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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

**SURVEILLANCE SECURITY WAGE AND
HOUR CASES**

JCCP Case No. 4969

Included Actions:
Hughes v. Surveillance Security, Inc., Superior
Court of California, County of Los Angeles
Case No. BC685544

Aslam v. Surveillance Security, Inc., Superior
Court of California, Superior Court of
California, County of Sacramento Case NO. 34-
2017-00220142

*Assigned for all purposes to Hon. Elihu
M. Berle, Dept. 6*

**FIRST AMENDED STIPULATION
OF CLASS ACTION SETTLEMENT**

1 This First Amended Stipulation of Class Action Settlement is entered into by the
2 Parties through their undersigned attorneys of record. This agreement is intended to fully
3 replace the original Stipulation of Class Action Settlement signed by the Parties on or about
4 March 6, 2019.

5 **I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS**

6 These now consolidated actions were brought by Plaintiffs Jerome Hughes and
7 Navid Aslam (“Plaintiffs”), individually and on behalf of all non-exempt employees of
8 Defendant Surveillance Security, Inc. (“SSI” or “Defendant”) who worked as security
9 guards in California during the Class Period, as defined below. In his First Amended
10 Complaint, Plaintiff Aslam alleges causes of action against Defendant for (1) Failure to pay
11 wages earned; (2) Failure to pay overtime; (3) Failure to provide compliant meal breaks; (4)
12 Failure to provide compliant rest breaks; (5) Inaccurate wage statements in violation of
13 Labor Code section 226; (6) Violations of Labor Code sections 201 and 202; (7) Violation
14 of Labor Code section 558; (8) Violation of California Business & Professions Code section
15 17200, et seq.; and (9) Recovery of civil penalties under the California Labor Code Private
16 Attorneys General Act, Cal. Lab. Code §§ 2698-2699.5 (“PAGA”). Plaintiff Hughes’ First
17 Amended Complaint alleges causes of action against Defendant for (1) Failure to pay wages
18 earned; (2) Violation of Wage Order section 9; (3) Failure to pay overtime; (4) Inaccurate
19 wage statements in violation of Labor Code section 226; (5) Failure to provide sick leave;
20 (6) Failure to provide compliant meal and rest breaks; (7) Violations of Labor Code sections
21 201 and 202; (8) Failure to reimburse for expenses; (9) Violation of California Business &
22 Professions Code section 17200, et seq.; and (10) Recovery of civil penalties under the
23 California Labor Code Private Attorneys General Act, Cal. Lab. Code §§ 2698-2699.5
24 (“PAGA”). Defendant denies that it violated California law and denies that it owes
25 Plaintiffs and the other employees on whose behalf the lawsuit was filed any additional
26 wages, penalties, or other relief.

27 Under the terms of the Settlement and after final approval and entry of judgment
28 pursuant to California Rule of Court 3.769, Defendant will pay a Gross Settlement Amount

1 of three hundred and forty-five thousand dollars (\$345,000) in two payments, which will be
2 discounted to two hundred and seventy-five thousand (\$275,000) if Defendant is able to pay
3 that entire amount earlier. Defendant will also pay the employer's share of payroll taxes.
4 Provided that Defendant complies with the terms of this Agreement, Defendant shall not be
5 liable for any additional sums to the Settlement Class, Class Counsel, Plaintiffs, or the
6 Claims Administrator pursuant to this Settlement Agreement. Of this Gross Settlement
7 Amount, \$10,000 will be set aside to settle Plaintiffs' claims under PAGA. The Settlement
8 will be administered by a third-party settlement administrator with experience administering
9 class action settlements of this type. Until distribution, the Gross Settlement Amount will be
10 held in an Qualified Settlement Fund established by the Settlement Administrator. This is an
11 opt-out settlement, and Class Members (as defined in Section II) will receive a settlement
12 payment unless they opt-out of the settlement. Class Members shall not be required to
13 submit a claim form.

14 The Parties agree that the following disbursements will be made from the Gross
15 Settlement Amount, subject to Court approval at the final approval hearing:

16 A. Settlement Administration Costs, estimated to be \$12,000.

17 B. Class Counsel's Attorneys' Fees, to be approved by the Court, in an amount
18 not to exceed one-third of the Gross Settlement Amount;

19 C. Class Counsel's reasonable and actual litigation costs, as approved by the
20 Court, not to exceed \$18,000;

21 D. A Service and Release Award to each of the Representative Plaintiffs in the
22 amount of \$7,500 (for a total of \$15,000), as payment for their time and efforts in pursuing
23 this Action;

24 E. A total of \$10,000 is allocated to Plaintiff's PAGA claims. Of this amount,
25 \$7,500 will be paid to the California Labor and Workforce Development Agency
26 ("LWDA"), which represents 75% of the portion of the settlement that is intended to resolve
27 Plaintiffs' PAGA claims. The remaining 25% (\$2,500) of the PAGA allocation will be
28 distributed to class members as part of the Net Settlement Amount.

1 F. The remainder of the Gross Settlement Amount (the “Net Settlement
2 Amount”) will be distributed to Settlement Class Members based on the methodology
3 discussed in section IV.J.1, below. It is estimated that if the Defendant pays the discounted
4 Gross Settlement amount of \$275,000, the Net Settlement Amount will be approximately
5 \$130,833.34 after deductions for Class Counsel’s Attorneys’ Fees, Class Counsel’s Costs,
6 Settlement Administration Costs, Service and Release Award and payment to the LWDA. If
7 the Defendant pays the full Gross Settlement Amount of \$345,000, the Net Settlement
8 Amount will be approximately \$177,500.

9 Defendant represents that it has employed approximately 204 Class Members who
10 worked Qualifying Workweeks during the Settlement Class Period.

11 **II. DEFINITIONS**

12 As used in this Stipulation, the following terms shall have the meanings set forth
13 below:

14 A. “Action” means this coordinated putative class and representative action
15 pending in Los Angeles County Superior Court titled *In Re Surveillance Security Wage and*
16 *Hour Cases*, JCCP 4969 and consists of two now-coordinated actions which are styled
17 *Hughes v. Surveillance Security, Inc.*, Superior Court of California, County of Los Angeles
18 Case No. BC685544 and *Aslam v. Surveillance Security, Inc.*, Superior Court of California,
19 Superior Court of California, County of Sacramento Case NO. 34-2017-00220142.

20 B. “Agreement” or “Stipulation” means this Stipulation of Class Action
21 Settlement.

22 C. “Class” means all current and former non-exempt employees of Defendant
23 who worked as security guards in California at any time during the Class Period. Defendant
24 represents that there are approximately 204 Class Members.

25 D. “Class Counsel” means Aaron C. Gundzik and Rebecca G. Gundzik,
26 Gartenberg Gelfand Hayton LLP, 15260 Ventura Blvd, Suite 1920, Sherman Oaks, CA
27 91403, (213) 542-2100, Jon M Lebe, Lebe Law, a Professional Law Corporation, 777 S.
28 Alameda Street, Second Floor, Los Angeles, CA 90021, (213) 358-7046 and Galen Shimoda

1 and Justin Rodriguez, Shimoda Law Corp., 9401 E. Stockton Blvd., Suite 200 Elk Grove,
2 CA 95624, (916) 525-0716.

3 E. "Class Counsel's Attorneys' Fees" means the amount to be paid to Class
4 Counsel for attorneys' fees, subject to Court approval at the Final Fairness and Approval
5 Hearing. Class Counsel's Attorneys' Fees will not exceed one-third of the Gross Settlement
6 Amount paid by Defendant. If Defendant pays the full Gross Settlement Amount of
7 \$345,000, Class Counsel's Attorneys' Fees will not exceed \$115,000. If Defendant pays the
8 discounted Gross Settlement Amount of \$275,000, Class Counsel's Attorneys' Fees will not
9 exceed \$91,666.66. Even in the event that the Court reduces or does not approve the
10 requested Class Counsel's Attorney's Fees, Class Counsel shall not have the right to revoke
11 this MOA or this settlement, and it will remain binding.

12 F. "Class Counsel's Costs" means the amount to be reimbursed to Class
13 Counsel for their costs and expenses incurred in the Action, subject to Court approval at the
14 Final Fairness and Approval Hearing. Class Counsel's Costs will not exceed \$18,000. Even
15 in the event that the Court reduces or does not approve the requested Class Counsel's Costs,
16 Class Counsel shall not have the right to revoke this MOA or this settlement, and it will
17 remain binding.

18 G. "Class Data" means each Class Member's full name, social security number,
19 number of Qualifying Workweeks worked by such Class Member, last known physical and
20 email address and telephone number.

21 H. "Class Member" is a person who is a member of the Class.

22 I. "Class Period" means the period from October 4, 2013 to the Preliminary
23 Approval Date.

24 J. "Complaints" means the First Amended Complaints on file in the Action.

25 K. "Court" means the Superior Court of the State of California, in and for the
26 County of Los Angeles, where the Action is pending.

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1 L. “Defendant’s Counsel” means Aaron H. Cole, Ogletree, Deakins, Nash,
2 Smoak & Stewart, P.C., 400 South Hope Street, Suite 1200, Los Angeles, CA 90071, 213-
3 438-5846.

4 M. “Effective Date” means the date of entry of the Final Approval Order.

5 N. “Employer’s Withholding Share” means the employer’s share of all federal,
6 state, and local taxes and required withholdings, including without limitation, FICA,
7 Medicare tax, FUTA, and state unemployment taxes.

8 O. “Final Approval Order” means the Order Granting Final Approval of Class
9 Action Settlement and Judgment entered by the Court.

10 P. “Final Fairness and Approval Hearing” means the hearing on Plaintiffs’
11 Motion for Final Approval of Class Action Settlement at which the Court will be asked to
12 give final approval to the settlement terms set forth herein and to enter judgment.

13 Q. “Gross Settlement Amount” means three hundred and forty-five thousand
14 dollars (\$345,000) or discounted amount of two hundred and seventy-five thousand dollars
15 (\$275,000), which Defendant will pay under this Settlement. Gross Settlement Amount also
16 includes any increase in the Gross Settlement Amount resulting from the accrual of any
17 excess Qualifying Workweeks, as set forth in section IV(N)(5).

18 R. “Net Settlement Amount” means the amount remaining from the Gross
19 Settlement Amount after payments of Court-approved Class Counsel’s Attorney’s Fees and
20 Class Counsel’s Costs, Service and Release Awards to the Representative Plaintiffs,
21 Settlement Administration Costs, and payment to the LWDA.

22 S. “Notice of Settlement” means the “Notice of Proposed Class Action
23 Settlement and Final Approval Hearing,” the form of which is attached hereto as Exhibit A.

24 T. “Objection to Settlement” means any written objection to this Settlement sent
25 by a Settlement Class Member to the Settlement Administrator as specified herein and in the
26 Notice of Settlement. An Objection to Settlement must be sent to the Settlement
27 Administrator within the time limitations set forth in this Stipulation.

28 U. “Parties” means the Representative Plaintiffs and Defendant SSI.

1 V. "Preliminary Approval Date" is the date the Court grants preliminary
2 approval of this Settlement pursuant to California Rule of Court 3.769(c).

3 W. "QSF" means a Qualified Settlement Fund to be established by the
4 Settlement Administrator into which all payments from Defendant related to this Settlement
5 will be deposited and from which all payments authorized by the Court will be made. Such
6 QSF will be established prior to Defendant's deposit of the Gross Settlement Amount.

7 X. "Qualifying Workweek" means a week in which a Class Member worked at
8 least two days for Defendant in California during the Class Period.

9 Y. As approved by the Court, "Released Claims" means All causes of action and
10 factual or legal theories that were alleged in the Complaints or reasonably could have been
11 alleged based on the facts and legal theories contained in the Complaints, including all of the
12 following claims for relief: (a) failure to pay all regular wages, minimum wages and
13 overtime wages due; (b) failure to provide or pay sick leave; (c) failure to properly calculate
14 the regular rate for overtime pay or sick leave pay (d) failure to provide proper meal periods,
15 and to properly provide premium pay in lieu thereof; (e) failure to provide proper rest
16 periods, and to properly provide premium pay in lieu thereof; (f) failure to reimburse
17 business expenses; (g) failure to provide complete, accurate or properly formatted wage
18 statements; (h) waiting time penalties that could have been premised on the claims, causes of
19 action or legal theories of relief described above or any of the claims, causes of action or
20 legal theories of relief pleaded in the operative complaint; (i) unfair business practices that
21 could have been premised on the claims, causes of action or legal theories of relief described
22 above or any of the claims, causes of action or legal theories of relief pleaded in the
23 operative complaint; (j) all claims under the California Labor Code Private Attorneys
24 General Act of 2004 that could have been premised on the claims, causes of action or legal
25 theories described above or any of the claims, causes of action or legal theories of relief
26 pleaded in the operative complaint; (k) any other claims or penalties under the wage and
27 hour laws pleaded in the Action; and (l) all damages, penalties, interest and other amounts
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1 recoverable under said claims, causes of action or legal theories of relief (collectively, the
2 “Released Claims”).

3 Z. “Released Parties” means Defendant, its past, present and/or future, direct
4 and/or indirect, officers, directors, members, managers, employees, agents, representatives,
5 attorneys, insurers, partners, investors, shareholders, administrators, parent companies,
6 subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers, but
7 only as to the Released Claims.

8 AA. “Representative Plaintiffs” means Jerome Hughes and Navid Aslam.

9 BB. “Request for Exclusion” means a written request by a Class Member to be
10 excluded from the Settlement Class that is submitted in accordance with the procedure set
11 forth herein, also known as an “opt-out request.”

12 CC. “Service and Release Award” means the payment to be made to each of the
13 Representative Plaintiffs for their service to the Class and for the broader general releases
14 that they will be providing to the Released Parties as a condition of this Settlement. The
15 Service and Release Award for each Representative Plaintiff will not exceed \$7,500. The
16 Service and Release Awards are subject to Court approval. Even in the event that the Court
17 reduces or does not approve the requested Service and Release Awards, Plaintiffs shall not
18 have the right to revoke this MOA or this settlement, and it will remain binding.

19 DD. “Settlement” means the disposition of the Action and all related claims
20 effectuated by this Agreement.

21 EE. “Settlement Administration Costs” will not exceed \$12,000 and means the
22 fees and costs incurred or charged by the Settlement Administrator in connection with the
23 execution of its duties under this Agreement including, but not limited to fees and costs
24 associated with: (1) establishing and maintaining the QSF; (2) preparing, issuing and/or
25 monitoring reports, filings, and notices (including the cost of printing and mailing all notices
26 and other documents to the Class Members) required to be prepared in the course of
27 administering the Settlement; (3) computing the amount of the settlement payments, taxes,
28 and any other payments to be made under this Agreement; (4) handling inquiries about the

1 calculation of individual settlement payments; (5) establishing and operating a settlement
2 payment center website, address, and phone number to receive Class Members' inquiries
3 about the Settlement; (6) providing a due diligence declaration for submission to the Court
4 prior to the final approval hearing; (7) printing and providing Settlement Class Members and
5 the Representative Plaintiffs with W-2 and 1099 forms as required under this Agreement and
6 applicable law; (8) preparing, issuing, and filing any tax returns and information returns and
7 any other filings required by any governmental taxing authority or other governmental
8 agency; and (9) for such other tasks as the Parties mutually agree or the Court orders the
9 Settlement Administrator to perform. Settlement Administration Costs will be paid out of
10 the Gross Settlement Amount.

11 FF. "Settlement Administrator" refers to Phoenix Settlement Administrators.

12 GG. "Settlement Class" means all Class Members who have not timely submitted
13 a valid and complete Request for Exclusion.

14 HH. "Settlement Class Member" is a person who is a member of the Settlement
15 Class.

16 **III. BACKGROUND**

17 During the Class Period, SSI has been in the business of providing security guards
18 for customers in California. Class Members are non-exempt employees who worked as
19 security guards for Defendant in California during the Class Period. Plaintiffs contend,
20 among other things, that Class Members were not paid for all working time, including
21 overtime, denied compliant meal and rest breaks, were not reimbursed for expenses and
22 were not provided with accurate wage statements. Defendant denies all of Plaintiffs' claims
23 and contends, among other things, that all Class Members were properly paid for all work
24 within the required time frame, that all expenses incurred by Class Members were
25 reimbursed, that Class Members were provided with compliant meal and rest breaks, and
26 that all wage statements accurately reflected the information required by Labor Code section
27 226.

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1 The Parties have undertaken significant investigation and informal discovery during
2 the prosecution of this Action. Such discovery and investigation include extensively
3 interviewing the Representative Plaintiffs and other Class Members and Defendant's
4 production and Plaintiffs' counsel's review of personnel records, policy manuals, and other
5 detailed information relevant to the Class Members' claims. Counsel for the Parties have
6 investigated the law as applied to the facts discovered regarding the alleged claims of the
7 Class and potential defenses thereto, and the potential damages claimed by the Class.

8 The Parties' attorneys have engaged in extensive discussions about the strengths and
9 weaknesses of the claims and defenses in the Action. On December 7, 2018, the
10 Representative Plaintiffs and Class Counsel, and Defendant and Defendant's Counsel,
11 attended a mediation session before an experienced and well-regarded mediator, Gig
12 Kyriacou. The action did not settle at the mediation, but the mediator made a settlement
13 recommendation, the principal terms of which were accepted by the parties on January 15,
14 2019. The parties then prepared and negotiated the terms of a written agreement entitled
15 Memorandum of Understanding (MOU), which set forth the principal elements of this
16 Agreement and which, by its own terms, is enforceable pursuant to the provisions of Code of
17 Civil Procedure § 664.6.

18 Plaintiffs and Class Counsel have concluded, after considering the sharply disputed
19 factual and legal issues involved in this Action, the risks attending further prosecution, and
20 the substantial benefits to be received pursuant to the compromise and settlement of the
21 Action as set forth in this Agreement, that this Settlement is in the best interests of the
22 Representative Plaintiffs and the Settlement Class and is fair and reasonable.

23 Similarly, Defendant has concluded that there are benefits associated with settling
24 this Action. After considering the sharply disputed factual and legal issues involved in the
25 Action, the expense and burden of protracted litigation, and its desire to put the controversy
26 to rest, Defendant believes that this Settlement is in Defendant's best interests and is fair and
27 reasonable.

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1 This Settlement contemplates: (i) entry of an order preliminarily approving the
2 Settlement and approving certification of a provisional Class for settlement purposes only,
3 contingent upon final approval of the Settlement; (ii) dissemination of a notice to Class
4 Members about the settlement; (iii) entry of a Final Approval Order granting final approval
5 of the Settlement; and (iv) entry of final judgment.

6 **IV. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

7 **A. Preliminary Approval of Settlement**

8 As soon as practicable, Class Counsel and Defendant’s Counsel will submit this
9 Stipulation to the Court for preliminary approval. Such submission will include such
10 motions, pleadings, and evidence as may be required for the Court to determine that this
11 Agreement is fair and reasonable, as required by California Code of Civil Procedure section
12 382 and California Rule of Court 3.769, including a motion drafted and filed by Class
13 Counsel requesting that the Court enter a preliminary approval order. Such submission will
14 also include a proposed order. Defendant shall not oppose Class Counsel’s motion for
15 preliminary approval of the settlement to the extent it is consistent with the terms and
16 conditions of this Agreement. Defendant may, however, provide a written response to any
17 characterization of the law or facts contained in the motion for preliminary approval.

18 The Parties have agreed to the certification of the Class for the sole purposes of
19 effectuating this Settlement. Should the Settlement be terminated for any reason, or should
20 the Settlement not be approved by the Court or the judgment not become final, the fact that
21 the Parties were willing to stipulate to class certification as part of the Settlement will have
22 no bearing on, and will not be admissible in connection with, the issue of whether a class
23 should be certified in a non-settlement context in this Action, and in any of those events,
24 Defendant expressly reserves the right to oppose class certification. Additionally, if the
25 Settlement does not become final, this Agreement and all negotiations, court orders, and
26 proceedings related thereto shall be without prejudice to the rights of all Parties hereto, and
27 evidence relating to the Agreement and all negotiations shall not be admissible in the Action
28 or otherwise. The Parties further agree that if, for any reason, the Settlement is not approved,

1 the certification for purposes of this Settlement will have no force or effect and will be
2 immediately revoked.

3 Should the Court decline to conditionally certify the Class or to preliminarily
4 approve all material aspects of the Settlement, the Settlement will be null, and void and the
5 Parties will have no further obligations under it.

6 If the Court grants preliminary approval but does not grant final approval of the
7 Settlement, then the preliminary approval order shall be vacated in its entirety, unless the
8 Court orders otherwise.

9 **B. Cooperation**

10 The Parties agree to fully cooperate with each other to accomplish the terms of this
11 Agreement, including but not limited to, execution of such documents and to take such other
12 reasonably necessary action to implement the terms of this Agreement. No party, nor any of
13 its attorneys or agents, shall solicit or encourage any Class Member to opt out of or object to
14 the Settlement.

15 **C. Notice of Settlement**

16 As soon as practicable, but no later than ten (10) calendar days after the Preliminary
17 Approval Date, Defendant will provide the Settlement Administrator with the Class Data in
18 an electronic format acceptable to the Settlement Administrator. At the same time,
19 Defendant will provide the Class Data, without Class Member names, contact information
20 and social security numbers, to Class Counsel. This information will remain confidential and
21 will not be disclosed to anyone, except as required to applicable taxing authorities, pursuant
22 to Defendant's express written authorization, by order of the Court, or as otherwise provided
23 for in this Agreement.

24 Using the Class Data, the Settlement Administrator will: (1) finalize and print the
25 Notice of Settlement; (2) check all addresses against the National Change of Address
26 database; and (3) within ten (10) calendar days of receiving the Class Data, send to each
27 Class Member via First-Class United States mail a Notice of Settlement to the most recent
28 address known for each Class Member. It will be conclusively presumed that if an envelope

1 so mailed has not been returned within fifteen (15) calendar days of the mailing, the Class
2 Member received the Notice of Settlement. In addition to mailing, the Settlement
3 Administrator will provide a copy of the Notice of Settlement to Class Members using any
4 email addresses that have been provided Defendant. Based upon its interactions with Class
5 Members, Defendant believes that Class Members are proficient in English and that it is not
6 necessary to translate the Notice of Settlement into another language.

7 **D. Re-Sending Class Notices**

8 If Defendant's Counsel or Class Counsel becomes aware of new addresses for any
9 Class Member, prior to the filing of the motion for final approval, such information must
10 immediately be communicated to the Settlement Administrator. Subject to the limitations set
11 forth in the following paragraph, the Settlement Administrator will then re-send a Notice of
12 Settlement to the Class Member(s) at the new address.

13 For any Notice of Settlement that is returned as undeliverable, the Settlement
14 Administrator will perform a skip trace search. The returned Notices of Settlement will be
15 re-mailed to the new addresses obtained for such Class Members. Such searching and re-
16 mailing will be completed within fifteen (15) calendar days of the date that Notices of
17 Settlement were originally mailed.

18 Notwithstanding anything to the contrary in this Stipulation and absent approval
19 from the Parties, through their counsel, any Notice of Settlement that is sent or re-sent to a
20 Class Member after the initial mailing date will require a response date for objection, opt out
21 or dispute that is the later of: (1) sixty (60) days after the date that all Notices of Settlement
22 were initially sent and (2) fifteen (15) days after the Notice of Settlement is sent or re-sent. It
23 will be conclusively presumed that if an envelope re-mailed has not been returned within
24 fifteen (15) calendar days of re-mailing, the Class Member received the Notice of
25 Settlement.

26 **E. Requests for Exclusion (Opt-Outs)**

27 Any Class Member who wishes to be excluded from the Settlement must notify the
28 Settlement Administrator in writing of his or her desire to be excluded by mailing his or her

1 own written statement to the Settlement Administrator that clearly expresses such desire and
2 is signed by such Class Member. Any such statement shall include the Class Member's
3 name (and former names, if any), current address, telephone number, and last four numbers
4 of the Class Member's social security number. To be valid, the Request for Exclusion must
5 be postmarked no later than sixty (60) days after the original date of the Settlement
6 Administrator's mailing of the Notice of Settlement or re-mailing for Class Members whose
7 Notices of Settlement were re-mailed. Provided, however, for any Notice of Settlement that
8 is sent or re-sent after the initial mailing date, the deadline for requesting exclusion shall be
9 the later of: (1) sixty (60) days after the date that all Notices of Settlement were initially sent
10 and (2) fifteen (15) days after the Notice of Settlement is sent or re-sent. Any Class Member
11 who submits a valid and timely request to be excluded from the Settlement shall be barred
12 from participating in this Settlement, shall be barred from objecting to this Settlement, and
13 shall receive no benefit from this Settlement. In furtherance of the foregoing, any Class
14 Members who submits a valid and timely request to be excluded from the Settlement shall
15 be deemed to have waived all objections and opposition to the fairness, reasonableness, and
16 adequacy of this Settlement.

17 Any Class Member who fails to submit a timely, complete, and valid Request for
18 Exclusion shall be barred from opting out of the Settlement. It shall be conclusively
19 presumed that, if a Request for Exclusion is not postmarked on or before the expiration of
20 the period to submit a Request for Exclusion, the Class Member did not make the request in
21 a timely manner. Under no circumstances shall the Settlement Administrator have the
22 authority to extend the deadline for Class Members to file a Request for Exclusion.

23 Unless a Class Member submits a timely, complete, and valid Request for Exclusion,
24 he or she shall be bound by the terms and conditions of this Agreement. The releases
25 provided for in this Agreement shall conclusively preclude any Settlement Class Member
26 from asserting any of the Released Claims against any of the Released Parties in any
27 judicial, administrative, or arbitral forum.

28

1 The Settlement Administrator shall promptly provide Class Counsel and Defendant's
2 Counsel with copies of all Requests for Exclusion that it receives.

3 **F. Declaration of Compliance**

4 As soon as practicable following the Preliminary Approval Date, the Settlement
5 Administrator shall provide Class Counsel and Defendant's Counsel with a declaration
6 attesting to completion of the notice process set forth in this Section IV, including the
7 number of notices sent and returned, an explanation of efforts to resend undeliverable
8 notices, and copies of all Requests for Exclusion, which declaration shall be filed with the
9 Court by Class Counsel along with their papers requesting final approval of the Settlement.

10 **G. Sufficient Notice**

11 Compliance with the procedures described in this Section IV shall constitute due and
12 sufficient notice to Class Members of this Settlement and of the Final Fairness and Approval
13 Hearing, shall satisfy the requirements of due process, and nothing else shall be required of
14 the Representative Plaintiffs, Class Counsel, Defendant, Defendant's Counsel, or the
15 Settlement Administrator to provide notice of the Settlement and the Final Fairness and
16 Approval Hearing.

17 **H. Objections to Settlement**

18 **1. Deadline for Objections**

19 Any Class Member wishing to object to the approval of this Settlement shall inform
20 the Settlement Administrator in writing of his or her intent to object by following the
21 procedure set forth in the Notice of Settlement within sixty (60) calendar days of mailing or
22 re-mailing of the Notice of Settlement. Provided, however, for any Notice of Settlement that
23 is sent or re-sent after the initial mailing date, the deadline for objections shall be the later
24 of: (1) sixty (60) days after the date that all Notices of Settlement were initially sent and (2)
25 fifteen (15) days after the Notice of Settlement is sent or re-sent. Failure to strictly comply
26 with this deadline will forever bar a Class Member from objecting to the Settlement. A
27 Class Member who does not submit a valid and timely Request for Exclusion and who
28 objects to the Settlement will still be considered a Settlement Class Member.

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2. Responses to Objections

Class Counsel and Defendant’s Counsel shall file any written objections from Class Members submitted to the Settlement Administrator in accordance with this Agreement, and Class Counsel’s and Defendant’s Counsel’s responses to such objections, at least five (5) court days before the Final Fairness and Approval Hearing.

3. Waiver of Appeal

Any Class Member who does not timely submit an objection to the Settlement and/or does not comply with any other substantive or procedural obligations imposed by law, waives any and all rights to appeal the Final Approval Order and Judgment, including all rights to any post-judgment proceeding and appellate proceeding such as a motion to vacate the judgment, motion for new trial, and extraordinary writs.

I. Final Fairness and Approval Hearing

On the date set by the Court, the Final Fairness and Approval Hearing shall be held before the Court in order to: (1) determine whether the Court should give this Stipulation final approval; (2) determine whether Class Counsel’s application for attorneys’ fees and costs, and request for the Service Payment to the Representative Plaintiffs, should be granted; and (3) consider any timely Objections to the Settlement, including Class Counsel’s and Defendant’s Counsel’s responses thereto. Upon final approval, the Court shall enter a Final Approval Order (in a form submitted by Class Counsel and approved by Defendant’s Counsel) which has the effect of adjudicating all claims set forth in the Complaint and implementing the release of Released Claims, as set forth in this Agreement. The Final Approval Order will be posted on the Settlement Administrator’s website, which will constitute service of the judgment upon Settlement Class Members, as required by California Rule of Court 3.771(b).

J. Settlement Payments to Participating Settlement Class Members

1. Payments under this Settlement Agreement shall be made by the Settlement Administrator as follows, subject to Court approval at the Final Fairness and

1 Approval Hearing. The Net Settlement Amount shall be divided among and distributed to
2 individual Settlement Class Members using the following formula:

$$\text{(Settlement Class Member's Qualifying Workweeks} \div \text{All Settlement Class Members' Qualifying Workweeks)} \times \text{Net Settlement Amount}$$

5 The Settlement Administrator, on Defendant's and Class Counsel's collective behalf,
6 shall have the authority and obligation to make payments, credits, and disbursements,
7 including payments and credits in the manner set forth herein, to Settlement Class Members
8 calculated in accordance with the methodology set out in this Agreement and orders of the
9 Court.

10 The Parties acknowledge and agree that the formula used to calculate individual
11 settlement payments does not imply that all the elements of damages alleged in the Action
12 are not being considered. The above formula was devised as a practical and logistical tool to
13 simplify the settlement process.

14 **2. Inclusion of Qualifying Workweeks and Estimated Settlement** 15 **Payment Information in Notice of Settlement.**

16 The Notice of Settlement sent to each Class Member shall state the amount of the
17 Class Member's Qualifying Workweeks, as reflected in the Class Data. Each Notice of
18 Settlement shall also include an estimate of the Class Member's settlement payment as a
19 member of the Settlement Class. The estimated settlement payment included in the Notice
20 of Settlement will be calculated by assuming that no Class Members will be excluded from
21 the Settlement.

22 **3. Eligibility**

23 Settlement Class Members (but not Class Members who exclude themselves (or opt-
24 out) of the Settlement), will become eligible to receive a settlement payment from
25 Defendant, distributed through the Settlement Administrator.

26 Should any question arise regarding the determination of eligibility for, or the
27 amounts of, any settlement payments under the terms of this Agreement, Class Counsel and
28 Defendant's Counsel shall meet and confer in an attempt to reach agreement and, if they are

1 unable to do so, the issue shall be submitted to the Court for determination on an expedited
2 basis, through the submission of letter briefs of no more than three pages.

3 **4. Disputes about Qualifying Workweeks**

4 If a Class Member disagrees with the number of Qualifying Workweeks as stated in
5 his or her Notice of Settlement, he or she may dispute that figure by informing the
6 Settlement Administrator of the number of Qualifying Workweeks in dispute and submitting
7 supporting documentation (such as, without limitation, payroll or time keeping records, and
8 paycheck stubs). Class Members must notify the Settlement Administrator of any such
9 dispute within sixty (60) days of mailing the Notice of Settlement. Provided, however, for
10 any Notice of Settlement that is sent or re-sent after the initial mailing date, the deadline for
11 making such a dispute shall be the later of: (1) sixty (60) days after the date that all Notices
12 of Settlement were initially sent and (2) fifteen (15) days after the Notice of Settlement is
13 sent or re-sent. For each dispute, the Settlement Administrator will consult with Class
14 Counsel and Defendant's Counsel to determine whether an adjustment is warranted.
15 However, the Settlement Administrator shall have the sole discretion to determine any such
16 disputes.

17 **5. Allocation of Settlement Payments**

18 Payment to each Settlement Class Member shall be allocated as follows: twenty-five
19 percent (25%) shall be attributed to wages, to be reported on a W-2 form; twenty-five
20 percent (25%) as reimbursement of expenses, twenty-five percent (25%) as penalties; and
21 twenty-five percent (25%) as interest. The amount of expense reimbursement, interest, and
22 penalties will be reported on an IRS Form 1099, as required by law.

23 **6. Payment of Payroll Taxes.**

24 The amount paid to each participating Settlement Class Member attributable to
25 wages shall be subject to all applicable taxes and other withholdings and shall be net of the
26 participating Settlement Class Member's share of all federal, state, and local taxes and
27 required withholdings, including without limitation, FICA, Medicare tax, FUTA, and state
28 unemployment taxes. The Employer's Withholding Share shall be paid by Defendant

1 separately and in addition to Defendant's payment of the Gross Settlement Amount. The
2 Settlement Administrator is responsible for withholding and paying taxes due for each
3 Settlement Class Member.

4 For each participating Settlement Class Member, the Settlement Administrator shall
5 determine the Employer's Withholding Share. Information related to the Employer's
6 Withholding Share for each participating Settlement Class Member shall be provided to
7 Defendant by the Settlement Administrator. If Defendant disagrees with the Settlement
8 Administrator's determination of the Employer's Withholding Share, it will communicate
9 with and share information reasonably necessary to reach a good faith determination of the
10 correct Employer's Withholding Share.

11 **7. Distributions to Settlement Class Members and Others**

12 If Defendant pays the full Gross Settlement Amount of \$345,000, Settlement Class
13 Members' settlement payments as well as Court-approved distributions to Class Counsel,
14 Class Counsel, Class Representatives (for Service and Release Awards), the LWDA and
15 Settlement Administrator will be made in two installments. The first installment will be
16 made within ten (10) days after Defendant has fully funded the first deposit of \$172,500.
17 The second distribution installment will be made within ten (10) days after Defendant has
18 fully funded the second deposit of \$172,500. In the first distribution, payments to Settlement
19 Class Members shall have priority over distributions to Class Counsel, Class
20 Representatives (for Service and Release Awards only), the LWDA and Settlement
21 Administrator. Payments will be made to Class Counsel, Class Representatives (for Service
22 and Release Awards), the LWDA and the Settlement Administrator only after or
23 concurrently with the distribution of the total amount of all required Class Member
24 settlement payments.

25 If Defendant pays the discounted Gross Settlement Amount of \$275,000, as provided
26 for in section IV(N)(3), the entire Net Settlement Amount will be paid to Settlement Class
27 Members within ten (10) days of Defendant's deposit of the full Gross Settlement Amount
28 with the Settlement Administrator.

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8. No Credit Toward Benefit Plans

The settlement payments made to Settlement Class Members under this Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Settlement Class Members may be eligible, including without limitation any profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, or any other benefit or plan. It is the Parties' intention and agreement that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Settlement Class Members may be entitled under any such benefit plans.

M. The Settlement Administrator

The Settlement Administrator will perform the duties specified in this Stipulation and any other duties incidental to such obligations. The Settlement Administrator's duties shall include, without limitation: establishing the QSF, preparing and distributing the Notice of Settlement; calculating and directing the disbursement of payments to Settlement Class Members, Class Counsel, the Class Representative and the LWDA; calculating and timely paying any and all payroll taxes from the wages portion of the Net Settlement Amount to the appropriate tax authorities, as required under this Agreement and applicable law; handling inquiries about the calculation of individual settlement payments; preparing and filing any tax returns and information returns and any other filings required by any governmental taxing authority or other governmental agency; providing weekly status reports to the Parties' counsel; advising Defendant and Class Counsel of any Class Members who submit objections and/or requests for exclusions from the Settlement; providing a due diligence declaration for submission to the Court prior to the final approval hearing; printing and providing Settlement Class Members and Plaintiffs with W-2 and 1099 forms as required under this Agreement and applicable law; arranging for and remitting funds from any uncashed settlement payment to the designated recipient, as determined by the Court; and for such other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall also establish a settlement

1 payment center address, telephone number, facsimile number, and email address to receive
2 Class Members' inquiries about the Notice of Settlement, requests to be excluded from the
3 Settlement and settlement payments.

4 The Parties confirm, and Class Counsel and Defendant's Counsel confirm that they
5 do not have any financial interest in the Settlement Administrator or otherwise have a
6 relationship with the Settlement Administrator that could create a conflict of interest.

7 As provided for in section IV(J)(7), payments will be made to the Settlement
8 Administrator only after or concurrently with the distribution of the total amount of all
9 required Class Member settlement payments.

10 **N. Time for Payment by Defendant**

11 **1. Defendant's Deposit**

12 Within fifteen (15) days of the Preliminary Approval Date, Defendant shall deposit
13 \$50,000 into the QSF. Such deposit will be a credit against the Gross Settlement Amount.
14 These funds will be refunded to Defendant in the event that the Court determines that the
15 Settlement cannot be finally approved. If Defendant fails to timely comply with this deposit
16 provision, Plaintiffs shall have the right to terminate the settlement.

17 **2. Payment of Remaining Gross Settlement Amount**

18 Assuming that the deposit referenced in section IV(N)(1) has been made, the rest of
19 the Gross Settlement Amount will be paid in two additional installments. The first
20 installment in the amount of \$172,500, less the amount of the deposit made pursuant to
21 section IV(N)(1), shall be paid on the later of: October 15, 2019 or 15 days from Final
22 Approval of the settlement. The second installment of \$172,500 will be due on or before
23 July 15, 2020.

24 **3. Discount of Gross Settlement Amount**

25 The Gross Settlement Amount will be discounted to \$275,000 if Defendant has paid
26 that full amount as of the later of: October 15, 2019 or 15 days from Final Approval of the
27 settlement.

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4. Payment of Employer’s Withholding Share

Defendant shall pay the Employer’s Withholding Share at the same time as Defendant makes the final payment of the Gross Settlement Amount, as provided for in section IV(N)(2) and (3).

5. Increase of Gross Settlement Amount.

Based upon class member data provided by Defendant prior to the mediation, as of the mediation date (December 7, 2018), Plaintiffs projected that class members had worked a total of 17,087 weeks. If the total number of Qualifying Workweeks as of the Preliminary Approval Date, as reported by Defendant to the settlement administrator, exceeds 18,795, which is approximately 110% of the projected work weeks, Defendant will increase the Maximum Settlement Amount by the percentage that the actual number of Qualifying Workweeks exceeds 18,795.

6. Defendant’s Failure to Timely Pay Gross Settlement Amount.

If, after the Court enters the Final Approval Order, Defendant fails to timely pay the amount required to satisfy its payment obligation under this Stipulation, Plaintiffs, at their option, may either (1) declare the settlement terminated, in which case, the parties agree that the Court will nullify the Final Approval Order and Judgment and all liability releases provided for in this Stipulation and Plaintiffs may continue to prosecute their claims against Defendant, or (2) seek to collect all amounts owed under the Final Approval Order and Judgment.

O. Payments to Class Counsel and the Representative Plaintiff

The Settlement Administrator shall make payment from the QSF to: (1) Class Counsel, for Class Counsel’s Attorneys’ Fees and Class Counsel’s Costs, awarded to Class Counsel by the Court; and (2) the Representative Plaintiffs, the Service and Release Award approved by the Court. These payments will be reported on an IRS Form 1099. As provided for in section IV(J)(7), payments will be made to Class Counsel and Class Representatives (for Service and Release Awards) only after or concurrently with the distribution of the total amount of all required Class Member settlement payments.

1 **P. Payments to the California Labor and Workforce Development Agency**

2 The Settlement Administrator will make the payment to the LWDA of \$7,500, or
3 such other amount as approved by the Court. As provided for in section IV(J)(7), payments
4 will be made to the LWDA only after or concurrently with the distribution of the total
5 amount of all required Class Member settlement payments.

6 **Q. Un-negotiated Settlement Payment Checks**

7 If any Class Member’s settlement payment check has not been negotiated sixty (60)
8 days after disbursement, the Settlement Administrator shall attempt to contact each
9 individual to advise them to cash their checks, and to offer to replace any checks reported as
10 either lost or stolen. In attempting to contact such persons, the Settlement Administrator
11 will send notices by mail to the individuals’ last known addresses (as provided by
12 Defendant) after first skip-tracing those addresses and by telephoning or emailing such
13 persons, in the event that Defendant has provided telephone numbers and/or email addresses
14 for such persons.

15 If a Class Member’s check is not cashed within 180 days, the check will be void and
16 a stop payment order may be placed on the check. In such event, the Settlement
17 nevertheless will be binding upon the Settlement Class Member. The funds represented by
18 all uncashed settlement checks will be transmitted to the state of California’s Unclaimed
19 Property Fund, as provided for in Title 10 of Part 3 of the California Code of Civil
20 Procedure, beginning with Code of Civil Procedure section 1300, so that Settlement Class
21 Members may later claim such funds. The Parties agree that this disposition results in no
22 “unpaid residue” under California Civil Procedure Code § 384, as the entire Net Settlement
23 Amount will be paid out to Settlement Class members, whether or not they all cash their
24 Settlement Checks. Therefore, Defendant will not be required to pay any interest on said
25 amounts.

26 **R. Class Counsel Attorneys’ Fees and Costs**

27 Defendant will not oppose Class Counsel’s application for an award of attorneys’
28 fees of up to one third of the Gross Settlement Amount. If Defendant pays the full Gross

1 Settlement Amount of \$345,000, Class Counsel will request no more than one-third of that
2 amount, which is \$115,000. If Defendant pays the discounted Gross Settlement Amount of
3 \$275,000, Class Counsel will request no more than one-third of that amount, which is
4 \$91,666.66.

5 Defendant will not oppose Class Counsel's application for an award of their
6 reasonable litigation expenses and costs, which will not exceed \$18,000.

7 Class Counsel's Attorney's Fees and Class Counsel's Costs, as awarded by the
8 Court, shall be paid from the Gross Settlement Amount.

9 Upon the payment of the full amount of the Court-approved Class Counsel's
10 Attorneys' Fees and Class Counsel's Costs, and except as otherwise provided by this
11 Stipulation, Class Counsel waives any further claim to costs and attorneys' fees and
12 expenses against Defendant arising from or related to the Action, including but not limited
13 to claims based on the California Labor Code, the California Code of Civil Procedure, or
14 any other statute or law.

15 **S. Taxes**

16 **1. Withholding and Reporting Requirements**

17 The Settlement Administrator shall be responsible for ensuring that all taxes owed by
18 Settlement Class Members for wages received pursuant to this Settlement are timely paid to
19 the appropriate tax authorities. The Settlement Administrator's responsibilities include the
20 following: (a) filing all Federal, state, and local employment tax returns, tax withholding
21 returns, and any other tax returns associated with the taxes, (b) timely and proper filing of all
22 required Federal, state, and local information returns (e.g., 1099s, W-2s, etc.) with the
23 appropriate taxing authorities, and (c) completion of any other steps necessary for
24 compliance with any tax obligations of the settlement fund under Federal, state and/or local
25 law. To verify the Settlement Administrator's compliance with the foregoing withholding
26 and reporting requirements, as soon as administratively practicable, the Settlement
27 Administrator shall furnish Class Counsel and Defendant's Counsel with copies of all filed
28 tax returns and information returns (including all 1099 and W-2 information returns), and a

1 final accounting adequate to demonstrate full compliance with all tax withholding, payment
2 and reporting obligations.

3 **2. Circular 230 Disclaimer**

4 Each party to this Agreement (for purposes of this section, the “Acknowledging
5 Party”; and each party to this Agreement other than the Acknowledging Party, and “Other
6 Party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written
7 communication or disclosure between or among the Parties or their attorneys and other
8 advisers, is or was intended to be, nor shall any such communication or disclosure constitute
9 or be construed or be relied upon as, tax advice within the meaning of United States
10 Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the Acknowledging
11 Party (a) has relied exclusively upon his, her, or its own, independent legal and tax advisers
12 for advice (including tax advice) in connection with this Agreement, (b) has not entered into
13 this Agreement based upon the recommendation of any other party or any attorney or
14 advisor to any other party, and (c) is not entitled to rely upon any communication or
15 disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be
16 imposed on the Acknowledging Party; and (3) no attorney or adviser to any other party has
17 imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s
18 tax strategies (regardless of whether such limitation is legally binding) upon disclosure by
19 the Acknowledging Party of the tax treatment or tax structure of any transaction, including
20 any transaction contemplated by this Agreement.

21 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

22 **A. No Admission of Liability**

23 Neither the acceptance nor the performance by Defendant of the terms of this
24 Stipulation nor any of the related negotiations or proceedings is or shall be claimed to be,
25 construed as, or deemed a precedent or an admission by Defendant of the truth or merit of
26 any allegations in the Complaint, or that it has any liability to the Representative Plaintiffs
27 or the Class Members on their claims. Defendant denies that it has engaged in any unlawful
28 activity, has failed to comply with the law in any respect, or has any liability to anyone

1 under the claims asserted in the Action. This Agreement is entered into solely for the
2 purpose of compromising highly disputed claims.

3 **B. Nullification**

4 If the Court for any reason does not approve this Settlement, this Stipulation shall be
5 null and void and all Parties to this Settlement shall stand in the same position, without
6 prejudice, as if the Settlement had been neither entered into nor filed with the Court.

7 Invalidation of any material portion of this Stipulation shall invalidate this
8 Settlement in its entirety unless the Parties shall agree in writing that the remaining
9 provisions shall remain in full force and effect.

10 **C. Termination for Lack of Sufficient Participation**

11 If ten percent (10%) or more of the Class Members make a valid request to be
12 excluded from the Class, Defendant will have the right, but not the obligation, to void the
13 Agreement. If Defendant exercises that right to void the Agreement, then the Parties will
14 have no further obligations under the Agreement, including any obligation by Defendant to
15 pay the Gross Settlement Amount, or any amounts that otherwise would have been owed
16 under this Agreement, except that Defendant will pay the Settlement Administrator's
17 reasonable fees and expenses incurred as of the date that Defendant exercises the right to
18 void the Agreement.

19 Defendant will notify Class Counsel, in writing via USPS and email, and the Court
20 of Defendant's election to terminate under this provision no later than seven (7) calendar
21 days after being advised by the Settlement Administrator that it has received the number of
22 Requests for Exclusion that will trigger this termination provision.

23 **VI. RELEASE**

24 **A. Release by Settlement Class Members.**

25 Upon entry of the Final Approval Order and Defendant's payment of the Gross
26 Settlement Amount and Employer's Withholding Share, and except as to such rights or
27 claims as may be created by this Settlement Agreement, in exchange for the consideration
28 set forth in this Agreement, the Settlement Class Members release the Released Parties from

1 the Released Claims for the Class Period. Plaintiffs and the Settlement Class Members may
2 hereafter discover facts or legal arguments in addition to or different from those they now
3 know or currently believe to be true with respect to the claims, causes of action and legal
4 theories of recovery in this case which are the subject matter of the Released Claims.
5 Regardless, the discovery of new facts or legal arguments shall in no way limit the scope or
6 definition of the Released Claims, and by virtue of this Agreement, the Settlement Class
7 Members shall be deemed to have, and by operation of the final judgment approved by the
8 Court, shall have, fully, finally, and forever settled and released all of the Released Claims
9 as defined in this Agreement.

10 **B. Release by Representative Plaintiffs.**

11 Upon entry of the Final Approval Order and Defendant's payment of the Gross
12 Settlement Amount and Employer's Withholding Share, and except as to such rights or
13 claims as may be created by this Settlement Agreement, the Representative Plaintiffs fully
14 releases and forever discharge Defendant, the Released Parties, and Defendant's respective
15 present and former officers, directors, employees, shareholders, members, agents, trustees,
16 representatives, attorneys, insurers, parent companies, subsidiaries, divisions, affiliates,
17 predecessors, successors, assigns, and any individual or entity that could be jointly liable
18 with Defendant, from any and all claims, causes of action, damages, wages, benefits,
19 expenses, penalties, debts, liabilities, demands, obligations, attorney's fees, costs, and any
20 other form of relief or remedy in law, equity, or whatever kind or nature, whether known or
21 unknown, suspected or unsuspected, including but not limited to (1) all Released Claims, (2)
22 the Action and any claims arising out of or related to the Action, (3) any claims under
23 federal, state or local law for or relating to wages, benefits, compensation, vacation or other
24 paid time off, and claims for liquidated damages, penalties, or costs and fees associated
25 therewith, (4) wrongful termination, discrimination, harassment, and/or retaliation, (5) any
26 act, omission, or occurrence or claim arising out of or related to the Action or Plaintiff's
27 employment or secession of employment with Defendant taking place on or before the
28 Effective Date of the Settlement, and (6) and any other form of relief or remedy of any kind,

1 nature, or description whatsoever, whether premised on statute, contract, tort, or other theory
2 of liability under state, federal, or local law.

3 The Representative Plaintiffs hereby agree that, notwithstanding § 1542 of the
4 California Civil Code, all claims that the Representative Plaintiffs may have, known or
5 unknown, suspected or unsuspected, are hereby released. Section 1542 provides: “A
6 **general release does not extend to claims that the creditor or releasing party does not**
7 **know or suspect to exist in his or her favor at the time of executing the release and that,**
8 **if known by him or her, would have materially affected his or her settlement with the**
9 **debtor or released party.”**

10 The Representative Plaintiffs expressly waive the provisions of Section 1542 with
11 full knowledge and with the specific intent to release all known or unknown, suspected or
12 unsuspected, claims arising on or before the Effective Date of the Settlement, and therefore
13 specifically waive the provisions of any statute, rule, decision, or other source of law of the
14 United States or of any state of the United States or any subdivision of a state which
15 prevents release of unknown claims.

16 Notwithstanding the forgoing, the Representative Plaintiffs’ releases described above
17 do not include worker’s compensation claims and any claims that are prohibited by law from
18 being released.

19 **VII. BRENDAN WALLER’S AGREEMENT TO TOLL STATUTES OF**
20 **LIMITATIONS.**

21 Brendan Waller is the sole owner of Defendant. In his individual capacity, Brendan
22 Waller agrees to toll all statutes of limitations on any claims that can be asserted against him
23 personally for the Labor Code and IWC Wage Order violations that are alleged in the
24 Complaints in the Action. Such tolling shall run from October 4, 2017 until 60 days
25 following the last date that all of Defendant’s payment obligations are due pursuant to the
26 Final Approval Order.

27 **VIII. REPRESENTATIONS.**

28 Plaintiffs and Plaintiffs’ Counsel represent that they are not currently aware of any:

1 (a) unalleged claims in addition to, or different from, those which are to be finally and
2 forever settled and released against the Released Parties by this Settlement; and (b)
3 unalleged facts or legal theories upon which any claims or causes of action could be brought
4 against Defendant, except such facts and theories specifically alleged in the Complaints.
5 Plaintiffs will further represent that, other than the instant Action, they have no current
6 intention of asserting any other claims against Defendant in any judicial or administrative
7 forum. The Parties acknowledge, understand and agree that the representations described in
8 this paragraph are essential to the Agreement and that this Agreement would not have been
9 entered into were it not for this representation.

10 **IX. PUBLICITY.**

11 Prior to the filing the motion for preliminary approval, Plaintiffs and Plaintiffs'
12 Counsel agree not to disclose or publicize the Settlement, including the fact of the
13 Settlement, its terms or contents, and the negotiations underlying the Settlement, in any
14 manner or form, directly or indirectly, to any person or entity, except to Class Members and
15 as shall be contractually required to effectuate the terms of the Settlement. After the motion
16 for preliminary approval is filed, Plaintiffs and Plaintiffs' Counsel agree not to issue press
17 releases, communicate with, or respond to any media or publication entities, publish
18 information in manner or form, whether printed or electronic, on any medium with any
19 person or entity concerning the Settlement, except as shall be required to effectuate the
20 terms of the Settlement. However, for the limited purpose of allowing Plaintiffs' Counsel to
21 prove adequacy as class counsel in other actions, Plaintiff's Counsel may disclose the name
22 of the Parties in this action and the venue/case number of this action (but not any other
23 settlement details) for such purposes.

24 **X. MISCELLANEOUS PROVISIONS**

25 **A. Amendments**

26 This Settlement Agreement may only be modified or changed by a writing signed by
27 the Parties or by their counsel.

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B. Integrated Agreement

After this Stipulation is signed and delivered by all Parties to the Action and their counsel, this Stipulation and its exhibits will constitute the entire agreement between the Parties to the Action relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Stipulation or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Stipulation and its exhibits.

C. No Inducements

Plaintiffs and Defendant acknowledge that they are entering into this Agreement as a free and voluntary act without duress or undue pressure or influence of any kind or nature whatsoever and that neither Plaintiffs nor Defendant have relied on any promises, representations, or warranties regarding the subject matter hereof other than as set forth in this Stipulation.

D. No Prior Assignment

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

E. No Retaliation or Advice

Defendant agrees not to retaliate against any Class Member for participating or for not participating in the Settlement.

F. Attorney's Fees

To the extent that any Party institutes any legal action, arbitration, or other proceeding to enforce the terms of the Settlement, the prevailing Party will be entitled to recover their reasonable attorneys' fees and costs from the other Party or Parties.

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G. Applicable Law

All terms and conditions of this Stipulation and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

H. Entry of Judgment Pursuant to Terms of Settlement

The Parties agree that upon the Settlement of this case, the Court may enter judgment pursuant to the terms of this Settlement and the Court will retain jurisdiction over the Parties to enforce the Settlement until performance in full of the terms of the Settlement.

I. Notices

All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered personally or by first class mail to the undersigned persons at their respective addresses as set forth below:

CLASS COUNSEL

Aaron C. Gundzik
Rebecca G. Gundzik
Gartenberg Gelfand Hayton LLP
15260 Ventura Blvd, Suite 1920
Sherman Oaks, CA 91403
Telephone: (213) 542-2100
Facsimile: (213) 542-2101

Jonathan M. Lebe
Lebe Law, a Professional Law Corporation
777 S. Alameda Street, Second Floor
Los Angeles, CA 90021
Telephone: (213) 358-7046
Facsimile: (310) 820-1258

Galen Shimoda
Justin Rodriguez
Shimoda Law Corp.
9401 E. Stockton Blvd., Suite 200
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733

COUNSEL FOR DEFENDANT

Aaron H. Cole
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
400 South Hope Street, Suite 1200
Los Angeles, CA 90071
Telephone: 213-330-0811
Fax: 213-239-9045

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J. Binding on Successors

This Agreement shall be binding and shall inure to the benefit of the Parties to the Action and their respective successors, assigns, executors, administrators, heirs, and legal representatives.

K. Counterparts

This Stipulation, and any amendments hereto, may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original and all of which taken together shall constitute the same instrument.

L. Warranties and Representations

With respect to themselves, each of the Parties to this Action and or their agent or counsel represents, covenants, and warrants that they have full power and authority to enter into and consummate all transactions contemplated by this Stipulation and have duly authorized the execution, delivery, and performance of this Stipulation.

M. Representation by Counsel

The Parties to this Action acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Stipulation, and that this Stipulation has been executed with the consent and advice of counsel.

Dated: April 24, 2019

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

By: 
Aaron H. Cole

Attorneys for Defendant Surveillance Security, Inc.

Dated: 4/26, 2019

GARTENBERG GELFAND HAYTON LLP

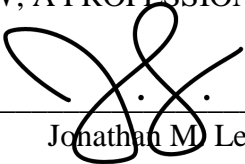

Aaron C. Gundzik

Attorneys for Plaintiff Jerome Hughes, individually and on behalf of all others similarly situated

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Dated April 22, 2019

LEBE LAW, A PROFESSIONAL CORPORATION



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