who qualify as Aggrieved Employees (including  
14 those for whom Class Notice was returned undelivered). The Administrator may send  
15 Participating Class Members a single check combining the Individual Class Payment  
16 and the Individual PAGA Payment. Before mailing any checks, the Settlement  
17 Administrator must update the recipients' mailing addresses using the National Change  
18 of Address Database.

19 4.4.2. The Administrator must conduct a Class Member Address Search for all other  
20 Class Members whose checks are returned undelivered without USPS forwarding  
21 address. Within 7 days of receiving a returned check the Administrator must re-mail  
22 checks to the USPS forwarding address provided or to an address ascertained through  
23 the Class Member Address Search. The Administrator need not take further steps to  
24 deliver checks to Class Members whose re-mailed checks are returned as undelivered.  
25 The Administrator shall promptly send a replacement check to any Class Member whose  
26 original check was lost or misplaced, requested by the Class Member prior to the void  
27 date.

28 4.4.3. For any Class Member whose Individual Class Payment check or Individual

1           PAGA Payment check is uncashed and cancelled after the void date, the Administrator  
2           shall transmit the funds represented by such checks to the California Controller’s  
3           Unclaimed Property Fund in the name of the Class Member thereby leaving no “unpaid  
4           residue” subject to the requirements of California Code of Civil Procedure Section 384,  
5           subd. (b).

6           4.4.4.       The payment of Individual Class Payments and Individual PAGA Payments shall  
7           not obligate Defendant to confer any additional benefits or make any additional  
8           payments to Class Members (such as 401(k) contributions or bonuses) beyond those  
9           specified in this Agreement.

10           **5.       RELEASE OF CLAIMS.**

11           Effective on the date when Defendant fully funds the entire Gross Settlement Amount  
12           and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments,  
13           Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as  
14           follows:

15           5.1.   Plaintiff’s Release. Plaintiff and his respective former and present spouses,  
16           representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release  
17           and discharge Released Parties from all claims, transactions, or occurrences including, but not  
18           limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts  
19           contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could  
20           have been, alleged based on facts contained in the Operative Complaint, Plaintiff’s PAGA  
21           Notice, or ascertained during the Action and released under 5.2 below (“Plaintiff’s Release.”)  
22           Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any  
23           claims for vested benefits, unemployment benefits, disability benefits, social security benefits,  
24           workers’ compensation benefits that arose at any time, or based on occurrences outside the Class  
25           Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in  
26           addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless,  
27           that Plaintiff’s Release shall be and remain effective in all respects, notwithstanding such  
28           different or additional facts or Plaintiff’s discovery of them.

1           5.1.1.     Plaintiff’s Waiver of Rights Under California Civil Code Section 1542. For  
2           purposes of Plaintiff’s Release, Plaintiff expressly waives and relinquishes the  
3           provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,  
4           which reads:

5           A general release does not extend to claims that the creditor or releasing party does not  
6           know or suspect to exist in his or her favor at the time of executing the release, and that  
7           if known by him or her would have materially affected his or her settlement with the  
8           debtor or Released Party.

9     5.2.     Release by Participating Class Members: All Participating Class Members, on behalf of  
10    themselves and their respective former and present representatives, agents, attorneys, heirs,  
11    administrators, successors, and assigns, release Released Parties from (i) all claims that were  
12    alleged, or reasonably could have been alleged, based on the Class Period facts stated in the  
13    Operative Complaint including, e.g., any and all claims involving: (1) any alleged failure to pay  
14    overtime wages; (2) any alleged failure to pay minimum wages; (3) any alleged failure to provide  
15    compliant meal periods, or compensation in lieu thereof; (4) any alleged failure to provide  
16    compliant rest periods, or compensation in lieu thereof (5) any alleged failure to pay wages due  
17    upon termination or resignation; (6) any alleged failure to provide compliant wage statements; (7)  
18    any alleged failure to timely pay wages; (8) any alleged failure to pay wages for vested paid  
19    vacation time or other vested paid time off; (9) any alleged failure to maintain accurate and/or  
20    complete pay records; and (10) any alleged unlawful, unfair, or fraudulent business acts or  
21    practices under California Business & Professions Code section 17200, *et seq.* arising out of the  
22    Labor Code and Industrial Welfare Commission (“IWC”) Wage Order violations referenced in  
23    the Operative Complaint. Except as set forth in Section 5.3 of this Agreement, Participating Class  
24    Members do not release any other claims, including claims for vested benefits, wrongful  
25    termination, violation of the Fair Employment and Housing Act, unemployment insurance,  
26    disability, social security, workers’ compensation, or claims based on facts occurring outside the  
27    Class Period.

28    5.3.     Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on

1 behalf of themselves and their respective former and present representatives, agents, attorneys,  
2 heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA  
3 penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period  
4 facts stated in the Operative Complaint and the PAGA Notice, including, e.g., any and all claims  
5 for PAGA penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699  
6 in connection with alleged violations of Labor Code sections 96, 98.6, 200, 201, 202, 203, 204,  
7 204b, 210, 221, 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 404, 432, 510, 512, 558,  
8 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 1199, 2699, 2802, and 2810.5, as well  
9 as related IWC Wage Order provisions.

## 10 **6. MOTION FOR PRELIMINARY APPROVAL**

11 The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion  
12 for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary  
13 Approvals.

14 6.1. Defendant’s Declaration in Support of Preliminary Approval. Because funds from  
15 uncashed checks will be transmitted to the California Controller’s Office, Unclaimed Property  
16 Fund, Defendant and Defense Counsel have no obligation to provide declarations disclosing any  
17 facts relevant to any actual or potential conflicts with a “*cy pres* recipient.”

18 6.2. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel prior to  
19 filing all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the  
20 notice, and memorandum in support, of the Motion for Preliminary Approval that includes an  
21 analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement  
22 under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary  
23 Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed  
24 declaration from the Administrator attaching its “not to exceed” bid for administering the  
25 Settlement and attesting to its willingness to serve; competency; operative procedures for  
26 protecting the security of Class Data; amounts of insurance coverage for any data breach,  
27 defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of  
28 interest with Class Members; and the nature and extent of any financial relationship with

1 Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming  
2 willingness and competency to serve and disclosing all facts relevant to any actual or potential  
3 conflicts of interest with Class Members; (v) a signed declaration from each Class Counsel firm  
4 attesting to its competency to represent the Class Members; its timely transmission to the LWDA  
5 of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd.  
6 (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code  
7 section 2699, subd. (1)(2)); (vi) a redlined version of the parties' Agreement showing all  
8 modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts  
9 relevant to any actual or potential conflict of interest with Class Members and/or the  
10 Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they  
11 are not aware of any other pending matter or action asserting claims that will be extinguished or  
12 adversely affected by the Settlement.

13 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible  
14 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full  
15 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary  
16 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary  
17 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the  
18 Administrator.

19 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for  
20 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and  
21 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and  
22 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary  
23 Approval or conditions Preliminary Approval on any material change to this Agreement, Class  
24 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by  
25 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the  
26 Court's concerns.

## 27 7. SETTLEMENT ADMINISTRATION

28 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement



1 Administrators to serve as the Administrator and verified that, as a condition of appointment,  
2 Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a  
3 fiduciary, all duties specified in this Agreement in exchange for payment of Administration  
4 Expenses. The Parties and their Counsel represent that they have no interest or relationship,  
5 financial or otherwise, with the Administrator other than a professional relationship arising out  
6 of prior experiences administering settlements.

7 7.2. Employer Identification Number. The Administrator shall have and use its own Employer  
8 Identification Number for purposes of calculating payroll tax withholdings and providing reports  
9 state and federal tax authorities.

10 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets  
11 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section  
12 468B-1.

13 7.4. Notice to Class Members

14 7.4.1. No later than three (3) business days after receipt of the Class Data, the  
15 Administrator shall notify Class Counsel that the list has been received and state the  
16 number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class  
17 Data.

18 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14  
19 days after receiving the Class Data, the Administrator will send to all Class Members  
20 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,  
21 the Class Notice with Spanish translation, substantially in the form attached to this  
22 Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the  
23 dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable  
24 to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable)  
25 used to calculate these amounts. Before mailing Class Notices, the Administrator shall  
26 update Class Member addresses using the National Change of Address database.

27 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice  
28 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice

1 using any forwarding address provided by the USPS. If the USPS does not provide a  
2 forwarding address, the Administrator shall conduct a Class Member Address Search,  
3 and re-mail the Class Notice to the most current address obtained. The Administrator  
4 has no obligation to make further attempts to locate or send Class Notice to Class  
5 Members whose Class Notice is returned by the USPS a second time.

6 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks  
7 and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days  
8 beyond the 60 days otherwise provided in the Class Notice for all Class Members whose  
9 notice is re-mailed. The Administrator will inform the Class Member of the extended  
10 deadline with the re-mailed Class Notice.

11 7.4.5. If the Administrator, Defendant, or Class Counsel is contacted by or otherwise  
12 discovers any persons who believe they should have been included in the Class Data  
13 and should have received Class Notice, the Parties will expeditiously meet and confer,  
14 and in good faith, in an effort to agree on whether to include them as Class Members.  
15 If the Parties agree, such persons will be Class Members entitled to the same rights as  
16 other Class Members, and the Administrator will send, via email or overnight delivery,  
17 a Class Notice requiring them to exercise options under this Agreement not later than  
18 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which  
19 ever are later.

20 7.5. Requests for Exclusion (Opt-Outs).

21 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement  
22 must send the Administrator, by fax, email, or mail, a signed written Request for  
23 Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an  
24 additional 14 days for Class Members whose Class Notice is re-mailed). A Request for  
25 Exclusion is a letter from a Class Member or his/her representative that reasonably  
26 communicates the Class Member's election to be excluded from the Settlement and  
27 includes the Class Member's name, address and email address or telephone number. To  
28 be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the

1 Response Deadline.

2 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it  
3 fails to contain all the information specified in the Class Notice. The Administrator  
4 shall accept any Request for Exclusion as valid if the Administrator can reasonably  
5 ascertain the identity of the person as a Class Member and the Class Member's desire  
6 to be excluded. The Administrator's determination shall be final and not appealable or  
7 otherwise susceptible to challenge. If the Administrator has reason to question the  
8 authenticity of a Request for Exclusion, the Administrator may demand additional proof  
9 of the Class Member's identity. The Administrator's determination of authenticity shall  
10 be final and not appealable or otherwise susceptible to challenge.

11 7.5.3. Every Class Member who does not submit a timely and valid Request for  
12 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled  
13 to all benefits and bound by all terms and conditions of the Settlement, including the  
14 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,  
15 regardless whether the Participating Class Member actually receives the Class Notice  
16 or objects to the Settlement.

17 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a  
18 Non-Participating Class Member and shall not receive an Individual Class Payment or  
19 have the right to object to the class action components of the Settlement. Because future  
20 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-  
21 Participating Class Members who are Aggrieved Employees are deemed to release the  
22 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual  
23 PAGA Payment.

24 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after  
25 the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose  
26 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods  
27 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge  
28 the allocation by communicating with the Administrator via fax, email, or mail. The

1 Administrator must encourage the challenging Class Member to submit supporting  
2 documentation. In the absence of any contrary documentation, the Administrator is entitled to  
3 presume that the Workweeks contained in the Class Notice are correct so long as they are  
4 consistent with the Class Data. The Administrator's determination of each Class Member's  
5 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise  
6 susceptible to challenge. The Administrator shall promptly provide copies of all challenges to  
7 calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the  
8 Administrator's determination the challenges.

9 **7.7. Objections to Settlement**

10 7.7.1. Only Participating Class Members may object to the class action components of  
11 the Settlement and/or this Agreement, including contesting the fairness of the  
12 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class  
13 Counsel Litigation Expenses Payment, and/or Class Representative Service Payment.

14 7.7.2. Participating Class Members may send written objections to the Administrator,  
15 by fax, email, or mail. In the alternative, Participating Class Members may appear in  
16 Court (or hire an attorney to appear in Court) to present verbal objections at the Final  
17 Approval Hearing. A Participating Class Member who elects to send a written objection  
18 to the Administrator must do so not later than 60 days after the Administrator's mailing  
19 of the Class Notice (plus an additional 14 days for Class Members whose Class Notice  
20 was re-mailed).

21 7.7.3. Non-Participating Class Members have no right to object to any of the class action  
22 components of the Settlement.

23 **7.8. Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be  
24 performed or observed by the Administrator contained in this Agreement or otherwise.

25 7.8.1. Website, Email Address, and Toll-Free Number. The Administrator will establish  
26 and maintain and use an internet website to post information of interest to Class  
27 Members including the date, time and location for the Final Approval Hearing and  
28 copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary

1 Approval, the Class Notice, the Motion for Final Approval, the Motion for Class  
2 Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class  
3 Representative Service Payment, the Final Approval and the Judgment. The  
4 Administrator will also maintain and monitor an email address and a toll-free telephone  
5 number to receive Class Member calls, faxes and emails.

6 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will  
7 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.  
8 Not later than 5 days after the expiration of the deadline for submitting Requests for  
9 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel  
10 containing (a) the names and other identifying information of Class Members who have  
11 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and  
12 other identifying information of Class Members who have submitted invalid Requests  
13 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted  
14 (whether valid or invalid).

15 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written  
16 reports to Class Counsel and Defense Counsel that, among other things, tally the number  
17 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for  
18 Exclusion (whether valid or invalid) received, objections received, challenges to  
19 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for  
20 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The  
21 Weekly Reports must include provide the Administrator’s assessment of the validity of  
22 Requests for Exclusion and attach copies of all Requests for Exclusion and objections  
23 received.

24 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to  
25 address and make final decisions consistent with the terms of this Agreement on all  
26 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The  
27 Administrator’s decision shall be final and not appealable or otherwise susceptible to  
28 challenge.

1 7.8.5. Administrator's Declaration. Before the date by which Plaintiff is required to file  
2 the Motion for Final Approval of the Settlement, the Administrator will provide to Class  
3 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting  
4 to its due diligence and compliance with all of its obligations under this Agreement,  
5 including, but not limited to, its mailing of Class Notice, the Class Notices returned as  
6 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total  
7 number of Requests for Exclusion from Settlement it received (both valid or invalid),  
8 the number of written objections and attach the Exclusion List. The Administrator will  
9 supplement its declaration as needed or requested by the Parties and/or the Court. Class  
10 Counsel is responsible for filing the Administrator's declaration(s) in Court.

11 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator  
12 disburses all funds in the Gross Settlement Amount, the Administrator will provide  
13 Class Counsel and Defense Counsel with a final report detailing its disbursements by  
14 employee identification number only of all payments made under this Agreement. At  
15 least 7 days before any deadline set by the Court, the Administrator will prepare, and  
16 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in  
17 Court attesting to its disbursement of all payments required under this Agreement. Class  
18 Counsel is responsible for filing the Administrator's declaration in Court.

19 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

20 Based on its records, Defendant estimates that (1) there are 342 Class Members and  
21 approximately 47,608 Total Workweeks (between the start of the Class Period on November 10,  
22 2018 and the date of mediation on May 4, 2022), and (2) there are 303 Aggrieved Employees  
23 who worked approximately 32,486 Pay Periods (between November 1, 2019 and the date of  
24 mediation on May 4, 2022).

25 8.1. Increase in Workweeks. In the event the number of Workweeks worked by Class  
26 Members during the Class Period increases by more than 10%, or 4,761 Workweeks, then the  
27 Gross Settlement Amount shall be increased proportionally by the Workweeks in excess of  
28 52,369 Workweeks multiplied by the Workweek Value. The Workweek Value shall be

1 calculated by dividing the originally agreed-upon Gross Settlement Amount (\$1,200,000.00) by  
2 47,608, which amounts to a Workweek Value of \$25.21. Thus, for example, should there be  
3 53,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by  
4 \$15,907.51. ((53,000 Workweeks – 52,369 Workweeks) x \$25.21 per Workweek.).

#### 5 **9. DEFENDANT’S RIGHT TO WITHDRAW**

6 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of  
7 the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the  
8 Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio,  
9 have no force or effect whatsoever, and that neither Party will have any further obligation to  
10 perform under this Agreement; provided, however, Defendant will remain responsible for paying  
11 all Settlement Administration Expenses incurred to that point. Defendant must notify Class  
12 Counsel and the Court of its election to withdraw not later than 14 days after the Administrator  
13 sends the final Exclusion List to Defense Counsel; late elections will have no effect.

#### 14 **10. MOTION FOR FINAL APPROVAL**

15 Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will  
16 endeavor to file in Court, a motion for final approval of the Settlement that includes a request for  
17 approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final  
18 Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff  
19 shall provide drafts of these documents to Defense Counsel prior to filing the Motion for Final  
20 Approval. Class Counsel and Defense Counsel will expeditiously meet and confer, and in good  
21 faith, to resolve any disagreements concerning the Motion for Final Approval.

22 10.1. Response to Objections. Each Party retains the right to respond to any objection raised  
23 by a Participating Class Member, including the right to file responsive documents in Court no  
24 later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted  
25 by the Court.

26 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final  
27 Approval on any material change to the Settlement (including, but not limited to, the scope of  
28 release to be granted by Class Members), the Parties will expeditiously work together in good

1 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final  
2 Approval. The Court's decision to award less than the amounts requested for the Class  
3 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation  
4 Expenses Payment, and/or Administrator Expenses Payment shall not constitute a material  
5 modification to the Agreement within the meaning of this paragraph.

6 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the  
7 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of  
8 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,  
9 and (iii) addressing such post-Judgment matters as are permitted by law.

10 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and  
11 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class  
12 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their  
13 respective counsel, and all Participating Class Members who did not object to the Settlement as  
14 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to  
15 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions  
16 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver  
17 of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, the  
18 Parties' obligations to perform under this Agreement will be suspended until such time as the  
19 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect  
20 the amount of the Net Settlement Amount.

21 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the  
22 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material  
23 modification of this Agreement (including, but not limited to, the scope of release to be granted  
24 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless  
25 expeditiously work together in good faith to address the appellate court's concerns and to obtain  
26 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration  
27 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify  
28 the Court's award of the Class Representative Service Payment or any payments to Class Counsel



1 shall not constitute a material modification of the Judgment within the meaning of this paragraph,  
2 as long as the Gross Settlement Amount remains unchanged

3 **11. AMENDED JUDGMENT**

4 If any amended judgment is required under Code of Civil Procedure section 384, the  
5 Parties will work together in good faith to jointly submit and a proposed amended judgment.

6 **12. ADDITIONAL PROVISIONS**

7 12.1. No Admission of Liability, Class Certification, or Representative Manageability for  
8 Other Purposes. This Agreement represents a compromise and settlement of highly disputed  
9 claims. Nothing in this Agreement is intended or should be construed as an admission by  
10 Defendant that any of the allegations in the Operative Complaint have merit or that Defendant  
11 has any liability for any claims asserted; nor should it be intended or construed as an admission  
12 by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class  
13 certification and representative treatment is for purposes of this Settlement only. If, for any  
14 reason the Court does grant Preliminary Approval, Final Approval, or enter Judgment, Defendant  
15 reserves the right to contest certification of any class for any reasons, and Defendant reserves all  
16 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class  
17 certification on any grounds available and to contest Defendant's defenses. The Settlement, this  
18 Agreement, and Parties' willingness to settle the Action will have no bearing on, and will not be  
19 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the  
20 Settlement and this Agreement).

21 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and  
22 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement  
23 is filed, they and each of them will not disclose, disseminate, and/or publicize, or cause or permit  
24 another person to disclose, disseminate, or publicize, any of the terms of the Agreement directly  
25 or indirectly, specifically or generally, to any person, corporation, association, government  
26 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom  
27 will be instructed to keep this Agreement confidential; (2) to counsel in a related matter; (3) to  
28 the extent necessary to report income to appropriate taxing authorities; (4) in response to a court

1 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal  
2 government agency. Each Party agrees to immediately notify each other Party of any judicial or  
3 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel,  
4 Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any  
5 conversation or other communication, before the filing of the Motion for Preliminary Approval,  
6 with any third party regarding this Agreement or the matters giving rise to this Agreement except  
7 to respond only that “the matter was resolved,” or words to that effect. This paragraph does not  
8 restrict Class Counsel’s communications with Class Members in accordance with Class  
9 Counsel’s ethical obligations owed to Class Members.

10 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and  
11 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal  
12 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s  
13 ability to communicate with Class Members in accordance with Class Counsel’s ethical  
14 obligations owed to Class Members.

15 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement  
16 together with its attached exhibits shall constitute the entire agreement between the Parties  
17 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or  
18 inducements made to or by any Party.

19 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and  
20 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate  
21 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate  
22 its terms, and to execute any other documents reasonably required to effectuate the terms of this  
23 Agreement including any amendments to this Agreement.

24 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their  
25 best efforts, in good faith, to implement the Settlement by, among other things, modifying the  
26 Settlement Agreement, submitting supplemental evidence, and supplementing points and  
27 authorities as requested by the Court. In the event the Parties are unable to agree upon the form  
28 or content of any document necessary to implement the Settlement, or on any modification of the

1 Agreement that may become necessary to implement the Settlement, the Parties will seek the  
2 assistance of a mediator and/or the Court for resolution.

3 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not  
4 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or  
5 encumber to any person or entity any portion of any liability, claim, demand, action, cause of  
6 action, or right released and discharged by the Party in this Settlement.

7 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are  
8 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied  
9 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR  
10 Part 10, as amended) or otherwise.

11 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,  
12 modified, changed, or waived only by an express written instrument signed by all Parties or their  
13 representatives, and approved by the Court.

14 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to  
15 the benefit of, the successors of each of the Parties.

16 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be  
17 governed by and interpreted according to the internal laws of the state of California, without  
18 regard to conflict of law principles

19 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of  
20 this Agreement. This Agreement will not be construed against any Party on the basis that the  
21 Party was the drafter or participated in the drafting

22 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered  
23 during Action and in this Agreement relating to the confidentiality of information shall survive  
24 the execution of this Agreement

25 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.  
26 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by  
27 Defendant in connection with the mediation, other settlement negotiations, or in connection with  
28 the Settlement, may be used only with respect to this Settlement, and no other purpose, and may

1 not be used in any way that violates any existing contractual agreement, statute, or rule of court.  
2 Not later than 90 days after the date when the Court discharges the Administrator’s obligation to  
3 provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall return ,  
4 all paper and electronic versions of sections 1-4 of the Class Data received from Defendant.

5 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is  
6 inserted for convenience of reference only and does not constitute a part of this Agreement.

7 12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall  
8 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a  
9 weekend or federal legal holiday, such date or deadline shall be on the first business day  
10 thereafter.

11 12.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts  
12 by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall  
13 be accepted as an original. All executed counterparts and each of them will be deemed to be one  
14 and the same instrument if counsel for the Parties will exchange between themselves signed  
15 counterparts. Any executed counterpart will be admissible in evidence to prove the existence  
16 and contents of this Agreement.

17 12.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the  
18 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further  
19 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend  
20 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement  
21 process.

22 12.19. Severability. In the event that one or more of the provisions contained in this Agreement  
23 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,  
24 illegality, or unenforceability shall in no way effect any other provision if Defense Counsel and  
25 Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to  
26 proceed as if such invalid, illegal, or unenforceable provision had never been included in this  
27 Agreement.

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**IT IS SO AGREED:**

Sep 29, 2022

  
jose luis Sandoval villafana (Sep 29, 2022 16:45 PDT)

For Plaintiff, Jose L. Sandoval Villafana

For Defendant, Satco, Inc.

*Vedang J. Patel* 9/30/2022

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**IT IS SO AGREED:**

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\_\_\_\_\_  
For Plaintiff, Jose L. Sandoval Villafana

*Rick Weis, CFO*  
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