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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

14 PEDRO GONZALEZ, AND ON
15 BEHALF OF ALL UNAMED
16 PLAINTIFFS SIMILARLY
17 SITUATED,

18 Plaintiffs,

19 v.

20 ARMS TRANS INC., d/b/a Arms
21 logistics, a California Corporation;
22 and DOES 1 through 50, inclusive,

23 Defendants.

Case No.: 19STCV37291

**STIPULATION AND AGREEMENT
FOR CLASS ACTION
SETTLEMENT**

Department: 14
Judge: Hon Kenneth R. Freeman
Action Filed: October 18, 2019
Trial Date: Not set

24 **RECITALS**

25 A. This Stipulation and Agreement for Class Action Settlement (the
26 “Settlement Agreement”) is made for the sole purpose of attempting to consummate
27 settlement in this case on a class-wide basis and is made in compromise of disputed
28 claims. This Settlement Agreement must receive preliminary and final approval by the

1 Court.

2 B. On October 18, 2019, Plaintiff, Pedro Gonzalez, a former owner-operator,
3 filed a class action lawsuit in Los Angeles Superior Court against Defendant Arms Trans
4 Inc. dba Arms Logistic (“ARMS” or “Defendant”). On February 20, 2020, Plaintiff filed a
5 First Amended Complaint for Damages, the operative complaint, alleging California
6 wage and hour claims for (1) California Labor Code § 226.8(a)(1) (Misclassification of
7 Employees); (2) Violation of Labor Codes §§ 221, 224, 226 and 2802 (Unlawful
8 Deductions and Reimbursable Expenses); (3) Violation of Labor Codes §§ 1194, 1194.2
9 and 1197 (Unpaid Minimum Wages); (4) Violation of Labor Codes § 203 (Waiting Time
10 Penalties); (5) Violation of Labor Codes § 204 (Failure to Pay All Wages Owed Every Pay
11 Period); (6) Violation of Labor Codes §§ 226.7 and 512 (Meal Periods); (7) Violation of
12 Labor Codes §§226.7 and 512 (Rest Periods); (8) Violation of Labor Codes §§226 and
13 226.3 (Itemized Wage Statements); (9) Violation of Business and Professions Code §
14 17200 *et seq.* (Unfair Competition); *and* (10) Violation of Labor Code § 2698 *et seq.*
15 (Private Attorney General Act), including attorney’s fees as provided by California Labor
16 Code §§ 2802(b), 218.6 and California Civil Code 3289(b) (the “Class Action,” as defined
17 further below). That case is titled *Pedro Gonzalez v. Arms Trans Inc., d/b/a Arms*
18 *logistics*, Superior Court of California, County of Los Angeles, Case No. 19STCV37291.

19 C. The Class Representative is Pedro Gonzalez (“Plaintiff,” “Named Plaintiff”
20 or “Class Representative” hereinafter). The Class Representative and Defendant ARMS
21 are collectively referred to herein as the “Parties.”
22

23 D. The Parties participated in a mediation before reaching the settlement
24 described herein. The Parties and their counsel participated in an arms-length all day
25 mediation session on September 24, 2020, with the well-respected and experienced
26 mediator, Steve Cerveris. During the mediation, each side, represented by its respective
27 counsel, were able to agree to settlement of the Class Action. The Class Members were
28 represented by Class Counsel, while Defendant was represented by Defense Counsel.

1 E. The Parties enter into this Settlement Agreement on a conditional basis.
2 In the event the Court does not enter an Order Granting Final Approval, or in the event
3 that such Order Granting Final Approval does not become final for any reason, or in the
4 event that the Effective Settlement Date, as defined herein, does not occur, this
5 Settlement Agreement will be deemed null and void *ab initio*, and will be of no force or
6 effect whatsoever, and will not be referred to or utilized for any purpose whatsoever.

7 F. Defendant denies all of the Class Representative's claims as to liability and
8 damages, and does not waive, but rather expressly reserves, all rights to challenge all
9 such claims and allegations upon all legal, procedural and factual grounds should this
10 Settlement Agreement not become final. This Settlement Agreement reflects a
11 compromise reached to end litigation. Defendant's signing of this Agreement will not be
12 deemed to be an admission of any wrongdoing or unlawful action by Defendant in the
13 pending Class Action or in any other matter.

14 G. The Parties have engaged in significant written discovery. The Parties have
15 exchanged thousands of pages of documents and data through formal and informal
16 discovery.

17 H. Plaintiff's Counsel has conducted a thorough investigation into the facts of
18 the Class Action, including formal and informal exchange of information and review of
19 comprehensive files and records. Plaintiff's Counsel is knowledgeable about and has
20 done extensive research with respect to the applicable law and potential defenses to the
21 claims in the lawsuit. Plaintiff's Counsel has diligently pursued an investigation of the
22 Class Members' claims against Defendant. Based on the documents and information
23 provided by Defendant, and Plaintiff's Counsel's own independent investigation and
24 evaluation, Plaintiff's Counsel is of the opinion that the settlement with Defendant for
25 the consideration and on the terms set forth in this Settlement Agreement for Class
26 Action Settlement is fair, reasonable, and adequate, and is in the best interest of the
27 Class Members in light of all known facts and circumstances, including the risk of
28

1 significant delay and uncertainty associated with litigation, and various defenses
2 asserted by the Defendant, and numerous potential appellate issues. Defendant and its
3 respective counsel agree that the settlement is fair, reasonable, and adequate.

4 I. The Parties stipulate and agree to the following terms of this Settlement
5 Agreement with the intent that this Agreement fully and finally dispose of the Class
6 Action through a Settlement:

7 **STIPULATION AND AGREEMENT**

8 **I. DEFINITIONS.**

9 A. **“Agreement,” “Settlement Agreement,”** and **“Settlement”** mean this
10 Stipulation and Agreement for Class Action Settlement, which the Parties acknowledge
11 sets forth all material terms and conditions of the Settlement between them, and which
12 is subject to Court approval.

13 B. **“Claims Administrator”** means Phoenix Settlement Administrators.

14 C. **“Claims Administrator Costs”** shall include settlement administration
15 and tax reporting costs, providing notice of entry of judgment, and are based on the
16 number of putative class members, and are estimated to be Five Thousand Seven
17 Hundred Fifty Dollars (\$5,750.00).

18 D. **“Class Action”** means the Class Action lawsuit herein, generally known as
19 *Gonzalez, et al. v. Arms Trans Inc. dba Arms Logistics*, Los Angeles County Superior
20 Court, Case No. 19STCV37291.

21 E. **“Class Counsel”** means Alvin M. Gomez of Gomez Law Group.
22 Defendant stipulates to the appointment of Gomez Law Group as Class Counsel for
23 settlement purposes only.

24 F. **“Class Counsel Fees Payment”** and **“Class Counsel Litigation**
25 **Expenses Payment”** means the amounts to be paid to Class Counsel as approved by
26 the Court to compensate Class Counsel for, respectively, their legal work in connection
27 with the Class Action, including their pre-filing investigation, their filing of the Class
28

1 Action, all related litigation activities, all Settlement work, all post-Settlement
2 compliance procedures (“Class Counsel Fees Payment”), and related litigation expenses
3 billed in connection with this Class Action (“Class Counsel Litigation Expenses
4 Payment”).

5 G. **“Class List”** means the list of names, last known residential addresses,
6 and social security numbers of Class Members for whom Defendant possesses such
7 information. The Class List will indicate, for each Class Member, the number of
8 Qualifying Work Weeks worked in a Class Position during the Class Period.

9 H. **“Class Member(s)”** and **“Class”** means all persons who worked for
10 ARMS in California as a driver while being classified by ARMS as an independent
11 contractor at any time within the Class Period who have not entered into a separate
12 settlement or release with ARMS of their claims arising from the performance of services
13 as a truck driver for ARMS during the Class Period; however, such persons who signed
14 release agreements with ARMS in or after April 2020 in connection with the Class
15 Action will be included in the settlement.

16 I. **“Class Period”** means October 18, 2015 to the date of preliminary
17 approval of the Settlement.

18 J. **“Class Position”** means the performance of services as an independent
19 contractor truck driver for ARMS at any time within the Class Period.

20 K. **“Class Representative,” “Named Plaintiff”** and **“Plaintiff”** means
21 Pedro Gonzalez.

22 L. **“Court”** means the Superior Court of the State of California for the County
23 of Los Angeles.

24 M. **“Defense Counsel”** means John T. Egley and Jacqueline M. Beaumont of
25 Call & Jensen.

26 N. **“Effective Settlement Date”** shall be the date when all of the following
27 events have occurred: (a) this Settlement Agreement has been executed by the Parties
28

1 and by Class Counsel and Defense Counsel; (b) the Court has given preliminary approval
2 to the Settlement; (c) notice has been given to the Class Members providing them with
3 an opportunity to opt-out of the Settlement; (d) the Court has held a Final Fairness and
4 Approval hearing to determine the fairness, adequacy, and reasonableness of the
5 settlement and has entered a final order and judgment approving this Settlement
6 Agreement; (e) release effective upon Defendant fully funding the Settlement; and (f) in
7 the event there are objections prior to or during the Final Fairness and Approval
8 Hearing that are not later withdrawn, the later of the following events: (i) when the
9 period for filing any appeal, writ, or other appellate proceeding opposing the Settlement
10 has elapsed without any appeal, writ or other appellate proceeding having been filed; or
11 any appeal, writ, or other appellate proceeding opposing the Settlement has been
12 dismissed finally and conclusively with no right to pursue further remedies or relief or
13 (ii) any appeal, writ, or other appellate proceeding has upheld the Court's final order
14 with no right to pursue further remedies or relief. In this regard, it is the intention of the
15 Parties that the Settlement shall not become effective until the Court's order approving
16 the Settlement is completely final and there is no further recourse by an appellant or
17 objector who seeks to contest the Settlement. In the event that no objections are filed,
18 the Effective Date shall be upon the completion of all steps (a) through (e) above.

19
20 O. **“Enhancement”** means the portion of the Gross Settlement Amount paid
21 to the Named Plaintiff for his service in connection with the prosecution of this class
22 action, and in exchange for a General Release of Defendant and Released Parties.

23 P. **“Final Fairness and Approval Hearing”** means a hearing set by the
24 Court, pursuant to class action procedures and requirements, for the purpose of
25 determining the fairness, adequacy, and reasonableness of this Settlement.

26 Q. **“General Release”** means a release by the Named Plaintiff of all claims
27 against ARMS and the Released Parties, which is set forth in Section III.C below.

28 R. **“Gross Settlement Amount”** means Two Hundred Seventy Thousand

1 Dollars and Zero Cents (\$270,000.00), which amount will be all-inclusive, including
2 Individual Settlement Payments to all Participating Class Members, Enhancement to the
3 Named Plaintiff, including for releasing all claims in the General Release, PAGA Civil
4 Penalties Payment, Claims Administrator Costs, Class Counsel Fees Payment, and Class
5 Counsel Litigation Expenses Payment, as awarded by the Court. This Settlement is a
6 non-reversionary settlement. This Settlement is not a claims-made settlement. In no
7 event will Defendant be required to pay a sum of money higher than the Gross
8 Settlement Amount in the settlement of this Class Action.

9 S. **“Individual Settlement Payment”** means the gross amount to be paid
10 to each Class Member who does not timely opt-out of this Settlement (“Participating
11 Class Member,” as defined further below).

12 T. **“Net Settlement Fund”** means the portion of the Gross Settlement
13 Amount allocated for payment of Individual Settlement Payments to Participating Class
14 Members.

15 U. **“Notice of Class Action”** and **“Class Notice”** means a notice entitled
16 “Notice of Class Action Settlement,” in the form substantially similar to that attached
17 hereto as Exhibit “A”.

18 V. **“Notice of Estimated Individual Settlement Payment”** and
19 **“Individual Notice”** means a notice entitled “Notice of Estimated Individual
20 Settlement Payment,” in the form substantially similar to that attached hereto as Exhibit
21 “B”.

22 W. **“Opt-Out(s)”** means any and all persons who timely and validly request
23 exclusion from the Class in accordance with the terms of the Class Notice.

24 X. **“Order Granting Final Approval”** and **“Judgment”** means an order
25 executed, filed, and entered by the Court granting final approval to the Settlement.

26 Y. **“Order Granting Preliminary Approval”** means an order executed,
27 filed, and entered by the Court granting preliminary approval to the Settlement.
28

1 Z. **“PAGA Civil Penalties Payment”** means the payment of \$5,000
2 towards the settlement of the PAGA claims in the Lawsuit. Of this \$5,000 PAGA Civil
3 Penalties Payment, \$3,750 will be paid to the State of California Labor and Workforce
4 Development Agency, representing its 75% share of the civil penalties. The remaining
5 \$1,250 will be allocated to PAGA Employees proportionately based on PAGA Work
6 Weeks worked during the PAGA Period.

7 AA. **“PAGA Employee”** means all persons who worked for ARMS in
8 California as a driver while being classified by ARMS as an independent contractor at
9 any time from October 18, 2018 to the date of preliminary approval of the Settlement,
10 who have not entered into a separate settlement or release with ARMS of their claims
11 arising from the performance of services as a truck driver for ARMS during the Class
12 Period; however, such persons who signed release agreements with ARMS in or after
13 April 2020 in connection with the Class Action will be included in the settlement.

14 BB. **“PAGA Work Weeks”** means the total number of weeks a PAGA
15 Employee worked for ARMS in California as a driver while being classified by ARMS as
16 an independent contractor at any time within the PAGA Period.

17 CC. **“PAGA Period”** means October 18, 2018 to the date of preliminary
18 approval of the Settlement.

19 DD. **“PAGA Released Claims”** means all known and unknown causes of
20 action for civil penalties under the Private Attorneys General Act (“PAGA”), California
21 Labor Code section 2698 *et seq.* that were asserted in the operative complaint and
22 letter sent to the Labor and Workforce Development Agency by Plaintiff during the
23 PAGA Period, and demands for related interest and attorneys’ fees on the penalties.
24 Released PAGA claims include (1) Violation of Labor Code §§ 226.8(a)(a)
25 (Misclassification of Employees); (2) Violation of Labor Code §§ 221, 224, 226 and 2802
26 (Unlawful Deductions and Reimbursable Expenses); (3) Violation of Labor Code §§
27 1194, 1194.2 and 1197 (Unpaid Minimum Wages); (4) Violation of Labor Code § 203
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1 (Waiting Time Penalties); (5) Violation of Labor Code § 204 (Failure to Pay All Wages
2 Owed Every Pay Period); (6) Violation of Labor Code §§ 226.7 and 512 (Meal Periods);
3 (7) Violation of Labor Code §§ 226.7 and 512 (Rest Periods); (8) Violation of Labor Code
4 §§ 226 and 226.3 (Itemized Wage Statements).

5 EE. **“Participating Class Member”** means any Class Member who does not
6 timely opt-out of the Settlement, as provided in Section IV.E below.

7 FF. **“Preliminary Approval Date”** means the date upon which the Court
8 executes, files, and enters the Order Granting Preliminary Approval.

9 GG. **“Qualifying Work Weeks”** and **“Qualifying Weeks Worked”** means
10 the total number of weeks a Class Member worked for ARMS in California as a driver
11 while being classified by ARMS as an independent contractor at any time within the
12 Class Period.

13 HH. **“Released Claims”** means all known and unknown claims, losses,
14 damages, liquidated damages, demands, penalties, interest, liabilities, causes of action,
15 suits, at law or in equity, which arise from or are related to the facts asserted in the First
16 Amended Complaint, including, without limiting the foregoing, claims for unpaid wages
17 including failure to pay minimum wage and failure to pay premium wages for alleged
18 meal and/or rest period violations, misclassification of employees, failure to reimburse
19 for business expenses, unlawful deductions, failure to provide accurate and/or itemized
20 wage statements, failure to timely pay wages every pay period and/or upon termination,
21 waiting time penalties, claims made under California Labor Code sections 201, 201.3,
22 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 205, 205.5, 206, 206.5, 208, 209, 210,
23 212, 213, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225.5, 226, 226.2, 226.3, 226.7, 226.8,
24 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, 231, 232, 232.5, 233, 256, 450,
25 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, all similar
26 provisions or requirements of the California Industrial Welfare Commission Wage Order
27 9-2001 (including, but not limited to, sections 4,7,11, 12), California Labor Code Private
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1 Attorney General Act (“PAGA”) section 2698 *et seq.* (including, but not limited to,
2 sections 2699 and 2699.3), California Civil Code section 3287, California Business and
3 Professions Code sections 17200 *et seq.* (unfair competition), any related claims for
4 compensatory, consequential, punitive or exemplary damages, statutory damages,
5 declaratory relief, injunctive relief, penalties, interest (whether pre- or post-judgment),
6 disbursements, attorneys’ fees and costs or any other federal, state, or local law, which
7 the Class and/or any Class Member has ever had, or hereafter may claim to have, for the
8 Class Period. This Settlement Agreement will release all claims that were expressly
9 alleged in the Class Action or that could have been alleged in the Class Action based
10 upon the factual and legal allegations in the First Amended Complaint.

11 With respect to claims under federal law under the Fair Labor Standards Act
12 (FLSA), such federal claim will be deemed to be released only as to those Participating
13 Class Members who negotiate their individual check, as negotiating the check will be
14 deemed an action opting into an FLSA claim, other than as to the Named Plaintiff, who
15 has specifically negotiated a general release including release of FLSA claims and
16 thereby is deemed to have released such claims.

17 II. **“Released Parties”** means ARMS and its present and former parents,
18 subsidiaries, affiliates, related companies, divisions, joint venturers, predecessors,
19 successors, assigns, any entities deemed a client employer or labor contractor of
20 Defendant under Labor Code section 2810.3, service providers, any individual or entity
21 deemed a statutory employer or joint employer (under any legal theory of joint
22 employment), franchises, beneficiaries, grantees, transferees, accountants, auditors,
23 advisors, representatives, consultants, pension and welfare benefit plans, plan
24 fiduciaries, administrators, trustees, or general and limited partners, and all respective
25 agents, employees, officers, directors, stockholders, shareholders, owners, fiduciaries,
26 insurers, consultants, beneficiaries, grantees, transferees, accountants, auditors,
27 advisors, representatives, pension and welfare benefit plans, plan fiduciaries,
28

1 administrators, trustees, or general and limited partners, subcontractors, and attorneys
2 thereof.

3 JJ. **“Request for Exclusion”** means a Class Member’s signed written
4 request to be excluded or “opt-out” of the Settlement, as provided in Section IV.E below.

5 KK. **“Settlement Agreement”** means this Stipulation and Agreement for
6 Class Action Settlement.

7 LL. **“Unclaimed Portion”** means any check issued to Participating Class
8 Members, PAGA Employees, or other recipient that remains uncashed after one
9 hundred and eighty (180) days of its issuance.

10 **II. SETTLEMENT AMOUNTS.**

11 **A. Gross Settlement Amount.**

12 1. In consideration for settlement of the Class Action, Defendant agrees to
13 pay the total of Two Hundred Seventy Thousand Dollars and Zero Cents (\$270,000.00),
14 in two equal payments, the first payment of which shall be \$135,000 to be paid within
15 30 days of the Effective Settlement Date, and the second payment of which shall be
16 \$135,000 and paid within 60 days of the first payment. The Claims Administrator will
17 make or cause to be made the disbursements of the settlement checks upon the issuance
18 of the payment in accordance with the terms set forth in the Settlement Agreement.

19 2. The Gross Settlement Amount that Defendant will pay under this
20 Settlement Agreement is Two Hundred Seventy Thousand Dollars and Zero Cents
21 (\$270,000.00). There shall be no reversion to Defendant. The Gross Settlement Amount
22 and any other actions and forbearances taken by Defendant shall constitute adequate
23 consideration for the Settlement Agreement and will be made in full and final settlement
24 of: (1) the aggregate of all Individual Settlement Payments to Participating Class
25 Members; (2) Class Representative’s Enhancement, as approved by the Court, not to
26 exceed to a total of Twenty-Two Thousand Dollars and Zero Cents (\$22,000.00) for
27 extraordinary services provided on behalf of the class, including several lengthy
28

1 meetings with attorneys, responding to written discovery, reviewing documents,
2 recalling events, attending mediation with travel, post mediation meetings, meetings
3 regarding declarations, and exemplary conduct in executing his fiduciary duties while
4 representing the best interests of the class as the sole Class Representative in this
5 complex litigation, and in consideration of executing and delivering to ARMS this
6 Settlement Agreement and including the General Release of all known and unknown
7 claims against ARMS and the Released Parties in Section III.B-C below, in that the Class
8 Representative has individual claims for retaliation that he released in exchange for a
9 1542 waiver; (3) the Class Counsel Fees, as approved by the Court, not to exceed One
10 Third of the Gross Settlement Amount or Ninety Thousand Dollars and Zero Cents
11 (\$90,000.00) and Class Counsel Litigation Expenses, as approved by the Court, not to
12 exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00); (4) the reasonable fees
13 and expenses of the Claims Administrator, as approved by the Court, not to exceed Five
14 Thousand Seven Hundred Fifty Dollars and Zero Cents (\$5,750.00) (“Claims
15 Administrator Costs”); and (5) civil penalties recoverable under California Private
16 Attorneys General Act (PAGA) in the amount of Five Thousand Five Dollars and Zero
17 Cents (\$5,000.00), of which seventy-five percent (75%) or Three Thousand Seven
18 Hundred Fifty Dollars and Zero Cents (\$3,750.00) will be paid to the California Labor
19 Workforce Development Agency and twenty-five percent (25%) equal to One Thousand
20 Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) allocated among the PAGA
21 Employees as part of the Gross Settlement Fund (“PAGA Civil Penalties Payment”). The
22 Net Settlement Fund shall be paid in Individual Settlement Payments to Participating
23 Class Members.

24
25 3. After the Court issues an order preliminarily approving this Settlement
26 Agreement, the Claims Administrator will distribute the Class Notice to the Settlement
27 Class Members, which shall describe terms of the Settlement and procedures to
28 participate in, opt-out of, or object to the Settlement of this Class Action.

1 **B. Net Settlement Fund (Amounts Paid to Class Members) and**
2 **Individual PAGA Civil Penalties Payments.**

3 1. Individual Settlement Payments will be paid from the Net Settlement Fund
4 to Participating Class Members based on the number of Qualifying Weeks Worked
5 during the Class Period credited to the Participating Class Member as a percentage of
6 the total Qualifying Weeks Worked during the Class Period credited to all Participating
7 Class Members.

8 2. The Individual Settlement Payment for each Participating Class Member
9 reflects negotiated amounts for deductions from earnings, unreimbursed expenses,
10 waiting time penalties, interest, and all other claims as described more fully above as
11 Released Claims.

12 3. For purposes of calculating Individual Settlement Payments, each
13 Participating Class Member will be credited with the number of active Weeks of
14 engagement as a Class Member during the Class Period. The Qualifying Weeks Worked
15 by the Class Members will include only Weeks actually worked by the Class Members
16 and will not include any period of time that he or she may have worked outside of
17 California, or any periods of vacations, non-work, or leave of absence. The Individual
18 Settlement Payment for each Class Member will be determined by, first, determining the
19 value of a single Qualifying Work Week during the Class Period. The Net Settlement
20 Fund (the portion of the Gross Settlement Amount allocated for payment of Individual
21 Settlement Payments to Participating Class Members) will be determined by subtracting
22 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Claims
23 Administrator Costs, the Enhancement payment, and the PAGA Civil Penalties Payment
24 from the Gross Settlement Amount. This number will then be divided by the total
25 number of Qualifying Work Weeks for all Participating Class Members to obtain the
26 value of each Qualifying Work Week. Then, Individual Settlement Payments will be
27 determined for each Participating Class Member by multiplying the value of each
28

1 Qualifying Work Week by the number of Qualifying Work Weeks worked by that
2 Participating Class Member. Based on this formula, each Class Member will be paid
3 approximately \$33.35 per Work Week based on the total number of Weeks per Class
4 Period.

5 4. Payment Formula: As described above, the Individual Settlement
6 Payments will be based on the number of Work Weeks for each Participating Class
7 Member. The estimated total Work Weeks amount to approximately 3,853 Weeks. As of
8 April 13, 2021, Class Members had worked an estimated total 3,853 workweeks since
9 October 18, 2015. As of April 13, 2021, there were an estimated 62 Class Members. The
10 estimated average payment for each Work Week is approximately \$33.35. The average
11 Work Weeks per driver is approximately 62.14 Weeks for the Class Period, which will
12 result in an estimated payout of approximately \$2,081.04 per Class Member on average.

13 5. Individual PAGA Payments: Defendant will provide to the Claims
14 Administrator the total number of PAGA Work Weeks worked by each PAGA Employee
15 during the PAGA Period and the aggregate total number of PAGA Work Weeks worked
16 by all PAGA Employees during the PAGA Period. To determine each PAGA Employee's
17 individual estimated share of the 75% of the PAGA Civil Penalties Payment that is
18 distributed to the PAGA Employees ("Individual PAGA Payment"), the Settlement
19 Administrator will use the following formula: The PAGA Fund will be divided by the
20 aggregate total number of PAGA Work Weeks, resulting in the "PAGA Work Week
21 Value." Each PAGA Employee's share of the PAGA Civil Penalties Payment will be
22 calculated by multiplying each individual PAGA Employee's total number of PAGA Work
23 Weeks by the PAGA Work Week Value. A Request for Exclusion does not exclude a
24 PAGA Employee from the release of claims under California Labor Code § 2698, *et seq.*
25 under the PAGA Release set forth in this Settlement Agreement, and a PAGA Employee
26 will receive his or her Individual PAGA Payment even if he or she submits a valid
27 Request for Exclusion.
28

1 6. The Individual Settlement Payments are payments for all Released Claims.
2 No payment shall be deemed as wages and no contribution regarding taxes are to be
3 paid by Defendant. Each Participating Class Member, Class Counsel, and Class
4 Representative payment recipient will be responsible for remitting to state and/or
5 federal taxing authorities any applicable taxes which may be owed on the portion of any
6 payment received pursuant to this Settlement Agreement. Class Members who may
7 have questions about their tax liability, if any, should consult independent tax counsel.
8 Neither Class Counsel nor Defense Counsel will provide any tax advice to Class
9 Members.

10 7. If any Participating Class Members or PAGA Employees do not cash the
11 checks within one hundred and eighty (180) days after issuance, then at that time the
12 Claims Administrator will void any such uncashed or unclaimed checks, as further
13 specified below in section IV.L. The Claims Administrator will take additional
14 reasonable steps, including a skip-trace or other search using the name, address, and
15 social security number of the Class Member or PAGA Employee involved, to locate such
16 persons for a period of up to forty-five (45) days, after which the Claims Administrator
17 will disburse or cause to disburse all remaining balance of the Net Settlement Fund and
18 Individual PAGA Payments to the the State's Unclaimed Property Fund in the name(s)
19 of the Class Member(s) who did not cash his/her/their check(s). In such event, the
20 Participating Class Members and PAGA Employees will nevertheless remain bound by
21 this Settlement Agreement, including the release of the Released Claims.
22

23 **C. Class Representative's Enhancement and General Release**
24 **Payment.**

25 1. Class Counsel will submit an application to the Court for an award of an
26 individual Enhancement to the Class Representative in an amount not exceeding
27 Twenty-Two Thousand Dollars and Zero Cents (\$22,000.00).

28 2. Said application will be set for hearing concurrently with the Motion for

1 Final Approval. The Enhancement is to compensate the Named Plaintiff for his services
2 and risks in connection with being Class Representative and Named Plaintiff, and is in
3 further consideration of the General Release of all known and unknown claims against
4 ARMS and the Released Parties at Section III.C, which shall be deemed effective upon
5 the Effective Settlement Date. Defendant and its counsel will not object to a request for
6 approval of such Enhancement up to \$5,000.00 and will agree to whatever amount the
7 Court approves. Any portion of the Enhancement not approved by the Court will be
8 included in the Net Settlement Fund and distributed to Participating Class Members.

9 3. The Enhancement is in addition to the Individual Settlement Payment and
10 Individual PAGA Payment allocated to the Class Representative under this Settlement.

11 4. Any Enhancement awarded by the Court will not be treated as wages. The
12 Class Representative will receive a Form 1099 relating to such payments. The Class
13 Representative will be solely liable for and pay any and all taxes, costs, interest,
14 assessments, penalties, or damages by reason of payment of his Enhancement in
15 consideration of the General Release. The Class Representative agrees to assume
16 responsibility of remitting to the Internal Revenue Service and any other relevant taxing
17 authority the amounts which may be required by law in relation to his receipt of
18 Enhancement. In addition, Class Representative shall indemnify Defendant and the
19 Released Parties for all taxes, interest, and penalties incurred by Defendant and the
20 Released Parties solely by reason of Class Representative's failure to remit the amounts
21 due to the taxing authorities, as a result of his receipt of the Enhancement.

22 5. In the event that the Court denies, modifies, or reduces any request for
23 Enhancement, Class Representative, Class Counsel, and the Participating Class
24 Members may not seek to modify, revoke, cancel, terminate, or void this Settlement
25 Agreement and will not seek, request, or demand an increase in the Settlement Amount.

26 6. If the Class Representative appeals the Court's ruling on his request for
27 Enhancement, any ruling of any appellate court in such an appeal (regardless of its
28

1 substance) will not constitute a material alteration of this Settlement Agreement, and
2 will not give Class Representative, Class Counsel, and the Participating Class Members
3 or PAGA Employees the right to modify, revoke, cancel, terminate or void this
4 Settlement Agreement.

5 **D. PAGA – California Labor Code Private Attorneys General Act.**

6 The Parties agree that Five Thousand Dollars and Zero Cents (\$5,000.00) of the
7 Gross Settlement Fund (“PAGA Civil Penalties Payment”) will be allocated for the
8 settlement and full releases of any and all claims for civil penalties that could have been
9 made in this Class Action by Plaintiff or the PAGA Employees under the California
10 Private Attorneys General Act, Cal. Labor Code § 2698, et seq. Pursuant to California
11 Labor Code § 2699(i), 75% of the PAGA Civil Penalties Payment will be paid to the
12 LWDA, and 25% of the PAGA Civil Penalties Payment will be included in the Gross
13 Settlement Fund to be distributed among the PAGA Employees as set forth in section
14 II.B.4 above. Pursuant to California Labor Code § 2699(l)(2), settlement of a PAGA
15 action must be approved by the Court and a copy of the proposed settlement will be
16 provided by Class Counsel to the LWDA at the same time that it is submitted to the
17 Court. Pursuant to California Labor Code § 2699(l)(3), Class Counsel will also provide a
18 copy of the Court’s final judgment or order providing for or denying a PAGA civil
19 penalties award in this Action to the LWDA within 10 days after entry of the final
20 judgment or order. Any Unclaimed Portion of the PAGA Civil Penalties Payment
21 allocated to pay PAGA Employees will be transferred to the State’s Unclaimed Property
22 Fund as set forth herein.

23 **E. Class Counsel Fees Payment and Class Counsel Litigation**
24 **Expenses Payment.**

25 1. Class Counsel will submit an application to the Court for a reasonable
26 award of the Class Counsel Fees Payment in an amount not to exceed One Third of the
27 Gross Settlement Amount or Ninety Thousand Dollars and Zero Cents (\$90,000.00)
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1 plus the Class Counsel Litigation Expenses Payment as proven not to exceed Twenty
2 Thousand Dollars (\$20,000.00), which will compensate Class Counsel for fees and costs
3 incurred for work already performed in the Class Action, and the work remaining to be
4 performed in documenting the Settlement, securing Court approval of the Settlement,
5 administering the Settlement, obtaining dismissal of the Class Action with prejudice,
6 and defending against any appeals from objectors, as well as all associated expenses.
7 Such application will be set for hearing concurrently with the Motion for Final Approval.

8 2. The amount awarded to Class Counsel will be left to the discretion of the
9 Court. Defendant and its counsel will not object to Class Counsel's application for an
10 award of attorneys' fees and costs, provided the requested amount does not exceed One
11 Third of the Gross Settlement Amount or Ninety Thousand Dollars and Zero Cents
12 (\$90,000.00) plus the Class Counsel Litigation Expenses Payment as proven not to
13 exceed Twenty Thousand Dollars (\$20,000.00). Any attorneys' fees and/or costs
14 amount not approved by the Court will be included in the Net Settlement Fund and
15 distributed to Participating Class Members.

16 3. As a condition of this Settlement Agreement, Class Counsel agrees to
17 pursue their attorneys' fees and costs only in the amount and manner reflected herein.

18 **F. Claims Administrator Costs.**

19 The Claims Administrator Costs compensating the full administration of this
20 Settlement are estimated to not exceed Five Thousand Seven Hundred Fifty Dollars and
21 Zero Cents (\$5,750.00). The Claims Administrator Costs shall not exceed Five Thousand
22 Seven Hundred Fifty Dollars and Zero Cents (\$5,750.00) without the Court's approval
23 and will be paid from the Gross Settlement Amount. All fees and expenses due to the
24 Claims Administrator in connection with its administration of the Class Settlement
25 includes, but is not limited to, providing the Class Notice, translating the Class Notice
26 into Spanish and Korean, locating Class Members, processing Opt-Out requests and
27 objections, and calculating, administrating, and distributing Individual Settlement
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1 Amount to the Participating Class Members and related tax forms, and payments to the
2 LWDA for PAGA penalties. Any Claims Administrator Costs not approved by the Court
3 will remain part of the Net Settlement Fund to be distributed among Participating Class
4 Members. In no event shall Defendant be obliged to pay or deposit with the Claims
5 Administrator more than Five Thousand Seven Hundred Fifty Dollars and Zero Cents
6 (\$5,750.00). No fewer than ten court days prior to the Final Approving Hearing, the
7 Claims Administrator will provide the Court and all counsel for the Parties with a
8 statement detailing the administrative costs. The Parties agree to cooperate in the
9 settlement administration process and to make all efforts to control and minimize the
10 costs and expenses incurred in the administration of this Settlement Agreement.

11 **III. RELEASES BY PARTICIPATING CLASS MEMBERS AND NAMED**
12 **PLAINTIFF.**

13 **A. Terms of Release of Participating Class Members.**

14 In exchange for the consideration recited in this Settlement Agreement, all
15 Participating Class Members, on behalf of themselves and on behalf of their current,
16 former, and future heirs, executors, administrators, attorneys, agents, and assigns, do
17 hereby and fully forever, irrevocably and unconditionally release, waive, acquit and
18 discharge the Released Parties from the Released Claims. The release is effective upon
19 the Effective Settlement Date as defined in Paragraph I(N).
20

21 **B. Terms of General Release by Named Plaintiff.**

22 As a material inducement to Defendant to enter into this Settlement Agreement,
23 the Named Plaintiff does hereby, for himself and his spouse, domestic partner, heirs,
24 successors, and assigns, fully forever, irrevocably and unconditionally release the
25 Released Parties from any and all charges, complaints, claims, liabilities, obligations,
26 promises, agreements, controversies, damages, actions, causes of action, suits, rights,
27 demands, costs, losses, debts, and expenses (including back wages, penalties, liquidated
28 damages, and attorneys' fees and costs actually incurred) of any nature whatsoever,

1 from the beginning of time through the Effective Settlement Date, known or unknown,
2 suspected or unsuspected, including but not limited to all claims arising out of, based
3 upon, or relating to his relationship with Defendant or the remuneration for, or, as
4 applicable, termination of, such relationship. Without limiting the generality of the
5 foregoing, Named Plaintiff expressly releases all claims or rights arising out of alleged
6 violations of any contracts, express or implied (including, but not limited to, any
7 contract of employment); any contract or covenant of good faith or fair dealing (express
8 or implied); any tort, including negligence, fraud, misrepresentation under California
9 Labor Code section 970, negligent infliction of emotional distress, intentional infliction
10 of emotional distress, and defamation; any “wrongful discharge,” “constructive
11 discharge,” and “retaliation” claims; any claims relating to any breach of public policy;
12 any legal restrictions on Defendant’s right to discharge employees or refuse to hire
13 applicants; and any federal, state, or other governmental statute, regulation, or
14 ordinance, including, without limitation: (1) Title VII of the Civil Rights Act of 1964
15 (race, color, religion, sex, and national origin discrimination or harassment, including
16 retaliation for reporting discrimination or harassment); (2) 42 U.S.C. § 1981
17 (discrimination); (3) sections 503 and 504 of the Rehabilitation Act of 1973 (handicap
18 discrimination); (4) California Family Rights Act, Cal. Gov’t Code § 12945.1 *et seq.*
19 (family/medical leave); (5) Americans with Disabilities Act, 42 U.S.C. § 12100 *et seq.*
20 (disability discrimination); (6) Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.*
21 (family/medical leave); (7) California Fair Employment and Housing Act, Cal. Gov’t
22 Code § 12900 *et seq.* (discrimination or harassment in employment and/or housing,
23 including discrimination or harassment based on race, religious creed, color, national
24 origin, ancestry, disability, medical condition, genetic information, marital status, sex
25 (including pregnancy and related conditions), sexual orientation, gender, gender
26 identity, gender expression, military and veteran status, or age, including retaliation for
27 reporting discrimination or harassment); (8) California Labor Code or any Industrial
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1 Welfare Commission Wage Order; (9) Executive Orders 11246 and 11141 (race, color,
2 religion, sex, age, and national origin discrimination or harassment); (10) Executive
3 Order 11141 (age discrimination); (11) California Business & Professions Code, but
4 excluding all claims brought under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*
5 The Parties intend this release to be full and complete to the full extent allowed by law.

6 **C. Section 1542 Waiver by Named Plaintiff.**

7 Named Plaintiff hereby expressly waives all rights and benefits afforded by
8 section 1542 of the California Civil Code as to any claims he does not know or suspect to
9 exist in his favor against any of the Released Parties and does so understanding the
10 significance of that waiver. Section 1542 provides:

11 **“A general release does not extend to claims that the creditor or releasing**
12 **party does not know or suspect to exist in his or her favor at the time of**
13 **executing the release and that, if known by him or her, would have**
14 **materially affected his or her settlement with the debtor or released party.”**

15 **D. Class Certification**

16 The Parties stipulate to Class Certification for settlement purposes only.

17 **E. PAGA Release**

18 The PAGA release of Paragraph I(DD) is also effective upon the Effective
19 Settlement Date as defined in Paragraph I(N).

20 **IV. SETTLEMENT APPROVAL, CLAIMS, AND PAYMENT PROCEDURES.**

21 **A. Request for Preliminary and Final Approval.**

22 The Parties will cooperate fully in requesting preliminary and final approval of
23 this Settlement Agreement by the Court, including determination by the Court that this
24 Settlement is fair, reasonable, and adequate. The Parties will also cooperate fully in
25 promptly requesting that, as provided for in this Settlement Agreement, the Court
26 approve the proposed forms of notices, orders, and other documents necessary to
27 implement this Settlement.
28

1 **B. Class List to Be Provided by Defendant to the Claims**
2 **Administrator.**

3 Defendant will provide a Class List to the Claims Administrator within ten (10)
4 days after entry and service of an Order Granting Preliminary Approval regarding this
5 Settlement, which will identify each Class Member and PAGA Employee, his or her
6 social security number and last known home address and telephone number. The Class
7 List will also contain the number of Weeks worked in the Class Position credited to each
8 Class Member for purposes of the Individual Settlement Payment, and the number of
9 Weeks worked by PAGA Employees credited to each PAGA Employee for purposes of the
10 individual portions of the PAGA Civil Penalties Payment to be distributed to the PAGA
11 Employees. The Class List shall be marked “Confidential –Claims Administrator’s Eyes
12 Only.” The Administrator may provide an “Attorneys Eyes Only” copy of the List and
13 calculations to Class Counsel for review, which redacts the identifying name, social
14 security, and contact information regarding each Class Member or PAGA Employee.
15 Class Counsel represents, warrants, covenants and agrees that: (a) Class Counsel shall
16 hold the database, including any copies thereof, in strictest confidence and shall not
17 disclose or divulge its contents to any Class Member, including the Named Plaintiff, or
18 to any third party; (b) the Class List shall be kept in secure facilities; and (c) the contents
19 of the Class List shall be used exclusively for administration of the Settlement pursuant
20 to this Settlement Agreement and for no other purpose, including, but not limited to,
21 fact-gathering, discovery, or communication with individuals contained in the database
22 for any purpose, other than administration of the Settlement pursuant to this Settlement
23 Agreement.
24

25 **C. Notice of Class Action.**

26 1. Within ten (10) days after the Claims Administrator receives the Class List
27 from Defendant, the Claims Administrator will first update all addresses using the
28 National Change of Address System (NCOA) and then mail to all Class Members, via

1 first-class United States Mail, the following documents: (a) Notice of Class Action,
2 Exhibit “A”; and (b) Notice of Estimated Individual Settlement Payment, Exhibit “B”
3 (collectively, the “Notice Packet”). The envelope in which the Notice Packet (consisting
4 of Exhibits A and B) is mailed will clearly state that it concerns a class action and the
5 recipient could be entitled to a cash payment. The Notice Packet shall be sent in English,
6 Korean, and Spanish languages.

7 2. In the event of returned or non-deliverable Notice Packets, the Claims
8 Administrator will make reasonable efforts to locate Class Members and re-send the
9 Notice Packet. In the event that Notice Packets are returned to sender or returned as not
10 deliverable, the Claims Administrator will make reasonable efforts to locate the
11 respective Class Members through skip-tracing services offered by publicly available
12 databases and will re-send the Notice Packets to the best available addresses of these
13 Class Members after performing the skip-tracing. It will be conclusively presumed that a
14 Class Member’s Notice Packet was received if the Notice Packet has not been returned
15 within forty-five (45) days of the original mailing of the Notice Packet to the Class
16 Member.

17 3. In order to object to the Settlement, a Class Member must not have
18 excluded himself or herself from the Settlement and either (a) mail his or her objection
19 to the Claims Administrator no later than forty-five (45) calendar days after the date of
20 the mailing of the Notice Packet, and/or (b) appear at the Final Approval Hearing in
21 Department 14, located at 312 Spring Street, Los Angeles, California 90012..

22 4. In the event the procedures set forth herein are followed and the intended
23 recipient of a Notice Packet still does not receive the Notice Packet, the intended
24 recipient will be a Participating Class Member and will be bound by all terms of the
25 Settlement and the Order Granting Final Approval entered by the Court.

26 5. In the instance that the Class Member’s Notice Packet is re-mailed, that
27 Class Member’s Objection/Exclusion Deadline Date shall be recalculated so that Class
28

1 Member shall have an additional fifteen (15) calendar days from the original
2 Objection/Exclusion Deadline to opt-out or object.

3 **D. Dispute Resolution Regarding Qualifying Weeks Worked.**

4 1. Each Class Member will receive a Notice of Estimated Individual
5 Settlement Payment, Exhibit "B", which will specify the Qualifying Weeks Worked for
6 that Class Member in the Class Position for which he or she is being credited for
7 purposes of this Settlement.

8 2. Class Members will be entitled to dispute the number of Qualifying Weeks
9 Worked reported on the Notice of Estimated Individual Settlement Payment Form by
10 sending written notice of their dispute to the Claims Administrator. To be considered,
11 such written dispute shall be: (1) signed by the Class Member under penalty of perjury;
12 (2) timely; and (3) accompanied with satisfactory evidence of the actual Weeks worked
13 during the Class Period in the Class Position.

14 3. Class Members will have no more than forty-five (45) days after the date
15 when the Notice Packet was deposited by the Claims Administrator in the United States
16 Mail to postmark or deliver to the Claims Administrator a dispute concerning the Weeks
17 worked during the Class Period with satisfactory evidence to support his or her dispute.
18 Evidence of the dates of engagement with Defendant alone will not constitute
19 satisfactory evidence if the Class Member has worked in jobs other than the Class
20 Position.

21 4. If any Class Member disagrees with Defendant's records as to number of
22 Qualifying Weeks Worked as reflected on the Notice, the Class Member shall set forth
23 the weeks he or she claims to have worked in the Class Position during the Class Period
24 and submit to the Claims Administrator along with any supporting documentation.

25 5. Within seven (7) days of receiving a dispute concerning a Class Member's
26 Qualifying Weeks Worked, the Claims Administrator shall review all documents received
27 from the Class Member in support of the Class Member's dispute and shall contact
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1 Defendant regarding the dispute and Defendant will work in good faith to resolve it. The
2 Claims Administrator shall inform Defense Counsel of its decision as to whether it
3 accepts or rejects the dispute or whether it needs additional information from Defendant
4 prior to rendering a decision within seven (7) days of contacting Defendant regarding
5 the dispute.

6 6. The Claims Administrator shall be the final arbiter of the number of
7 Qualifying Weeks Worked by the Class Member in the Class Position during the Class
8 Period.

9 7. Any changes to a Class Member's Qualifying Weeks Worked will be
10 reflected in the total Weeks Worked for the entire Class on the updated Class List. For
11 example, if Class Member A disputes his Qualifying Weeks Worked and provides
12 satisfactory evidence that his Qualifying Weeks Worked should be increased by two (2)
13 Weeks, and the Claims Administrator, in consultation with Defendant and the records
14 provided, agrees, the total Qualifying Weeks Worked for the entire Class will also be
15 increased by two (2) Weeks for purposes of calculating Individual Settlement Payments.

16 **E. Requests for Exclusion ("Opt-Out").**

17 The Notice of Class Action will notify all Class Members of their right to opt-out
18 of the Settlement.

19 1. Any Class Member who wishes to be excluded from (opt out of) the
20 Settlement must submit a signed written Request for Exclusion, which must be mailed
21 to the Claims Administrator on or before the Exclusion Deadline Date. To be valid, the
22 Request for Exclusion must be both timely and complete. To be complete, the Request
23 for Exclusion must: (a) include a written statement requesting exclusion from the
24 Settlement as further detailed in the Class Notice; (b) reference the name, current
25 address and telephone number of the person requesting exclusion; (c) be signed by the
26 person requesting exclusion or by his or her authorized representative; and (d) include
27 the last four (4) digits of his or her social security number. To be timely, the Request for
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1 Exclusion must: (a) be mailed to the Claims Administrator; and (b) postmarked no later
2 than the Exclusion Deadline. The date of the postmark on the return mailing envelope
3 shall be the exclusive means used to determine whether a Request for Exclusion has
4 been timely submitted. The Exclusion Deadline Date shall be forty-five (45) days after
5 the date the Notice Packet is first mailed (or 60 days if re-mailed) by the Claims
6 Administrator to the Class Member.

7 2. Any Class Member who mails a valid Request for Exclusion will, upon
8 receipt thereof by the Claims Administrator, no longer be a Participating Class Member,
9 and will receive no benefit from this Settlement, and none of his or her claims, causes of
10 action or rights will be released by virtue of this Settlement Agreement; unless the Class
11 Member is also a PAGA Employee in which case the Class Member will still receive any
12 Individual PAGA Payment and will be bound to have released the PAGA Released
13 Claims. Any Individual Settlement Payment that would have been paid to a Class
14 Member but for that Class Member opting out of the Settlement will be included in the
15 Net Settlement Fund and distributed to the Participating Class Members.

16 3. Failure to submit a valid Request for Exclusion will result in a Class
17 Member being conclusively deemed a Participating Class Member fully bound by the
18 terms of the Settlement.

19 4. If a Class Member submits a valid Request for Exclusion and thereafter
20 wishes to participate in the Settlement, the Class Member may rescind his or her
21 Request for Exclusion if and only if the Class Member submits a valid Rescission of Opt-
22 Out Request. To be valid, the Rescission of Opt-Out Request must be both timely and
23 complete. To be complete, the Rescission of Opt-Out Request must include all of the
24 following: the Class Member's (a) full name, (b) current address, (c) current telephone
25 number, (d) Social Security Number's last four digits, and (e) statement that he or she
26 wishes to rescind his or her Request for Exclusion from the Settlement. To be timely,
27 the Rescission of Opt-Out Request must be mailed to the Claims Administrator by First-
28

1 Class U.S. Mail within forty-five (45) days after the date the Notice Packet is first mailed
2 (or 60 days if re-mailed) by the Claims Administrator to the Class Member, as
3 conclusively evidenced by the date of the postmark.

4 5. If the Claims Administrator receives a Class Member's valid Request for
5 Exclusion, the Class Member's failure to submit a valid Rescission of Opt-Out Request
6 will result in the Class Member being conclusively deemed no longer a Participating
7 Class Member, and such Class Member will receive no benefit from this Settlement, and
8 none of his or her claims, causes of action or rights will be released by virtue of this
9 Settlement Agreement; unless the Class Member is also a PAGA Employee in which case
10 the Class Member will still receive any Individual PAGA Payment and will be bound to
11 have released the PAGA Released Claims.

12 6. If a Class Member submits a timely dispute concerning his or her
13 Qualifying Work Weeks as reflected on his or her Notice of Estimated Individual
14 Settlement Payment, Exhibit "B", and submits a timely Request for Exclusion, the
15 Request for Exclusion will be invalid and such Class Member will be considered a
16 Participating Class Member unless the Request for Exclusion is postmarked after the
17 date the Class Member is notified of the determination of the disputed Qualifying Weeks
18 Worked by the Claims Administrator.

19 **F. Objections to This Settlement.**

20 The Notice of Class Action will provide that any Class Member who wishes to
21 object to the Settlement may appear at the Final Approval Hearing. The Court will hear
22 from any Class Member who attends the Final Approval Hearing and requests to speak
23 regarding their objection. Class Members may, but are not required to, deliver a written
24 objection by mailing a copy of the objection to the Claims Administrator by First-Class
25 U.S. Mail no later than the Exclusion Deadline or, if re-mailed, no later than fifteen (15)
26 days after the original Exclusion Deadline. The date of delivery of the written objection
27 is deemed to be the date the objection is deposited in the U.S. mail, postage prepaid, as
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1 evidenced by the postmark. Upon receipt of a Class Member's written objection, valid or
2 otherwise, the Claims Administrator shall promptly mail a copy of the Class Member's
3 written objection to Class Counsel and to Defense Counsel. Written objections must be
4 mailed to the administrator and need not be filed with the Court. The objection should
5 include a written statement objecting to the Settlement. Do not file the objection with
6 the Court. The Court will consider all objections, whether written or verbal. Even if no
7 written objection is mailed, all Class Members may appear and be heard at the Final
8 Approval Hearing, either in person or through a lawyer retained at their own expense.

9 **G. Verification of Dissemination of Notice of Class Action.**

10 The Claims Administrator will verify, in writing, that the Notice Packets have
11 been disseminated in accordance with the Court's Order Granting Preliminary Approval,
12 and will provide such verification to Class Counsel and Defense Counsel no later than
13 twenty (20) days prior to the date of the Final Fairness and Approval Hearing.

14 **H. Reporting.**

15 The Claims Administrator will provide written notice to Class Counsel and
16 Defense Counsel of all Requests for Exclusion and Objections to Settlement it receives,
17 within five (5) days of receiving such items. Upon receipt of a Class Member's written
18 objection, valid or otherwise, the Claims Administrator shall promptly email and U.S.
19 mail a copy of the Class Member's written objection (including the envelope evidencing
20 the postmark) to both Class Counsel and to Defense Counsel no later than the five (5)
21 days of receiving such items. Class Counsel must file each Objection to Settlement,
22 timely or not, that it receives from the Claims Administrator at the time of the filing of
23 the Motion for Final Approval. Ten (10) days prior to the deadline Class Counsel must
24 file its Motion for Final Approval, the Claims Administrator will provide Class Counsel
25 and Defense Counsel a Declaration of Compliance reporting on its compliance with the
26 settlement administration procedures and an itemization of costs incurred and
27 itemization of expected future costs.
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I. No Encouraging Class Members Not to Participate.

No Party, including counsel for the Parties, will directly or indirectly, through any person or entity, encourage any Class Member to object or request exclusion from this Settlement.

J. Final Fairness and Approval Hearing.

On the date set forth in the Notice of Class Action, which will be approximately one hundred twenty (120) days after the Court grants Preliminary Approval of the Settlement, a Final Fairness and Approval Hearing will be held before the Court in order to: (1) review this Settlement Agreement and determine whether the Court should give it final approval; and (2) consider any timely objections to the Settlement and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the Parties will ask the Court to approve the Settlement Agreement and to enter judgment.

At the Final Fairness and Approval Hearing, the Court shall also set a date for a Residuals Hearing pursuant to California Code of Civil Procedure section 384(b), for Class Counsel to report to the Court the total amounts that were actually paid to Participating Class Members and PAGA Employees, and for the Court to direct Defendant, through the Class administrator, to pay the Unclaimed Portion to the the State's Unclaimed Property Fund in the name(s) of the Class Member(s) who did not cash his/her/their check(s). The Residuals Hearing shall be held thirty (30) calendar days after the 180-day deadline for Class Members and PAGA Employees to cash or deposit their Individual Settlement Payment checks, or as soon thereafter as the Court's schedule permits. In order to aid the Court at the Residuals Hearing, Class Counsel shall provide information regarding the unpaid residuals (if any) to the Court ten (10) calendar days prior to the Residuals Hearing, together with a proposed order directing Defendant, through the Class Administrator, to distribute the Unclaimed Portion to the

1 State's Unclaimed Property Fund in the name(s) of the Class Member(s) who did not
2 cash his/her/their check(s).

3 Notice of Final Judgment will be posted on the Administrator website at <<URL
4 for custom website>>.

5 **K. Listing of Individual Settlement Amounts.**

6 Within ten (10) days after the Effective Settlement Date, the Claims
7 Administrator will provide to Defense Counsel and to Class Counsel a Proceeds List
8 showing the Individual Settlement Payment for each Participating Class Member and
9 PAGA Employee who will receive settlement proceeds ("Proceeds List").

10 **L. Dates and Methods of Payment of the Gross Settlement Amount.**

11 1. ARMS is to transfer via wire the sum of two hundred seventy thousand
12 dollars (\$270,000.00) in two equal payments as discussed in Paragraph II(A)(1), the
13 first payment of which shall be \$135,000 to be paid within 30 days of the Effective
14 Settlement Date as defined in Paragraph I(N), and the second payment of which shall be
15 \$135,000 and paid within 60 days of the first payment. Within one business day of
16 receiving payment, the Claims Administrator shall provide written confirmation to Class
17 Counsel of the exact amount Defendant issued to the Claims Administrator. Upon
18 authorization from Class Counsel, the Claims Administrator shall then mail the
19 settlement checks to Class Members and PAGA Employees via Certified Mail Signature
20 Required.

21
22 The settlement checks will indicate on their face that they are void if not
23 negotiated within one hundred eighty (180) days of their issuance. In the event a
24 settlement check is returned to the Claims Administrator without a forwarding address
25 or is otherwise undeliverable, the Claims Administrator shall conduct an in-depth
26 search under which it shall promptly attempt to determine the correct address using a
27 skip-trace or other search using the name, address, and/or social security number of
28 the Class Member or PAGA Employee involved, and shall then re-mail the returned

1 check. If the “in-depth” search does not provide a better address, or the settlement
2 check is ultimately returned without a forwarding address, neither Defendant, Class
3 Counsel or the Claims Administrator shall be required to take further action to achieve
4 delivery of the check to the Class Member or PAGA Employee. If within that one-
5 hundred-eighty-day-period (180) the Participating Class Member or PAGA Employee
6 contacts the Claims Administrator, or if Class Counsel does so on his or her behalf, the
7 settlement check will be reissued and mailed to the address the Participating Class
8 Member/PAGA Employee or Class Counsel provides. Any such reissued settlement
9 checks will indicate on their face that they are void if not negotiated within one hundred
10 eighty (180) days of their issuance.

11 2. If any Participating Class Members or PAGA Employees do not cash the
12 settlement checks within one hundred eighty (180) days after issuance, after which the
13 Claims Administrator will void any such uncashed checks and all amounts from such
14 unclaimed checks will be transferred to the State’s Unclaimed Property Fund as set forth
15 herein. Participating Class Members and PAGA Employees who do not timely negotiate
16 their Individual Settlement Payment checks shall be bound by all of the terms of the
17 Settlement, including without limitation, the Released Claims and PAGA Released
18 Claims set forth in the Settlement.

19 4. Any checks issued to Participating Class Members or PAGA Employees will
20 remain valid and negotiable for one hundred eighty (180) days from the date of their
21 issuance, after which the Claims Administrator will void any such uncashed or
22 unclaimed checks. At that time the Claims Administrator will void any such uncashed or
23 unclaimed checks and all amounts from such unclaimed checks will be retained in the
24 Net Settlement Fund (for Participating Class Members) or Gross Settlement Fund (for
25 PAGA Employees). The Claims Administrator will take reasonable additional steps to
26 locate such persons for a period of up to ten (10) days after the expiration date of such
27 checks, after which the Claims Administrator will submit a declaration to Class Counsel
28

1 and Defendant's counsel reporting the total Unclaimed Portion from the Individual
2 Settlement Payments and Individual PAGA Payments to PAGA Employees (if any). The
3 Claims Administrator will disburse all remaining balance of the Net Settlement Fund to
4 the State's Unclaimed Property Fund in the name(s) of the Class Member(s) who did not
5 cash his/her/their check(s). In such event, the Participating Class Members and PAGA
6 Employees will nevertheless remain bound by this Settlement Agreement, including the
7 release of the Released Claims. Defendant's monetary obligations under this Settlement
8 Agreement are limited to the Gross Settlement Amount.

9 **M. Deadlines.**

10 If any deadline specified in this Agreement falls on a Saturday, Sunday, or State
11 Court holiday, the deadline will be automatically extended to the next regular business
12 day. Unless specified otherwise, all references to "days" shall mean calendar days.

13 **V. ENFORCEMENT, JUDGMENT, AND CONTINUING JURISDICTION**
14 **OF THE COURT.**

15 Pursuant to California Rules of Court, Rules 3.769, 3.770 and 3.771, this
16 Settlement Agreement will be approved by the Court and will be enforceable by the
17 Court pursuant to Code of Civil Procedure section 664.6. Even after the Order of Final
18 Judgment and notwithstanding it, this Court will have and retain continuing jurisdiction
19 over the Class Action and over all Parties and Class Members and PAGA Employees, to
20 the fullest extent necessary or convenient to enforce and effectuate the terms and intent
21 of this Settlement Agreement and all matters provided for in it, and to interpret it,
22 including for a final order on the distribution of residuals following the Final Fairness
23 and Approval Hearing.

24 **VI. MUTUAL FULL COOPERATION.**

25 The Parties will fully cooperate with each other to accomplish the terms of this
26 Settlement Agreement, including, but not limited to, execution of such documents and
27 taking such other action as may be reasonably necessary or convenient to implement it.
28

1 **VII. NO ADMISSIONS.**

2 Nothing in this Settlement Agreement will constitute or be considered an
3 admission by or on behalf of either of the Defendant, or any Released Party, of any
4 wrongdoing or liability or of the accuracy of any allegation made in connection with this
5 Class Action or in any other matter.

6 **VIII. ADJUSTMENT, WITHDRAWAL, NULLIFICATION, INVALIDATION.**

7 **A. Effective Date of Defendant's Obligations Under This**
8 **Agreement.**

9 Defendant's obligations under this Settlement Agreement will become final and
10 effective only upon occurrence of all of the following events:

- 11 1. Execution and filing by the Court of an Order Granting Preliminary
12 Approval;
- 13 2. The Court conducting a Final Fairness and Approval Hearing;
- 14 3. Execution and filing by the Court of the Order Granting Final Approval;
- 15 4. Upon payment in full of the \$270,000.00;
- 16 5. Entry of a Final Judgment;
- 17 6. Occurrence of the Effective Settlement Date; and

18 In the event that any of the conditions specified in this Settlement Agreement are
19 not satisfied, or in the event that this Settlement does not obtain approval of the Court
20 for any reason, all matters covered by this Agreement will be null and void. In such
21 event, neither this Agreement nor any negotiations leading to this Settlement will be
22 used or construed by or against any Party as a determination, admission, or concession
23 of any issue of law or fact in the litigation; and the Parties hereto do not waive, and
24 instead expressly reserve, their respective rights regarding the prosecution and defense
25 of the litigation, including all available defenses and affirmative defenses, and
26 challenging any claim that the Class Action could be certified as a class action, as if this
27 Settlement Agreement never existed. In the event that the Settlement Agreement does
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1 not meet with initial Court approval, the Parties agree in such instance to meet and
2 confer to address the Court's concerns, and use their best efforts to effect the
3 implementation of the Settlement Agreement including the use of a mediator to resolve
4 the dispute if desired.

5 **B. Adjustment.**

6 1. If, in the aggregate, the total number of persons who otherwise would be
7 Class Members who submit timely and valid requests to opt-out equal or exceed five
8 percent (5%) as outlined herein prior to the Final Fairness and Approval Hearing (three
9 or more Class Members), the Defendant will have the sole and absolute discretion, if it
10 so chooses, to avoid the entire class settlement or reduce the Gross Settlement Amount
11 on a pro-rata basis according to such persons' number of Qualifying Work Weeks in the
12 Class Position during the Class Period by giving notice of any such adjustment in writing
13 to Class Counsel at least thirty (30) days prior to the date set for the Final Fairness and
14 Approval Hearing. In such event, the Participating Class Members will nevertheless
15 remain bound by this Settlement Agreement, including the release of the Released
16 Claims.

17 **C. Withdrawal.**

18 1. If, in the aggregate, the total number of persons who otherwise would be
19 Class Members who submit timely and valid requests to opt-out exceed five percent (5%)
20 of total Class members across the Class Period as outlined herein prior to the Final
21 Fairness and Approval Hearing (three or more members), the Defendant will have the
22 sole and absolute discretion, if it so chooses, to: (1) to reduce the Gross Settlement
23 Amount on a pro-rata basis according to such persons' number of Qualifying Work
24 Weeks in the Class Position during the Class Period by providing written notice of such
25 reduction to Class Counsel at least thirty (30) days prior to the Final Fairness and
26 Approval Hearing; or (2) withdraw from and void this Settlement Agreement by giving
27 notice of such voidance of the Settlement in writing to Class Counsel at least thirty (30)
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1 days prior to the date set for the Final Fairness and Approval Hearing.

2 2. In the event that the Defendant elects to so withdraw from and void the
3 Settlement Agreement, pursuant to Section VII(C)(1), it will not be responsible for
4 paying any settlement amounts, including, but not limited to PAGA civil penalties,
5 Individual Settlement Payment, Enhancement, Payment for Class Representative's
6 General Release, Class Counsel Fees, and the Class Counsel Litigation Expenses but
7 shall be responsible for Claims Administrator's Costs.

8 **D. Nullification.**

9 If: (1) the Court should for any reason fail to enter the Order of Final Judgment;
10 or (2) the Court's Order of Final Judgment is reversed or modified as to any material
11 term as defined above, or declared or rendered void as to any material term as defined
12 above, then: (a) this Settlement Agreement will be considered null and void; and (b)
13 neither this Settlement Agreement nor any of the related negotiations or proceedings
14 will have any force or effect. If, for whatever reason and however it may occur, this
15 Agreement is canceled, rescinded, terminated, voided, or nullified or the Settlement of
16 the Class Action is barred by operation of law, invalidated, or ordered not to be carried
17 out by a court of competent jurisdiction, Defendant shall cease to have any obligation to
18 pay any portion of the Gross Settlement Amount to anyone under the terms of this
19 Agreement, and all previous disbursements from the Gross Settlement Amount will
20 immediately be paid back to Defendant by the person or entity who received such
21 disbursement. However, if: (a) the Court should, for any reason, fail to approve this
22 Settlement in the form agreed to by Named Plaintiff, Defendant, Class Counsel, and
23 Defense Counsel; (b) the Court should, for any reason, fail to enter the Final Order; or
24 (c) the Final Order is reversed, then the Claims Administrator Costs, if any, that have
25 been incurred as a result of the settlement efforts, shall be borne equally by Defendant
26 and Class Counsel.

27 **E. Invalidation.**

1 Invalidation of any material term of this Settlement Agreement will invalidate
2 this Agreement in its entirety unless the Parties subsequently agree in writing that the
3 remaining provisions will remain in full force and effect.

4 **F. Appeal from Order of Final Judgment.**

5 In the event of a timely appeal from the Order of Final Judgment, the Order of
6 Final Judgment will be stayed and the Individual Settlement Payments and any other
7 payments required hereunder by Defendant will not be paid pending the completion and
8 final resolution of the appeal, and any payment thereafter will: (1) occur only if the
9 Order of Final Judgment is upheld after all appeals; and (2) be in a manner that is
10 provided for in this Settlement Agreement and in the Order of Final Judgment.

11 **IX. PUBLIC STATEMENTS.**

12 Neither Plaintiff nor Class Counsel will issue any press or media release or initiate
13 any contact with the press or other media regarding the Class Action settlement, nor
14 shall to they respond to any inquiry from said entities regarding the settlement, or have
15 any communications with the press about the facts, amount, or terms of the settlement.

16 **X. GENERAL PROVISIONS.**

17 **A. Entire Agreement.**

18 This Settlement Agreement constitutes the entire integrated agreement between
19 the Parties relating to the Class Action, and no oral representations, warranties or
20 inducements have been made to any party concerning this Settlement Agreement other
21 than the representations, warranties and covenants contained and memorialized in this
22 Settlement Agreement. In any action seeking to enforce any provisions of this
23 Settlement Agreement, the prevailing party shall recover reasonable attorneys' fees and
24 costs.

25 **B. Authorization to Act.**

26 Class Counsel warrants and represents that they are authorized by the Class
27 Representative, and Defense Counsel warrants that they are authorized by Defendant, to
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1 take all appropriate action required or permitted to be taken by such Parties pursuant to
2 this Settlement Agreement to effectuate its terms, and to execute any other documents
3 required to effectuate the terms of this Settlement Agreement, including this Settlement
4 Agreement.

5 **C. Modification Only in Writing.**

6 This Settlement Agreement may be amended or modified only by a written
7 instrument signed by Counsel for all Parties or by all Parties or their successors in
8 interest.

9 **D. Binding on Successors.**

10 This Settlement Agreement is binding upon and will inure to the benefit of the
11 Parties to this Agreement, as well as their respective attorneys, past, present, and future
12 predecessors, successors, shareholders, officers, directors, employees, agents, trustees,
13 representatives, administrators, fiduciaries, assigns, insurers, executors, partners,
14 parent corporations, subsidiaries, and related or affiliated entities.

15 **E. No Prior Assignments.**

16 The Participating Class Members and PAGA Employees will be deemed by
17 operation of the Order Granting Final Approval to represent, covenant, and warrant that
18 they have not directly or indirectly assigned, transferred, encumbered, or purported to
19 assign, transfer, or encumber to any person or entity any portion of any liability, claim,
20 demand, cause of action or rights herein released and discharged.

21 **F. Governing Law.**

22 All terms of this Settlement Agreement will be governed by and interpreted
23 according to the laws of the State of California, without giving effect to conflicts of laws
24 principles.

25 **G. Counterparts.**

26 This Settlement Agreement may be executed in one or more counterparts. All
27 executed counterparts and each of them will be deemed to be one and the same
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1 instrument. Counsel for the Parties will exchange among themselves signed
2 counterparts.

3 **H. Headings for Convenience Only.**

4 The descriptive headings of any paragraphs or sections of this Settlement
5 Agreement are inserted for convenience of reference only and do not constitute a part of
6 this Agreement.

7 **I. Construction of this Agreement.**

8 The Parties hereto agree that the terms and conditions of this Settlement
9 Agreement are the result of arms-length negotiations between the Parties and that this
10 Settlement Agreement will not be construed in favor of or against any Party by reason of
11 the extent to which any Party, or their counsel, participated in the drafting of this
12 Agreement. This Settlement Agreement constitutes the entire agreement between the
13 Parties hereto. Except as expressly provided herein, this Settlement Agreement has not
14 been executed in reliance upon any other oral or written representations or terms and
15 no such extrinsic oral or written representations or terms will modify, vary or contradict
16 the terms of this Settlement Agreement. In entering this Settlement Agreement, the
17 Parties hereto explicitly recognize California Civil Code section 1625 and California Code
18 of Civil Procedure section 1856(a), which provide that a written agreement is to be
19 construed according to its terms and may not be varied or contradicted by extrinsic
20 evidence. The Named Plaintiff and Defendant participated in the negotiation and
21 drafting of this Settlement Agreement and had available to them the advice and
22 assistance of independent legal counsel. As such, no Participating Class Member or
23 PAGA Employee or Defendant may claim that any ambiguity in this Settlement
24 Agreement should be construed against the other.

25 **J. Corporate Signatories.**

26 Any person executing this Settlement Agreement or any related document on
27 behalf of a corporate signatory hereby warrants and promises for the benefit of all
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1 Parties hereto that such person has been duly authorized by such corporation to execute
2 this Settlement Agreement or any related document.

3 **K. Representation by Counsel.**

4 All of the Parties hereto acknowledge that they have been represented by counsel
5 throughout all negotiations which preceded the execution of this Settlement Agreement
6 and that this Agreement has been executed with the consent and advice of counsel.

7 **L. Attorneys' Fees and Costs.**

8 Except as otherwise provided herein, the Parties hereto will bear responsibility
9 for their own attorneys' fees and costs, taxable or otherwise, incurred by them or arising
10 out of this Class Action and will not seek reimbursement thereof from any Party to this
11 Settlement Agreement.

12
13 IT IS SO AGREED:

14
15 **EXECUTION BY PARTIES AND COUNSEL**

16
17 The Parties and their counsel hereby execute this Agreement.

18
19
20 Dated: June 22, 2021

21
22 By:



Pedro Gonzalez, Plaintiff

23
24 Dated: _____, 2021

ARMS TRANS INC. dba Arms Logistics

25
26
27 By:

Name and Position:

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1 Parties hereto that such person has been duly authorized by such corporation to execute
2 this Settlement Agreement or any related document.

3 **K. Representation by Counsel.**

4 All of the Parties hereto acknowledge that they have been represented by counsel
5 throughout all negotiations which preceded the execution of this Settlement Agreement
6 and that this Agreement has been executed with the consent and advice of counsel.

7 **L. Attorneys' Fees and Costs.**

8 Except as otherwise provided herein, the Parties hereto will bear responsibility
9 for their own attorneys' fees and costs, taxable or otherwise, incurred by them or arising
10 out of this Class Action and will not seek reimbursement thereof from any Party to this
11 Settlement Agreement.
12

13 IT IS SO AGREED:
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15 **EXECUTION BY PARTIES AND COUNSEL**
16

17 The Parties and their counsel hereby execute this Agreement.
18

19
20 Dated: _____, 2021
21

22 By:

Pedro Gonzalez, Plaintiff

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24 Dated: June 22, 2021 ARMS TRANS INC. dba Arms Logistics

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26 By:

Name and Position: Lindy Park
Operations officer
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Dated: June 23, 2021

GOMEZ LAW GROUP

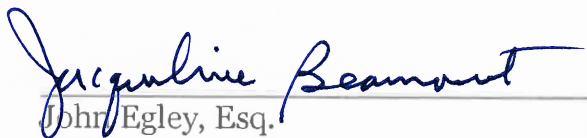


By:

Alvin M. Gomez, Esq.
Attorneys for Plaintiff Pedro Gonzalez

Dated: June 29, 2021, 2021

CALL & JENSEN



By:

John Egley, Esq.
Attorney for Defendant ARMS TRANS INC.
dba Arms Logistics