

1 ERIC A. GROVER (SBN 136080)
egrover@kellergrover.com

2 ROBERT W. SPENCER (SBN 238491)
rspencer@kellergrover.com

3 **KELLER GROVER LLP**
4 1965 Market Street
5 San Francisco, California 94103
6 Telephone: (415) 543-1305
7 Facsimile: (415) 543-7861

8 SCOT BERNSTEIN (SBN 94915)
9 swampadero@sbernsteinlaw.com
10 **LAW OFFICES OF SCOT D. BERNSTEIN,**
11 **A PROFESSIONAL CORPORATION**
12 101 Parkshore Drive, Suite 100
13 Folsom, California 95630
14 Telephone: (916) 447-0100
15 Facsimile: (916) 933-5533

16 Attorneys for Plaintiffs
17 FRANK SICA and GARY ELLIS

18 [Additional Counsel Listed on Signature Pages]

19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**

21 FRANK SICA and GARY ELLIS, on behalf
22 of themselves, and all others similarly situated,

23 Plaintiffs,

24 v.

25 CONSTRUCTION & TURNAROUND
26 SERVICES, L.L.C.; and DOES 1 through 50,
27 inclusive,

28 Defendants.

Case No. 4:21-cv-00188-JSW

CLASS ACTION

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND
RELEASE OF CLAIMS**

1 IT IS HEREBY STIPULATED, by and between Plaintiffs Frank Sica and Gary Ellis
2 (“Plaintiffs”), individually and on behalf of the Settlement Class, and Defendant Construction &
3 Turnaround Services, L.L.C. (“Defendant”), and subject to approval by the Court, that the Action
4 is hereby compromised and settled under the terms and conditions set forth in this Joint Stipulation
5 of Class Action Settlement and Release of Claims (the “Stipulation”) and that the Court shall
6 make and enter judgment subject to the definitions, recitals and terms set forth in this Stipulation.

7 **I. DEFINITIONS**

- 8 A. “Action” shall mean the civil action entitled *Frank Sica and Gary Ellis v.*
9 *Construction & Turnaround Services, L.L.C.*, filed on October 26, 2020 in
10 Alameda County Superior Court, Case No. RG200790, and removed to the United
11 States District Court for the Northern District of California on January 8, 2021 and
12 assigned Case No. 4:21-cv-00188-JSW.
- 13 B. “Agreement” or “Settlement Agreement” or “Stipulation” means this Joint
14 Stipulation of Class Action Settlement and Release of Claims.
- 15 C. “Class Counsel” means the attorneys of record for the Class Representatives and
16 Class Members, *i.e.*, Eric A. Grover and Robert W. Spencer of Keller Grover LLP,
17 1965 Market Street, San Francisco, California 94103, and Scot Bernstein of Law
18 Offices of Scot D. Bernstein, A Professional Corporation, 101 Parkshore Drive,
19 Suite 100, Folsom, California 95630.
- 20 D. “Class Counsel Award” means an award of attorneys’ fees, expenses, and litigation
21 costs granted to Class Counsel and paid from the Maximum Settlement Amount in
22 recognition of their efforts and risks in prosecuting the Action.
- 23 E. “Class Data” means information regarding Class Members that Defendant will
24 compile from its available and existing electronic records and provide to the
25 Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet
26 and shall include all of the following information: (i) each Class Member’s full
27 name; (ii) each Class Member’s last-known address; (iii) each Class Member’s
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1 Social Security and Employee ID numbers; and (iv) the number of hours worked by
2 each Class Member during the Class Period.

3 F. "Class Members" means all current and former hourly non-exempt unionized on-
4 site employees who worked for Defendant in California during the Class Period.

5 G. "Class Period" shall mean the time period from October 26, 2016 through January
6 31, 2020, inclusive.

7 H. "Class Representative Incentive Award" means the amount that the Court
8 authorizes to be paid to each Plaintiff from the Maximum Settlement Amount, in
9 addition to his Individual Settlement Payment, in recognition of his efforts and
10 risks in assisting with the prosecution of the Action.

11 I. "Class Representatives" means the named Plaintiffs, i.e., Frank Sica and Gary Ellis.

12 J. "Complaint" means the operative First Amended Class Action Complaint filed by
13 Plaintiffs on January 27, 2021.

14 K. "Court" means the United States District Court for the Northern District of
15 California.

16 L. "Defendant" means Construction & Turnaround Services, L.L.C.

17 M. "Defense Counsel" means Brandon R. McKelvey and Timothy B. Nelson, Medina
18 McKelvey LLP, 925 Highland Pointe Drive Suite 300, Roseville, California 95678.

19 N. "Effective Date" shall be the later of the following: (a) if no objections to the
20 Settlement are submitted, or if any and all timely objections have been submitted
21 and then withdrawn, then the date the Court enters the Final Approval Order; or (b)
22 if one or more timely objections to the Settlement have been submitted, 35 calendar
23 days after the Court enters the Final Approval Order; or (c) if any appeal, writ, or
24 other appellate proceeding opposing the Court's Final Approval Order has been
25 filed, five court days after any appeal, writ, or other appellate proceedings opposing
26 the Settlement have been finally and conclusively dismissed with no right to pursue
27 further remedies or relief.
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- O. "Final Approval Order" means the Court's order granting final approval of the Settlement.
- P. "Individual Settlement Payment" means the amount payable from the Net Settlement Amount to each Settlement Class Member.
- Q. "Maximum Settlement Amount" means \$465,000 plus the employer's share of the payroll taxes, which sum includes all payments contemplated by this Agreement, including but not limited to the Individual Settlement Payments, the Class Representative Incentive Awards, the Class Counsel Award, and the Settlement Administration Costs. This is a non-reversionary Settlement. In no event shall Defendant be liable for more than the Maximum Settlement Amount of \$465,000 plus the employer's share of the payroll taxes under this Agreement.
- R. "Net Settlement Amount" means the Maximum Settlement Amount minus the sum of the Class Representative Incentive Awards (\$5,000 each), the Class Counsel Award (estimated to be \$116,250 in fees and no more than \$8,500 in costs), and the Settlement Administration Costs (estimated to be no more than \$10,000), resulting in a Net Settlement Amount of an estimated \$325,250.
- S. "Notice of Class Action Settlement" means the notice substantially similar to the notice attached to this Stipulation as **Exhibit 1**, which will be mailed in an envelope containing language substantially similar to the exemplar envelope attached to this Stipulation as **Exhibit 2**.
- T. "Parties" means Plaintiffs and Defendant, collectively, and "Party" shall mean either Plaintiffs or Defendant, individually.
- U. "Plaintiffs" shall mean the named Plaintiffs, i.e., Frank Sica and Gary Ellis.
- V. "Preliminary Approval Order" means an order granting preliminary approval of the Settlement.
- W. "Preliminary Approval Date" means the date on which the Court enters an order granting preliminary approval of the Settlement.

- 1 X. "Payment Ratio" means the respective number of Qualified Hours Worked for each
2 Settlement Class Member divided by the total number of Qualified Hours Worked
3 for all Settlement Class Members.
- 4 Y. "Qualified Settlement Fund" or "QSF" means the qualified settlement fund that
5 will be set up by the Settlement Administrator and into which the Maximum
6 Settlement Amount shall be deposited and from which disbursements shall be
7 made.
- 8 Z. "Qualified Hours" means and includes any and all hours during which Class
9 Members performed work for Defendant in California during the Class Period (as
10 reflected in Defendant's records of each Class Member's dates of employment and
11 pay records).
- 12 AA. "Released Claims" means the claims in the operative First Amended Class Action
13 Complaint under California Labor Code §§ 201, 202, 203, 226.7, 510, 512, 1194,
14 1194.2, 1197, and 1197.1 and Business & Professions Code §§ 17200, together
15 with interest, fees, and costs related to those claims. The Release Period for the
16 Released Claims shall be the same as the Class Period, i.e., from October 26, 2016
17 through January 31, 2020, inclusive.
- 18 BB. "Released Parties" shall mean Defendant Construction & Turnaround Services,
19 L.L.C. and all of Defendant's parent companies, subsidiaries, divisions, concepts,
20 related or affiliated companies, and its or their shareholders, officers, directors,
21 employees, agents, attorneys, insurers, successors and assigns, and any individual
22 or entity that could be liable for any of the Released Claims.
- 23 CC. "Response Deadline" means the date 45 calendar days after the Settlement
24 Administrator first mails the Notice of Class Action Settlement to Class Members
25 and is the last date on which Class Members may submit Requests for Exclusion or
26 a Notice of Objection to the Settlement. Only Class Members may submit
27 Requests for Exclusion or Notices of Objection to the Settlement.
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1 DD. "Settlement" means the disposition of the Action pursuant to this Agreement.

2 EE. "Settlement Administrator" means Phoenix Settlement Administrators.

3 FF. "Settlement Class Members" means all Class Members who do not submit a valid
4 Request for Exclusion. All Settlement Class Members will automatically receive
5 an Individual Settlement Payment without the need to submit a claim form.
6 Settlement Class Members will release all of the Released Claims and be bound by
7 all terms of the Settlement and any final judgment entered in this Action.

8 **II. RECITALS**

9 A. Class Certification. The Parties stipulate and agree to certification for purposes of
10 this Settlement only. This Agreement is subject to approval by the Court and is
11 made for the sole purpose of consummating settlement of the Action. Should the
12 Settlement not become final and effective as provided herein, class certification
13 shall immediately be set aside and the Settlement Class immediately decertified,
14 subject to further proceedings on the motion of any party to certify or deny
15 certification thereafter. The Parties' willingness to stipulate to class certification as
16 part of the Settlement shall have no bearing on, and shall not be admissible in or
17 considered in connection with, the issue of whether a class should be certified in a
18 non-settlement context in this Action and shall have no bearing on, and shall not be
19 admissible or considered in connection with, the issue of whether a class should be
20 certified in any other lawsuit.

21 B. Settlement Negotiations. The Parties participated in a private mediation with
22 respected mediator Mark LeHocky, Esq. and engaged in good faith, arms-length
23 settlement negotiations. As part of the process, the Parties exchanged the
24 information necessary to engage in productive settlement negotiations. The
25 negotiations resulted in the Settlement described in this Stipulation to resolve this
26 Action in its entirety.
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1 C. Benefits of Settlement to Settlement Class Members. Plaintiffs and Class Counsel
2 recognize the expense and length of continued proceedings that would be necessary
3 to litigate their disputes through trial and through any possible appeals. Plaintiffs
4 also have taken into account the uncertainty and risks regarding the outcome of
5 further litigation and the difficulties and delays inherent in any such litigation.
6 Plaintiffs and Class Counsel also are aware of the burdens of proof necessary to
7 establish liability for the claims asserted in the Action, both generally and in
8 response to Defendant's defenses thereto, and the difficulties in establishing
9 damages for the Class Members. Based on those factors, Plaintiffs and Class
10 Counsel have determined that the terms set forth in this Agreement represent a fair,
11 adequate, and reasonable settlement and are in the best interests of the Class
12 Members.

13 D. Defendant's Reasons for Settlement. Defendant has concluded that any further
14 defense of this litigation would be protracted and expensive for all Parties.
15 Substantial amounts of Defendant's time and resources have been and, unless this
16 Settlement is made, will continue to be devoted to the defense of the claims
17 asserted by Plaintiffs and Class Members. In reaching its decision to enter into this
18 Settlement, Defendant also has taken into account the risks of further litigation.
19 Defendant denies each of the allegations and claims asserted against it in the
20 Action. Despite continuing to contend that it is not liable for any of the claims that
21 Plaintiffs have asserted, Defendant nonetheless has agreed to settle in the manner
22 and upon the terms set forth in this Agreement to put to rest the claims asserted in
23 the Action.

24 E. Class Members' Claims. The Class Representatives contend that their allegations
25 have merit and give rise to liability on Defendant's part. This Agreement is a
26 compromise of disputed claims. The monies being paid as part of the Settlement
27 are genuinely disputed and the Parties agree that the provisions of California Labor
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1 Code § 206.5 are not applicable to this Settlement. Because there is a good faith
2 dispute as to whether any wages are due, the release of claims does not violate
3 California Labor Code § 206.5, which provides in pertinent part as follows:

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

7 Nothing contained in this Agreement, no documents referred to in this Agreement
8 and no action taken to carry out this Agreement may be construed or used as an
9 admission by or against the Class Members or Class Counsel regarding the merits
10 or lack of merit of the claims asserted.

11 F. Defendant's Defenses. Defendant claims that the Released Claims have no merit
12 and do not give rise to liability. This Agreement is a compromise of disputed
13 claims. The monies being paid as part of the Settlement are genuinely disputed and
14 the Parties agree that the provisions of California Labor Code § 206.5 are not
15 applicable to this Settlement. Because there is a good faith dispute as to whether
16 any wages are due, the release of claims does not violate California Labor Code §
17 206.5, which provides in pertinent part as follows:

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

21 Nothing contained in this Agreement, no documents referred to in this Agreement
22 and no action taken to carry out this Agreement may be construed or used as an
23 admission by or against Defendant as to the merits or lack of merit of the claims
24 asserted.
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26 **III. TERMS OF AGREEMENT**

27 A. Settlement Consideration to be paid by Defendant. Defendant shall pay the
28 monetary sums specified in this Agreement, i.e., the Maximum Settlement Amount.

1 In no event shall Defendant be required to pay more than the Maximum Settlement
2 Amount (plus the employer's share of the payroll taxes).

3 B. Limited Release By All Settlement Class Members. As of the Effective Date, in
4 exchange for the consideration set forth in this Agreement, Plaintiffs and the
5 Settlement Class Members will release the Released Parties from the Released
6 Claims for the Class Period. Plaintiffs and the Settlement Class Members may
7 hereafter discover facts or legal arguments in addition to or different from those they
8 now know or currently believe to be true with respect to the claims, causes of action
9 and legal theories of recovery in this Action which are the subject matter of the
10 Released Claims. Nonetheless, the discovery of new facts or legal arguments shall
11 in no way limit the scope or definition of the Released Claims, and by virtue of this
12 Agreement, Plaintiffs and Settlement Class Members shall be deemed to have, and,
13 by operation of the final judgment approved by the Court shall have, fully, finally,
14 and forever settled and released all of the Released Claims as defined in this
15 Agreement.

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17 C. General Release by Named Plaintiffs Only. In addition to the release in Section
18 III.B, the named Plaintiffs make the additional following general release of all
19 claims, known or unknown. The named Plaintiffs release Defendant, and each of its
20 respective subsidiaries, affiliates, predecessors or successors in interest, officers,
21 directors, shareholders, employees, attorneys, agents, assigns, insurers, and re-
22 insurers of any of them, from all claims, demands, rights, liabilities and causes of
23 action of every nature and description whatsoever, known or unknown, asserted or
24 that might have been asserted, whether in tort, contract, or for violation of any state
25 or federal statute, rule or regulation arising out of, relating to, or in connection with
26 Named Plaintiff's employment with Defendant through the end of the Release
27 Period as well as any and all acts or omissions by or on the part of Defendant
28 through the end of the Release Period. (The release set forth in this Paragraph shall

1 be referred to hereinafter as the “Named Plaintiffs’ General Release.”) With respect
2 to the Named Plaintiffs’ General Release, the named Plaintiffs stipulate and agree
3 that, upon the Effective Date, the named Plaintiffs shall be deemed to have expressly
4 waived and relinquished, to the fullest extent permitted by law, the provisions, rights
5 and benefits of Section 1542 of the California Civil Code, or any other similar
6 provision under federal or state law, which provides:

7 **SECTION 1542. [CERTAIN CLAIMS NOT AFFECTED BY**
8 **GENERAL RELEASE.] A GENERAL RELEASE DOES NOT**
9 **EXTEND TO CLAIMS THAT THE CREDITOR OR**
10 **RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
11 **EXIST IN HIS OR HER FAVOR AT THE TIME OF**
12 **EXECUTING THE RELEASE AND THAT, IF KNOWN BY**
13 **HIM OR HER WOULD HAVE MATERIALLY AFFECTED**
14 **HIS OR HER SETTLEMENT WITH THE DEBTOR OR**
15 **RELEASED PARTY.**

16 Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other
17 than or different from the facts now believed to be true, the release of claims contained in the
18 Named Plaintiffs’ General Release shall be effective as to all unknown claims.

19 D. Conditions Precedent: This Settlement will become final and effective only upon
20 the occurrence of all of the following events:

- 21 1. The Court enters a Preliminary Approval Order granting preliminary
22 approval to the Settlement;
- 23 2. The Court enters a Final Approval Order and a judgment;
- 24 3. The final Effective Date occurs; and
- 25 4. Defendant does not invoke its right to revoke the Settlement as described in
26 Paragraph III.P herein.

27 E. Nullification of Settlement Agreement. In the event that the Court denies
28 preliminary or final approval of this Agreement with prejudice, the Settlement fails
to become effective, or it is reversed, withdrawn or modified by the Court, or the
Court in any way prevents or prohibits Defendant from obtaining a complete
resolution of the claims as described herein:

- 1 1. This Agreement shall be void *ab initio* and of no force or effect, and shall
2 not be admissible in any judicial, administrative or arbitral proceeding for
3 any purpose or with respect to any issue, substantive or procedural; and
4 2. None of the Parties to this Settlement will be deemed to have waived any
5 claims, objections, defenses or arguments in the Action.

6 F. Tax Liability. The Parties make no representations as to the tax treatment or legal
7 effect of the payments called for by this Agreement, and neither Plaintiffs, the
8 Settlement Class nor Defendant are relying on any statement or representation by
9 the Parties in this regard. Plaintiffs and Settlement Class Members understand and
10 agree that they will be responsible for the payment of their respective portions of
11 any taxes and penalties assessed on the Class Representative Incentive Awards and
12 Individual Settlement Payments described in this Stipulation and will be solely
13 responsible for any penalties or other obligations resulting from their personal tax
14 reporting of all such payments.

15 G. Circular 230 Disclaimer. Each Party to this Agreement acknowledges and agrees
16 that: (1) no provision of this Agreement, and no written communication or
17 disclosure between or among the Parties or their attorneys and other advisers, is or
18 was intended to be, nor shall any such communication or disclosure constitute or be
19 construed or be relied upon as, tax advice within the meaning of United States
20 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
22 legal and tax counsel for advice (including, as to tax counsel, tax advice) in
23 connection with this Agreement, (b) has not entered into this Agreement based upon
24 the recommendation of any other Party or any attorney or advisor to any other Party,
25 and (c) is not entitled to rely upon any communication or disclosure by any attorney
26 or adviser to any other party to avoid any tax penalty that may be imposed on the
27 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
28 any such tax penalty.

1 any limitation that protects the confidentiality of any such attorney’s or adviser’s tax
2 strategies (regardless of whether such limitation is legally binding) upon disclosure
3 by the acknowledging party of the tax treatment or tax structure of any transaction,
4 including any transaction contemplated by this Agreement.

5 H. Preliminary Approval Motion. At the earliest practicable time, Plaintiffs shall file
6 with the Court a Motion for Preliminary Approval and supporting papers, which
7 shall include this Agreement. Plaintiffs shall provide a courtesy draft of these
8 papers to Defense Counsel at least five court days before filing the documents.

9 I. Settlement Administrator. By accepting the role as Settlement Administrator, the
10 Settlement Administrator is bound to all of the terms, conditions, and obligations
11 described in this Settlement Agreement. Among these obligations, the Settlement
12 Administrator shall have sole and exclusive responsibility for calculating Individual
13 Settlement Payments; processing and transmitting payments to the Class
14 Representatives, Class Counsel, and Settlement Class Members; printing the Notice
15 of Class Action Settlement and mailing it to the Class Members as directed by the
16 Court; receiving, processing, and reporting Requests for Exclusion and Notices of
17 Objection; sending a postcard reminder to Settlement Class Members 30 days before
18 the check void date; distributing tax forms; providing declaration(s) as necessary in
19 support of preliminary and/or final approval of this Agreement; and such other tasks
20 as the Parties mutually agree or the Court orders the Settlement Administrator to
21 perform. The Settlement Administrator shall keep the Parties timely apprised of the
22 performance of all of the Settlement Administrator’s responsibilities. Defendant and
23 Defense Counsel shall have no responsibility for validating or ensuring the accuracy
24 of the Settlement Administrator’s work. Plaintiffs, Class Counsel, Defendant and
25 Defense Counsel shall not bear any responsibility for errors or omissions in the
26 calculation or distribution of Individual Settlement Payments or any other
27 distribution of monies contemplated by this Agreement.
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1 J. Notice Procedure.

2 1. Class Data. No later than 21 calendar days after the Preliminary Approval
3 Date and only after Defendant receives sufficient and reasonable assurance
4 that the Settlement Administrator will maintain the confidentiality of the
5 Class Data, Defendant shall provide the Settlement Administrator with the
6 Class Data for purposes of preparing and mailing the Notice of Class Action
7 Settlement to Class Members, as well as undertaking its other obligations.
8 The Settlement Administrator shall be obligated to keep the Class Data
9 confidential and shall take reasonable and necessary precautions to maintain
10 the confidentiality of the data. The Settlement Administrator shall not
11 distribute or use the Class Data or any information contained therein for any
12 purpose other than to administer this Settlement.

13 2. Notice of Class Action Settlement.

14 a) The Notice of Class Action Settlement shall be in a form
15 substantially similar to the form attached to this Stipulation as
16 **Exhibit 1.** The Notice of Class Action Settlement shall instruct
17 Class Members to keep the Settlement Administrator apprised of
18 their current mailing addresses, to which the Settlement Payments
19 will be mailed following the Effective Date. The Notice of Class
20 Action Settlement shall set forth the release to be given by
21 Settlement Class Members in exchange for an Individual Settlement
22 Payment.

23 b) The Notice of Class Action Settlement shall be individualized by
24 inclusion of each Class Member's number of Qualified Hours and
25 the Settlement Administrator's calculation of each Class Member's
26 estimated gross Individual Settlement Payment if that Class Member
27 does not request exclusion from the Settlement.
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3. Notice By First Class U.S. Mail. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. No later than 14 calendar days after receiving the Class Data from Defendant as provided in this Stipulation, the Settlement Administrator shall mail copies of the Notice of Class Action Settlement to all Class Members via regular First Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member.

4. Undeliverable Notices. Any Notice of Class Action Settlement that is returned to the Settlement Administrator as not having been delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed to it. If no forwarding address is provided, the Settlement Administrator promptly shall attempt to determine a correct address by lawful use of skip-tracing and by other searches using the name, address and Social Security number of the Class Member involved and, if another mailing address is identified by the Settlement Administrator, then shall perform a re-mailing to that class member. In addition, if any Notices of Class Action Settlement that are addressed to Class Members who are employed by Defendant at the time of mailing are returned to the Settlement Administrator as non-delivered and no forwarding address is provided, the Settlement Administrator shall so notify Defendant. Defendant then will request that the currently-employed Class Member provide a corrected address and will transmit to the Administrator any corrected address provided by the Class Member.

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5. Disputes Regarding Qualified Hours. A Class Member who disagrees with the number of Qualified Hours stated on that Class Member’s Notice of Class Action Settlement will have the opportunity to provide documentation and/or an explanation to show a different number of shifts having been worked during the Class Period. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator’s determination of the eligibility for and the amount of any Individual Settlement Payment shall be binding upon the Settlement Class Member and the Parties.

6. Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Before any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the need to involve the Court.

7. Requests for Exclusion.

a) The Notice of Class Action Settlement shall state that Class Members who wish to exclude themselves from the class action Settlement must submit a written Request for Exclusion by the Response Deadline. The written Request for Exclusion must state that the Class Member wishes to exclude himself or herself from the class action Settlement and (1) must contain the name, address, and the last four digits of the Social Security number or Employee ID number of the person requesting exclusion; (2) must be signed by

1 the Class Member; (3) must be postmarked by the Response
2 Deadline and returned to the Settlement Administrator at the
3 specified address; and (4) must contain a typewritten or handwritten
4 notice stating, in substance, as follows: “I wish to opt out of the
5 Settlement of the class action lawsuit entitled *Sica and Ellis v.*
6 *Construction & Turnaround Services.*”

7 b) The Request for Exclusion will not be valid unless it both (1) is
8 timely submitted and (2) complies with the requirements set forth
9 above in Paragraph III.I.7(a). The date of the postmark on the return
10 mailing envelope for the Request for Exclusion shall be the
11 exclusive means used to determine whether the Request for
12 Exclusion was timely submitted. If the Settlement is approved by
13 the Court, Class Members who have failed to submit a valid and
14 timely written Request for Exclusion on or before the Response
15 Deadline shall be Settlement Class Members who are bound by all
16 terms of the Settlement and any final judgment entered in this
17 Action.

18 c) Any Class Member who requests to be excluded from the class
19 action Settlement will not be entitled to an Individual Settlement
20 Payment and will neither be bound by the terms of the class action
21 Settlement nor have any right to object to, appeal from or comment
22 on the class action Settlement. Nothing in this Settlement or
23 Settlement Agreement will constitute or be construed as a waiver of
24 any defense that Defendant or the Released Parties have or could
25 assert against anyone who timely serves a Request for Exclusion.

26 d) No later than five calendar days after the Response Deadline, the
27 Settlement Administrator shall provide counsel for the Parties with a
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1 final list of the Class Members who have timely submitted written
2 Requests for Exclusion.

- 3 e) At no time shall any of the Parties or their counsel solicit or
4 otherwise encourage Class Members to submit Requests for
5 Exclusion from the Settlement.

6 8. Objections.

- 7 a) The Notice of Class Action Settlement shall state that Class
8 Members who wish to object to the Settlement must mail to the
9 Court, at the address provided in the Notice of Class Action
10 Settlement, a written statement of objection (“Notice of Objection”)
11 by the Response Deadline. The postmark date of mailing shall be
12 deemed to be the exclusive means for determining whether a Notice
13 of Objection was timely submitted.

- 14 b) Class Members who submit a timely Notice of Objection will have a
15 right to appear at the final approval hearing in order to have their
16 objections heard by the Court. The Notice of Objection must be
17 signed by the Class Member and state (1) the case name and
18 number; (2) the name of the Class Member; (3) the address of the
19 Class Member; (4) the last four digits of the Class Member’s Social
20 Security number or Employee ID number; (4) the basis for the
21 objection and any supporting documents; and (5) whether or not the
22 Class Member intends to appear at the final approval hearing. Class
23 Members who fail to make objections in the manner specified above
24 may be deemed to have waived any objections and to be foreclosed
25 from making any objections to the Settlement, whether by appeal or
26 otherwise. The failure to submit a written objection does not waive
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1 a Settlement Class Member's right to appear and orally object at the
2 final approval hearing.

3 c) At no time shall any of the Parties or their counsel seek to solicit or
4 otherwise encourage Class Members to file or serve written
5 objections to the Settlement or to appeal from the Final Approval
6 Order.

7 d) Class Members who submit a written Request for Exclusion are not
8 entitled to object to the Settlement. In the event that a Class
9 Member submits both a Request for Exclusion and a Notice of
10 Objection, the Request for Exclusion will be valid and the Notice of
11 Objection will be invalid.

12 e) The Settlement Administrator shall send all objections it receives to
13 Class Counsel and Defense Counsel promptly. Class Counsel will
14 be responsible for filing any such objections with the Court before
15 the final approval hearing. Plaintiffs and/or Defendant may file
16 oppositions to any properly-submitted Notices of Objection no later
17 than 35 calendar days before the date of the final approval hearing.

18 f) Defendant shall not be responsible for the fees, costs, or expenses
19 incurred by Plaintiff, Class Counsel or Class Members arising from
20 or related to any objection to the Settlement Agreement or related to
21 any appeals thereof.
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23 K. Funding and Allocation of the Maximum Settlement Amount. This is a non-
24 reversionary settlement in which Defendant is required to pay the entirety of the
25 Maximum Settlement Amount (plus the employer's share of the payroll taxes). No
26 amount of the Maximum Settlement Fund will revert to Defendant. Upon
27 satisfaction of the preconditions described in this Settlement and pursuant to the
28 timeline and instructions below, Defendant will deposit the Maximum Settlement

1 Amount into a Qualified Settlement Fund (“QSF”) to be established by the
2 Settlement Administrator.

3 1. Funding Due Date. No later than 14 calendar days after the Effective Date,
4 Defendant shall provide the Maximum Settlement Amount (plus the
5 employer’s share of the payroll taxes) to the Settlement Administrator to
6 fund the Settlement as set forth in this Agreement.

7 2. Payments to Settlement Class Members and Aggrieved Employees.

8 a) Calculation of Individual Settlement Payments. Every Settlement
9 Class Member is entitled to an Individual Settlement Payment
10 without the need to submit a claim form. Individual Settlement
11 Payments shall be paid from the Net Settlement Amount and shall
12 be paid under the formula set forth in this Stipulation.

13 (1) Using the Class Data, the Settlement Administrator will
14 calculate the total number of Qualified Hours for all
15 Settlement Class Members. The number of Qualified Hours
16 for each Settlement Class Member then will be divided by
17 the total number of Qualified Hours for all Settlement Class
18 Members. The result of that division will be the “Payment
19 Ratio” for each Settlement Class Member. Each Settlement
20 Class Member’s Payment Ratio then will be multiplied by
21 the Net Settlement Amount to calculate that Settlement Class
22 Member’s share of the Net Settlement Amount, except that
23 no gross Individual Settlement Payment will be less than
24 \$25. A share of the Net Settlement Amount will be provided
25 only to those individuals who satisfy the definition of
26 Settlement Class Members, *i.e.*, Class Members who do not
27 submit a timely and valid Request for Exclusion.
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(2) The Parties recognize and agree that the formula provided in this Stipulation for allocating the Net Settlement Amount to be paid to the Settlement Class Members is reasonable and designed to provide a fair settlement to the Settlement Class Members.

b) Tax Allocation. For tax purposes, Individual Settlement Payments shall be allocated and treated as 30% wages and 70% penalties and interest. The Settlement Administrator will be responsible for issuing and mailing all required IRS Form W-2s and 1099s.

c) Mailing. Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members' last known mailing addresses no later than 28 calendar days after the Effective Date.

d) Uncashed Checks. All checks issued to Settlement Class Members shall remain valid and negotiable for 180 calendar days from the date of their issuance. Any undeliverable or uncashed checks then will be voided and the funds represented by those undeliverable and/or uncashed checks shall, upon Court approval, be sent by the Settlement Administrator to Legal Aid at Work (<https://legalaidatwork.org/>).

3. Class Representative Incentive Awards and General Release Payments.

a) Plaintiffs each will apply for a Class Representative Incentive Award and General Release Payment of up to \$5,000 each for their time, effort, and risk in bringing and prosecuting this Action. The Class Representative Incentive Awards and General Release Payments shall be in addition to each Plaintiff's Individual

1 Settlement Payment received in that Plaintiff's capacity as a
2 Settlement Class Member.

3 b) The Settlement Administrator shall pay the Class Representative
4 Incentive Awards and General Release Payments to Plaintiffs from
5 the Maximum Settlement Amount no later than 28 calendar days
6 after the Effective Date. Any portion of the requested Class
7 Representative Incentive Awards and General Release Payments
8 that is not awarded to the Class Representatives shall become part of
9 the Net Settlement Amount.

10 c) The Settlement Administrator shall issue an IRS Form 1099 —
11 MISC to each Plaintiff for his Class Representative Incentive Award
12 and General Release Payment. Plaintiffs shall be solely and legally
13 responsible to pay any and all applicable taxes on the Class
14 Representative Incentive Awards and General Release Payments and
15 each Plaintiff shall hold Defendant and the Released Parties
16 harmless from any claim or liability for taxes, penalties, or interest
17 arising as a result of that Plaintiff's Class Representative Incentive
18 Award and General Release Payment.

19 d) If the Court reduces or does not approve the requested Class
20 Representative Incentive Awards and General Release Payments,
21 Plaintiffs shall not have the right to revoke this Settlement
22 Agreement, and it will remain binding, nor will Plaintiffs seek,
23 request, or demand an increase in the Maximum Settlement Amount
24 on that basis.

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26 4. Class Counsel Award.

27 a) In consideration for representing Plaintiffs and the Class, Class
28 Counsel intends to apply for an award of attorneys' fees not to

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exceed one-quarter of the Maximum Settlement Amount (i.e., \$116,250 of the \$465,000), plus actual costs and litigation expenses estimated not to exceed \$8,500.

- b) Class Counsel, Plaintiffs and the Settlement Class Members will not apply to the Court for any payment of attorneys' fees and costs that are in addition to the foregoing. The Parties agree that, over and above the Court-approved Class Counsel Award, each of the Parties, including each Settlement Class Member, shall bear his, her or its own fees and costs, including, but not limited to, those related to the investigation, filing, prosecution, or settlement of the Action; the negotiation, execution, or implementation of this Agreement; and/or the process of obtaining, administering, or challenging a Preliminary Approval Order and/or Final Approval Order.
- c) Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement.
- d) The Settlement Administrator shall pay the Class Counsel Award to Class Counsel from the Maximum Settlement Amount no later than 28 calendar days after the Effective Date.
- e) Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this Paragraph III.J.4. The Settlement Administrator shall issue an IRS Form 1099-MISC to Class Counsel for the payments made pursuant to this Paragraph.
- f) In the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiffs and Class Counsel shall not have

1 the right to modify or revoke the Settlement, and the Settlement will
2 remain binding, nor will Plaintiffs or Class Counsel seek, request, or
3 demand an increase in the Maximum Settlement Amount on that
4 basis.

5 5. Settlement Administration Costs. The Settlement Administrator shall be
6 paid from the Maximum Settlement Amount for the costs of administration
7 of the Settlement. The Settlement Administrator has agreed to fee not to
8 exceed \$10,000. The Settlement Administrator shall be paid the settlement
9 administration costs no later than 14 calendar days after Defendant provides
10 funds to the Settlement Administrator for disbursement under this
11 Agreement.

12 L. CAFA Notice. Defendant shall be responsible for providing any Class Action
13 Fairness Act ("CAFA") notice required by 28 U.S.C. § 1715 no later than ten days
14 after entry of an order granting preliminary approval of the Settlement. Defendant
15 may delegate service of the CAFA notice to the Settlement Administrator. If
16 Defendant does so, it shall provide the Settlement Administrator with the form of
17 CAFA notice that the Settlement Administrator shall serve on the appropriate
18 officials. Defendant shall file a declaration with the Court no later than 21 days
19 after serving the CAFA notice stating that the CAFA notice has been served on the
20 appropriate officials.

21 M. Mutual Full Cooperation. The Parties agree to cooperate fully with each other to
22 accomplish the terms of this Settlement Agreement, including but not limited to
23 executing the necessary documents and taking such other action as reasonably may
24 be necessary to implement the terms of this Settlement Agreement. As soon as
25 practicable after executing this Settlement Agreement, Class Counsel shall, with the
26 assistance and cooperation of Defendant and Defense Counsel, take all necessary
27 steps to secure the Court's Preliminary and Final Approval of this Settlement
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1 Agreement. The Parties also agree to cooperate in the settlement administration
2 process. The Parties each represent they do not have any financial interest in the
3 Settlement Administrator or otherwise have a relationship with the Settlement
4 Administrator that could create a conflict of interest. Class Counsel also will notify
5 Defense Counsel if subpoenaed or upon receipt of any other request for documents
6 or information regarding any other action filed or potential action against the
7 Released Parties that covers or includes any Settlement Class Members and the
8 Released Claims.

9 N. Preliminary Approval Hearing. Plaintiffs will request preliminary approval of the
10 Settlement, entry of a Preliminary Approval Order for preliminary approval of the
11 proposed Agreement, and the setting of a date for a final-approval hearing. The
12 Preliminary Approval Order shall provide for the Notice of Class Action Settlement
13 to be sent to all Class Members as specified in this Stipulation. In conjunction with
14 the preliminary approval hearing, Plaintiffs shall submit this Agreement, which sets
15 forth the terms of this Settlement, and will include the proposed Notice of Class
16 Action Settlement.

17 O. Motion for Approval of the Class Representative Incentive Awards, the Class
18 Counsel Award, and the Settlement Administration Costs. No later than 14 calendar
19 days before the Response Deadline, Plaintiffs shall file with the Court a motion for
20 approval of the Class Representative Incentive Awards, the Class Counsel Award
21 and the settlement administration costs. Plaintiffs shall provide a courtesy draft of
22 those motion papers to Defense Counsel at least five court days before filing the
23 documents. That motion and all supporting documents shall be posted on the
24 Settlement Administrator's website until 35 days after the Effective Date.

25 P. Final Approval Motion. No later than 35 calendar days before the final approval
26 hearing, Plaintiffs shall file with the Court a Motion for Final Approval, which
27 motion shall request final approval of the Settlement. Plaintiffs shall provide a
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1 courtesy draft of those motion papers to Defense Counsel at least five court days
2 before filing the documents. That motion and all supporting documents shall be
3 posted on the Settlement Administrator’s website until 35 days after the Effective
4 Date.

5 1. Declaration by Settlement Administrator. The Settlement Administrator
6 shall submit a declaration in support of Plaintiffs’ Motion for Final
7 Approval of this Settlement. That declaration shall detail the number of
8 Notices of Class Action Settlement mailed and re-mailed to Class Members,
9 the number of undeliverable Notices of Class Action Settlement, the
10 number of timely Requests for Exclusion, the number of Notices of
11 Objection received, the amount of the average Individual Settlement
12 Payment, the settlement administration costs, and any other information that
13 the Parties mutually agree to include or that the Court orders the Settlement
14 Administrator to provide.

15 2. Final Approval Order. The Parties shall present a proposed Final Approval
16 Order to the Court, consistent with the terms and conditions of this
17 Agreement, for the Court’s approval and judgment thereon.

18 Q. Option to Revoke Settlement. Defendant has the unilateral right to revoke this
19 Agreement if, after the Response Deadline, the number of Class Members who have
20 submitted timely and valid written Requests for Exclusion equals at least 5% of all
21 Class Members. If Defendant exercises the option to terminate this Agreement, (a)
22 Defendant shall provide written notice to Class Counsel within 15 calendar days
23 after the Response Deadline, at which time this Agreement shall be void *ab initio*,
24 (b) Defendant shall pay all settlement administration costs incurred up through that
25 date and/or as a result of the termination, and (3) the Parties shall proceed in all
26 respects as if this Agreement had not been executed.
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R. Interim Stay of Proceedings. Pending the final approval hearing to be conducted by the Court, the Parties agree to stay all proceedings in the Action except such proceedings as are necessary or desirable to implement and complete the Settlement.

S. Nullification of Settlement Agreement. In the event that (i) the Court denies preliminary approval with prejudice, (ii) the Court denies final approval with prejudice, (iii) the Court does not enter a final judgment as provided in this Stipulation, or (iv) the Settlement does not become final for any other reason, this Agreement shall be null and void and any order or judgment entered by the Court in furtherance of this Settlement shall be treated as void from the beginning. In such a case, the Parties shall be returned to their respective statuses as of the date and time immediately before the execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed, except that any costs already incurred by the Settlement Administrator shall be paid by equal apportionment among the Parties, except as otherwise specified in Paragraph III.P. If an appeal is filed from the Court's final judgment, or any other appellate review is sought, administration of the Settlement shall be stayed pending final resolution of the appeal or other appellate review. In that event, within 30 calendar days of that notification, the Parties shall pay any costs by equal apportionment that were incurred by the Settlement Administrator before it was notified of the filing of an appeal from the Court's final judgment or of any other appellate review.

T. No Effect on Employee Benefits. Amounts paid to Plaintiffs and the Settlement Class Members under this Agreement shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the Plaintiffs and the Settlement Class Members.

- 1 U. Headings. The descriptive headings of any paragraphs or sections of this Agreement
2 are inserted for convenience of reference only and do not constitute a part of this
3 Agreement.
- 4 V. Amendment or Modification. This Agreement may be amended or modified only by
5 a written instrument that (1) is signed by counsel for all Parties or their successors-
6 in-interest, (2) is signed by the Parties or their successors-in-interest, and (3) if the
7 Court's approval is required, is as approved by the Court.
- 8 W. Entire Agreement. This Agreement and any attached Exhibits constitute the entire
9 Agreement among these Parties. Apart from the representations, warranties and
10 covenants contained and memorialized in this Agreement and its Exhibits, no oral or
11 written representations, warranties or inducements have been made to any Party
12 concerning this Agreement or its Exhibits.
- 13 X. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant
14 and represent that they are expressly authorized by the Parties whom they represent
15 to negotiate this Agreement and to take all appropriate actions required or permitted
16 to be taken by those Parties under this Agreement to effectuate its terms, and to
17 execute any other documents required to effectuate the terms of this Agreement.
18 The person signing this Agreement on behalf of Defendant represents and warrants
19 that he or she is authorized to sign this Agreement on behalf of Defendant.
20 Plaintiffs represent and warrant that they are authorized to sign this Agreement and
21 that they have not assigned or transferred to any third-party or encumbered any
22 claim, or part of a claim, demand, cause of action or any rights herein released and
23 discharged or covered by this Agreement.
- 24 Y. Binding on Successors and Assigns. The provisions of this Settlement Agreement
25 shall run in perpetuity. This Agreement shall be binding upon and inure to the
26 benefit of the successors or assigns of the Parties to this Agreement, including the
27 Settlement Class Members.
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- 1 Z. California Law Governs. All terms of this Agreement and its Exhibits and any
2 disputes arising under this Agreement shall be governed by and interpreted in
3 accordance with the laws of the State of California.
- 4 AA. Counterparts. This Agreement may be executed in one or more counterparts. All
5 executed counterparts and each of them shall be deemed to be one and the same
6 instrument, provided that counsel for the Parties to this Agreement shall exchange
7 among themselves copies or originals of the signed counterparts.
- 8 BB. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this
9 Settlement to be a fair, adequate and reasonable settlement of this Action and have
10 arrived at this Agreement after extensive arm's-length negotiations, taking into
11 account all relevant factors, present and potential. The Parties further agree that this
12 Settlement Agreement shall not be construed in favor of or against any Party by
13 reason of the extent to which any Party or his, her or its counsel participated in the
14 drafting of this Settlement Agreement.
- 15 CC. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction
16 with respect to the interpretation, implementation and enforcement of the terms of
17 this Agreement and all orders and judgments entered in connection therewith. The
18 Parties to this Agreement and their counsel submit to the jurisdiction of the Court
19 for purposes of interpreting, implementing and enforcing the Settlement embodied
20 in this Agreement and all orders and judgments entered in connection with this
21 Agreement.
- 22 DD. Invalidity of Any Provision. Before declaring any provision of this Agreement to be
23 invalid, the Court first shall attempt to construe that provision as valid to the fullest
24 extent possible consistent with applicable precedents so as to hold all provisions of
25 this Agreement valid and enforceable.
- 26 EE. Waiver of Certain Appeals. Provided that the Court does not materially modify the
27 terms of this Agreement, the Parties (1) agree to waive all appeals from any orders
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1 of the Court before final approval of the Settlement and (2) further agree to waive all
2 appeals from the Court's final approval of the Settlement.

3 FF. Confidentiality of Documents. After the expiration of any appeals period, Plaintiffs,
4 the Settlement Administrator, and Class Counsel shall maintain the confidentiality
5 of all settlement-related documents and other information obtained from the other
6 Party in the Action, unless necessary for appeal or such documents are ordered to be
7 disclosed by the Court or by a subpoena.

8 GG. No Admissions by the Parties. Plaintiffs have asserted and continue to assert that
9 the Released Claims have merit and give rise to liability on Defendant's part.
10 Defendant asserts that the Released Claims have no merit and do not give rise to
11 liability. This Agreement is a compromise of disputed claims. Nothing contained in
12 this Agreement, no documents referred to in this Agreement and no action taken to
13 carry out this Agreement may be construed or used as an admission by or against the
14 Defendant or Plaintiffs or Class Counsel as to the merits or lack of merit of the
15 claims asserted.
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18 By signing below, the Parties indicate their approval of the form of this Settlement
19 Agreement and its exhibits.

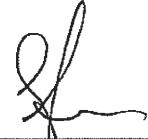
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21 IN WITNESS WHEREOF, this Joint Stipulation of Class Action Settlement is executed by
22 the Parties and their duly authorized attorneys as of the day and year set forth below.
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24 **IT IS SO AGREED:**
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DATED: July 22, 2021

CONSTRUCTION & TURNAROUND SERVICES, L.L.C.

By: 
Name: ERIC SWYERS
Title: VP OPERATIONS
On Behalf of Defendant

DATED: _____, 2021

FRANK SICA

By: _____

DATED: _____, 2021

GARY ELLIS

By: _____

APPROVED AS TO FORM:

DATED: _____, 2021

KELLER GROVER LLP

By: _____
ERIC A. GROVER
ROBERT W. SPENCER

Attorneys for Plaintiffs
FRANK SICA & GARY ELLIS

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DATED: _____, 2021

CONSTRUCTION & TURNAROUND SERVICES, L.L.C.

By: _____
Name:
Title:
On Behalf of Defendant

DATED: (7-19 - _____), 2021

FRANK SICA

By: Frank Sica

DATED: _____, 2021

GARY ELLIS

By: _____

APPROVED AS TO FORM:

DATED: _____, 2021

KELLER GROVER LLP

By: _____
ERIC A. GROVER
ROBERT W. SPENCER

Attorneys for Plaintiffs
FRANK SICA & GARY ELLIS

1 DATED: _____, 2021

CONSTRUCTION & TURNAROUND
SERVICES, L.L.C.

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By: _____
Name:
Title:
On Behalf of Defendant

7 DATED: _____, 2021

FRANK SICA

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By: _____

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13 DATED: 7/19/2021
14 _____, 2021

GARY ELLIS

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By:  _____

18 **APPROVED AS TO FORM:**

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21 DATED: 7-21
22 _____, 2021

KELLER GROVER LLP

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By:  _____
ERIC A. GROVER
ROBERT W. SPENCER

Attorneys for Plaintiffs
FRANK SICA & GARY ELLIS

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DATED: July 21, _____, 2021

LAW OFFICES OF SCOT D. BERNSTEIN,
A PROFESSIONAL CORPORATION

By: 
SCOT BERNSTEIN

Attorneys for Plaintiffs
FRANK SICA & GARY ELLIS

DATED: _____, 2021

MEDINA McKELVEY LLP

By: _____
BRANDON R. McKELVEY
TIMOTHY B. NELSON

Attorneys for Defendant
CONSTRUCTION & TURNAROUND
SERVICES, L.L.C.

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DATED: _____, 2021

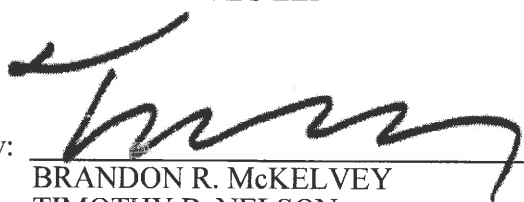
LAW OFFICES OF SCOT D. BERNSTEIN,
A PROFESSIONAL CORPORATION

By: _____
SCOT BERNSTEIN

Attorneys for Plaintiffs
FRANK SICA & GARY ELLIS

DATED: July 23 _____, 2021

MEDINA McKELVEY LLP

By: 
BRANDON R. McKELVEY
TIMOTHY B. NELSON

Attorneys for Defendant
CONSTRUCTION & TURNAROUND
SERVICES, L.L.C.

EXHIBIT 1

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA
Sica and Ellis v. Construction & Turnaround Services, L.L.C.
Case No. 4:21-cv-00188-JSW

NOTICE OF CLASS ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected whether you act or don't act.*

This class action settlement will affect your rights if you worked as an hourly non-exempt unionized on-site employee for Construction & Turnaround Services, L.L.C. in California at any time during the period October 26, 2016 through January 31, 2020, inclusive.

- Former employees Frank Sica and Gary Ellis (“Class Representatives” or “Plaintiffs”) sued Construction & Turnaround Services, L.L.C. (“CTS” or “Defendant”) on behalf of themselves and certain current and former CTS employees in California and have alleged that Defendant violated the California Labor Code and the California Unfair Competition Law.
- The claims of the Class Representatives and the Class have been settled. The Court has preliminarily approved the Settlement.
- If you qualify as a Class Member, you could receive money from the Settlement.
- Your legal rights are affected whether you act or don't act. Read this Notice carefully.
- **You are not being sued.** Plaintiffs sued CTS in a class action on behalf of themselves and similarly situated employees like you.

WHAT ARE YOUR OPTIONS?

DO NOTHING	If you do nothing, you will receive a Settlement payment. In exchange for this payment you will give up any rights to sue for the same claims that were part of this Settlement.
EXCLUDE YOURSELF	Give up all benefits, including money, from the Settlement. Retain all rights you may have against CTS, as explained below.
OBJECT	Write to the Court about why you don't agree with the Settlement. The Court may or may not agree with your objection. If the Court approves the settlement, you will receive a Settlement payment.

HOW MUCH CAN I GET?	Based on Defendant's records, your gross Individual Settlement Payment is estimated to be \$_____. This is based on your total Qualified Hours worked: _____.
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- Your rights and options – and the deadlines to exercise them – are explained in this Notice.
- The Court in charge of this case still has to decide whether to grant final approval of the Settlement. Payments will be made to Class Members who do not opt out of this Settlement if the Court approves the Settlement and after any appeals are resolved.

WHY AM I RECEIVING THIS NOTICE?

Defendant's records show that you worked for CTS as an hourly non-exempt unionized on-site employee in California during the period October 26, 2016 through January 31, 2020, inclusive. You received this Notice because you have a right to know about a proposed settlement of a class action lawsuit and about your options before the Court decides whether to grant final approval of the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, a Settlement Administrator appointed by the Court will make the payments that the Settlement allows.

This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them and how to get them.

WHAT IS THIS LAWSUIT ABOUT?

Plaintiffs Frank Sica and Gary Ellis filed a putative class action lawsuit on October 26, 2020 and a First Amended Complaint on January 27, 2021, on behalf of themselves and other hourly non-exempt unionized on-site employees who worked for CTS in California during the Class Period, October 26, 2016 through January 31, 2020, inclusive. The operative First Amended Complaint alleges causes of action against Defendant on a class basis for: (1) unfair business practices; (2) failure to provide meal periods; (3) failure to pay wages for all hours worked; and (4) waiting time penalties.

DO I HAVE AN ATTORNEY?

You do not need to hire your own attorney. You are already represented by Class Counsel (see below for their contact information). However, you may hire your own attorney at your own expense if you choose.

WHAT IS THE CASE STATUS?

CTS denies all of Plaintiffs' allegations, or that it violated any law, and contends that at all times it complied with federal, state and local laws. The settlement is not an admission by CTS of any wrongdoing or an indication that any law was violated.

The Court did not decide in favor of Plaintiffs or Defendant. Nor has it decided whether this case could proceed as a class action.

Instead of going through class certification or to trial, after a thorough investigation into the facts of this lawsuit, both sides agreed to a settlement. The class claims were settled because Class Counsel and the Class Representatives believe that the terms of the Settlement, which include monetary benefits, are fair and reasonable in light of the strength and weaknesses of the claims and other factors.

WHO IS IN THE CLASS?

You are part of the Settlement if you are a member of the Class, which includes all individuals who worked for CTS as an hourly non-exempt unionized employees in California during the period October 26, 2016 through January 31, 2020, inclusive.

WHAT ARE THE TERMS OF THE SETTLEMENT?

Questions? Call <<CLAIM ADMIN PH NO>>

In exchange for the release of claims against it and final judgment on the Action, Defendant will pay \$465,000 plus the employer's share of payroll taxes ("Maximum Settlement Amount"), which includes all payments contemplated by the Settlement, including all payments to Class Members, service awards to Plaintiffs, Class Counsel's attorneys' fees and costs, employee-side taxes, and settlement administration costs. The "Net Settlement Amount" is the amount remaining after deduction of Class Counsel's attorneys' fees and costs, the service awards to Plaintiffs, and the settlement administration costs, which will be distributed to Class Members who do not opt out.

Subject to Court approval, the Maximum Settlement Amount will be allocated at follows:

- Individual Settlement Payments: Class Members who do not opt out are eligible to receive money from the Net Settlement Amount as an Individual Settlement Payment, which is calculated as described below. The Net Settlement Amount is estimated to be approximately \$ [REDACTED]. Your estimated gross Individual Settlement Payment from the Net Settlement Amount is listed on the first page of this Notice.
- Class Representative Service Awards: Plaintiffs will request from the Court an award of \$5,000 each in recognition of their efforts and risks in assisting with the prosecution of the Action. This amount will be paid from the Maximum Settlement Amount, and any amount not awarded will revert to the Net Settlement Amount for distribution.
- Class Counsel Award: Class Counsel will request that the Court approve up to 25% of the Maximum Settlement Amount (\$116,250 of the \$465,000 settlement) as attorneys' fees for litigation and resolution of this Action and actual costs and expenses (estimated not to exceed \$8,500), as supported by declaration. This amount will be paid from the Maximum Settlement Amount, and any amount not awarded will revert to the Net Settlement Amount for distribution.
- Settlement Administration: The cost of settlement administration shall not exceed \$10,000, which pays for tasks such as mailing and tracking this Notice, tracking Requests for Exclusion and Notices of Objection, mailing checks and tax forms, and reporting to the parties and the Court.
- All checks issued to Class Members shall remain valid and negotiable for 180 calendar days after the date of their issuance. Any undeliverable or uncashed checks will then be voided and sent to Legal Aid at Work.

WHAT CAN I RECEIVE FROM THE SETTLEMENT?

If you do not opt out of the Settlement, you will automatically receive your share of the Net Settlement Fund after the Court approves the Settlement. Your estimated share, that is your estimated gross Individual Settlement Payment, and your total Qualified Shifts from Defendant's records used to calculate it, are listed on the first page of this Notice. 30% of the Individual Settlement Payment will be designated as wages for which an IRS Form W-2 shall issue, and 70% shall be designated as penalties and interest, for which an IRS Form 1099 may issue.

HOW IS MY PORTION OF THE SETTLEMENT CALCULATED?

Your Individual Settlement Payment is your pro rata share of the Net Settlement Amount based on your total Qualified Shifts, which is the total number of individual days that you worked as an hourly non-exempt unionized employee for CTS in California (based on Defendant's records) during the Class Period (October 26, 2016 through January 31, 2020, inclusive). Your Qualified Hours worked will be divided by the total number of Qualified Hours worked for all Settlement Class Members, resulting in your Payment Ratio. The Payment Ratio then will be multiplied by the Net Settlement Amount to determine your gross Individual Settlement Payment, except that no gross Individual Settlement Payment will be less than \$25.

Your Individual Settlement Payment may vary from the estimated payment listed on this form if any Class Members opt out of the Settlement and depending upon the amounts that the Court approves for awards to Class Counsel, the Class Representative, and the Settlement Administrator.

ONLY if you disagree with the Qualified Hours worked stated on page one of this Notice, mail a letter to the Settlement Administrator explaining why you disagree. Be as specific as possible and include copies of any supporting documents, such as paystubs. The decision of the Settlement Administrator will be final. Disputes must be mailed to the address below and must be postmarked no later than **[insert same date as objection and opt-out deadline]**:

Settlement Administrator

<<Address>>

Phone: (***) ***-****

Facsimile: (***) ***-****

WHAT HAPPENS IF I DO NOTHING?

If you do nothing and the Court approves the Settlement at the Final Approval Hearing, you will be issued your Individual Settlement Payment without any further action needed from you.

To ensure receipt of your Individual Settlement Payment, you must notify the Settlement Administrator of any change in your name, mailing address and/or telephone number. **It is your responsibility to keep the Settlement Administrator informed of your updated information, and your Individual Settlement Payment will be mailed to the last known address that the Settlement Administrator has on file for you.**

WHEN AND WHERE IS THE FINAL APPROVAL HEARING?

The Court will hold the Final Approval Hearing on <<date>> in Courtroom 5, 2nd Floor, of the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, California 94612, to decide whether to approve the Settlement. If the Court approves the Settlement, your Settlement share will be mailed to you within approximately 30 days from the Effective Date of the Settlement.

Please be advised that the date of the final approval hearing may change without further notice to the class. Class Members are therefore advised to check the Court's website (<https://www.cand.uscourts.gov/judges/jsw/>) or contact Class Counsel or the Settlement Administrator to confirm that the date and location has not been changed.

Questions? Call <<CLAIM ADMIN PH NO>>

WHAT CLAIMS AM I GIVING UP IF I REMAIN PART OF THE SETTLEMENT?

Unless you exclude yourself, you will remain a Settlement Class Member, and you will be bound by the terms of the Settlement, including the Release of the Released Claims as described below. That means you will be unable to sue, or to continue to sue, or be part of any other lawsuit about the Released Claims. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Released Claims

The "Released Claims" means the claims in the operative First Amended Class Action Complaint under California Labor Code §§ 201, 202, 203, 226.7, 510, 512, 1194, 1194.2, 1197, and 1197.1 and Business & Professions Code §§ 17200, together with interest, fees, and costs related to those claims. The Release Period for the Released Claims shall be the same as the Class Period, i.e., from October 26, 2016 through January 31, 2020, inclusive.

The Release will extend to Defendant Construction & Turnaround Services, L.L.C. and all of Defendant's parent companies, subsidiaries, divisions, related or affiliated companies, and its' or their shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity that could be liable for any of the Released Claims (collectively, the "Released Parties").

WHAT SHOULD I DO IF I DO NOT WANT TO BE PART OF THE SETTLEMENT?

If you do not wish to participate in this Settlement, you may exclude yourself (generally called "opting out") by submitting a written Request for Exclusion to the Settlement Administrator. Your request to opt-out must (a) be in writing; (b) state your name, address, and the last four digits of your social security number or Employee ID number; and (c) include a typed or handwritten statement requesting exclusion from the Settlement Class and stating in substance: "I wish to opt out of the settlement of the class action lawsuit entitled *Sica and Ellis v. Construction & Turnaround Services*."

You must personally sign the Request for Exclusion and may not have someone sign for you, nor may you submit a Request for Exclusion on behalf of a group or anyone else. Your Request for Exclusion must be signed and mailed via United States first class mail postmarked no later than <<Date>> [45 calendar days after initial mailing] to:

Settlement Administrator

<<Address>>

Phone: (*) ***-******

Facsimile: (*) ***-******

If you submit a timely Request for Exclusion, then upon its receipt you shall not be a member of the Settlement Class, you shall be barred from participating in any portion of the Settlement, and you may not object to the Settlement.

If you submit a timely Request for Exclusion, you may then pursue, at your own expense, any claims you may have against CTS. If you do not submit a complete and timely written Request for Exclusion, you will be included in the Settlement Class, and be bound by the terms of the Settlement (including the Released Claims described above), whether or not you objected to the Settlement.

Questions? Call <<CLAIM ADMIN PH NO>>

WHAT SHOULD I DO IF I WANT TO OBJECT TO THE SETTLEMENT?

Any Class Member who has not asked to be excluded from this Settlement may object to the Settlement. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no Settlement Payments will be sent out and the Action will continue. Please also keep in mind that objecting is not the same as requesting to be excluded. Submitting an objection will **not** exclude you from the Settlement Class. **If your objection is overruled, you will still be bound by the Settlement.**

If you wish to object to the Settlement, you may submit your written Notice of Objection to the Court at the address below in person or by mail stating the basis or reason(s) for your objection to the Settlement. You may object to any of the terms in the Settlement Agreement. A written Notice of Objection must be signed by you and include: (1) the case name and number (*Sica and Ellis v. Construction & Turnaround Services, L.L.C.*, Case No. 21-cv-00188-JSW); (2) your name; (3) your address; (4) the last four digits of your Social Security number or Employee ID number; (5) the basis for your objection and any supporting documents; and (6) if you intend to appear at the final approval hearing. Class Members who fail to make objections in the manner specified above may be deemed to have waived any objections and be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement. The failure to submit a written objection does not waive a Settlement Class Member's right to appear and orally object at the final approval hearing.

The written Notice of Objection must be filed in person or mailed via United States first class mail postmarked no later than <<Date>> [45 calendar days after initial mailing] to:

**United States District Court
Class Action Clerk
1301 Clay Street, Suite 400S
Oakland, California 94612**

If you have submitted a written objection, you may, but are not required to, appear at the Final Approval Hearing set for <<date>> in Courtroom 5, 2nd Floor, of the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, California 94612 and discuss your objections with the Court and the parties. The Final Approval Hearing may be continued to another date without further notice.

You have the right to retain your own attorney, at your own expense, to submit a Notice of Objection or appear on your behalf at the Final Approval Hearing.

You cannot both object and opt-out. If you submit both a Request for Exclusion and a Notice of Objection, the Notice of Objection will be invalid, while the Request for Exclusion will be valid.

HOW DO I GET ADDITIONAL INFORMATION?

This Notice only summarizes the proposed Settlement and its terms. For more information: contact Class Counsel at the below address, phone number or email addresses; access relevant case documents including the Settlement Agreement and the motions for final approval and attorneys' fees and costs at the Settlement Administrator's website (insert URL); access the Court docket by visiting the office of the Clerk of Court at any of the locations listed at <https://cand.uscourts.gov/about/locations/> between 9:00

Questions? Call <<CLAIM ADMIN PH NO>>

a.m. and 4:00 p.m.; or access the Court docket for a fee at the Court's PACER website, <https://ecf.cand.uscourts.gov/>.

If you have further questions regarding this case or Settlement, you may contact Class Counsel, whose contact information is provided below:

Eric A. Grover

[eagrover@kellergrover.com](mailto: eagrover@kellergrover.com)

Robert W. Spencer

[rspencer@kellergrover.com](mailto: rspencer@kellergrover.com)

KELLER GROVER LLP

1965 Market Street

San Francisco, California 94103

Telephone: (415) 543-1305

Facsimile: (415) 543-7861

In addition to contacting Class Counsel, you may contact the Settlement Administrator at (800) _____ or visit the Settlement Administrator's website at (insert URL).

PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

Questions? Call <<CLAIM ADMIN PH NO>>

EXHIBIT 2

Sica and Ellis v. Construction & Turnaround Services, L.L.C.
Settlement Administrator

[insert address]

[Insert Recipient's Address]

**THIS IS A LEGAL NOTICE REGARDING DEADLINES AFFECTING YOUR RIGHTS TO
MONEY FROM A CLASS ACTION SETTLEMENT. IT IS NOT AN ADVERTISEMENT OR A SOLICITATION.**

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