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SUPERIOR COURT OF CALIFORNIA

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COUNTY OF SAN FRANCISCO

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AARON SADINO and ANTHONY  
JOHNSON individually, and on behalf of  
12 all others similarly situated,

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Plaintiff,

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v.

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PROPARK AMERICA WEST, LLC;  
JOHN STEELE; MICHAEL HEWITT;  
16 RYAN DREISBACH, PRO PARK INC;  
RICHARD DIPIETRO; TIM WILLEY,  
17 PATRICK BOESHANS and DOES 5  
through 50, inclusive,

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Defendants.

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Case No. CGC-17-560186

ASSIGNED FOR ALL PURPOSES TO THE  
HONORABLE ANDREW Y.S. CHENG, DEPT.  
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**SECOND REVISED CLASS ACTION  
SETTLEMENT AGREEMENT**

Complaint Filed: July 18, 2017  
FAC Filed: August 28, 2017  
SAC Filed: September 27, 2019

1 This Revised Class Action Settlement Agreement and Release, including all exhibits  
2 attached hereto (“Settlement Agreement” or “Agreement”), is made and entered into by, between,  
3 and among Plaintiffs Aaron Sadino and Anthony Johnson (“Plaintiffs”) on behalf of themselves and  
4 the Settlement Class (as defined below) and the State of California Labor and Workforce  
5 Development Agency (“LWDA”), on the one hand, and Defendants Propark America West, LLC  
6 and Propark Inc.; (collectively “Defendant” or “Propark”)<sup>1</sup> on the other hand. Plaintiffs and  
7 Defendant (collectively, the “Parties”)<sup>2</sup> enter into this Agreement to effect a full and final settlement  
8 and preclusive judgment resolving all claims brought or that could have been brought against all  
9 defendants named in *Aaron Sadino and Anthony Johnson v. Propark America West, LLC; John*  
10 *Steele; Michael Hewitt; Ryan Dreisbach; Pro Park Inc. [sic]; Richard Dipietro; Tim Willey; and*  
11 *Patrick Boeshans*, Case No: CGC-17-560186 filed in San Francisco Superior Court on July 18,  
12 2017 and all amended complaints filed thereafter (the “Action”), and all claims based on to the facts  
13 asserted therein. This Agreement is intended to fully and finally compromise, resolve, discharge,  
14 and settle the Released Claims, as defined and on the terms set forth below, and to the full extent  
15 reflected herein, subject to the approval of the Court.

## 16 I. RECITALS

17 This Agreement is made in consideration of the following facts:

18 1.1 WHEREAS, on July 18, 2017, Plaintiffs Aaron Sadino filed a putative class action  
19 complaint against Propark America West, LLC, John Steele, Michael Hewitt, and Ryan Dreisbach in  
20 San Francisco Superior Court, Case No. CGC-17-560186 asserting various wage-related claims, on  
21 behalf of himself and a proposed class consisting of all of Defendant’s parking and valet services  
22 employees in California, and alleging the following five causes of action (1) failure to provide meal  
23 periods, (2) failure to provide rest periods, (3) failure to provide accurate itemized wage statements,  
24 (4) waiting time penalties, and (5) unfair business practices. On August 28, 2017, Plaintiff Sadino  
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26 <sup>1</sup> The term “defendants”, plural and lower case, shall refer to all named defendants in the Action: Propark America West,  
27 LLC; John Steele; Michael Hewitt; Ryan Dreisbach; Propark Inc.; Richard Dipietro; Tim Willey; and Patrick Boeshans.

28 <sup>2</sup> The terms “party” and “parties”, lower case, shall refer to all parties to the Action (as opposed to only the Parties to the Agreement): Aaron Sadino; Anthony Johnson; Propark America West, LLC; John Steele; Michael Hewitt; Ryan Dreisbach; Propark Inc.; Richard Dipietro; Tim Willey; and Patrick Boeshans.

1 filed a First Amended Complaint, adding a cause of action for (6) violation of the Private Attorneys  
2 General Act (“PAGA”). On September 27, 2019, Plaintiff Sadino filed a Second Amended  
3 Complaint, adding Anthony Johnson as a plaintiff and Propark Inc., Richard Dipietro, Tim Willey,  
4 and Patrick Boeshans as defendants. For the purposes of this Settlement Agreement only, Plaintiffs  
5 and Defendants hereby stipulate and agree, subject to the Court’s entry of an order approving the  
6 same, that Plaintiffs have leave to file a Third Amended Complaint (“TAC”) attached hereto as  
7 Exhibit A, which includes additional direct statutory claims for unpaid wages, including minimum,  
8 regular and overtime wages, in so far as the underpayment or nonpayment of wages stemmed from  
9 meal period and/or rest break violations only, and clarifying and/or supplementing existing  
10 allegations in support of such claims. Defendant is deemed to have generally denied all of the  
11 allegations set forth in the TAC pending final approval of this settlement;

12 1.2 WHEREAS, Defendant denies the allegations in the Action; denies that it has  
13 engaged in any wrongdoing; denies that Plaintiffs’ allegations constitute valid claims; denies that a  
14 litigation class could properly be certified in the Action; denies that Plaintiffs’ claims could properly  
15 be maintained as a PAGA representative action; and states that it is entering into this Settlement  
16 Agreement solely to eliminate the burden, expense, and delay of further litigation, and on the express  
17 conditions that (a) if for any reason the Settlement is not finalized according to the terms of this  
18 Agreement, the Settlement and the documents generated as a result of the Settlement shall not be  
19 usable for any purpose in the Action, and (b) this Settlement and the documents generated as a result  
20 of the Settlement are not admissible or usable in any other civil or administrative proceeding or any  
21 arbitration, except to the extent necessary to enforce this Settlement and the orders, judgment and  
22 agreements arising from this Settlement;

23 1.3 WHEREAS, a bona fide dispute exists as to whether any amount of wages or  
24 penalties are due from any of the defendants to any Plaintiff, Settlement Class Member or to the  
25 LWDA;

26 1.4 WHEREAS, while litigating the Action, the parties engaged in substantial discovery,  
27 including requests for depositions, document requests, interrogatories, and requests for admission  
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1 propounded by both Plaintiffs and Defendant, and to which both responded and produced  
2 documents, and all parties provided testimony;

3 1.5 WHEREAS, in preparation for mediation, the Parties also engaged in informal  
4 discovery, exchanging information and reviewing and analyzing extensive data made available by  
5 Defendant, which enabled Plaintiffs and the mediator to thoroughly evaluate Plaintiffs' claims and  
6 the claims of the putative class, and the likely outcomes, risks and expense of pursuing litigation;

7 1.6 WHEREAS, the Parties attended two in-person mediation sessions with professional  
8 mediator Louis Marlin, Esq., where the Parties discussed settlement terms at length with the  
9 mediator and directly for some time after, before agreeing to the terms of this arm's-length  
10 Settlement;

11 1.7 WHEREAS, although the parties did not reach a settlement at either mediation,  
12 negotiations continued at arms-length with the assistance of Lou Marlin, and on March 2, 2020,  
13 counsel for both parties executed a Memorandum of Understanding that contained the preliminary  
14 terms of this Settlement Agreement. Following a motion brought by Plaintiffs to enforce the MOU,  
15 the Court deemed the MOU to be an enforceable settlement agreement. Subsequently, counsel for  
16 Defendant drafted this Settlement Agreement for review and approval by Plaintiffs and their counsel.

17 1.8 WHEREAS, Plaintiffs and Class Counsel believe that the Settlement provides a  
18 favorable recovery for the Settlement Class, based on the claims asserted, the evidence developed,  
19 and the damages that might be proven against defendants in the Action. Plaintiffs and Class Counsel  
20 further recognize and acknowledge the expense and length of continued proceedings necessary to  
21 prosecute the Action against defendants through trial and appeals. They also have considered the  
22 uncertain outcome and the risk of any litigation, especially in complex litigation such as the Action,  
23 as well as the difficulties and delays inherent in any such litigation. They are also mindful of the  
24 inherent challenges of proof and the strength of the defenses to the alleged claims, and therefore  
25 believe that it is desirable that the Released Claims be fully and finally compromised, settled, and  
26 resolved as set forth herein, subject to the approval of the Court;

27 1.9 WHEREAS, Plaintiffs and Class Counsel, based on their own independent  
28 investigations and evaluations, have examined the benefits to be obtained under the terms of this

1 Settlement Agreement, have considered the claims of Plaintiffs, the claims of the average Settlement  
2 Class Member, the risks associated with the continued prosecution of the Action, and the likelihood  
3 of success on the merits of the Action, and believe that, after considering all the circumstances,  
4 including the uncertainties surrounding the risk of further litigation and the defenses that defendants  
5 has asserted and could assert, the proposed Settlement set forth in this Agreement is fair, reasonable,  
6 adequate, in the best interests of Plaintiffs and the Settlement Class, and confers substantial benefits  
7 upon the Settlement Class;

8 1.10 WHEREAS, Plaintiffs warrant and represent that they are effecting this Settlement  
9 and executing this Agreement after having received full legal advice as to their respective rights and  
10 have had the opportunity to obtain independent counsel to review this Agreement;

11 1.11 WHEREAS, the Parties further agree that the Agreement, the fact of this Settlement,  
12 and any of the terms of this Agreement, and any documents filed in connection with the Settlement  
13 shall not constitute, or be offered, received, claimed, construed, or deemed as, an admission, finding,  
14 or evidence of: (i) any wrongdoing, (ii) any violation of any statute or law, (iii) any liability on the  
15 claims or allegations in the Action on the part of any Released Parties, or (iv) the propriety of  
16 certifying a litigation class or pursuing representative relief under the PAGA in the Action or any  
17 other proceeding; and shall not be used by any person for any purpose whatsoever in any legal  
18 proceeding, including but not limited to arbitrations, and/or other civil and/or administrative  
19 proceedings, other than a proceeding to enforce the terms of the Agreement. There has been no final  
20 determination by any court as to the merits of the claims asserted by Plaintiffs against defendants,  
21 nor has there been any final determination as to whether a class should be certified or whether  
22 PAGA representative claims may properly be pursued, other than for settlement purposes only;

23 1.12 WHEREAS, for settlement purposes only, Defendant will stipulate to the certification  
24 of class claims that are subject to the certification requirements of California Code of Civil  
25 Procedure Section 382. Defendant disputes that certification is proper for the purposes of litigating  
26 the class claims proposed in or flowing from the claims asserted in the Action;

27 1.13 WHEREAS, the Parties desire to compromise and settle all issues and claims that  
28 were or could have been brought against defendants based on the facts alleged in the operative

1 complaint, including all claims brought on behalf of the putative class and PAGA representative  
2 basis in the Action;

3 NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND AGREED, by  
4 Plaintiffs for themselves and on behalf of the Settlement Class, and by Defendant that, subject to the  
5 approval of the Court, the Action shall be settled, compromised, and dismissed, on the merits, and  
6 the Released Claims shall be finally and fully compromised, settled and dismissed as to the Released  
7 Parties, in the manner and upon the terms and conditions hereafter set forth in this Agreement.

## 8 **II. DEFINITIONS**

9 Unless otherwise defined herein, capitalized terms used in this Agreement shall have the  
10 meanings set forth below:

11 2.1 “Class Counsel” means Righetti Glugoski P.C.

12 2.2 “Class Counsel Award” means (i) the attorneys’ fees for Class Counsel’s litigation  
13 and resolution of the Action, and all claims resolved by this Settlement, as awarded by the Court,  
14 which will be paid exclusively from the Total Settlement Amount, and may not exceed thirty-five  
15 percent (35%) of the Total Settlement Amount and (ii) all expenses and costs incurred by Class  
16 Counsel in litigation and resolution of the Action, and all claims resolved by this Settlement, in the  
17 amount of \$75,000.00, which will be paid exclusively from the Total Settlement Amount. To the  
18 extent that any amount of the Class Counsel Award is not awarded by the Court, that amount shall  
19 be redistributed to the Settlement Class Members pro rata as part of their Individual Settlement  
20 Awards.

21 2.3 “Class Information” means information regarding Settlement Class Members that  
22 Defendant will in good faith compile from its records and provide to the Settlement Administrator.  
23 Class Information shall be provided in a Microsoft Excel spreadsheet and shall include, if possible,  
24 for each Settlement Class Member: full name, last known address, social security number, and Pay  
25 Periods Worked. Because Settlement Class Members’ private information is included in the Class  
26 Information, Class Counsel and the Settlement Administrator shall maintain any Class Information  
27 received in confidence and shall use and disclose Class Information only for purposes of this  
28 Settlement and for no other purpose, and pursuant to the restrictions as described in Paragraph 5.5.

1 Further, within the Settlement Administrator’s operations, access shall be limited to those personnel  
2 with a need to use the Class Information as part of the administration of the Settlement.

3 2.4 “Class Notice” means the notice of class action settlement to be provided to  
4 Settlement Class Members, without material variation from the relevant portion of Exhibit B.

5 2.5 “Court” means San Francisco County Superior Court.

6 2.6 “Effective Date” means one (1) day after which both of the following events have  
7 occurred: (i) the Court’s Final Approval order has been entered and (ii) the Court’s Final Approval  
8 order and Judgment have become Final.

9 2.7 “Exclusion/Written Objection Deadline” means the final date by which a Settlement  
10 Class Member may either (i) submit a written objection to any aspect of the Settlement or complete  
11 the Objection Form found at Exhibit E, or (ii) request to be excluded from the Settlement by  
12 completing, signing and returning the Exclusion Form (Exhibit D). The Exclusion/Written  
13 Objection Deadline is a postmark deadline that shall be thirty (30) days after the Notice Date, and  
14 shall be specifically identified and set forth in the Preliminary Approval Order and the Class Notice.

15 2.8 “Final” when referring to a judgment or order, means that (i) the judgment is a final,  
16 appealable judgment; and (ii) either (a) no appeal has been taken from the judgment as of the date on  
17 which all times to appeal therefrom have expired, or (b) an appeal or other review proceeding of the  
18 judgment having been commenced, such appeal or other review is finally concluded and no longer is  
19 subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions  
20 for re-hearing en banc, petitions for writ of certiorari, or otherwise, and such appeal or other review  
21 has been finally resolved in such manner that affirms the judgment order in its entirety, and  
22 remittitur has been issued.

23 2.9 “Final Approval” means the Court’s entry of a Final Approval order finally approving  
24 this Settlement.

25 2.10 “Final Approval Hearing” means the hearing at or after which the Court will make a  
26 final decision as to whether the Settlement is fair, reasonable, and adequate, and therefore, finally  
27 approved by the Court.  
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1           2.11 “Individual Settlement Payment” means the amount payable from the Total  
2 Settlement Amount to each Settlement Class Member who does not opt out, for each of the three  
3 distributions, half of which shall be issued as wages, less applicable withholdings and for which an  
4 IRS Form W-2 shall issue if required, and half of which shall be issued as non-wages, for which an  
5 IRS Form 1099 shall issue if required. The Individual Settlement Payment(s) shall be calculated  
6 pursuant to Section V herein.

7           2.11.1 “First Individual Settlement Payment” means the Individual Settlement  
8 Payment to be issued in the first distribution of payments to the Settlement Class Members,  
9 pursuant to Paragraph 10.5.

10           2.11.2 “Second Individual Settlement Payment” means the Individual Settlement  
11 Payment to be issued in the second distribution of payments to the Settlement Class  
12 Members, pursuant to Paragraph 10.5.

13           2.11.3 “Third Individual Settlement Payment” means the Individual Settlement  
14 Payment to be issued in the third distribution of payments to the Settlement Class Members,  
15 pursuant to Paragraph 10.6.

16           2.12 “Judgment” means the judgment to be entered in the Action on Final Approval of this  
17 Settlement.

18           2.13 “Legally Authorized Representatives” means an administrator/administratrix,  
19 personal representative, or executor/executrix of a deceased Settlement Class Member’s estate; a  
20 guardian, conservator, or next friend of an incapacitated Settlement Class Member; or any other  
21 legally appointed person responsible for handling the business affairs of a Settlement Class Member.

22           2.14 “Named Plaintiffs’ General Released Claims” means any and all past, present, and  
23 future claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or  
24 liabilities, of any nature and description whatsoever, known or unknown, existing or potential,  
25 recognized now or hereafter, expected or unexpected, pursuant to any theory of recovery (including  
26 but not limited to those based in contract or tort, common law or equity, federal, state, or local law,  
27 statute, ordinance, or regulation), and for claims for compensatory, consequential, punitive or  
28 exemplary damages, statutory damages, penalties, interest, attorneys’ fees, costs or disbursements,



1 against the Released Parties, including unknown claims covered by California Civil Code section  
2 1542, as quoted below in Paragraph 9.4, by the Plaintiffs, arising during the period from the  
3 beginning of the Plaintiffs' first interaction with any defendant to the date on which the Court enters  
4 the order of Final Approval of this Settlement, for any type of relief that can be released as a matter  
5 of law, including, without limitation, claims for wages, damages, unpaid costs, penalties (including  
6 civil and waiting time penalties), liquidated damages, punitive damages, interest, attorneys' fees,  
7 litigation costs, restitution, or injunctive, declaratory or equitable relief, with the exception of any  
8 claims which cannot be released as a matter of law. Plaintiffs will generally release all known and  
9 unknown claims against the Released Parties, and waive the application of section 1542 of the  
10 California Civil Code. The claims released pursuant to this paragraph include but are not limited to  
11 the Settlement Class Members' Released Claims, as well as any other claims under any provision of  
12 the Fair Labor Standards Act, the California Labor Code, the California Code of Regulations, or any  
13 applicable California Industrial Welfare Commission Wage Order(s), and claims under state or  
14 federal discrimination statutes, including, without limitation the California Fair Employment and  
15 Housing Act, California Government Code section 12940 *et seq.*; the California Constitution; Title  
16 VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*; the Americans with Disabilities Act,  
17 42 U.S.C. § 12101 *et seq.*; the Age Discrimination in Employment Act of 1967, as amended; the  
18 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*; and all of their  
19 implementing regulations and interpretive guidelines.

20 2.15 "Notice Date" means the date of the initial distribution of the Class Notice to  
21 Settlement Class Members, as set forth in Section VI.

22 2.16 "Opt Out List" means the Court-approved list of all persons who timely and properly  
23 request exclusion from the Settlement Class.

24 2.17 "PAGA Claims" means the Plaintiffs' representative claims seeking penalties  
25 pursuant to PAGA, as alleged in the Action and/or based on any other provision of the Labor Code,  
26 Wage Orders or any other statute or regulation (whether identified in the Action or not) to the fullest  
27 extent permitted by law.  
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1           2.18   “PAGA Payment” means a total payment of \$40,000 to settle all claims under the  
2 PAGA. From this amount, 75% will be paid to the LWDA for civil penalties pursuant to the PAGA  
3 and 25% will be distributed to Settlement Class Members and considered penalties for tax reporting  
4 purposes.

5           2.19   “Pay Periods Worked” means the best approximation of the total number of pay  
6 periods in which a Settlement Class Member performed any work for Propark, based on the records  
7 and data maintained by Propark, for each Settlement Class Member from the time period between  
8 July 17, 2013 and March 2, 2020.

9           2.20   “Plaintiffs” means Aaron Sadino and Anthony Johnson.

10          2.21   “Plan of Allocation” means the plan for allocating the Total Settlement Amount  
11 between and among Settlement Class Members as approved by the Court.

12          2.22   “Preliminary Approval Date” means the date that the Court enters the Preliminary  
13 Approval Order and thus: (i) preliminarily approves the Settlement, and the exhibits thereto, and (ii)  
14 enters an order providing for notice to the Settlement Class, an opportunity to opt out of the  
15 Settlement Class, an opportunity to submit timely and proper objections to the Settlement, and  
16 setting a hearing on the fairness of the terms of Settlement, including approval of the Class Counsel  
17 Award.

18          2.23   “Preliminary Approval Order” means the order that Plaintiffs and Defendant will seek  
19 from the Court, without material variation from Exhibit F. Entry of the Preliminary Approval Order  
20 shall constitute preliminary approval of the Settlement Agreement.

21          2.24   “Released Claims” means (i) Settlement Class Members’ Released Claims and (ii)  
22 Named Plaintiffs’ General Released Claims.

23          2.25   “Released Parties” means Propark America West, LLC, John Steele, Michael Hewitt,  
24 Ryan Dreisbach, Propark Inc., Richard Dipietro, Tim Willey, Patrick Boeshans, and each of their  
25 subsidiaries, officers, directors, members, partners, owners, shareholders, employees, former  
26 employees, agents, servants, attorneys, assigns, affiliates, independent contractors, volunteers,  
27 predecessors, successors, parent companies and organizations, insurers, and any and all other  
28 persons, firms and corporations in which Propark may have an interest.

1           2.26   “Service Awards” means the amounts approved by the Court to be paid to each of the  
2 Plaintiffs, in addition to each Plaintiffs’ respective Individual Settlement Payment(s), in recognition  
3 of their efforts in coming forward as named plaintiffs, for the time the Named Plaintiffs have  
4 expended while pursuing the case, and the Class Representatives’ willingness to expose themselves  
5 to the legal system to pursue this case. The Service Awards amount payable to Plaintiffs shall come  
6 exclusively from the Total Settlement Amount and are not to exceed \$20,000 each. To the extent  
7 that any amount of the Service Awards are not awarded by the Court, that amount will be  
8 redistributed pro rata to the Settlement Class Members as part of their Individual Settlement  
9 Payments.

10           2.27   “Settlement” means the settlement of the Action between and among Plaintiffs and  
11 Defendant, as set forth in this Settlement Agreement.

12           2.28   “Settlement Administrator” means Phoenix Settlement Administrators.

13           2.29   “Settlement Administrator Expenses” means the amount to be paid to the Settlement  
14 Administrator exclusively from the Total Settlement Amount, including the total costs, expenses,  
15 and fees of the Settlement Administrator. The amount is not to exceed \$42,500.00, which is a bid  
16 based on a 65% response rate from Settlement Class Members. To the extent that any amount of the  
17 Settlement Administrator Expenses are not awarded by the Court, that amount will be redistributed  
18 pro rata to the Settlement Class Members as part of their Individual Settlement Payments.

19           2.30   “Settlement Class” means all current and former parking and valet employees  
20 (including valet attendants, parking attendants, cashiers, night auditors, supervisors, and foremen) of  
21 Propark America West, LLC in California from July 17, 2013 through March 2, 2020, who do not  
22 timely request exclusion from the Settlement.

23           2.31   “Settlement Class Member” means any member of the Settlement Class.

24           2.32   “Settlement Class Members’ Released Claims” means any and all present and past  
25 claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities,  
26 that each Settlement Class Member had, now has, or may hereafter claim to have against the  
27 Released Parties that were asserted in the Complaint, or that could have been asserted in the  
28 Complaint based on the facts, circumstances, transactions, events, occurrences, acts, disclosures,

1 statements, omissions or failures to act alleged in the Complaint, regardless of whether such claims  
2 arise under state and/or local law, statute, ordinance, regulation, common law, or other source of law  
3 (“the Released Claims”). The Released Claims specifically include claims for: Labor Code sections  
4 201-204, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1194, 1197, 1197.1 and 1198; incorporated or  
5 related claims asserted through California Business and Professions Code § 17200; and incorporated  
6 or related claims asserted through PAGA. Nothing in this Paragraph is intended to release claims  
7 under any federal, state and/or local law, statute, ordinance, regulation, common law, or other source  
8 of law that arise from facts outside those alleged in the complaint, specifically potential violations  
9 unrelated to a failure to lawfully provide meal periods and/or rest breaks. The “Settlement Class  
10 Members’ Released Claims” are released from July 17, 2013 through March 2, 2020.

11 2.33 “Settlement Class Period” means July 17, 2013 through March 2, 2020.

12 2.34 “Total Settlement Amount” means One Million Five Hundred Thousand Dollars  
13 (\$1,500,000) plus any accrued interest as set forth in Paragraph 4.1, for payment of all claims, which  
14 is the maximum amount that Propark is obligated to pay under this Settlement Agreement under any  
15 circumstances in order to resolve and settle the Action, subject to Court approval, with the sole  
16 exception of the employer-side employment taxes for the wage portion of the settlement, which shall  
17 be paid by Propark in addition to the Total Settlement Amount. The Total Settlement Amount  
18 includes all costs and fees, including, but not limited to, the Class Counsel Award, Settlement  
19 Administrator Expenses, escrow costs and expenses, Service Awards, interest, and taxes and tax  
20 expenses (except employer-side employment taxes).

21 2.35 “Void Date” means the date by which any checks issued to Settlement Class  
22 Members shall become void, *i.e.* on the 181st day after mailing.

23 **III. SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT FOR**  
24 **PRELIMINARY AND FINAL APPROVAL**

25 3.1 Upon execution of this Settlement Agreement, Plaintiffs shall submit to the Court a  
26 motion for preliminary approval of the Settlement. The motion for preliminary approval shall  
27 include a proposed plan for sending of the Class Notice to Settlement Class Members within forty-  
28 five (45) days after the Preliminary Approval Date (the Notice Date), and establishing a period of

1 thirty (30) days from the Notice Date within which any Settlement Class Member may (i) request  
2 exclusion from the Settlement Class, (ii) object to the proposed Settlement or any part thereof, (iii)  
3 object to Class Counsel’s request for the Class Counsel Award and for the Service Awards to the  
4 Plaintiffs (the Exclusion/Written Objection Deadline).

5           3.2     The Parties stipulate to certification under California Code of Civil Procedure Section  
6 382, for settlement purposes only, of the Settlement Class, excluding the Settlement Class’s PAGA  
7 Claims. The Parties agree that this stipulation shall not be admissible in, and may not be used by  
8 any person for any purpose whatsoever in any legal proceeding, including but not limited to any  
9 arbitrations and/or any civil and/or administrative proceedings, other than a proceeding to enforce  
10 the terms of the Agreement, as further set forth in this Agreement.

11           3.3     Class Counsel agrees to keep any and all data and other employment and personal  
12 information related to the Settlement Class in the strictest confidence, and shall not disclose that  
13 data. Any such data provided to Class Counsel shall be treated as privileged mediation  
14 communications under Cal. Evid. Code §§ 1115 *et seq.* and designated “Confidential—Attorneys’  
15 Eyes Only,” except to the extent absolutely necessary (as agreed between the Parties) for approval of  
16 the Settlement. Class Counsel agrees to submit such necessary data and information to the Court  
17 under seal to the extent appropriate under governing law.

18           3.4     The Parties stipulate to the form of, and agree to submit to the Court for its  
19 consideration this Settlement Agreement, and the following Exhibits to this Settlement Agreement:  
20 proposed Third Amended Complaint (Exhibit A); Class Notice (Exhibit B); Dispute Form (Exhibit  
21 C); Exclusion Form (Exhibit D), Objection Form (Exhibit E) and [Proposed] Preliminary Approval  
22 Order (Exhibit F). These Exhibits can and will be agreed to in an Addendum to the Settlement  
23 Agreement pursuant to the terms in Paragraph 12.13.

24           3.5     Solely for purposes of implementing this Agreement and effectuating the proposed  
25 Settlement, the Parties agree and stipulate that:

26                 3.5.1   The Court may enter the Preliminary Approval Order, preliminarily approving  
27 the Settlement and this Agreement. If the Court makes material changes to the Preliminary  
28 Approval Order as drafted in Exhibit F, the Parties must meet and confer regarding any changes to

1 be made to the Settlement Agreement as a result. If the Parties cannot reach an agreement on the  
2 changes, Propark reserves the right to withdraw from the Settlement Agreement and all its terms, as  
3 provided in Section XI. Among other things, the Preliminary Approval Order shall grant leave to  
4 preliminarily certify the Settlement Class for settlement purposes only; approve the Plaintiffs as  
5 class representatives, appoint Class Counsel to represent the Settlement Class, and appoint the  
6 Settlement Administrator; approve the Class Notice, and the class notice plan embodied in the  
7 Settlement Agreement, and approve them as consistent with California Rules of Court 3.766(d) and  
8 3.769(f) and due process; set out the requirements for disputing the information upon which  
9 Settlement Class Members' share of the Settlement will be calculated, objecting to the Settlement,  
10 excluding Settlement Class Members who timely and properly request to be excluded from the  
11 Settlement Class, all as provided in this Agreement; and provide that certification and all actions  
12 associated with certification are undertaken on the condition that the certification and other actions  
13 shall be automatically vacated and of no force or evidentiary effect if this Agreement is terminated  
14 or disapproved, as provided in this Agreement.

15           3.6     Within 10 days of the Preliminary Approval Date, Class Counsel will notify the  
16 LWDA of the Preliminary Approval Order.

17           3.7     At the Final Approval Hearing, Plaintiffs shall request entry of a Final Approval order  
18 and a Judgment, to be agreed upon by the Parties, the entry of which is a material condition of this  
19 Settlement and that, among other things:

20                   3.7.1   Finally approves the Settlement as fair, reasonable, and adequate and directs  
21 its consummation pursuant to the terms of the Settlement Agreement;

22                   3.7.2   Finds that Class Counsel and Plaintiffs adequately represented the Settlement  
23 Class for the purpose of entering into and implementing the Agreement;

24                   3.7.3   Re-confirms the appointment of the Settlement Administrator and finds that  
25 the Settlement Administrator has fulfilled its duties under the Settlement to date;

26                   3.7.4   Finds that the Class Notice (i) constituted the best practicable notice; (ii)  
27 constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement  
28 Class Members of the pendency of the Action, and their right to exclude themselves from or object

1 to the proposed settlement and to appear at the Final Approval Hearing; (iii) was reasonable and  
2 constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met  
3 all applicable requirements of California Rules of Court 3.766(d) and 3.769(f), due process, and any  
4 other applicable rules or law;

5           3.7.5 Approves the Opt-Out List and determines that the Opt-Out List is a complete  
6 list of all Settlement Class Members who have timely and properly requested exclusion from the  
7 Settlement Class and, accordingly, shall neither share in nor be bound by the Final Approval order  
8 and Judgment;

9           3.7.6 Directs that the Final Approval order and Judgment of dismissal shall be final  
10 and entered forthwith;

11           3.7.7 Without affecting the finality of the Final Approval order and Judgment,  
12 directs that the Court retains continuing jurisdiction over Plaintiffs, the Settlement Class, and  
13 Propark as to all matters concerning the administration, consummation, and enforcement of this  
14 Settlement Agreement;

15           3.7.8 Adjudges that, as of the Final Approval Date, Plaintiffs, and all Settlement  
16 Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out  
17 List approved by the Court, and their Legally Authorized Representatives, heirs, estates, trustees,  
18 executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors,  
19 and/or anyone claiming through them or acting or purporting to act for them or on their behalf,  
20 regardless of whether they have received actual notice of the proposed Settlement, have conclusively  
21 compromised, settled, discharged, and released the Named Plaintiffs' General Released Claims (in  
22 the case of Plaintiffs) and Settlement Class Members' Released Claims (in the case of the Settlement  
23 Class Members) against Propark and the Released Parties, and are bound by the provisions of this  
24 Agreement;

25           3.7.9 Affirms that, notwithstanding the submission of a timely and proper request  
26 for exclusion, Settlement Class Members will still be bound by the settlement and release of the  
27 PAGA Claims under the Final Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009)  
28

1 as requests for exclusion do not apply to the PAGA Claims, and further affirms that any claim by the  
2 LWDA for civil penalties pursuant to PAGA are also extinguished;

3 3.7.10 Declares this Agreement and the Final Approval order and Judgment to be  
4 binding on, and have res judicata and preclusive effect as to all pending and future lawsuits or other  
5 proceedings: (i) that encompass the Named Plaintiffs' General Released Claims and that are  
6 maintained by or on behalf of Plaintiffs and/or their Legally Authorized Representatives, heirs,  
7 estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns,  
8 and successors, and/or anyone claiming through them or acting or purporting to act for them or on  
9 their behalf, and (ii) that encompass the Settlement Class Members' Released Claims and that are  
10 maintained by or on behalf of any Settlement Class Member who has not been excluded from the  
11 Settlement Class as provided in the Opt-Out List approved by the Court and/or their Legally  
12 Authorized Representatives, heirs, estates, trustees, executors, administrators, principals,  
13 beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them  
14 or acting or purporting to act for them or on their behalf, regardless of whether the Settlement Class  
15 Member previously initiated or subsequently initiates individual litigation or other proceedings  
16 encompassed by the Settlement Class Members' Released Claims, and even if such Settlement Class  
17 Member never received actual notice of the Action or this proposed Settlement;

18 3.7.11 Determines that the Agreement and the Settlement provided for herein, and  
19 any proceedings taken pursuant thereto, are not, and should not in any event be offered, received, or  
20 construed as evidence of, a presumption, concession, or an admission by any Party of liability or  
21 non-liability or of the certifiability or non-certifiability of a litigation class, or that PAGA  
22 representative claims may validly be pursued, or of any misrepresentation or omission in any  
23 statement or written document approved or made by any Party; provided, however, that reference  
24 may be made to this Agreement and the Settlement provided for herein in such proceedings as may  
25 be necessary to effectuate the provisions of this Agreement, as further set forth in this Agreement;

26 3.7.12 Orders that the preliminary approval of the Settlement, certification of the  
27 Settlement Class and final approval of the proposed Settlement, and all actions associated with them,  
28 are undertaken on the condition that they shall be vacated if the Settlement Agreement is terminated



1 or disapproved in whole or in part by the Court, or by any appellate court and/or other court of  
2 review, in which event the Agreement and the fact that it was entered into shall not be offered,  
3 received, or construed as an admission or as evidence for any purpose, including but not limited to  
4 an admission by any Party of liability or non-liability or of any misrepresentation or omission in any  
5 statement or written document approved or made by any Party, or of the certifiability of a litigation  
6 class or the appropriateness of maintaining a PAGA representative action, as further provided in this  
7 Settlement Agreement;

8 3.7.13 Authorizes the Parties, without further approval from the Court, to mutually  
9 agree to and adopt such amendments, modifications, and expansions of this Agreement, including all  
10 Exhibits hereto, as (i) shall be consistent in all material respects with the Final Approval order and  
11 (ii) do not limit the rights of Settlement Class Members; and

12 3.7.14 Contains such other and further provisions consistent with the terms of this  
13 Settlement Agreement to which the Parties expressly consent in writing.

14 3.8 At the Final Approval Hearing and as a part of the final approval of this Settlement,  
15 Class Counsel will also request approval of the Plan of Allocation set forth in Section V. Any  
16 modification to the Plan of Allocation by the Court shall not (i) affect the enforceability of the  
17 Settlement Agreement, (ii) provide any of the Parties with the right to terminate the Settlement  
18 Agreement, or (iii) impose any obligation on the Defendant or any Released Party to increase the  
19 consideration paid in connection with the Settlement.

20 3.9 At the Final Approval Hearing, Class Counsel may also request entry of an Order  
21 approving the Class Counsel Award and the Service Awards to the Plaintiffs, which shall be paid  
22 exclusively from the Total Settlement Amount and in accordance with the distribution plan  
23 described in Section V. In no event shall any Released Party otherwise be obligated to pay for any  
24 attorneys' fees and expenses or any Service Award. The disposition of Class Counsel's application  
25 for a Class Counsel Award, and for the Service Award, is within the sound discretion of the Court  
26 and is not a material term of this Settlement Agreement, and it is not a condition of this Settlement  
27 Agreement that such application be granted. Any disapproval or modification of such application by  
28 the Court shall not (i) affect the enforceability of the Settlement Agreement, (ii) provide any of the

1 Parties with the right to terminate the Settlement Agreement, or (iii) increase the consideration  
2 Defendant or any Released Party pays in connection with the Settlement. Released Parties shall  
3 have no liability to Class Counsel arising from any claim regarding the division of the Class Counsel  
4 Award between and among Class Counsel or any other counsel representing Plaintiffs or the  
5 Settlement Class Members.

6 3.10 Within 10 days after entry of Judgment, Class Counsel will provide a copy of the  
7 Judgment to the LWDA.

8 3.11 In no event shall Defendant or any Released Party be obligated to pay Settlement  
9 Administrator Expenses beyond those provided for in this Agreement.

#### 10 **IV. SETTLEMENT CONSIDERATION**

11 4.1 The total consideration for the Settlement from Propark is the Total Settlement  
12 Amount (\$1,500,000 plus any accrued interest as set forth in this Paragraph). Interest shall accrue  
13 on any amount of the Total Settlement Amount not deposited on or before thirty (30) days after the  
14 Effective Date, at the rate of 10% simple interest per year, calculated from thirty-one (31) days after  
15 the Effective Date, to the date deposited. That interest shall then be added to the remaining balance,  
16 but under no circumstances shall increase the balance of principal or accrue interest itself. Interest  
17 shall not compound: all payments deposited shall only be attributed to the interest once the principal  
18 (\$1,500,000) has been entirely paid down.

19 4.2 The Total Settlement Amount is an “all in” number that includes, without limitation,  
20 all monetary benefits and payments to the Settlement Class, Service Awards, Class Counsel Award,  
21 Settlement Administrator Expenses, the PAGA Payment, and all claims for interest, fees, and costs,  
22 with the sole exception of the employer-side employment taxes for the wage portion of the  
23 settlement. Under no circumstances shall Propark be required to pay anything more than the Total  
24 Settlement Amount. In no event shall Propark be liable for making any payments under this  
25 Settlement, or for providing any relief to Settlement Class Members, before the deadlines set forth in  
26 this Agreement.

27 4.3 Plaintiffs and all Settlement Class Members who receive any Individual Settlement  
28 Payment from the Total Settlement Amount expressly acknowledge that one half (1/2) of such

1 payments shall be considered non-wages for which an IRS Form 1099 will be issued, if required, and  
2 one half (1/2) shall be considered wages, from which applicable withholdings will be withheld, and  
3 for which an IRS Form W-2 shall be issued. In the case of Plaintiffs, the Service Awards shall be  
4 considered entirely non-wages, and shall be included in Plaintiffs' IRS Form 1099. Plaintiffs and all  
5 Settlement Class Members who receive a payment of any kind from the Total Settlement Amount  
6 agree to timely pay in full all of the federal, state, and municipal income taxes owed on such  
7 payments, with the sole exception of the employer-side employment taxes for the wage portion of  
8 the settlement, which shall be paid by Defendant.

9 4.4 The terms of this Agreement relating to the Service Awards and Class Counsel  
10 Award were not negotiated by the Parties before full agreement was reached as to all other material  
11 terms of the proposed Settlement, including, but not limited to, any terms relating to the relief to the  
12 Settlement Class. Propark agrees not to oppose a request for the Service Awards for Plaintiffs, as  
13 awarded by the Court, up to a maximum of \$20,000 each. Plaintiffs and Class Counsel agree not to  
14 seek any Service Award in excess of the above amount.

15 4.5 Class Counsel agrees not to seek an award from the Court in excess of thirty-five  
16 percent (35%) of the Total Settlement Amount in attorneys' fees nor in excess of \$75,000 in costs  
17 and expenses. Propark agrees not to oppose a request for attorneys' fees, costs and expenses so long  
18 as it does not exceed the amounts set forth above. Any amount awarded as the Class Counsel Award  
19 shall be inclusive of any and all amounts due to or claimed by any and all counsel representing  
20 Plaintiffs. Released Parties and Settlement Class Members shall have no obligation regarding, or  
21 liability for, allocation or payment of the Class Counsel Award. Class Counsel shall file any request  
22 for attorneys' fees, costs and expenses and any request for Service Awards no later than 16 court  
23 days before the Final Approval Hearing.

24 4.6 The Settlement Administrator shall pay the Class Counsel Award from the Total  
25 Settlement Amount by check, payable to "Righetti Glugoski P.C." Class Counsel shall provide the  
26 Settlement Administrator notice of receipt of the Class Counsel Award. Released Parties shall have  
27 no liability to Class Counsel or any other counsel for Plaintiffs or any Settlement Class Member  
28 arising from any claim regarding the division of the Class Counsel Award.

1 **V. FUNDING AND ALLOCATION OF THE SETTLEMENT**

2 5.1 Within thirty (30) calendar days of the Effective Date, Propark shall provide at least  
3 Six Hundred Thousand Dollars (\$600,000) of the Total Settlement Amount to the Settlement  
4 Administrator. By three hundred ninety-five (395) days of the Effective Date, Propark shall have  
5 provided a cumulative amount of at least One Million Two Hundred Thousand Dollars (\$1,200,000)  
6 of the Total Settlement Amount. Any and all unpaid remainder of the Total Settlement Amount  
7 (\$1,500,000 plus interest as described in Paragraph 4.1) shall be provided to the Settlement  
8 Administrator no later than five hundred seventy-seven days (577) after the Effective Date.

9 5.2 Subject to Court approval, the Total Settlement Amount shall be allocated to pay the  
10 Settlement Administrator Expenses (not to exceed \$42,500.00); Plaintiffs' Service Awards (not to  
11 exceed \$20,000 each for Aaron Sadino and Anthony Johnson); the Class Counsel Award (up to, but  
12 not to exceed, 35% of the Total Settlement Amount (\$1,500,000 plus interest according to payment  
13 timing as described in Paragraph 4.1)) as ordered by the Court; seventy-five percent (75%) of the  
14 PAGA Payment (equaling \$30,000) to the LWDA; and all remaining funds allocated to the  
15 Individual Settlement Payments to Settlement Class Members who did not opt out.

16 5.3 Settlement Class Members are not eligible to receive any compensation from the  
17 Settlement other than the Individual Settlement Payment(s).

18 5.4 The amount of each Settlement Class Member's Individual Settlement Payment(s)  
19 will be distributed from the Total Settlement Amount and calculated in direct proportion to  
20 Propark's best estimate of each Settlement Class Member's Pay Periods Worked, as determined  
21 from the Class Information provided to the Settlement Administrator by Propark. Class Counsel will  
22 be permitted to review and approve the calculation of settlement funds to be distributed, pursuant to  
23 the restrictions in Paragraph 5.5.

24 5.5 The Settlement Administrator may provide Class Counsel with a version of the Class  
25 List that includes solely a unique identifying number for each individual and their pay periods  
26 worked, but not contain any Settlement Class Member's name, social security number, nor last  
27 known address nor any other identifying information. In the event a dispute arises with respect to  
28 any Settlement Class Member's data in connection with administration of the Settlement, the

1 Settlement Administrator is authorized to provide Class Counsel with the name, social security and  
2 last known contact information of the Settlement Class Member who is the subject of the dispute.  
3 For the purposes of validating the data, the Settlement Administrator may also reveal to Class  
4 Counsel the unique identifying number corresponding to the Named Plaintiffs and each of the four  
5 Settlement Class Members who provided declarations in support of Plaintiffs' Motion for Class  
6 Certification, but no other Settlement Class Member.

7           5.6     In the event that any checks mailed to Settlement Class Members remain uncashed  
8 after the Void Date, then any such funds shall be transmitted by the Settlement Administrator  
9 pursuant to governing California law to the California State Controllers' Office Unclaimed Property  
10 Fund, to be held there in the name of and for the benefit of such class members under California's  
11 escheatment laws.

12           5.7     At no point shall any amount from the Total Settlement Amount revert back to  
13 Defendant.

14           5.8     The Settlement Administrator shall issue the Individual Settlement Payments from the  
15 Total Settlement Amount to each Settlement Class Member who does not opt out. One-half of each  
16 Individual Settlement Payment shall be reported by the Settlement Administrator to the applicable  
17 governmental authorities on IRS Form 1099s, if required, and one half on IRS Form W-2s. The  
18 portions allocated to Plaintiffs' Service Awards shall be reported on IRS Form 1099s. The  
19 Settlement Administrator shall be responsible for issuing respective copies of IRS Form 1099s and  
20 W-2s for the Plaintiffs and Settlement Class Members who received and cashed their respective  
21 Individual Settlement Payments.

## 22 **VI. CLASS NOTICE & CLAIM PROCEDURES**

23           6.1     No more than fifteen (15) business days after entry of the Preliminary Approval  
24 Order, Defendant shall provide the Settlement Administrator with the Class Information for purposes  
25 of sending the Class Notice to Settlement Class Members.

26           6.2     The Class Notice will include a statement to each Settlement Class Member  
27 containing their Pay Periods Worked being used to calculate the amount of their Settlement Payment  
28 as described in Paragraph 5.4, and inform Settlement Class Members of their right to request

1 exclusion from the Settlement, of their right to object to the Settlement, of their right to dispute the  
2 information upon which their share of the Settlement will be calculated, and the claims to be  
3 released.

4           6.3     As set forth in the Class Notice, Settlement Class Members will be provided fifteen  
5 (15) days (postmark deadline) after mailing of the Class Notice and accompanying statement to  
6 disagree with Propark's calculation of their total Pay Periods Worked by providing documentation to  
7 the Settlement Administrator. Settlement Class Members who wish to dispute the number of their  
8 total Pay Periods must notify the Settlement Administrator in writing and must include their full  
9 name, current address, the last four digits of their social security number, the dates they contend they  
10 were employed by Propark, and the number of pay periods they contend they worked for Propark  
11 during the Settlement Period along with any documentation to support their dispute. The Settlement  
12 Administrator shall review any documentation submitted by a Settlement Class Member and consult  
13 with the Parties to determine whether an adjustment is warranted. There will be a presumption that  
14 Propark's records are correct, absent evidence produced by a Settlement Class Member to the  
15 contrary. The Settlement Administrator's determination of the amount of any Settlement Class  
16 Member's Pay Periods Worked shall be binding upon the Settlement Class Member and the Parties,  
17 and a Settlement Class Member's Individual Settlement Payment will be calculated according to the  
18 Settlement Administrator's determination.

19           6.4     No more than forty-five (45) days after entry of the Preliminary Approval Order,  
20 provided Defendant timely complied with its obligation in Paragraph 6.1, the Settlement  
21 Administrator shall send a copy of the Class Notice by U.S. mail to each potential Settlement Class  
22 Member (the Notice Date).

23           6.5     If any Class Notice sent via U.S. mail to any potential Settlement Class Member is  
24 returned to the Settlement Administrator with a forwarding address, the Settlement Administrator  
25 shall forward the postal mailing to that address within three (3) business days. If the Settlement  
26 Administrator is not provided a forwarding address, the Settlement Administrator shall make a good-  
27 faith search of an appropriate database, as described in Paragraph 6.6, and postal mailings shall be  
28 resent, re-mailed, and/or forwarded to any new postal mail address obtained through the methods

1 described in Paragraph 6.6 within three (3) business days. The Settlement Administrator shall  
2 attempt to re-mail all returned mail and shall maintain a log detailing the instances Class Notices are  
3 returned as undeliverable.

4 6.6 Before any mailing to an address besides that listed in the Class Information, the  
5 Settlement Administrator shall make a good-faith attempt to obtain the most-current names and  
6 postal mail addresses for all potential Settlement Class Members to receive such postal mail,  
7 including (1) cross-checking the names and/or postal mail addresses it received from Propark, (2)  
8 reviewing the addresses with the National Change of Address Database and (3) performing further  
9 reasonable searches (e.g., through Lexis/Nexis) for more-current names and/or postal mail addresses  
10 for Settlement Class Members. All Settlement Class Members' names and postal mail addresses  
11 obtained through these sources shall be protected as confidential and not used for purposes other  
12 than the notice and administration of this Settlement. The address determined by the Settlement  
13 Administrator as the current mailing address through this process shall be presumed to be the best  
14 mailing address for the applicable Settlement Class Member.

15 6.7 The Parties agree that the procedures set forth in this Section constitute reasonable  
16 and the best practicable notice under the circumstances and an appropriate and sufficient effort to  
17 locate current addresses for Settlement Class Members such that no additional efforts to do so shall  
18 be required.

19 6.8 At least twenty-one (21) days before the Final Approval Hearing, the Settlement  
20 Administrator shall prepare a declaration of due diligence and proof of dissemination with regard to  
21 the mailing of the Class Notice, and any attempts by the Settlement Administrator to locate  
22 Settlement Class Members, its receipt of valid requests for exclusion, and its inability to deliver the  
23 Class Notice to Settlement Class Members due to invalid addresses ("Due Diligence Declaration"),  
24 to Class Counsel and counsel for Propark for presentation to the Court. Class Counsel shall be  
25 responsible for filing the Due Diligence Declaration with the Court.

26 6.9 If any individual whose name does not appear in the Class Information that Propark  
27 provides the Settlement Administrator (and who has not previously opted out of the Settlement  
28 Class), believes that they are a Settlement Class Member, they shall have the opportunity to dispute

1 their exclusion from the Settlement Class, prior to the Void Date. If an individual believes they are a  
2 Settlement Class Member, they must notify the Settlement Administrator within a reasonable  
3 amount of time after the Notice Date, but under no circumstances more than one year after the  
4 Effective Date. The Parties will meet and confer regarding any such individuals in an attempt to  
5 reach an agreement as to whether any such individual should be regarded as a Settlement Class  
6 Member. If the Parties so agree, the Settlement Administrator will provide a Class Notice to the  
7 individual, and treat the individual as a Settlement Class Member for all other purposes. Such an  
8 individual will have all of the same rights as any other Settlement Class Member under this  
9 Agreement. In the event that the disbursement of the First Individual Settlement Payments has  
10 begun (in accordance with this Settlement Agreement) at the time that the Parties agree that such  
11 individual should be regarded as a Settlement Class Member, and such individual has not exercised  
12 their right to opt out of the Settlement, the First Individual Settlement Payment to such individual  
13 shall be combined with the Second Individual Settlement Payment and disbursed at the same time as  
14 the Second Individual Settlement Payments from funds remitted back to the Total Settlement  
15 Amount (*i.e.* from settlement checks that remain uncashed beyond the Void Date).

## 16 **VII. PROCEDURES FOR REQUESTS FOR EXCLUSION**

17 7.1 Settlement Class Members (with the exception of Plaintiffs) may opt out of the  
18 Settlement. Those who wish to exclude themselves (or “opt out”) from the Settlement Class must  
19 submit timely, written requests for exclusion, using the Exclusion Form attached hereto as Exhibit  
20 D. To be effective, such the Form must include the Settlement Class Member’s name, address, and  
21 telephone number; and the signature of the Settlement Class Member. The request must be mailed  
22 to the Settlement Administrator at the address provided in the Class Notice and must be postmarked  
23 no later than the Exclusion/Written Objection Deadline. The date of the postmark shall be the  
24 exclusive means used to determine whether a request for exclusion has been timely submitted.  
25 Requests for exclusion must be exercised individually by the Settlement Class Member. Attempted  
26 collective group, class, or subclass requests for exclusions shall be ineffective and disregarded by the  
27 Settlement Administrator.  
28



1           7.2     The Settlement Administrator shall promptly log each request for exclusion that it  
2 receives and provide copies of the log and all such requests for exclusion to Class Counsel and  
3 counsel for Propark, as requested.

4           7.3     The Settlement Administrator shall prepare a list of all persons who timely and  
5 properly requested exclusion from the Settlement Class (the Opt-Out List) and shall, before the Final  
6 Approval Hearing, submit an affidavit to the Court attesting to the accuracy of the list.

7           7.4     All Settlement Class Members who are not included in the Opt-Out List approved by  
8 the Court shall be bound by this Agreement, and all their claims shall be released as provided for  
9 herein, even if they never received actual notice of the Action or this proposed Settlement.

10          7.5     The Settlement Administrator, in its sole discretion, shall determine whether a request  
11 for exclusion was timely and properly submitted. The Settlement Administrator's decision shall be  
12 final, binding, and nonappealable.

13          7.6     Plaintiffs agree not to request exclusion from the Settlement Class.

14          7.7     Settlement Class Members may object to or opt out of the Settlement, but may not do  
15 both. Any Settlement Class Member who submits a timely and proper request for exclusion may not  
16 file an objection to the Settlement or receive a Settlement Payment, and shall be deemed to have  
17 waived any rights or benefits under the Settlement Agreement. If a Settlement Class Member files  
18 both an objection and a valid and timely request for exclusion, the request for exclusion will override  
19 the objection, and the objection shall therefore be ignored.

20          7.8     Notwithstanding the submission of a timely request for exclusion, Class Members  
21 will still be bound by the settlement and release of the PAGA Claims or remedies under the Final  
22 Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Requests for exclusion do  
23 not apply to the PAGA Claims, and will not be effective to preclude the release of the PAGA  
24 Claims.

25     **VIII. PROCEDURES FOR OBJECTIONS**

26          8.1     Any Settlement Class Member that wishes to object to the fairness, reasonableness, or  
27 adequacy of this Agreement or the proposed Settlement must (1) provide to the Settlement  
28

1 Administrator (who shall forward it to Class Counsel and counsel for Propark), a timely Objection  
2 Form, or (2) appear in person at the Final Approval Hearing to make an objection.

3 8.2 To be timely, an Objection Form must be mailed to the Settlement Administrator, and  
4 postmarked no later than the Exclusion/Written Objection Deadline. The date of the postmark on the  
5 return-mailing envelope shall be the exclusive means used to determine whether objection has been  
6 timely submitted.

7 8.3 An Objection Form must contain at least the following: (i) the objector's full name,  
8 address, telephone, and signature; (ii) a statement of the specific legal and factual basis for each  
9 objection argument; and (iii) a statement whether the objecting person or entity intends to appear at  
10 the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement  
11 identifying that counsel by name, bar number, address, and telephone number. All objections shall  
12 be signed by the objecting Settlement Class Member, even if the Settlement Class Member is  
13 represented by counsel.

14 8.4 The right to object to the proposed Settlement must be exercised individually by a  
15 Settlement Class Member. Attempted collective, group, class, or subclass objections shall be  
16 ineffective and disregarded.

17 8.5 Any Settlement Class Member who does not submit a timely written objection in  
18 accordance with this Section shall maintain the right to voice any objections at the Final Approval  
19 Hearing. Any Settlement Class Member who does not file a timely written objection in accordance  
20 with this Section, nor objects at the Final Approval Hearing shall be forever barred from making any  
21 objection to the proposed Settlement, the Plan of Allocation, the Class Counsel Award and the  
22 Service Award. Settlement Class Members who object to the proposed Settlement shall remain  
23 Settlement Class Members, and shall be deemed to have voluntarily waived their right to pursue an  
24 independent remedy against Propark and the Released Parties.

25 8.6 To the extent any Settlement Class Member objects to the proposed Settlement, and  
26 such objection is overruled in whole or in part, such Settlement Class Member will be forever bound  
27 by the Final Approval order and Judgment.  
28

1           8.7     It shall be Class Counsel’s sole responsibility to respond to any objections made with  
2 respect to any application for the Class Counsel Award and Service Award.

3 **IX.    RELEASES**

4           9.1     The Released Claims against each and all of the Released Parties shall be released  
5 (without an award of costs to any party other than as provided in this Agreement) upon entry of the  
6 Final Approval order and Judgment.

7           9.2     As of the Final Approval Date, Plaintiffs, and all Settlement Class Members who  
8 have not been excluded from the Settlement Class as provided in the Opt-Out List, individually and  
9 on behalf of their Legally Authorized Representatives, heirs, estates, trustees, executors,  
10 administrators, representatives, agents, successors, and assigns, and anyone claiming through them  
11 or acting or purporting to act on their behalf, agree to forever release, discharge, hold harmless, and  
12 covenant not to sue each and all of the Released Parties from each and all of the Named Plaintiffs’  
13 General Released Claims (in the case of the Plaintiffs) and the Settlement Class Members’ Released  
14 Claims (in the case of the Settlement Class Members who have not been excluded from the  
15 Settlement Class as provided in the Opt-Out List), and by operation of the Final Judgment shall have  
16 fully and finally released, relinquished, and discharged all such claims against each and all of the  
17 Released Parties; and they further agree that they shall not now or hereafter initiate, maintain, or  
18 assert any Named Plaintiffs’ General Released Claims (in the case of Plaintiffs) and any Settlement  
19 Class Members’ Released Claims (in the case of the Settlement Class Members who have not been  
20 excluded from the Settlement Class as provided in the Opt-Out List), against the Released Parties in  
21 any other court action or before any administrative body, tribunal, arbitration panel, or other  
22 adjudicating body. Without in any way limiting the scope of the releases described in Paragraphs  
23 2.15, 2.25, and 2.34, as well as the remainder of this Section, this release covers, without limitation,  
24 any and all claims for attorneys’ fees, costs or disbursements incurred by Class Counsel or any other  
25 counsel representing Plaintiffs or Settlement Class Members, or by Plaintiffs or Settlement Class  
26 Members, or any of them, in connection with or related in any manner to the Action, the Settlement  
27 of the Action, the administration of such Settlement, and/or the Released Claims, except to the extent  
28 otherwise specified in the Agreement.

1           9.3     As of the Final Approval Date, Plaintiffs and all Settlement Class Members who have  
2 not been excluded from the Settlement Class as provided in the Opt-Out List shall be permanently  
3 barred and enjoined from initiating, asserting, or prosecuting against the Released Parties in any  
4 federal or state court or tribunal any and all Named Plaintiffs' General Released Claims (in the case  
5 of Plaintiffs) and any Settlement Class Members' Released Claims (in the case of the Settlement  
6 Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out  
7 List,) arising during the Settlement Class Period, as further provided in Paragraphs 2.15, 2.25, and  
8 2.34, as well as this Section.

9           9.4     Plaintiffs expressly acknowledge that they are familiar with principles of law such as  
10 Section 1542 of the California Civil Code, which provides:

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

17           9.5     With respect to the Named Plaintiffs' General Released Claims, as described in  
18 Paragraph 2.15, Plaintiffs shall be deemed to have expressly, knowingly, and voluntarily waived and  
19 relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may  
20 otherwise have had pursuant to Section 1542 of the California Civil Code and all similar federal or  
21 state laws, rights, rules, or legal principles of any other jurisdiction that may be applicable herein. In  
22 connection with the release, Plaintiffs acknowledge that they are aware that they may hereafter  
23 discover claims presently unknown and unsuspected or facts in addition to or different from those  
24 which they now know or believe to be true with respect to matters released herein.

25           9.6     Plaintiffs further acknowledge, agree, and understand that: (i) each has read and  
26 understands the terms of this Agreement; (ii) each has been advised in writing to consult with an  
27 attorney before executing this Agreement; and (iii) each has obtained and considered such legal  
28 counsel as they deem necessary.

          9.7     Subject to Court approval, the Plaintiffs, and all Settlement Class Members to the  
extent they have not been excluded from the Settlement Class as provided in the Opt-Out List, shall

1 be bound by this Settlement Agreement, and all of their claims released, even if they never received  
2 actual notice of the Action or this Settlement

3 **X. ADMINISTRATION OF THE SETTLEMENT FUND**

4 10.1 The Settlement Administrator or its authorized agents in consultation with the Parties  
5 and subject to the supervision, direction, and approval of the Court, shall calculate the allocation of  
6 and oversee the distribution of the Total Settlement Amount.

7 10.2 The Total Settlement Amount shall be applied as follows:

8 10.2.1 To pay the total costs, expenses, and fees of the Settlement Administrator  
9 incurred in connection with providing Class Notice to potential Settlement Class Members, and the  
10 management and distribution of the Total Settlement Amount to Settlement Class Members, not to  
11 exceed \$42,500.00;

12 10.2.2 Subject to the approval and further order(s) of the Court, to pay Plaintiffs'  
13 Service Awards based on contributions and time expended assisting in the litigation, up to a  
14 maximum of \$20,000 each for Aaron Sadino and Anthony Johnson;

15 10.2.3 Subject to the approval and further order(s) of the Court, to pay the Class  
16 Counsel Award (up to, but not to exceed, 35% of the Total Settlement Amount (\$1,500,000 plus  
17 interest according to payment timing as described in Paragraph 4.1) and reimbursement of litigation  
18 costs not to exceed \$75,000 as ordered by the Court;

19 10.2.4 Subject to the approval and further order(s) of the Court, to distribute 75% of  
20 the PAGA Payment to the LWDA and 25% of the PAGA Payment to the Settlement Class Members  
21 as part of each Settlement Class Members' Individual Settlement Payment(s), with the amount to be  
22 distributed to each Settlement Class Member determined proportionately to their Individual  
23 Settlement Payment(s);

24 10.2.5 After the Effective Date and subject to the approval and further order(s) of the  
25 Court, to distribute the Individual Settlement Payments from the Total Settlement Amount for the  
26 benefit of the Settlement Class pursuant to Settlement Agreement, or as otherwise ordered by the  
27 Court.  
28

1           10.3    Within sixty (60) days of the Effective Date, the first installment of the Class Counsel  
2 Award (One Hundred Seventy Five Thousand Dollars (\$175,000)), the entirety of Class Counsel's  
3 litigation costs as approved by the Court, and the Service Awards approved by the Court (up to  
4 Twenty Thousand (\$20,000) each for Aaron Sadino and Anthony Johnson), and the Settlement  
5 Administrator Expenses (up to \$42,500), shall be made by the Settlement Administrator from the  
6 amount provided to it by Propark on or before thirty (30) days after the Effective Date.

7           10.4    The Settlement Administrator shall use reasonable efforts to disburse the First  
8 Individual Settlement Payments and the PAGA Payment to Settlement Class Members who did not  
9 opt out within sixty (60) days after the Effective Date, pursuant to the Plan of Allocation.

10          10.5    Between three hundred and ninety-six (396) and four hundred and twenty-five (425)  
11 days after the Effective Date, the Settlement Administrator shall use reasonable efforts to (1)  
12 proportionately disburse the Second Individual Settlement Payments to those Settlement Class  
13 Members who cashed their check from their First Individual Settlement Payment, and (2) pay the  
14 second installment of the Class Counsel Award (One Hundred Seventy Five Thousand Dollars  
15 (\$175,000)).

16          10.6    Between five hundred and seventy-eight (578) and six hundred and seven (607) days  
17 after the Effective Date, the Settlement Administrator shall use reasonable efforts to (1)  
18 proportionately disburse the Third Individual Settlement Payments to those Settlement Class  
19 Members who cashed their check from their Second Individual Settlement Payment, and (2) pay the  
20 third and final installment of the Class Counsel Award, which shall be the amount necessary to  
21 provide Class Counsel with thirty-five percent (35%) of the Total Settlement Amount.

22          10.7    If any settlement checks are returned as undeliverable, the Settlement Administrator  
23 shall make at least one attempt to re-mail the settlement check if (1) the undeliverable mail has a  
24 forwarding address; or (2) the Settlement Administrator is able to locate a more current address  
25 through skip tracing. If any portion of the Total Settlement Amount is not successfully distributed to  
26 Settlement Class Members (*i.e.* checks are not cashed or checks are returned as undeliverable), then  
27 after the Void Date, the Settlement Administrator shall void the check and hold the unclaimed  
28 amount, which shall be returned to the Total Settlement Amount and incorporated into the following

1 Individual Settlement Payment disbursement. After the Void Date of the Third Individual  
2 Settlement Payment checks has passed, the Settlement Administrator shall direct such unclaimed  
3 funds pursuant to governing California law to the California State Controllers' Office Unclaimed  
4 Property Fund, to be held there in the name of and for the benefit of such class members under  
5 California's escheatment laws.

6 10.8 Settlement Class Members who are not on the Opt-Out List approved by the Court  
7 shall be subject to and bound by the provisions of the Settlement Agreement, the releases contained  
8 herein, and the Judgment with respect to all Settlement Class Members' Released Claims, regardless  
9 of whether they received notice or obtained any distribution from the Total Settlement Amount.

10 10.9 Payment from the Total Settlement Amount made pursuant to and in the manner set  
11 forth herein shall be deemed conclusive of compliance with this Settlement Agreement as to all  
12 Settlement Class Members.

13 10.10 No Settlement Class Member shall have any claim against the Plaintiffs, Class  
14 Counsel, or the Settlement Administrator based on distributions made substantially in accordance  
15 with this Settlement Agreement and/or orders of the Court. No Settlement Class Member shall have  
16 any claim against any Released Party or its counsel relating to distributions made under this  
17 Settlement.

18 **XI. EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF**  
19 **SETTLEMENT AGREEMENT**

20 11.1 If the Court does not approve the Settlement as set forth in this Settlement  
21 Agreement, or does not enter the Final Approval order and Judgment on the terms described herein,  
22 or if the Court enters the Judgment and appellate review is sought, and on such review, the entry of  
23 Judgment is vacated, modified in any way, or reversed, or if the Final Approval order does not  
24 otherwise become Final, then this Settlement Agreement shall be cancelled and terminated, unless  
25 all Parties, in their sole discretion no later than thirty (30) days from the date such ruling becomes  
26 Final, provide written notice to all other Parties hereto of their intent to proceed with the Settlement  
27 under the terms of the Judgment as it may be modified by the Court or any appellate court.  
28

1           11.2 No later than ten (10) business days after the Exclusion/Written Objection Deadline,  
2 the Settlement Administrator shall provide to Class Counsel and counsel for Propark the Opt-Out  
3 List together with copies of the opt-out requests. Notwithstanding any other provision of this  
4 Settlement Agreement, if more than ten percent (10%) of Settlement Class Members exercise their  
5 right to opt out of the Settlement, Defendant at its sole and absolute discretion may elect to rescind  
6 and revoke the entire Settlement Agreement by sending written notice that it revokes the Settlement  
7 pursuant to this paragraph to Class Counsel within ten (10) business days following receipt of the  
8 Opt-Out List. In the event that: (i) the Settlement is not approved, is overturned, or is modified by  
9 the Court or on appeal, (ii) the Judgment does not become Final, or (iii) this Settlement Agreement is  
10 terminated, cancelled, or fails to become effective for any reason, including but not limited to  
11 Propark failing to make the first payment required by the Settlement Agreement, then: (a) the Parties  
12 stipulate and agree the Settlement, this Agreement, the Class Information, the Opt-Out List, and all  
13 documents exchanged and filed in connection with the Settlement shall be treated as privileged  
14 mediation communications under Cal. Evid. Code §§ 1115 *et seq.*; (b) the Settlement shall be  
15 without force and effect upon the rights of the Parties hereto, and none of its terms shall be effective  
16 or enforceable, with the exception of this paragraph, which shall remain effective and enforceable;  
17 (c) the parties shall be deemed to have reverted *nunc pro tunc* to their respective status prior to  
18 execution of this Agreement, including with respect to any Court-imposed deadlines; (d) all Orders  
19 entered in connection with the Settlement, including the certification of the Settlement Class, shall  
20 be vacated without prejudice to any party's position on the issue of class certification, the issue of  
21 amending the complaint, or any other issue, in the Action or any other action, and the parties shall be  
22 restored to their litigation positions existing on the date of execution of this Agreement; and (e) the  
23 parties shall proceed in all respects as if the Settlement Agreement and related documentation and  
24 orders had not been executed, and without prejudice in any way from the negotiation or fact of the  
25 Settlement or the terms of the Settlement Agreement. The Settlement Agreement, the Settlement, all  
26 documents, orders, and evidence relating to the Settlement, the fact of their existence, any of their  
27 terms, any press release or other statement or report by the Parties or by others concerning the  
28 Settlement Agreement, the Settlement, their existence, or their terms, any negotiations, proceedings,



1 acts performed, or documents executed pursuant to or in furtherance of the Settlement Agreement or  
2 the Settlement shall not be admissible in any proceeding, and shall not be offered, received, or  
3 construed as evidence of a presumption, concession, or an admission of liability, of the certifiability  
4 of a litigation class, or of any misrepresentation or omission in any statement or written document  
5 approved or made, or otherwise used by any person for any purpose whatsoever, in any trial of the  
6 Action or any other action or proceedings. Plaintiffs, Class Counsel and the Settlement  
7 Administrator shall return to counsel for Propark all copies of Class Information and Opt-Out Lists  
8 and shall not use or disclose the Class Information or Opt-Out List for any purpose or in any  
9 proceeding.

10 11.3 Propark does not agree or consent to certification of the Settlement Class for any  
11 purpose other than to effectuate the Settlement of the Action. Further, Propark does not agree or  
12 consent that the Action could properly be maintained as a PAGA representative action for any  
13 purpose other than to effectuate the Settlement of the Action. If this Settlement Agreement is  
14 terminated pursuant to its terms, or the Effective Date for any reason does not occur, all Orders  
15 certifying the Settlement Class or establishing the Action as a PAGA representative action for  
16 purposes of effecting this Settlement Agreement, and all preliminary and/or final findings regarding  
17 the Settlement Class certification order, shall be automatically vacated upon notice to the Court, the  
18 Action shall proceed as though the Settlement Class had never been certified pursuant to this  
19 Settlement Agreement, had never been maintained as a PAGA representative action, and such  
20 findings had never been made, and the Action shall revert nunc pro tunc to the procedural status quo  
21 as of the date and time immediately before the execution of the Settlement Agreement, in accordance  
22 with this Settlement Agreement.

## 23 **XII. ADDITIONAL PROVISIONS**

24 12.1 All of the Exhibits to this Agreement are an integral part of the Settlement and are  
25 incorporated by reference as though fully set forth herein.

26 12.2 Plaintiffs and Class Counsel acknowledge that an adequate factual record has been  
27 established that supports the Settlement and hereby waive any right to conduct further discovery to  
28 assess or confirm the Settlement.

1           12.3 Unless otherwise noted, all references to “days” in this Agreement shall be to  
2 calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or  
3 California court legal holiday, such date or deadline shall be on the first business day thereafter.

4           12.4 This Agreement constitutes the full and complete agreement of the Parties hereto, and  
5 supersedes all prior negotiations and agreements, whether oral, written or otherwise, and may be  
6 amended or modified only by a written instrument signed by counsel for all Parties or the Parties’  
7 successors-in-interest.

8           12.5 The Parties reserve the right, subject to the Court’s approval, to make any reasonable  
9 extensions of time that might be necessary to carry out any of the provisions of this Agreement.  
10 Such extensions must be in writing to be enforceable.

11           12.6 The Settlement Agreement, the Settlement, the fact of the Settlement’s existence, any  
12 of terms of the Settlement Agreement, any press release or other statement or report by the Parties or  
13 by others concerning the Settlement Agreement or the Settlement, and any negotiations,  
14 proceedings, acts performed, or documents executed pursuant to or in furtherance of the Settlement  
15 Agreement or the Settlement may not be used as evidence of any waiver of, unenforceability of, or  
16 as a defense to any Propark arbitration agreement.

17           12.7 The Released Parties shall have the right to file the Settlement Agreement, the Final  
18 Approval order and Judgment, and any other documents or evidence relating to the Settlement in any  
19 action that may be brought against them in order to support a defense or counterclaim based on  
20 principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar, reduction,  
21 or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

22           12.8 The Parties to the Settlement Agreement agree that the Total Settlement Amount and  
23 the other terms of the Settlement were negotiated at arm’s length and in good faith by the Parties,  
24 resulted from an arm’s-length mediation session facilitated by Louis Marlin, Esq., and subsequent  
25 discussions between the Parties, and reflect a settlement that was reached voluntarily based upon  
26 adequate information and sufficient discovery and after consultation with experienced legal counsel.

27           12.9 Plaintiffs and Class Counsel have concluded that the Settlement set forth herein  
28 constitutes a fair, reasonable, and adequate resolution of the claims that Plaintiffs asserted against

1 defendants, including the claims on behalf of the Settlement Class, and that it promotes the best  
2 interests of the Settlement Class.

3 12.10 To the extent permitted by law, all agreements made and orders entered during the  
4 course of the Action relating to the confidentiality of information shall survive this Settlement  
5 Agreement.

6 12.11 The Parties agree that Plaintiffs and Class Counsel are not required to return any  
7 documents produced by Propark until the final resolution of the Action. Within sixty (60) days  
8 following the Effective Date, Class Counsel shall return to Propark all documents produced in the  
9 Action, or confirm in writing that all such documents have been destroyed.

10 12.12 The waiver by one Party of any breach of this Settlement Agreement by any other  
11 Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement  
12 Agreement.

13 12.13 This Settlement Agreement constitutes the entire agreement among the Parties, and  
14 no representations, warranties, or inducements have been made to any Party concerning this  
15 Settlement Agreement, other than the representations, warranties, and covenants contained and  
16 memorialized in this Settlement Agreement. In the event that the Addendum and therefore the  
17 Exhibits are never finalized, the Parties will not be relieved in any way of their duties, obligations,  
18 and burden under the Settlement Agreement. The Settlement Agreement shall bind the Parties upon  
19 execution, regardless of whether the Addendum has also been executed.

20 12.14 This Settlement Agreement may be executed in one or more counterparts. All  
21 executed counterparts and copies thereof shall be deemed to be one and the same instrument.

22 12.15 The Parties hereto and their respective counsel agree that they will use their best  
23 efforts to obtain all necessary approvals of the Court required by this Settlement Agreement.

24 12.16 This Settlement Agreement shall be binding upon and shall inure to the benefit of the  
25 successors and assigns of the Parties hereto, including any and all Released Parties and any  
26 corporation, partnership, or other entity into or with which any Released Party hereto may merge,  
27 consolidate, or reorganize.

28

1           12.17 This Settlement Agreement shall not be construed more strictly against one Party than  
2 another merely because of the fact that it may have been prepared by counsel for one of the Parties,  
3 it being recognized that because of the arm's-length negotiations resulting in the Settlement  
4 Agreement, all Parties hereto have contributed substantially and materially to the preparation of the  
5 Settlement Agreement.

6           12.18 Except where this Settlement Agreement itself provides otherwise, all terms,  
7 conditions, and Exhibits are material and necessary to this Settlement Agreement and have been  
8 relied upon by the Parties in entering into this Settlement Agreement.

9           12.19 This Settlement Agreement shall be governed by California law. Any action based on  
10 this Settlement Agreement, or to enforce any of its terms, shall be venued in San Francisco Superior  
11 Court, which shall retain jurisdiction over all such disputes. All Parties to this Settlement  
12 Agreement shall be subject to the jurisdiction of San Francisco County Superior Court for all  
13 purposes related to this Settlement Agreement. This paragraph relates solely to the law governing  
14 this Settlement Agreement and any action based thereon, and nothing in this paragraph shall be  
15 construed as an admission or finding that California law applies to the Released Claims of any  
16 Plaintiff or Settlement Class Members who reside outside of the state.

17           12.20 The Court shall retain continuing and exclusive jurisdiction over the Parties to this  
18 Settlement Agreement for the purpose of the administration and enforcement of this Settlement  
19 Agreement.

20           12.21 The headings used in this Settlement Agreement are for the convenience of the reader  
21 only, and shall not affect the meaning or interpretation of this Settlement Agreement.

22           12.22 In construing this Settlement Agreement, the use of the singular includes the plural  
23 (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

24           12.23 Each Party to this Settlement Agreement warrants that he, she, they, or it is acting  
25 upon independent judgment and upon the advice of counsel, and not in reliance upon any warranty  
26 or representation, express or implied, of any nature of any kind by any other Party, other than the  
27 warranties and representations expressly made in this Settlement Agreement.  
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12.24 Each counsel signing this Settlement Agreement on behalf of their clients who are unable to sign the Agreement on the date that it is executed by other Parties represents that such counsel is fully authorized to sign this Settlement Agreement on behalf of their clients; provided, however, that all Parties who have not executed this Agreement on the date that it is executed by the other Parties shall promptly thereafter execute this Agreement and in any event no later than one (1) week after the Agreement has been executed by counsel.

**[SIGNATURES ON FOLLOWING PAGE]**

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Dated: \_\_\_\_\_, 2021

By: \_\_\_\_\_  
AARON SADINO  
PLAINTIFF

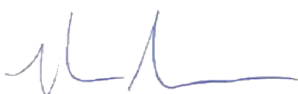
Dated: \_\_\_\_\_, 2021

By: \_\_\_\_\_  
ANTHONY JOHNSON  
PLAINTIFF

Dated: March 1, 2021

By:  \_\_\_\_\_  
PATRICK BOESHANS  
CHIEF ADMINISTRATIVE OFFICER  
FOR PROPARK AMERICA WEST, LLC  
DEFENDANT

Dated: March 1, 2021

By:  \_\_\_\_\_  
PATRICK BOESHANS  
CHIEF ADMINISTRATIVE OFFICER  
FOR PROPARK INC.  
DEFENDANT

Dated: \_\_\_\_\_, 2021

By: \_\_\_\_\_  
MATTHEW RIGHETTI  
MICHAEL C. RIGHETTI  
RIGHETTI GLUGOSKI P.C.

Attorneys for Plaintiffs

APPROVED ONLY AS TO FORM, WITHOUT IMPOSING ANY OBLIGATIONS ON DEFENDANTS' COUNSEL,  
AND NOT INTENDED AS AN EXPRESS OR IMPLIED ACCEPTANCE OF ANY TERMS HEREIN:

Dated: \_\_\_\_\_, 2021

By: \_\_\_\_\_  
MEL M.C. COLE  
LITTLER MENDELSON, P.C.

Attorneys for Defendants Propark America  
West, LLC and Propark Inc.

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