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12

13 **SUPERIOR COURT OF CALIFORNIA**

14 **COUNTY OF ALAMEDA**

15 **ALFREDO RANGEL**, individually and on  
behalf of other persons similarly situated,

16 Plaintiff,

17 vs.

18 **ARBORWORKS, INC.**, a California  
19 corporation, and **DOES 1-10**,

20 Defendants.  
21  
22

Case No. RG19009624

[Assigned to Hon. Winifred Smith for all purposes,  
Dept. 21]

**STIPULATION OF SETTLEMENT AND  
RELEASE**

Action Filed: March 5, 2019  
Trial Date: None

1 **STIPULATION OF SETTLEMENT AND RELEASE**

2 This Stipulation of Settlement and Release (“Settlement Agreement”) is made by and between  
3 Plaintiff ALFREDO RANGEL (“Plaintiff”), on behalf of himself, his agents, representatives, assigns,  
4 heirs, executors, beneficiaries, trustees, and the “Settlement Class” defined below; and Defendants  
5 ARBORWORKS, INC., on behalf of itself, its parents, subsidiaries, agents, affiliates, directors,  
6 officers, employees, and attorneys (collectively, “Defendants”). Defendants, Plaintiff, and the  
7 Settlement Class are referred to herein as the “Parties.” This Settlement Agreement is intended to  
8 fully, finally, and forever compromise, release, resolve, discharge, and settle the released claims  
9 subject to the terms and conditions set forth in this Settlement Agreement. This Settlement  
10 Agreement provides for the settlement of claims on behalf of the Settlement Class, as described  
11 further herein. Upon final approval of this Settlement Agreement by the Court, and any related  
12 motions, the instant action shall be dismissed in its entirety with prejudice.

13 **I. THE INSTANT ACTION**

14 **Section 1.1 Background and Procedural History**

15 On March 5, 2019, Plaintiff initiated this lawsuit by filing a class action complaint against  
16 Defendants in Alameda County Superior Court, Case No. RG19009624, alleging six causes of action  
17 for wage and hour violations. On March 4, 2019, pursuant to California Private Attorney General  
18 Act, Labor Code sections 2698 et seq. (“PAGA”), Plaintiff sent a letter to the California Labor and  
19 Workforce Development Agency (“LWDA”) and to Defendants notifying them of the alleged Labor  
20 Code violations at issue in this case. Per the parties’ stipulation, on May 8, 2019, Plaintiff filed a First  
21 Amended Complaint adding a sixth claim under the PAGA (the “Operative Complaint” or  
22 “Lawsuit”). The Operative Complaint alleges various wage and hour claims on behalf of Plaintiff and  
23 other current and former employees of Defendants, including: (1) failure to pay minimum wages, (2)  
24 failure to provide meal periods, (3) failure to allow rest periods, (4) penalties for inaccurate wage  
25 statements; (5) waiting time penalties, (6) unfair competition (Bus. & Prof. Code §§ 17200 et seq.);  
26 and (7) penalties pursuant to the Private Attorney General Act of 2004 (Labor Code §§ 2698 et seq.  
27 (“PAGA”).

1 Defendants deny all of Plaintiff's claims and allegations in this Lawsuit. Defendants expressly  
2 deny any and all charges of wrongdoing or liability arising out of the acts, omissions, facts, matters,  
3 transactions, or occurrences alleged, or that could have been alleged, in the Lawsuit. Defendants  
4 contend that they have complied with applicable state and federal laws, including but not limited to  
5 paying all wages owed to its non-exempt hourly employees, providing adequate meal breaks and  
6 making rest periods available to its non-exempt hourly employees, issuing accurate, itemized wage  
7 statements, and timely paying its non-exempt employees all wages owed upon termination.  
8 Defendants also deny that it owes Plaintiff and/or the Settlement Class any additional wages,  
9 damages, penalties or any other remedies. Defendants further deny that the asserted claims are  
10 appropriate for class action treatment under California Code of Civil Procedure § 382, except  
11 pursuant to a settlement and only for the purpose of the settlement, due to the intractable management  
12 problems and issues of individualized proof that would have been associated with a class action and a  
13 class-wide trial.

#### 14 **Section 1.2 Parties' Statements and Recognition of the Benefits of the Settlement**

15 Class Counsel has investigated the facts of the Lawsuit and Plaintiff's and Settlement Class  
16 Members' claims, through formal discovery, informal disclosures between the Parties, and other  
17 investigations undertaken by Plaintiff's Counsel. Furthermore, the Parties engaged in extensive arms-  
18 length negotiations and exchanges of data, documents and information in mediation with mediator  
19 Tripper Ortman, Esq., on March 24, 2020. The Parties did not settle at mediation but continued to  
20 negotiate for another month with the help of the mediator. On April 27, 2020, the mediator made a  
21 mediator's proposal. However, due to Covid-19 related issues, the Parties suspended negotiations and  
22 in December 2020 ultimately agreed to settle the claims alleged in the Lawsuit. As a result, Class  
23 Counsel concluded that the Settlement Agreement is fair, reasonable and adequate and is in the best  
24 interest of the Settlement Class in light of all known facts and circumstances, including the likely  
25 damages, risk of significant delay, risk that the Lawsuit would not proceed on a class action basis,  
26 defenses asserted by Defendants, and numerous potential appellate issues.

27 Defendants deny each and all of the claims in this Lawsuit. Nevertheless, Defendants have  
28 concluded that further conduct of the Lawsuit would be protracted and expensive. Defendants,

1 therefore, have determined that it is desirable and beneficial that the Lawsuit be settled in a manner  
2 and upon the terms and conditions set forth in the Settlement Agreement. Neither this Settlement  
3 Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out  
4 this Settlement Agreement is, may be construed as, or may be used as, an admission, concession, or  
5 indication by or against Defendants of any fault, wrongdoing or liability whatsoever.

## 6 **II. TERMS OF THE SETTLEMENT AGREEMENT**

7 IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff (for himself and the  
8 Settlement Class) and Defendants, by and through their respective undersigned attorneys, that:  
9 subject to final approval by the Court, the Lawsuit will be finally and fully compromised, released,  
10 resolved, discharged, and settled, and will be dismissed in its entirety with prejudice, subject to the  
11 terms and conditions of this Settlement Agreement, as follows:

### 12 **Section 2.1 Definitions**

13 As used in this Settlement Agreement, the following terms have the meanings specified  
14 below:

15 “Administrative Costs” means the estimated reasonable cost by the Settlement  
16 Administrator, including for providing Notice, various efforts to locate class members, administering  
17 payments to Plaintiff, Verified Settlement Class Members (defined below), to the Labor and  
18 Workforce Development Agency, and to Class Counsel.

19 “Administrator” or “Settlement Administrator” means the class action administration  
20 firm that will be selected by Defendants and Plaintiff to provide notice of this proposed class action  
21 settlement to the Settlement Class and to perform other related functions to administer the settlement  
22 contemplated by this Settlement Agreement as described herein. The Parties have solicited a bid from  
23 Phoenix Settlement Administrators for administration of the Settlement and have agreed that Phoenix  
24 Settlement Administrators will be the Settlement Administrator.

25 “Attorneys’ Fees and Costs” refers to the fees and costs to be paid to Class Counsel  
26 under Section 2.4(b) of this Settlement Agreement.

1           “Class Counsel” means the attorneys representing Plaintiff in this Lawsuit: Jeremy  
2 Bollinger, Esq., Dennis F. Moss, Esq., Ari E. Moss, Esq., and Kiara Bramasco, Esq., of Moss  
3 Bollinger, LLP, 15300 Ventura Boulevard, Suite 207, Sherman Oaks, California 91403.

4           “Class Period” shall mean the period from March 5, 2015 through April 27, 2020.

5           “Court” shall mean the California Superior Court for the County of Alameda where  
6 the Lawsuit is pending, and any Court-appointed referee or agent of the Court or other judicial entity  
7 with jurisdiction over this matter.

8           “Defendants” means ArborWorks, Inc., and its shareholders, officers, directors, and  
9 managing agents.

10           “Effective Date” means as follows: The “Effective Date” of this settlement shall be the  
11 later of the time when either: (i) the Judgement of the Court granting final approval of the settlement  
12 is final and no longer subject to appeal, if there are objections, or (ii) 30 days after Notice is provided  
13 by Plaintiff to Defendants that the Court entered the order on final approval of the settlement, if there  
14 are no objections. The occurrence of the Effective Date is a prerequisite to any distributions from the  
15 Settlement Fund.

16           “Employee Payroll Taxes” means the employee portion of all applicable tax  
17 withholdings including, but not limited to, FICA, FUTA, and other employment related taxes and  
18 withholding of federal, state, and local income taxes.

19           “Final Fairness Hearing” means the hearing to be conducted by the Court, or any other  
20 court taking jurisdiction of this matter, to determine whether to finally approve the settlement of the  
21 Lawsuit.

22           “Gross Settlement Amount” or “GSA” refers to Three Hundred Thousand Dollars  
23 (\$300,000.00) which is non-reversionary. In no event shall Defendants be required to pay more than  
24 the Gross Settlement Amount with the sole exception that Defendants shall remit their share of the  
25 employer’s payroll taxes, as provided herein, in addition to the Gross Settlement Amount. The GSA  
26 will be distributed in accordance with Section 2.4 of this Agreement.

27           “Individual Settlement Payment(s)” means the amounts to be paid to Verified  
28 Settlement Class Members (defined below) pursuant to the terms and conditions of this Settlement

1 Agreement (defined below).

2 “Lawsuit” or “Action” means *Alfredo Rangel v. ArborWorks, Inc. et al.*, Case No.  
3 RG19009624 pending in the California Superior Court for the County of Alameda.

4 “Motion for Preliminary Approval” refers to the motion for preliminary approval of  
5 the settlement described herein, including any and all supporting papers, which shall be filed by  
6 Plaintiff.

7 “Net Settlement Amount” shall be the Gross Settlement Amount after the following  
8 deductions are made: (a) all costs of settlement administration performed by a settlement  
9 administrator to be agreed upon by the Parties; (b) Service Award (defined below) to Plaintiff; (c)  
10 payment to the Labor and Workforce Development Agency (“LWDA”); and (d) Attorney’s Fees and  
11 Costs for Plaintiff’s Counsel. The Net Settlement Amount shall be available for Settlement Class  
12 members, as defined below, who do not opt out of the Settlement Class.

13 “Notice of Settlement” refers to the official notice of settlement of class action,  
14 materially in the form attached hereto as **Exhibit A**.

15 “Notice Period” refers to the time period of forty-five (45) days from the first mailing  
16 date postmarked on the first Notice of Settlement mailed by the Settlement Administrator.

17 “Opt-Out Date” refers to the expiration of the Notice Period, by which time Settlement  
18 Class Members who do not wish to be part of the settlement and who are permitted to opt out of this  
19 Settlement must have timely and properly opted-out of the Settlement Class as described herein.

20 “Order Granting Preliminary Approval” refers to the Court order or statement of  
21 decision granting preliminary approval to this Settlement Agreement.

22 “Order of Final Approval” and “Final Approval” mean an order that finally and  
23 unconditionally grants certification of the Settlement Class for settlement purposes only, authorizes  
24 payments to the Settlement Administrator, Verified Settlement Class Members, Plaintiff, the LWDA,  
25 and Class Counsel as provided in this Agreement, and fully and finally extinguishes the Released  
26 Claims of the Verified Settlement Class as set forth herein, which the Parties shall submit in a  
27 mutually agreed upon form.

1           “PAGA Payment” means the Six Thousand Dollars (\$6,000.00) allocated for the  
2 settlement and full release of any and all claims for civil penalties that could have been made in this  
3 Action by Plaintiff and/or any of the Settlement Class Members under the California Private Attorney  
4 General Act (“PAGA”), Cal. Labor Code § 2698, *et seq.*, 75% of which (\$4,500.00) will be  
5 distributed to the LWDA and 25% (\$1,500.00) will be distributed to Verified Settlement Class  
6 Members.

7           “Plaintiff” means Plaintiff Alfredo Rangel.

8           “Released Claims” means the claims released pursuant to Section 2.6 of this  
9 Settlement Agreement.

10          “Released Parties” means Defendants, including each of the Defendant’s respective  
11 past, present and future parents, subsidiaries and affiliates, and related entities.

12          “Service Award” means a Court-approved sum to be paid to the Plaintiff in  
13 accordance with Section 2.4(c).

14          “Settlement” means the disposition of the Action pursuant to this Agreement.

15          “Settlement Agreement” refers to this Joint Stipulation of Settlement and Release.

16          “Settlement Class” means all current and former non-exempt hourly paid employees  
17 of ArborWorks, Inc. who were employed in California to perform tree trimming services at any time  
18 between March 5, 2015 through April 27, 2020. Defendant represents there were 1,272 putative class  
19 members as of March 9, 2020.

20          “Settlement Class Member(s)” means the individuals in the Settlement Class.

21          “Verified Settlement Class” means Plaintiff and all Settlement Class Members who do  
22 not timely opt-out/request for exclusion from the Settlement pursuant to Section 2.7 of this  
23 Settlement Agreement.

24          “Verified Settlement Class Member(s)” means the individual in the Verified Settlement  
25 Class.

26 **Section 2.2 Settlement of the Lawsuit**

27          It is agreed by and among the Plaintiff, the Verified Settlement Class Members and  
28 Defendants that the Lawsuit, including any and all allegations in the Operative Complaint and any

1 and all claims, allegations, causes of action, requests for damages, or remedies sought in the  
2 Operative Complaint, or that could have been alleged based on the pleadings, shall be settled,  
3 compromised and released as between the Plaintiff, the Verified Settlement Class Members and  
4 Defendants, subject to the terms and conditions set forth in this Settlement Agreement and the  
5 approval of the Court, including through any Court-appointed referee or agent of the Court or other  
6 judicial entity with jurisdiction over this matter. As part of the motion for preliminary approval, the  
7 Parties will submit a stipulation and proposed order to the Court which, if approved, shall replace  
8 Plaintiff's Operative Complaint. Plaintiff will provide Defendants with drafts of the motion for  
9 preliminary approval and supporting papers, and the stipulation before filing mutually-agreeable  
10 documents with the Court.

11 **Section 2.3 Conditional Certification of the Settlement Class for Settlement Purposes Only**

12 (a) For settlement purposes only, the Parties stipulate to conditional certification of  
13 the Settlement Class, contingent on final approval of the Settlement.

14 (b) The Parties stipulate that Alfredo Rangel shall be appointed as Class  
15 Representative.

16 (c) The Parties stipulate that Moss Bollinger, LLP (attorneys Jeremy Bollinger,  
17 Dennis Moss, Ari Moss, and Kiara Bramasco) shall be appointed as Class Counsel.

18 (d) The conditional certification of the Settlement Class and appointment of Class  
19 Counsel and Class Representative by the Court shall be binding only with respect to the Settlement of  
20 this Action. In the event that this Settlement Agreement is terminated pursuant to its terms or the  
21 Settlement is not approved by the Court for any reason, the certification of the Settlement Class shall  
22 be vacated, the Action shall proceed as though the Settlement Class had never been certified, any  
23 payments of the GSA shall be returned to Defendant pursuant to paragraph 2.16(b) below, and this  
24 Settlement Agreement shall be of no force or effect.

25 (e) The Parties agree that, for any claim that is not alleged in Plaintiff's Operative  
26 Complaint (including any and all amendments), the statute of limitations has and will continue to run  
27 on those claims and no such claims will relate back to the filing of any of the pleadings in this  
28 Lawsuit.



1 **Section 2.4 Gross Settlement Amount Distribution**

2 (a) Gross Settlement Amount

3 In consideration for settlement of the Action and the release of all Released Claims of  
4 the Verified Settlement Class Members, including, Plaintiff, Defendants agree to pay the sum of  
5 Three Hundred Thousand Dollars (\$300,000.00) (“Gross Settlement Amount”) for Administrative  
6 Costs, Service Award, Individual Settlement Payments, Attorneys’ Fees and Costs, Employee Payroll  
7 Taxes, and the PAGA Payment in connection with the Settlement Class Members’ claims under  
8 PAGA. The Gross Settlement Amount is to be allocated to the Settlement Administrator, Class  
9 Counsel, Plaintiff, Verified Settlement Class Members, and the LWDA as described herein. The  
10 Gross Settlement Amount is the maximum total amount Defendants are required to pay for any and  
11 all purposes under this Settlement Agreement, and in connection with the termination of this Lawsuit,  
12 except that Defendants’ share of payroll taxes and other required withholdings from individual  
13 settlement payments, paid as wages, including, but not limited to, FICA and FUTA contributions,  
14 shall be paid separately by Defendants and not from the Gross Settlement Amount.

15 (b) Attorneys’ Fees and Costs.

16 (1) Class Counsel will apply for an award of attorneys’ fees in an amount up to  
17 One Hundred Thousand Dollars (\$100,000.00), which is one-third (1/3) of the Gross Settlement  
18 Amount and actual documented costs not to exceed Eighteen Thousand Dollars (\$18,000.00) subject  
19 to approval by the Court, and will compensate Class Counsel for the work already performed in the  
20 Action and the work remaining to be performed in documenting the Settlement, securing Court  
21 approval of the Settlement, working with the Settlement Administrator to administer the Settlement,  
22 obtaining dismissal of the Action with prejudice, and defending against any appeals, as well as all  
23 associated expenses. Defendant does not object to Plaintiff’s Counsel’s application for fees up to One  
24 Thousand Dollars (\$100,000) and actual documented costs not to exceed Eighteen Thousand Dollars  
25 (\$18,000).

26 (2) Class Counsel, Plaintiff, and Verified Settlement Class Members, will not  
27 apply to the Court for any payment of Attorneys’ Fees and Costs that are in addition to or in excess of  
28 the foregoing. The Parties agree that, over and above the Court-approved Attorneys’ Fees and Costs

1 awarded in this Lawsuit under this Settlement Agreement, each of the Parties, including all Verified  
2 Settlement Class Members, shall bear their own fees and costs, including, but not limited to, those  
3 related to the investigation, filing, prosecution, or settlement of the Lawsuit; the negotiation,  
4 execution, or implementation of this Settlement Agreement; and/or the process of obtaining,  
5 administering, or challenging a Certification Order and/or Final Approval.

6 (3) In the event the Court denies, modifies, or reduces Class Counsel's request  
7 for Attorneys' Fees and Costs, then Plaintiff, Class Counsel, and the Verified Settlement Class  
8 Members may not seek modification or cancellation of this Agreement and will not seek, request, or  
9 demand an increase in the Gross Settlement Amount. If Plaintiff's Counsel's Attorney's Fees and  
10 Costs are reduced, the difference between the amounts set forth in this Agreement and the reduced  
11 amounts awarded will be re-allocated to the Net Settlement Amount.

12 (4) If Class Counsel appeals the Court's ruling on their application for Attorneys'  
13 Fees and Costs, the ruling of the appellate court (regardless of its substance) shall not constitute a  
14 material alteration of a term of this Settlement Agreement.

15 (5) All claims for Attorneys' Fees, Costs or expenses that Class Counsel, Plaintiff,  
16 and the Settlement Class Members may possess against Defendants have been compromised, released  
17 and resolved in this Settlement Agreement and shall not be affected by any appeal that Class Counsel  
18 may file.

19 (6) The Administrator, within fifteen (15) calendar days of the Effective  
20 Settlement Date, shall deliver any awards of Attorneys' Fees and Costs to Class Counsel.

21 (c) Plaintiff's Service Award

22 (1) In addition to the Individual Settlement Payment determined to be due to the  
23 Plaintiff as a Verified Settlement Class Member under this Settlement Agreement, Class Counsel and  
24 Plaintiff may petition the Court for a Service Award for Plaintiff, in the total amount of no more than  
25 Seven Thousand Five Hundred Dollars (\$7,500.00). Any such petition shall be filed concurrently  
26 with Class Counsel's application for Attorneys' Fees and Costs. Any Service Award approved by the  
27 Court in conjunction with the Settlement shall be paid solely from the Gross Settlement Amount and  
28 shall not reduce the Net Settlement Amount payable to the Verified Settlement Class Members.

1 Defendant does not object to a Service Award to Plaintiff not to exceed Seven Thousand Five  
2 Hundred Dollars (\$7,500.00).

3 (2) The Service Award shall be distributed by the Settlement Administrator in  
4 accordance with Section 2.11 of this Settlement Agreement and shall be reported by the Settlement  
5 Administrator to state and federal taxing authorities as non-wage income on IRS Form 1099. Plaintiff  
6 will be solely responsible for correctly characterizing his Service Award for tax purposes and is  
7 solely responsible for paying any taxes owing on the Service Award. Plaintiff agrees to assume  
8 responsibility of remitting to the Internal Revenue Service and any other relevant taxing authority the  
9 amounts required by law, if any, to be withheld by Defendants or the Settlement Administrator from  
10 his Service Award. In addition, Plaintiff shall hold Defendants harmless and indemnify and defend  
11 Defendants and Released Parties for all taxes, interest, penalties, and costs incurred by Defendants or  
12 the Released Parties by any reason of any claims relating to the non-withholding of taxes from the  
13 Service Award.

14 (3) In the event that the Court denies, modifies, or reduces Plaintiff's request for a  
15 Service Award, Plaintiff may not seek modification or cancellation of this Settlement Agreement and  
16 will not seek, request, or demand an increase in the Settlement Amount. If Plaintiff's Service Award  
17 is reduced by the Court, the amount set forth in this Agreement and the reduced amount awarded will  
18 be re-allocated to the Net Settlement Amount.

19 (4) Plaintiff shall receive the Service Award payment and any other payments  
20 under this Settlement Agreement within fifteen (15) calendar days of the Effective Settlement Date.  
21 Such Service Award is also contingent upon Plaintiff agreeing to the terms herein.

22 (d) Settlement Administration Expenses

23 (1) The Settlement Administrator shall be paid, for the costs of administration of  
24 the Settlement, an estimated fee of Fourteen Thousand Seven Hundred Fifty Dollars (\$14,750.00).  
25 These costs include without limitation the mailing of notice, establishing a toll-free telephone  
26 number, tracking requests for exclusion, disbursement of the Gross Settlement Amount, and other  
27 duties set forth below in Section 2.5. No fewer than twenty-one (21) court days prior to the Final  
28 Approval Hearing, the Settlement Administrator shall provide the Court and all counsel for the

1 Parties with a statement detailing these Administrative Costs. The Parties agree to cooperate in the  
2 settlement administration process and to make all efforts to control and to minimize the costs and  
3 expenses incurred in the administration of this Settlement.

4 (e) PAGA Payment

5 (1) Six Thousand Dollars (\$6,000.00) of the Gross Settlement Amount shall be  
6 allocated for the settlement and full release of any and all claims for civil penalties that could have  
7 been made in this Action by the Verified Settlement Class Members under PAGA, Cal. Labor Code §  
8 2698, *et seq.* (“PAGA Payment”). Pursuant to California Labor Code § 2699(i), 75% of the PAGA  
9 Payment, Four Thousand Five Hundred Dollars (\$4,500.00), shall be paid to the LWDA, and 25% of  
10 the PAGA Payment, One Thousand Five Hundred Dollars (\$1,500.00), shall be distributed to  
11 Verified Settlement Class Members as part of the Net Settlement Amount as set forth in Section  
12 2.4.(f) below. The Administrator shall deliver payment to the LWDA within fifteen (15) calendar  
13 days after the Effective Settlement Date. Plaintiff will provide notice to the LWDA of this settlement  
14 at the time Plaintiff files his motion for Preliminary Approval.

15 (f) Distributions to Verified Settlement Class Members

16 (1) Individual Settlement Payments will be paid from the Net Settlement Amount  
17 and shall be paid pursuant to the settlement formula set forth herein. Settlement Class Members are  
18 not required to submit claim forms for their share of the Net Settlement Amount. Settlement checks  
19 will not be sent out to any Settlement Class Members whose Notice Packets are returned as  
20 undeliverable. Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to  
21 Verified Settlement Class Members’ last known mailing address within fifteen (15) calendar days  
22 after the Effective Settlement Date. Any checks issued by the Settlement Administrator to Class  
23 Members will be negotiable for one-hundred eighty (180) calendar days. After one-hundred eighty  
24 (180) calendar days from the date of mailing, the checks shall become null and void, and any monies  
25 remaining in the distribution account shall be distributed to the Controller of the State of California to  
26 be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, for the benefit  
27 of those Settlement Class members who did not cash their checks until such time that they claim their  
28 property. The Settling Parties agree that this disposition results in no “unpaid residue” under

1 California Civil Procedure Code § 384, as the entire Settlement Payment will be paid out to  
2 Settlement Class members, whether or not they all cash their Settlement Checks. Therefore,  
3 Defendant will not be required to pay any interest on said amount.

4 (2) Verified Settlement Class Members will receive a pro-rated share of the Net  
5 Settlement Amount, less applicable withholdings, based on the total workweeks worked by the  
6 Verified Settlement Class Member during the Class Period. The maximum amount that each Verified  
7 Settlement Class Member is entitled to receive is determined by multiplying Net Settlement Amount  
8 by a ratio that is determined by dividing a Verified Settlement Class Member's total workweeks  
9 worked during the Class Period in California by the total number of workweeks worked during the  
10 Class Period by all Settlement Class Members employed by Defendant as expressed in the following  
11 formula:

12  
13 Verified Settlement Class Member Payment = Net Settlement Amount multiplied  
14 by Verified Settlement Class Member workweeks divided by *all* workweeks  
worked by *all* Settlement Class Members.

15 (3) The Settlement Administrator will calculate the number of workweeks worked  
16 by the Verified Settlement Class Members during the Class Period, and the amount to be paid to  
17 Verified Settlement Class Members per workweek based on information provided by Defendants.

18 (4) The workweeks will be calculated by the Settlement Administrator for each  
19 Settlement Class Member by using the difference between the first and last dates each Settlement  
20 Class Member worked during the Class Period divided by seven; partial workweeks will be rounded  
21 up. Because incomplete data for Settlement Class Members may be attributed to Settlement Class  
22 Members whose employment lasted less than three weeks, any Verified Settlement Class Member  
23 with incomplete data will be assumed to have worked three weeks. Defendants will provide the first  
24 and last date worked by each Settlement Class Member and such data will be presumed to be correct,  
25 unless the Settlement Class Member proves otherwise to the Settlement Administrator by credible  
26 written evidence. All workweek disputes will be resolved and decided by the Settlement  
27  
28

1 Administrator, and the Settlement Administrator's decision on all workweek disputes will be final  
2 and non-appealable.

3 (5) The Settlement Administrator will calculate the estimated Individual  
4 Settlement Payments prior to mailing the Notice of Settlement. The estimated Individual Settlement  
5 Payment will be displayed in the Settlement Class Member's Notice of Settlement.

6 (6) Within thirty (30) calendar days of the close of the Notice Period, the  
7 Settlement Administrator will provide a copy of its calculations, without any name identifying data,  
8 for Defendants' counsel and Class Counsel to review before Individual Settlement Payments are  
9 made to Verified Settlement Class Members. The Parties may dispute the calculations only with  
10 respect to mathematical errors or an incorrect application of the above method of allocation. Such a  
11 dispute must be raised in writing within seven (7) calendar days after the Settlement Administrator  
12 provides the calculations in writing to Defendants and Class Counsel.

13 (g) Allocation and Taxability of Settlement Distributions.

14 (1) For tax purposes, Individual Settlement Payments will be allocated as twenty  
15 percent (20%) to wages for which IRS Forms W-2 will be issued by the Settlement Administrator,  
16 and eighty percent (80%) to interest and penalties for which IRS Forms 1099-MISC will be issued by  
17 the Settlement Administrator. Defendants' share of payroll taxes and other required withholdings  
18 from the wage portion of the Individual Settlement Payments, including but not limited to FICA and  
19 FUTA contributions, shall be paid separately by Defendants and not out of the Gross Settlement  
20 Amount.

21 (2) Neither the terms of this Settlement Agreement nor any Individual Settlement  
22 Payments paid to any Verified Settlement Class Members shall have any effect on the eligibility or  
23 calculation of employee benefits for any Verified Settlement Class Members. Neither this Settlement  
24 Agreement, nor any of its attachments, should be interpreted to contain or constitute representations  
25 or advice regarding any U.S. federal or state tax issue. Settlement Class Members will be specifically  
26 informed that neither Defendant nor Class Counsel make any representations regarding the tax  
27 implications of any amounts paid under this Settlement Agreement and that if any Settlement Class  
28 Member has any questions regarding those implications, they can and should consult a tax expert.

1           (3)     The Settlement Administrator shall provide each Verified Settlement Class  
2 Member who is entitled to an Individual Settlement Payment with a W-2 form reflecting the wages  
3 and the taxes withheld from those wages and with a Form 1099 reflecting the non-wage damages and  
4 interest paid. The Settlement Administrator shall also provide each Verified Settlement Class  
5 Member who is entitled to an Individual Settlement Payment with appropriate documentation setting  
6 forth the amount of any tax or other payment withheld and employer contribution made, in  
7 accordance with state and federal tax requirements.

8           (4)     Verified Settlement Class Members shall be solely and exclusively responsible  
9 for remitting to state and/or federal taxing authorities any other applicable taxes due and shall hold  
10 Defendants and the Released Parties harmless for any taxes, penalties, interest, liabilities, costs and  
11 expenses caused by any such taxing authority relating in any way to the Verified Settlement Class  
12 Members' tax treatment of payments made to them pursuant to this Settlement Agreement or failure  
13 to timely or properly pay any taxes owed on their respective Settlement Payments.

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

1 treatment or tax structure of any transaction, including any transaction contemplated by this  
2 Settlement Agreement.

3 **Section 2.5 Appointment and Duties of Settlement Administrator**

4 (a) Appointment of the Settlement Administrator

5 (1) Subject to the approval of the Court, the Parties will agree to the appointment  
6 of a professional class action claims administration firm. Plaintiff shall elicit a bid  
7 from Phoenix Settlement Administrators. The Parties anticipate that the Administrator fees will not  
8 exceed Eighteen Thousand Dollars (\$18,000.00). The Administrator's fees shall be paid out of the  
9 Gross Settlement Amount. Any savings shall be distributed to the Verified Settlement Class Members  
10 from the Net Settlement Fund.

11 (b) Duties of the Settlement Administrator: The Settlement Administrator shall be  
12 responsible for administering the settlement process, including:

13 (1) Finalizing and printing the Notice of Settlement attached to this Settlement  
14 Agreement as **Exhibit A**, as modified by the Court and/or by mutual agreement of the Parties.

15 (2) Mailing the Notice of Settlement in English and Spanish, and handling all  
16 mailings to Settlement Class Members pursuant to Section 2.9;

17 (3) Performing an address search and/or trace for returned or undeliverable  
18 mailings as set forth in Section 2.9(c);

19 (4) Recording and tracking responses to the Notice mailing by Settlement Class  
20 Members and the dates thereof (including recording the postmark date and identity of any Settlement  
21 Class Members who request exclusion or object and promptly forwarding such information to  
22 Defendants' counsel and Class Counsel using numbers instead of providing identifying information);

23 (5) Establishing a toll-free telephone number for Settlement Class Members to call  
24 during business hours to ask questions regarding the Settlement;

25 (6) Responding to inquiries made by the Settlement Class Members;

26 (7) Calculating and mailing Individual Settlement Payments;



1 (8) Settling disputes from Settlement Class Members regarding the information  
2 from Defendant on which Individual Settlement Payments are calculated with the assistance of  
3 Defendants' counsel and Class Counsel;

4 (9) Posting any final judgment in the Action on any website associated with this  
5 Settlement;

6 (10) Preparing and filing any required tax forms associated with the Settlement  
7 Administrator's duties hereunder; and

8 (11) Other related tasks as mutually agreed to by the Parties and required by statute.

9 (c) The Settlement Administrator shall keep Defendants' counsel and Class  
10 Counsel timely apprised of the performance of all Settlement Administrator responsibilities by  
11 weekly emails. All disputes relating to the Settlement Administrator's performance of its duties will  
12 be referred to the Court, if necessary, which will have continuing jurisdiction over this Settlement  
13 until all payments and obligations contemplated by this Settlement Agreement have been fully carried  
14 out.

15 (d) At least twenty-one (21) days before the Final Fairness Hearing, the Settlement  
16 Administrator shall prepare a declaration of compliance and due diligence and proof of mailing with  
17 regard to the mailing and emailing of the Notice of Settlement, and any attempts by the Settlement  
18 Administrator to locate Settlement Class Members, its receipt of timely and valid requests for  
19 exclusion, and its inability to deliver the Notice of Settlement to Settlement Class Members due to  
20 invalid addresses ("Due Diligence Declaration"), to Class Counsel and Defendant's counsel for  
21 presentation to the Court. Class Counsel shall be responsible for filing the Due Diligence Declaration  
22 with the Court.

23 **Section 2.6 Release of Claims by Plaintiff and Verified Settlement Class Members**

24 (a) Release by Plaintiff and Verified Settlement Class Members

25 (1) Upon the Effective Date, all Verified Settlement Class Members, including  
26 their heirs, assigns, estates and representatives, shall be deemed to fully forever, irrevocably and  
27 unconditionally release, and discharge Defendants and the Released Parties from any and all claims  
28 under state, federal and local law arising out of the allegations made in the Complaint and that

1 reasonably arise or could have arisen out of the facts alleged in the Complaint as to the Class  
2 Members, including claims for or related to alleged unpaid minimum wages (Labor Code §§ 1194,  
3 1197, and 1197.1), failure to timely pay wages at separation (Labor Code §§ 201, 202, and 203), any  
4 claim for failure to provide meal and rest periods or pay meal and rest period premiums (Labor Code  
5 §§ 226.7 and 512), failure to provide accurate and itemized wage statements (Labor Code § 226),  
6 unfair competition, unfair business practices, unlawful business practices, fraudulent business  
7 practices, injunctive relief, declaratory relief Business & Professions Code §§ 17200, et seq), PAGA  
8 claims for civil penalties due to any of the alleged Labor Code violations (Labor Code §§ 2698, et  
9 seq.) of Defendant by Plaintiff, interest, fees, costs, as well as all other claims and allegations alleged  
10 in the Complaint for the period of March 5, 2015 through April 27, 2020 (collectively “Released  
11 Claims”).

12 (2) The Parties intend and agree that this Settlement Agreement shall be binding  
13 on all Verified Settlement Class Members, whether or not they actually receive a payment pursuant to  
14 this Settlement Agreement. This Settlement Agreement shall constitute, and may be pleaded as, a  
15 complete and total defense to any Released Claims raised in the future.

16 (3) Plaintiff and Verified Settlement Class Members promise not to file a lawsuit  
17 in any court alleging any Released Claims, or to participate as a party or a class member in any  
18 administrative or other legal proceedings, in any forum, against Defendants or the Released Parties,  
19 for any claims released under this Settlement Agreement. In consideration for the promises made by  
20 Defendants in this Settlement Agreement, Plaintiff and each Verified Settlement Class Member  
21 agrees never to institute any suit, complaint, proceeding, grievance, or action of any kind at law, in  
22 equity, or otherwise in any court of the United States, or of any state or municipality, or with any  
23 administrative agency, arbitration or other legal forum, against Defendants or the Released Parties for  
24 any claim included in the Released Claims. Plaintiff and each Verified Settlement Class Member also  
25 agrees that he or she will not join, participate in, or consent to opt-in to any actions alleging that he or  
26 she is similarly situated to any other employee with respect to any such Released Claims, and that  
27 each will elect to opt-out of any such actions against Defendants or the Released Parties of which he  
28 or she is made a member or party. If Plaintiff or any Verified Settlement Class Member is joined in

1 any class or collective lawsuits for any Released Claims, he or she will receive no further  
2 compensation of any kind for such released claim or claims.

3 (b) General Release by Plaintiff

4 (1) In consideration for, inter alia, Defendants' agreement to pay the Service  
5 Award, Plaintiff, by signing this Settlement Agreement, hereby releases and discharges the Released  
6 Parties for any and all injuries, demands, losses, damages, costs, loss of service, expenses,  
7 compensation, claims, suits, causes of action, attorneys' fees, obligations or liabilities of any nature,  
8 type or description, whether known or unknown, suspected or unsuspected, whether administrative,  
9 civil or criminal, whether arising from statute, common law, regulation or other legal source, that  
10 relate to, are connected to, or arise out of any and all of the following: (1) his employment, (2) his  
11 dealings or interactions with the Released Parties (3) the claims asserted in the Lawsuit, (4) any claim  
12 that could have been asserted in the Lawsuit. In this regard, Plaintiff expressly waives and  
13 relinquishes to the fullest extent possible the provisions, rights and benefits of California Civil Code  
14 section 1542. Section 1542 provides:

15 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR  
16 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
17 FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY  
HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT  
WITH THE DEBTOR OR RELEASED PARTY.

18 Plaintiff further covenants not to initiate any court proceeding or administrative action, or to make  
19 any claim whatsoever, against the Released Parties relating in any manner to any claims she releases  
20 herein, to the full extent such a covenant is enforceable at law. This covenant shall not be deemed to  
21 apply or be construed to apply to any administrative proceeding or government enforcement action  
22 the future participation in which is not waivable by an individual as a matter of governing law.

23 **Section 2.7 Opt-Out/Request for Exclusion Procedure**

24 (a) Settlement Class Members, except Plaintiff who shall not be permitted to opt-  
25 out, shall be entitled to "opt out" of this Settlement Agreement. The Notice Materials shall provide  
26 instructions to Settlement Class Members who wish to "opt out." To be valid, an individual  
27 requesting exclusion must timely submit a written request for exclusion containing all of the  
28 information required in the Class Notice for excluding oneself from the settlement. Any such request

1 must be returned by U.S. Mail to the Settlement Administrator at the specified address and must be  
2 postmarked no later than the last day of the Notice Period. If the Settlement Class Member submits a  
3 request for exclusion that is not timely and/or valid then the Settlement Administrator will notify such  
4 Settlement Class Member that the request is untimely or invalid. Any disputes regarding the  
5 timeliness, validity or effectiveness of a request for exclusion shall be decided by the Administrator  
6 consistent with the terms of this Settlement Agreement, with the Parties' input, if appropriate. The  
7 date of the postmark on the mailing envelope for any request for exclusion shall be the exclusive  
8 means used to determine whether the request for exclusion has been timely submitted.

9 (b) Any Settlement Class Member who does not properly and timely submit a  
10 request for exclusion in the manner and by the deadline specified above in Section 2.7 will be a  
11 Verified Settlement Class Member who is barred from opting out of the Settlement and is bound by  
12 all terms and conditions of the Settlement and this Settlement Agreement, including the releases of  
13 claims pursuant to Section 2.6 of this Settlement Agreement, if the Settlement is approved by the  
14 Court, and will be bound by any Final Approval Order, regardless of whether he or she has objected  
15 to the Settlement.

16 (c) A Settlement Class Member who properly and timely submits a request for  
17 exclusion in the manner and by the deadline specified above in Section 2.7 will not be bound the  
18 Settlement Agreement; will be barred from participating in or objecting to the Settlement; will not  
19 receive any benefit from the Settlement; will remain free to contest any claim as to that individual  
20 that would have been barred by this Settlement Agreement; and nothing in this Settlement or  
21 Settlement Agreement will constitute or be construed as a waiver of any defense Defendant or the  
22 Released Parties have or could have asserted against such a claim.

23 **Section 2.8 Procedures for Objecting to the Settlement**

24 (a) The Class Notice shall provide that Verified Settlement Class Members and  
25 persons purporting to act on behalf of Verified Settlement Class Members who wish to object to the  
26 Settlement Agreement must file with the Settlement Administrator a written statement objecting to  
27 the Settlement Agreement. Such objection and any supporting briefs or other materials must be filed  
28 with the Court and mailed, via First Class U.S. Mail, to counsel for the Parties and postmarked no

1 later than the last day of the Notice Period. Settlement Class Members who opt-out may not file and  
2 serve an objection or otherwise object to this Settlement Agreement. The postmark date of the filing  
3 and service of an objection shall be deemed the exclusive means for determining that the objection is  
4 timely. An objection must be signed and state the Verified Settlement Class Member's name, current  
5 address and telephone number, and the basis for the objection. The notice of objection must be signed  
6 by the Verified Settlement Class Member.

7 (b) Any Verified Settlement Class Member who fails to file and serve a timely and  
8 complete objection in the manner specified above in Section 2.8(a) may be entitled to be heard at the  
9 Final Approval Hearing (whether individually or through counsel) or to object to the Settlement at the  
10 discretion of the Court.

11 (c) If a Settlement Class Member timely submits both an objection and a request  
12 for exclusion ("opt out" under Section 2.7), the request for exclusion shall supersede the objection,  
13 and the objection shall therefore be waived.

14 (d) Counsel for the Parties shall file any responses to any objections at least seven  
15 (7) calendar days before the Final Approval Hearing.

16 (e) Defendants shall not be responsible for the fees, costs, or expenses incurred by  
17 Plaintiff, Class Counsel, or the Verified Settlement Class Members arising from or related to Verified  
18 Settlement Class Members who submit objections or otherwise purport to object to the Settlement  
19 Agreement or related to any appeals thereof.

20 **Section 2.9 Preparation and Mailing of Notice to the Class**

21 (a) Within five (5) calendar days of entry of the Order Granting Preliminary  
22 Approval of Settlement, but subject to the Settlement Administrator providing adequate and  
23 contractual assurances with respect to confidentiality and data security, Defendants shall provide the  
24 Settlement Administrator with the following information for the Settlement Class Members in the  
25 form of an Excel spreadsheet or similar sortable electronic format: names, address, telephone  
26 number, social security number, and the first and last date that each Settlement Class Member worked  
27 for Defendants during the Class Period. Class Counsel and Plaintiff will not be provided identifying  
28 or contact information or social security numbers for any Settlement Class Members in connection

1 with this Settlement or Settlement Agreement. The data provided to the Administrator will remain  
2 confidential and will not be disclosed to anyone, except as required to applicable tax authorities, or  
3 pursuant to the express written consent of Defendants, or by order of the Court. The data provided  
4 under this Section 2.9(a) shall be used only for the purpose of administering this Settlement.

5 (b) The Notice of Class Action Settlement and Hearing Date for Court Approval  
6 (“Notice of Settlement”), materially in the form attached hereto as **Exhibit A** and as approved by the  
7 Court, shall be sent by the Settlement Administrator to the Settlement Class Members, by First Class  
8 Mail (in English and Spanish) to those addresses provided as soon as practicable but in any event  
9 within fifteen (15) calendar days after receipt of their contact information from Defendants. The  
10 Notice of Settlement shall set forth a brief description of the Action, provide the definition of the  
11 Settlement Class, inform Settlement Class Members of the nature and scope of the settlement and  
12 release of claims, set forth the requested Attorneys’ Fees and Costs, disclose the Service Award to  
13 Plaintiff, inform Settlement Class Members of their opportunity to be heard at the Final Fairness  
14 Hearing, inform Settlement Class Members of their right to submit an objection to any term of the  
15 settlement, to submit a claim, and/or to request exclusion from or to opt-out of the settlement and the  
16 procedures for doing so, and explain the *res judicata* effects of not doing so. The Notice of  
17 Settlement will also include or attach the respective Settlement Class Member’s workweeks during  
18 the Class Period, estimated Individual Settlement Payment, and instruct the Settlement Class Member  
19 to submit any disputes to the Settlement Administrator within forty-five (45) calendar days from the  
20 date the Notice of Settlement was mailed to Settlement Class Members. The Settlement  
21 Administrator will consult Class Counsel and Counsel for Defendant regarding any such dispute(s)  
22 but will remain the ultimate arbiter and make the final decision regarding any such dispute(s). Also,  
23 the Notice of Settlement will set forth contact numbers for Class Counsel and counsel for Defendants  
24 but will direct Settlement Class Members to call the toll-free number established by the Settlement  
25 Administrator to answer any questions that Settlement Class Members may have.

26 (c) The Settlement Administrator will attempt to locate any Settlement Class  
27 Member whose Notice of Settlement is returned by the Post Office by performing a National Change  
28

1 of Address (NCOA) search, and if needed, by conducting one skip trace search regarding any  
2 returned Notice of Settlement.

3 (d) If an envelope or email has not been returned within twenty-one (21) days of  
4 the mailing, it shall be conclusively presumed that the Settlement Class Member received the Notice  
5 of Settlement.

6 **Section 2.10 Final Fairness Hearing**

7 (a) The Parties will request the Court to conduct a Fairness Hearing on or about  
8 the date set forth in the Order of Preliminary Approval to determine if the Settlement is fair,  
9 reasonable, and adequate, and if so, to enter a final order and judgment granting Final Approval of  
10 Settlement, which will (1) approve the Settlement, adjudging the terms thereof to be fair, reasonable  
11 and adequate, and directing consummation of its terms and provisions; (2) approve in whole or in part  
12 Class Counsel's application for an award of Attorneys' Fees and Costs; (3) approve in whole or in  
13 part the Plaintiff's Service Award; (4) permanently bar and enjoin all Verified Settlement Class  
14 Members from prosecuting any Released Claims against Defendants and/or any Released Parties.  
15 Plaintiff will provide notice to the LWDA of the final order and judgment in accordance with  
16 California Labor Code section 2699(1)(3).

17 **Section 2.11 Funding the Gross Settlement Amount and Distribution of Payments**

18 (a) Defendants shall deposit the following with the Settlement Administrator after  
19 the Effective Settlement Date but no later than September 18, 2021: the Gross Settlement Amount  
20 (including any awards of Attorneys' Fees and Costs, any Service Award payment to Plaintiff; the  
21 PAGA penalty payment to the LWDA; the Settlement Administration Costs; and the Individual  
22 Settlement Payments to Verified Settlement Class Members.) Within five (5) business days of  
23 written notification from the Settlement Administrator of the names of any Settlement Class  
24 Members who have opted out of the Settlement Class, Defendants shall pay the employer's portion of  
25 all applicable tax withholdings including, but not limited to, FICA, FUTA, and other employment  
26 related taxes and withholding of federal, state, and local income taxes. In the event the Effective  
27 Settlement Date occurs later than September 18, 2021, then Defendants shall deposit the Gross  
28

1 Settlement Amount with the Settlement Administrator within fourteen (14) calendar days of the  
2 Effective Settlement Date.

3 (b) The Settlement Administrator, within fifteen (15) calendar days of the  
4 Effective Settlement Date, shall mail the Individual Settlement Payments to Verified Settlement Class  
5 Members, deliver any awards of Attorneys' Fees and Costs to Class Counsel, the Service Award to  
6 Plaintiff, and the portion of the PAGA Payment due to the LWDA. The approval and denial of an  
7 Individual Settlement Payment to any Verified Settlement Class Member under the terms of this  
8 Settlement Agreement will be conclusive and binding, subject to the dispute resolution provisions of  
9 this Settlement Agreement as set forth in Section 2.17. All payments called for under Section 2.11  
10 shall be made solely from the Gross Settlement Amount. Defendants' share of the payroll taxes shall  
11 be paid in addition to the Gross Settlement Amount.

12 **Section 2.12 Attorneys' Fees in Actions on Released Claims**

13 (a) The Parties agree that in any proceeding, claim or action brought subsequent to  
14 Final Approval that: (i) challenges the validity of or arises out of this Settlement Agreement; and/or  
15 (ii) seeks to allege against Defendants or the Released Parties any of the Released Claims, this  
16 Settlement Agreement, and/or any related order of the Court shall constitute, and may be pleaded as,  
17 a complete and total defense to any such dispute or claim.

18 **Section 2.13 Duties of the Parties Prior to Court Approval**

19 (a) Once finalized, the Parties shall promptly submit this Settlement Agreement to  
20 the Court for preliminary approval and determination by the Court as to its fairness, adequacy, and  
21 reasonableness. Promptly upon execution of this Settlement Agreement, Plaintiff will prepare, send to  
22 Defendants' counsel for comment, and then when it is mutually-agreeable, file a Motion for  
23 Preliminary Approval seeking the following:

24 (1) Approval of the proposed settlement as fair, reasonable, and adequate as to  
25 Settlement Class Members;

26 (2) Approval as to form and content of the proposed Notice of Settlement;

27 (3) Approval of the Gross Settlement Amount's distribution;



1 (4) Directing the Settlement Administrator to mail the Notice of Settlement by  
2 First Class Mail to Settlement Class Members;

3 (5) Conditionally certifying the Settlement Class for settlement purposes only;

4 (6) Appointing Class Counsel, Plaintiff as Class Representative, and Phoenix  
5 Settlement Administrators as Settlement Administrator;

6 (7) Preliminarily approving this Settlement Agreement; and

7 (8) Scheduling a Final Fairness Hearing on the question of whether the proposed  
8 settlement should be finally approved.

9 (b) Prior to the Final Fairness Hearing, Class Counsel (in conjunction with  
10 Defendants' counsel) will submit a proposed final order:

11 (1) Approving the Settlement, adjudging the terms thereof to be fair, reasonable  
12 and adequate, and directing consummation of its terms and provisions;

13 (2) Approving Class Counsel's application for an award of Attorneys' Fees and  
14 Costs in whole or in part. These amounts for Attorneys' Fees and Costs shall be paid from the Gross  
15 Settlement Amount; and

16 (3) Seeking judgment to be entered in this Action that dismisses the Action with  
17 prejudice.

18 **Section 2.14 Communications**

19 (a) Except for disclosures that are authorized by Defendants, that are required by  
20 law for Defendants to make, or that are necessary to prepare the Motion for Preliminary Approval,  
21 the terms of this Settlement shall remain confidential until they are presented to the Court in  
22 connection with the Motion for Preliminary Approval.

23 (b) Following preliminary approval, the Parties and their counsel will direct  
24 inquiries from Settlement Class Members to the Settlement Administrator to ensure consistent and  
25 accurate communication with Settlement Class Members. The Parties will make no efforts to solicit  
26 requests for exclusion or opt-outs or objections to this Settlement. Notwithstanding anything to the  
27 contrary in this Section 2.14 or elsewhere in this Settlement Agreement, Defendants and Class  
28 Counsel shall be permitted to disclose the Settlement in order to comply with any state or federal law.

1 Nothing in this Section 2.14 shall limit Defendants from communicating with its counsel regarding  
2 this Settlement Agreement or Plaintiff from communicating with Class Counsel regarding this  
3 Settlement Agreement.

4 (c) Defendant, Defendant's Counsel, Plaintiff, and Plaintiff's Counsel agree to  
5 limit public comment on this settlement, the case, and the claims to stating that the matter has been  
6 resolved to the satisfaction of both parties. Neither side will initiate public comment. Defendant  
7 agrees to provide a neutral reference, stating nothing more than Plaintiff's dates of employment and  
8 position(s) held, in response to any inquiry from prospective employers regarding Plaintiff. Nothing  
9 in this Section 2.14 shall be construed as prohibiting the Parties or their counsel from responding to  
10 an inquiry issued under court order, subpoena or other request issued under the law. Nothing in this  
11 Section 2.14 shall preclude Plaintiff's Counsel from referencing this Settlement in pleadings to other  
12 courts for the purposes of being appointed class counsel.

### 13 **Section 2.15 Continuing Jurisdiction of the Court**

14 (a) The Parties agree that the Court shall retain jurisdiction over the Parties, and  
15 over this Settlement Agreement, in order to: (1) monitor and enforce compliance with this Settlement  
16 Agreement, Order of Final Approval and/or any related order of this Court; and/or (2) resolve any  
17 disputes over this Settlement Agreement or the administration of the benefits of this Settlement  
18 Agreement, including disputes over entitlement to payments sought by Class Counsel.

### 19 **Section 2.16 Voiding the Settlement Agreement**

20 (a) If any of the conditions set forth in the preceding paragraphs are not met and  
21 materially satisfied, this Settlement Agreement shall, at the option of either party, be ineffective,  
22 void, and of no further force and effect and shall not be used nor be admissible in any subsequent  
23 proceeding either in this Court or in any other court or forum. The Parties may exercise their option,  
24 only on the terms provided herein, to void this settlement by giving notice, in writing, to the other  
25 party and to the Court at any time prior to the Effective Date. In such an event, (1) nothing in this  
26 Settlement Agreement shall be construed as a determination, admission, or concession of any issue in  
27 the Action, and nothing in this Settlement Agreement may be offered into evidence in any trial on the  
28 merits of the claims asserted in the complaints filed in the Action or in any subsequent pleading; (2)

1 the Parties expressly reserve their rights with respect to the prosecution and defense of the Action as  
2 if this Settlement Agreement never existed; and (3) the Party or Parties who exercised the option to  
3 void the Settlement Agreement shall be responsible for any settlement administration costs incurred  
4 by the Settlement Administrator through that date, provided that such costs shall be recoverable in the  
5 event that the Party who incurred them is a prevailing party in the Action.

6 (b) In the event that the Court does not execute and file an Order of Final  
7 Approval; that any such Order of Final Approval does not become final for any reason, or is modified  
8 in any material respect (other than a modification, reduction, or denial of Class Counsel's application  
9 for Attorneys' Fees and Costs or a modification, reduction, or denial of the application for Plaintiff's  
10 Service Award); that the Effective Date does not occur; or that any of the conditions set forth above  
11 do not occur, this Settlement Agreement shall be deemed null and void and shall be of no force or  
12 effect whatsoever, and shall not be referred to or utilized for any purpose whatsoever. Any settlement  
13 funds paid by Defendant shall be returned to Defendant within five (5) business days after the Court  
14 issues an order denying final approval.

15 **Section 2.17 Dispute Resolution**

16 (a) Except as authorized herein, all disputes concerning the interpretation,  
17 implementation, calculation, or payment of the Gross Settlement Amount or other disputes regarding  
18 compliance with this Settlement Agreement will be resolved by mediator Tripper Ortman, Esq.

19 **Section 2.18 Parties' Authority**

20 (a) The signatories hereto hereby represent that they are fully authorized to enter  
21 into this Settlement Agreement and to bind the Parties to the terms and conditions of the Settlement  
22 Agreement.

23 **Section 2.19 Mutual Full Cooperation**

24 (b) The Parties agree to fully cooperate with each other to accomplish the terms of  
25 this Settlement Agreement, including without limitation to execute such documents and to take such  
26 other action as may reasonably be necessary to implement the terms of this Settlement Agreement.  
27 The Parties to this Settlement Agreement shall use their best efforts, including all efforts  
28 contemplated by this Settlement Agreement and any other efforts that may become necessary by

1 order of the Court, or otherwise, to effectuate the terms of this Settlement Agreement. As soon as  
2 practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and  
3 cooperation of Defendants and its counsel, take all necessary steps to secure the Court's Final  
4 Approval of this Settlement Agreement. Class Counsel will also notify counsel for Defendants if  
5 Class Counsel are subpoenaed or receive any other request for documents or information regarding  
6 any other action filed or potential action against the Released Parties that covers or includes any  
7 Settlement Class Members.

8 **Section 2.20 No Prior Assignments**

9 (a) The Parties represent, covenant, and warrant that they have not directly or  
10 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any  
11 person or entity any portion of any liability, claim, demand, action, cause of action or rights herein  
12 released and discharged except as set forth herein.

13 **Section 2.21 No Admission**

14 (a) Nothing contained herein, nor the negotiation, consummation or performance  
15 of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability,  
16 negligence, or wrongdoing on the part of Defendants and/or any of the Released Parties, and they  
17 expressly deny liability or wrongdoing. Defendants further deny, for any purpose other than settling  
18 this Lawsuit, that this Lawsuit is appropriate for class, or representative treatment. This Settlement  
19 Agreement is not, shall not be deemed to be, and may not be used as, an admission or evidence of the  
20 appropriateness of this or similar claims for class action certification or administration other than for  
21 the purposes of administering this Settlement Agreement. Each of the Parties has entered into this  
22 Settlement Agreement with the sole purpose and intention to avoid further disputes and litigation  
23 with the attendant inconvenience and expenses. In the event this Settlement Agreement is not  
24 approved by the Court or otherwise does not become final, Defendants do not waive any defenses or  
25 rights, including without limitation, that this case is not suitable for class treatment, and the Parties  
26 agree that the Settlement Class will be decertified. This Settlement Agreement is a settlement  
27 document and shall, pursuant to Federal Rule of Evidence 408 and any and all analogous state laws,  
28

1 be inadmissible as evidence in any proceeding, except an action or proceeding to approve, interpret,  
2 or enforce this Settlement Agreement.

3 (b) Whether or not the Settlement is finally approved, neither the Settlement  
4 Agreement, nor any of its terms, nor any document, statement, proceeding or conduct related to this  
5 Settlement Agreement including without limitation the motions for preliminary and final approval of  
6 the Settlement and any documents submitted in support of such motions, nor any reports or accounts  
7 thereof, shall in any event be disclosed, referred to or offered or received in evidence against any of  
8 the Parties, in any further proceedings in this Action, or any other civil, criminal or administrative  
9 action or proceeding except for purposes of settling this Action or enforcing the Released Claims  
10 contained herein pursuant to the terms of this Settlement Agreement.

11 **Section 2.22 Notices**

12 (a) Unless otherwise specifically provided herein, all notices, demands, or other  
13 communications shall be in writing and shall be deemed to have been duly given as of the third  
14 business day after mailing by United States registered or certified mail, return receipt requested,  
15 addressed as follows:

16 To Plaintiff and the Settlement Class:

17 MOSS BOLLINGER, LLP  
18 Jeremy F. Bollinger, Esq.  
19 Ari Moss, Esq.  
20 Dennis F. Moss, Esq.  
21 Kiara Bramasco, Esq.  
15300 Ventura Boulevard, Ste. 207  
Sherman Oaks, California 91403

22 To Defendants:

23 CKB VIENNA, LLP  
24 Michael I. Kim  
25 9531 Pittsburgh Avenue  
Rancho Cucamonga, CA 91730

26 **Section 2.23 Construction**

27 (a) The Parties hereto agree that the terms and conditions of this Settlement  
28 Agreement are the result of lengthy, intensive arms-length negotiations between the Parties and that

1 this Settlement Agreement shall not be construed in favor of or against any party by reason of the  
2 extent to which any party or his, her or its counsel participated in the drafting of this Settlement  
3 Agreement.

4 **Section 2.24 Captions and Interpretations**

5 (a) Paragraph titles or captions contained herein are inserted as a matter of  
6 convenience and for reference, and in no way define, limit, extend, or describe the scope of this  
7 Settlement Agreement or any of its provisions. Each term of this Settlement Agreement is contractual  
8 and not merely a recital.

9 **Section 2.25 Modification**

10 (a) This Settlement Agreement may not be changed, altered, or modified, except  
11 in writing and signed by Defendants and the Plaintiff, or their counsel acting on their behalf, hereto.  
12 This Settlement Agreement may not be discharged except by performance in accordance with its  
13 terms or by a writing signed by the Parties hereto.

14 **Section 2.26 Integration Clause**

15 (a) This Settlement Agreement contains the entire agreement between the Parties  
16 relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous  
17 agreements, understandings, representations, and statements relating to this Settlement and the  
18 transaction contemplated hereby, whether oral or written and whether by a party or such party's legal  
19 counsel, are merged herein. No rights hereunder may be waived except in writing.

20 **Section 2.27 Binding on Assigns**

21 (a) The provisions of this Settlement Agreement shall run in perpetuity. This  
22 Settlement Agreement shall be binding upon the Parties hereto and their spouses, heirs,  
23 administrators, representatives, executors, successors and assigns, and shall inure to the benefit of  
24 Defendants and the Released Parties, and their predecessors, successors, affiliates, subsidiaries,  
25 parent companies, partners, current and past employees, officers, directors, shareholders, insurers,  
26 agents, legal representatives, and benefit plans, each of which is entitled to enforce this Settlement  
27 Agreement.

1 **Section 2.28 Signatories**

2 (a) It is agreed that because the members of the Settlement Class are so numerous,  
3 it is impossible or impractical to have each member of the Settlement Class execute this Settlement  
4 Agreement. It is agreed that this Settlement Agreement may be executed on behalf of the Settlement  
5 Class by Class Counsel and Plaintiff and shall have the same force and effect as if executed by each  
6 member of the Settlement Class, who will be notified of the Settlement by the Notice of Settlement.

7 **Section 2.29 Incorporation of Exhibits**

8 (a) All exhibits attached hereto are incorporated by reference and are a material  
9 part of this Settlement Agreement. Any notice, order, judgment, or other exhibit that requires  
10 approval of the Court must be approved without material alteration from its current form in order for  
11 this Settlement Agreement to become effective.

12 **Section 2.30 Reasonableness of Settlement Agreement**

13 (a) The Parties jointly warrant that this is a fair, reasonable, and adequate  
14 Settlement and have arrived at this Settlement through arms-length negotiations, involving an  
15 experienced and well-regarded mediator, taking into account all relevant factors, present and  
16 potential.

17 **Section 2.31 California Law and Interpretation**

18 (a) All terms of this Settlement Agreement and its exhibits will be governed and  
19 interpreted by and according to the laws of the State of California, without giving effect to any  
20 conflict of law principles or choice of law principles. If the Court determines that the Release of  
21 Claims in Section 2.6 above is unenforceable, for whatever reason, this entire Settlement Agreement  
22 will become null and void *ab initio*.

23 **Section 2.32 Counterparts**

24 (a) This Settlement Agreement may be executed in counterparts and/or by  
25 facsimile or electronic signature (“counterpart”), and when each party has signed and delivered at  
26 least one such counterpart, each counterpart shall be deemed an original, and, when taken together  
27 with other signed counterparts, shall constitute one fully-executed Settlement Agreement, which shall  
28 be binding upon and effective as to all Parties.

1 **Section 2.33 Confidential Documents**

2 (a) Plaintiff and Class Counsel agree that none of the documents and information  
3 provided to them in discovery or at any other time during this Action shall be used for any purposes  
4 other than prosecution of this Action. Class Counsel shall not refer to, rely upon, or otherwise utilize  
5 any documents or information obtained during this Action to prosecute a separate action against  
6 Defendants and/or any Released Parties; however, nothing in this Section will be construed as a  
7 restraint on the right of any counsel to practice, or a limitation on the rights that any Settlement Class  
8 Member or Class Counsel may have under any applicable federal, state, or local law to separately  
9 obtain documents or information from Defendants.

10 **Section 2.34 Entire Agreement**

11 (a) After this Settlement Agreement is fully executed by the Parties, it will  
12 constitute the entire agreement of the Parties. No oral representations, warranties, inducements, or  
13 writings have been made by any Party concerning this Settlement Agreement, other than those  
14 expressly stated herein.

15 IN WITNESS WHEREOF, Plaintiff and Defendants and their respective undersigned  
16 counsel have executed this Settlement Agreement as of the date(s) indicated on the lines below.

17 [ALL SIGNATURES ON NEXT PAGE]  
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1 Dated: 1/19/2021  
2 \_\_\_\_\_

PLAINTIFF ALFREDO RANGEL

3 DocuSigned by:  
4 By:   
5 526A1D597CEA... ALFREDO RANGEL

6  
7 Dated: \_\_\_\_\_

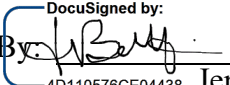
DEFENDANTS ARBORWORKS, INC.

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10 By: \_\_\_\_\_  
11 CHRISO J. LEE,  
12 ON BEHALF OF DEFENDANT  
13 ARBORWORKS, INC.

14 APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE NAMED PLAINTIFF AND  
15 AS A SUBSTANTIVE RECOMMENDATION TO THE COURT ON BEHALF OF THE  
16 SETTLEMENT CLASS:

17 Dated: 1/19/2021  
18 \_\_\_\_\_

MOSS BOLLINGER, LLP

19 DocuSigned by:  
20 By:   
21 4D110576CE04438... Jeremy F. Bollinger  
22 Counsel for Plaintiff, Class  
23 Representative and the Class

24 APPROVED AS TO FORM AND CONTENT

25 Dated: \_\_\_\_\_

CKB VIENNA LLP

26 By: \_\_\_\_\_  
27 Michael I. Kim  
28 Counsel for Defendant ArborWorks, Inc.

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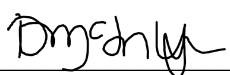
Dated: \_\_\_\_\_

PLAINTIFF ALFREDO RANGEL

By: \_\_\_\_\_  
ALFREDO RANGEL

Dated: 01/19/2021

DEFENDANTS ARBORWORKS, INC.

By:  \_\_\_\_\_  
DONALD A. MCINTYRE,  
ON BEHALF OF DEFENDANT  
ARBORWORKS, INC.

APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE NAMED PLAINTIFF AND AS A SUBSTANTIVE RECOMMENDATION TO THE COURT ON BEHALF OF THE SETTLEMENT CLASS:

Dated: \_\_\_\_\_


MOSS BOLLINGER, LLP

By: \_\_\_\_\_  
Jeremy F. Bollinger  
Counsel for Plaintiff, Class  
Representative and the Class

APPROVED AS TO FORM AND CONTENT

Dated: 01/19/2021

CKB VIENNA LLP

By:  \_\_\_\_\_  
Michael I. Kim  
Counsel for Defendant ArborWorks, Inc.

# **EXHIBIT A**

**to**

## **Stipulation of Settlement and Release**

***Rangel v. ArborWorks, Inc.***

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ALAMEDA

ALFREDO RANGEL, individually and on behalf  
of other persons similarly situated,

Plaintiff,

vs.

ARBORWORKS, INC., a California corporation,  
and DOES 1-10,

Defendants.

Case No. RG19009624

**NOTICE OF PENDENCY OF CLASS  
ACTION SETTLEMENT**

[IMAGED FILE]

Hon. Winifred Smith  
Dept. 21

Date Action Filed: March 5, 2019

**FINAL APPROVAL HEARING DATE:**

**XXXXXXXX, 2021**

**TIME: XX:XX a.m.**

*A court approved this notice. This is not an advertisement.*

**NOTICE**

**IF YOU WORK OR WORKED AS A NON-EXEMPT HOURLY-PAID EMPLOYEE OF ARBORWORKS, INC. (“ARBORWORKS” OR “DEFENDANT”) IN CALIFORNIA WHO PERFORMED TREE TRIMMING SERVICES AT ANY TIME FROM MARCH 5, 2015 THROUGH APRIL 27, 2020, YOU MAY BE ELIGIBLE TO RECEIVE MONEY FROM A CLASS ACTION SETTLEMENT.**

**ARBORWORKS’S RECORDS INDICATE THAT YOU WORKED AS A NON-EXEMPT HOURLY-PAID EMPLOYEE OF ARBORWORKS IN CALIFORNIA WHO PERFORMED TREE TRIMMING SERVICES AT SOME TIME BETWEEN MARCH 5, 2015 TO APRIL 27, 2020. BASED ON DEFENDANT’S RECORDS AND ASSUMING EVERY CLASS MEMBER PARTICIPATES IN THE SETTLEMENT, YOUR ESTIMATED INDIVIDUAL SETTLEMENT PAYMENT WILL BE APPROXIMATELY \$ [REDACTED].**

**You are NOT being sued.** However, your legal rights are affected whether you act or not.

ArborWorks **will not** fire, punish, retaliate, or otherwise discriminate against any employee because he or she chooses to participate in this settlement, chooses not to participate, or objects to the settlement.

**PLEASE READ THIS NOTICE**  
**WHAT INFORMATION IS IN THIS NOTICE**

1.	Why It Is Important To Read This Notice: .....	2
2.	What The Case Is About: .....	2
3.	What Is The Class Action Settlement?.....	3
4.	Why Did Defendant Join in This Notice? .....	3
5.	Who Are The Plaintiffs in This Class Action?.....	3
6.	Who Are The Attorneys Representing The Parties? .....	3
7.	What Do I Need To Do To Get Money From This Settlement? .....	4
8.	How Do I Remove Myself From This Settlement?.....	4
9.	What If I Disagree With The Terms Of The Settlement? .....	4
10.	How Does The Settlement Affect My Rights?.....	5
11.	How Much Can I Expect To Receive? .....	5
12.	How Will the Attorneys for the Class and Class Representative Be Paid?.....	7

***1. Why It Is Important To Read This Notice:***

The Superior Court of the State of California in and for the County of Alameda (the “Court”) has granted Preliminary Approval to a proposed settlement (the “Settlement”) of a class action lawsuit regarding wage and hour claims of persons who were employed by ArborWorks as hourly, non-exempt employees in California to perform tree trimming services. Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

ArborWorks’ records show that you were employed by ArborWorks in California to perform tree trimming services as an hourly, non-exempt employee sometime between March 5, 2015 and April 27, 2020. Therefore, you are a “Class Member” in this Lawsuit.

The purpose of this Notice is to provide you with a brief description of the class action lawsuit, what investigation of the claims has taken place, and, finally, 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.

***2. What The Case Is About:***

A former ArborWorks employee filed a lawsuit against ArborWorks alleging that it failed to pay minimum wages for off-the-clock work, failed to properly provide meal and rest breaks in accordance with California wage and hour laws, failed to provide accurate and itemized wage statements and failed to pay timely wages upon separation. Specifically, the employee sought damages, restitution, attorneys’ fees, and penalties on the basis of potential wage and hour violations, including without limitation, failure to pay minimum wages, meal and rest period violations under Labor Code § 226.7 and the applicable Wage Orders, failure to provide accurate wage statements under Labor Code § 226, failure to timely pay wages (including at termination of employment under Labor Code § 203), and such related and derivative claims under California Business & Professions Code section 17200 et seq. and Labor Code sections 2698 et seq. (“Private Attorney General Act”).

1 ArborWorks denies Plaintiff's allegations and asserts that it has no liability for any of Plaintiff's or  
2 the Class members' claims under any statute, wage order, common law, or equitable theory.

3 Notwithstanding ArborWorks' denial of liability, it has chosen to resolve the matter based upon  
4 the terms and conditions set forth in the settlement agreement now before the Court for approval.

5 **3. What Is The Class Action Settlement?**

6 The Court must approve the terms of the class action settlement described below as fair and  
7 reasonable to the class. The settlement will affect all members of the class. This Notice will  
8 explain the terms of the settlement and the amount of money you may get.

9 **4. Why Did Defendant Join in This Notice?**

10 The Defendant does not admit to any of the claims alleged in the lawsuit and denies that it owes  
11 money for or related to alleged unpaid minimum wages, failure to timely pay wages at separation,  
12 any claim for failure to provide meal and rest periods or pay meal and rest period premiums,  
13 failure to provide accurate and itemized wage statements or any derivative claims for any of the  
14 above under Business & Professions Code sections 17200 et seq. and Labor Code sections 2698 et  
15 seq. The Defendant is settling the class action lawsuit as a compromise. The Defendant reserves  
16 the right to object to any claim if for any reason the settlement fails. The Court file has the  
17 settlement documents with more information on the lawsuit.

18 **5. Who Are The Plaintiffs in This Class Action?**

19 Alfredo Rangel is the Plaintiff and Class Representative in this class action lawsuit. He is acting  
20 on behalf of himself and on behalf of all other non-exempt hourly paid employees employed by  
21 ArborWorks to perform tree trimming services in California.

22 **6. Who Are The Attorneys Representing The Parties?**

Attorneys for Plaintiff & the Class	Attorneys for Defendant
MOSS BOLLINGER, LLP Jeremy F. Bollinger Dennis F. Moss Kiara Bramasco 15300 Ventura Boulevard, Suite 207 Sherman Oaks, California 91403 Telephone: (310) 982-2984	CKB VIENNA, LLP Michael I. Kim 9531 Pittsburgh Avenue Rancho Cucamonga, CA 91730 Telephone: (909) 980-1040

1 **7. What Do I Need To Do To Get Money From This Settlement?**

2 For purposes of the class action settlement, the Class Members are defined as all current and  
3 former non-exempt, hourly paid employees of ArborWorks who were employed in California to  
4 perform tree trimming services at any time between March 5, 2015 through April 27, 2020.

5 Class Members do not need to take any action to receive their share of the settlement fund. All  
6 Class Members who do not timely and effectively exclude themselves from the Settlement  
7 (“Verified Settlement Class Members”) will receive their share of the settlement fund.

8 Defendant will fund the settlement no later than September 18, 2021, unless the court grants final  
9 approval at a later date. If the Court grants approval after September 18, 2021, the settlement will  
10 be funded within fourteen (14) calendar days of the court granting final approval of the settlement.  
11 Distribution of the net settlement monies will be made to the Verified Settlement Class Members  
12 within 15 calendar days after funding of the settlement is complete. It is important to update any  
13 changes to your mailing address between now and [REDACTED], 2021, by contacting the  
14 Settlement Administrator.

15 **8. How Do I Remove Myself From This Settlement?**

16 **Excluding Yourself from the Settlement.**

17 If you do not wish to take part in the settlement, you must submit a written request to the  
18 Settlement Administrator to be excluded from the Settlement. The written request must: (a) state  
19 your name, address, telephone number, last four digits of your Social Security Number, most  
20 recent job position held with Defendant and the dates (or approximate dates) of your employment;  
21 (b) clearly state that you wish to be excluded from the Settlement; (c) be addressed to the  
22 Settlement Administrator, Phoenix Settlement Administrators; and (d) be postmarked on or before  
23 [REDACTED], 2021 [45 DAYS FROM MAILING OF NOTICE].

24 The Settlement Administrator is:

25 Phoenix Settlement Administrators  
26 P.O. Box [INSERT]  
27 [INSERT], CA 9[INSERT]

28 The Judgment following approval of the class action settlement by the Court will bind all Class  
Members who do not request exclusion from the class action settlement. Any class member who  
does not request exclusion may, if they wish, enter an appearance personally or through his or her  
own lawyer.

**9. What If I Disagree With The Terms Of The Settlement?**

**Objecting to the Settlement**

If you wish to object to the Settlement, you shall file your objection with the Settlement  
Administrator. The objection should include your reasons for why the Court should not approve  
the settlement, your name, address, and phone number, and/or the name, address and phone  
number of the attorney representing you at your costs, if you have one. For an objection to be  
considered timely the Settlement Administrator must receive it no later than DATE [45 DAYS

1 **FROM MAILING OF NOTICE**. Counsel for the parties may oppose your objection in writing or  
2 orally at the hearing on Final Approval. Whether or not you appear at the hearing on Final  
3 Approval, the Court will consider all timely filed Objections. Please note, that Objections served  
4 later than **DATE [45 DAYS FROM MAILING OF NOTICE]** shall be considered untimely and  
5 waived.

6 **DO NOT TELEPHONE THE COURT.**

7 You may also, if you wish, appear at the Settlement Fairness Hearing set for  
8 **2021**, at  **.m.** in Dept. 21 of the Alameda County Superior Court  
9 and discuss your objections with the Court and the Parties.

10 ***10. How Does The Settlement Affect My Rights?***

11 Attorneys for the Class, also known as “Class Counsel,” appointed and approved by the Court for  
12 settlement purposes only, will represent you.

13 If the proposed settlement is approved by the Court, a Judgment will be entered by the Court. The  
14 Judgment following approval of the settlement by the Court will bind all Class Members who do  
15 not request exclusion from the class action settlement. Any member who does not request  
16 exclusion may, if they wish, enter an appearance personally or through his or her own lawyer.

17 If the settlement is approved and you choose not to exclude yourself from the settlement, you will  
18 be forever barred from asserting any of the claims arising out of or relating to the lawsuit against  
19 Defendant (“Released Claims”<sup>1</sup>) and each of Defendant’s respective past, present and future  
20 parents, subsidiaries and affiliates, and related entities (“Released Parties”).

21 ***11. How Much Can I Expect To Receive?***

22 Defendant will pay a Class Settlement Amount of \$300,000.00 (“Gross Settlement Amount”) to  
23 cover: (1) settlement payments to Verified Settlement Class Members; (2) approximately \$14,750  
24 for the costs of administering the settlement; (3) Class Representative Service Award to the  
25 Plaintiff in the amount of \$7,500; (4) payment of \$4,500 to the California Labor and Workforce  
26 Development Agency (“LWDA”) for its portion of the PAGA penalties; (5) the Class Counsel

27 <sup>1</sup> “Released Claims” means all claims under state, federal and local law arising out of the  
28 allegations made in the Complaint and that reasonably arise or could have arisen out of the facts  
alleged in the Complaint as to the Class Members, including claims for or related to alleged  
unpaid minimum wages (Labor Code §§ 1194, 1197, and 1197.1), failure to timely pay wages at  
separation (Labor Code §§ 201, 202, and 203), any claim for failure to provide meal and rest  
periods or pay meal and rest period premiums (Labor Code §§ 226.7 and 512), failure to provide  
accurate and itemized wage statements (Labor Code § 226), unfair competition, unfair business  
practices, unlawful business practices, fraudulent business practices, injunctive relief, declaratory  
relief Business & Professions Code §§ 17200, et seq), PAGA claims for civil penalties due to any  
of the alleged Labor Code violations (Labor Code §§ 2698, et seq.) of Defendant by Plaintiff,  
interest, fees, costs, as well as all other claims and allegations alleged in the Complaint from  
March 5, 2019 through April 27, 2020.



1 Fees and Costs in the amount not to exceed \$100,000 and \$18,000, respectively; and (6) the  
2 employees' share of payroll taxes. Defendant shall remit its share of the employer's payroll taxes  
3 separate from the Gross Settlement Amount. All wages paid to Class Members shall be reflected  
4 on such Class Members' W-2 forms unless such forms are unavailable, in which case a form 1099  
5 shall be used.

6 The Net Settlement Amount will be apportioned among Settlement Class Members based on the  
7 number of workweeks worked during the Class Period. The estimated Net Settlement Amount is  
8 \$ [REDACTED].

9 The Individual Settlement Payments for each Verified Settlement Class Member shall be  
10 determined on a pro-rata basis based on the number of workweeks they worked during the Class  
11 Period.

12 Each Verified Settlement Class Member's Individual Settlement Payment will be allocated as  
13 follows: 20% to satisfaction of claims for unpaid wages (subject to required wage withholdings  
14 and deductions) and 80% to the satisfaction of claims for interest and penalties including PAGA  
15 penalties.

16 An "Individual Settlement Payment" for each Class Member will then be determined by  
17 multiplying the Net Settlement Amount by a fraction, the numerator of which is the total number  
18 of workweeks the Settlement Class Member worked during the Class Period and the denominator  
19 of which is the total number of workweeks worked by all Settlement Class Members during the  
20 Class Period. Employee taxes will be withheld from the wages portion only in accordance with  
21 the most recent W-4 or withholding instructions provided to Defendants, unless none is available,  
22 in which case a Form 1099 shall be used. Defendants' employer contributions of all federal, state,  
23 and local taxes (including, but not limited to, FICA, FUTA, and SDI) in regard to the wage portion  
24 of the Individual Settlement Payments shall be paid by Defendants in addition to the Gross  
25 Settlement Amount. To the extent necessary to ensure the payment of all such tax obligations on  
26 the Individual Settlement Payments, the Individual Settlement Payments will be reduced by any  
27 such required tax obligations for wages for each Settlement Class Member. All wages paid to  
28 Settlement Class Members shall be reflected on their individual W-2 forms. All remaining  
portions of any Individual Settlement Payments made to Settlement Class Members shall, if  
required by applicable state and/or federal law, be reported on a federal form 1099 that shall be  
provided to the Individual Class Members.

**Defendant's records indicate that you worked for a total of [REDACTED] workweeks during the  
Class Period.**

**Based on the preceding information, your estimated settlement payment is \$ [REDACTED].**

**If you dispute the number of workweeks stated above, Defendant's records will control  
unless you are able to provide documentation to the Settlement Administrator that  
establishes otherwise, and that Defendant's records are mistaken. If there is a dispute about  
whether Defendant's information, you must contact the Settlement Administrator. If the  
dispute cannot be resolved informally, the dispute will be resolved by the Settlement  
Administrator.**

**The Final Approval or Final Fairness Hearing will be on [REDACTED] DATE. You are welcome to attend  
and be heard by the Court. The Court may change the date/time of the hearing, so you  
should consult the Court's website [REDACTED] ADDRESS as the date approaches, if you want to appear.  
It is unnecessary to file an objection with the Court to be heard on matters unrelated to an**

1 objection. If you exclude yourself from the Settlement, you may not be heard at the Final  
2 Approval Hearing.

3 **12. How Will the Attorneys for the Class and Class Representative Be Paid?**

4 The attorneys for the Representative Plaintiff and the Class will be paid from the Gross Settlement  
5 Amount. The actual amount of attorneys' fees awarded will be determined by the Court, but will  
6 not exceed \$100,000.00, plus reasonable actual costs not to exceed \$18,000. Additionally,  
7 Plaintiff will seek reimbursement for his services as Class Representative in an amount not to  
8 exceed \$7,500.

9 IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may call Class  
10 Counsel at Moss Bollinger, LLP, Jeremy Bollinger, 15300 Ventura Boulevard, Suite 207,  
11 Sherman Oaks, California 91403, (310) 982-2984, or the Settlement Administrator at the  
12 telephone number listed below, toll free.

13 *Alfredo Rangel v. ArborWorks, Inc.*

14 Settlement Administrator

15 c/o

16 Phoenix Settlement Administrators.

17 P.O. Box [INSERT]

18 [INSERT], CA 9[INSERT]

19 Phone: [INSERT PHONE NUMBER]

20 **PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS  
21 SETTLEMENT OR THE CLAIMS PROCESS.**

22 **DATE:** \_\_\_\_\_

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