

## JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Joint Stipulation and Settlement Agreement is between Plaintiffs Aharon Spry and Christopher Carrillo (“Plaintiffs,” “Plaintiff Spry,” and “Plaintiff Carrillo”) on behalf of themselves, others similarly situated, and other aggrieved employees and Defendants Prime Lube, Inc. and Blue Sky Golden State, LLC (“Defendants,” “Defendant Prime Lube,” and “Defendant Blue Sky”). Plaintiffs and Defendants are collectively referred to herein as the “Parties.”

### I. DEFINITIONS

In addition to the other terms defined in this Joint Stipulation and Settlement Agreement, the terms below have the following meaning:

- A. **Administration Costs**: All administrative costs incurred by the Settlement Administrator to administer this Settlement including the cost of notice to the Class Members, settlement administration, and any fees and costs incurred or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement, which is currently estimated at \$5,000.00 and shall not exceed \$7,500.00. All Administration Costs shall be paid from the Qualified Settlement Fund.
- B. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
- C. **Attorney Fee Award**: The amount, not to exceed thirty-five percent (35%) of the Gross Settlement Amount or \$73,500.00, finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Qualified Settlement Fund and will not be opposed by Defendants.
- D. **Case or Class Action**: The lawsuit originally filed by Aharon Spry on September 9, 2020, entitled *Spry v. Prime Lube, Inc., et al.*, Case No. CIVDS2018738, in the Superior Court of California, County of San Bernardino as well as the First Amended Complaint filed by Plaintiffs on \_\_\_\_\_ entitled *Spry, et al., v. Prime Lube, Inc., et al.* (which added Plaintiff Carrillo as a named class representative), in the Superior Court of California, County of San Bernardino. Plaintiff Carrillo agrees to dismiss, without prejudice, his current action, entitled *Christopher Carrillo v. Prime Lube, Inc. and Blue Sky Golden State, LLC.*, case number CVRI2100655, currently pending in the Superior Court of California, County of Riverside, following the filing of the aforementioned First Amended Complaint in the *Spry* action.
- E. **Class**: All current and former hourly non-exempt employees who worked at least one pay period for Defendants in California at any time during the period

from September 9, 2016, to February 10, 2022, or through preliminary approval, whichever occurs first.

- F. **Class Counsel**: Douglas Han, Shunt Tatavos-Gharajeh, and Phillip Song of Justice Law Corporation for Plaintiff Spry, and Michael Nourmand and James A. De Sario for Plaintiff Carrillo.
- G. **Class Member**: Each person eligible to participate in this Settlement who is a member of the Class as defined above.
- H. **Class Notice or Notice**: The “Notice of Class Action Settlement” or “Notice” shall mean the notice to be provided to all Class Members regarding the terms of this Settlement, substantially like the form attached hereto as **Exhibit A**, subject to Court approval. The Notice shall constitute class notice pursuant to California Rules of Court, rule 3.769 (f) and, once approved by the Court, shall be deemed compliant with California Rules of Court, rule 3.766.
- I. **Class Period**: The time period from September 9, 2016, to February 10, 2022, or through preliminary approval, whichever occurs first.
- J. **Class Representatives or Plaintiffs**: Aharon Spry and Christopher Carrillo.
- K. **Class Representative Enhancement Payments**: The amounts the Court awards to Plaintiffs for their services as Class Representatives, which will not exceed \$7,500.00 to each Plaintiff. These payments shall be paid from the Qualified Settlement Fund and will not be opposed by Defendants. The Class Representative Enhancement Payments are subject to the approval of the Court. If the Court awards less than the amounts requested, any amounts not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- L. **Complaints**: The complaint originally filed by Aharon Spry in the case entitled *Spry v. Prime Lube, Inc., et al.*, Case No. CIVDS2018738, in the Superior Court of California, County of San Bernardino, on September 9, 2020, and the First Amended Complaint filed by Plaintiffs in the case entitled *Spry, et al. v. Prime Lube, Inc., et al.* in the Superior Court of California, County of San Bernardino, on January , 2022.
- M. **Cost Award**: The amount that the Court orders Defendants to pay Class Counsel for payment of actual litigation costs, which shall not exceed \$20,000.00. The Cost Award will be paid from the Qualified Settlement Fund and will not be opposed by Defendants. The Cost Award is subject to Court approval. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

- N. **Counsel for Defendants:** Attorneys Katherine C. Den Bleyker and Michael P. Witczak of Lewis Brisbois Bisgaard & Smith, LLP.
- O. **Court:** The Superior Court of California, County of San Bernardino.
- P. **Defendants:** Prime Lube, Inc. and Blue Sky Golden State, LLC.
- Q. **Effective Final Settlement Date:** The effective date of this Settlement, or the Effective Final Settlement Date, shall be the date upon which the period to appeal Final Approval of the Settlement by the Court expires.
- R. **Eligible Aggrieved Employees:** The aggrieved employees eligible to recover the PAGA Payment that consist of all current and former non-exempt employees who worked at least one pay period for Defendants in California at any time during the period from July 31, 2019, to February 10, 2022, or through the date the Court enters the order granting approval of the PAGA settlement, whichever occurs first (“PAGA Timeframe”).
- S. **Exclusion Form:** The Election Not to Participate In (“Opt Out” From) Class Action Settlement, substantially like the form attached hereto as **Exhibit B**, subject to Court approval.
- T. **Final Approval, Final Approval Order, Judgment or Final Judgment:** “Final Approval” or “Final Approval Order” means the final order entered by the Court following the Final Fairness and Approval Hearing. “Judgment” or “Final Judgment” means the final judgment entered by the Court following the Final Fairness and Approval Hearing.
- U. **Gross Settlement Amount:** The total value of the Settlement is a non-reversionary Two Hundred Ten Thousand Dollars (\$210,000.00). This is the gross amount Defendants can be required to pay under this Settlement Agreement, which includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorney Fee Award and Cost Award to Class Counsel for attorneys’ fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payments paid to the Class Representatives, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Eligible Aggrieved Employees, as approved by the Court. Defendants’ portion of payroll taxes as the Class Members’ current or former employer is not included in the Gross Settlement Amount and will be a separate obligation of Defendants. No portion of the Gross Settlement Amount will revert to Defendants for any reason.
- V. **Individual Settlement Share(s):** The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement

Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Settlement Share automatically, without the return of a claim form.

- W. **LWDA**: California Labor and Workforce Development Agency.
- X. **Net Settlement Amount**: The total amount of money available for payout to Participating Class Members, which is the Gross Settlement Amount less the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payments, Administration Costs, and the PAGA Payment. In other words, the Net Settlement Amount is the portion of the Gross Settlement Amount that will be distributed to Class Members who do not request exclusion from the Settlement.
- Y. **Notice Packet**: The Class Notice and Exclusion Form.
- Z. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (California Labor Code section 2698, *et seq.*).
- AA. **PAGA Payment**: The PAGA Payment consists of Ten Thousand Dollars (\$10,000.00) of the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the Class Action. Seventy-five percent (75%) of the PAGA Payment (\$7,500.00) shall be paid to the LWDA, and twenty-five percent (25%) of the PAGA Payment (\$2,500.00) shall be distributed to Eligible Aggrieved Employees, on a pro rata basis, as set forth below.
- BB. **Participating Class Members**: All Class Members who do not submit valid and timely requests to exclude themselves from this Settlement.
- CC. **Parties**: Plaintiffs Aharon Spry and Christopher Carrillo as individuals and as Class Representatives, and Defendants Prime Lube, Inc. and Blue Sky Golden State, LLC.
- DD. **Preliminary Approval or Preliminary Approval Order**: The order entered by the Court following the Preliminary Approval Hearing approving the proposed Settlement.
- EE. **Qualified Settlement Fund**: A fund within the meaning of Treasury Regulation section 1.46B-1, 26 C.F.R. § 1.468B-1 *et seq.*, which is established by the Settlement Administrator for the benefit of Participating Class Members, Plaintiffs and Class Counsel.
- FF. **Released Claims**: Upon Court approval of the Settlement and Defendants' fulfillment of their payment obligations pursuant to Section III (J)(8)(a) below, the claims that Plaintiffs and the other Participating Class Members are releasing in exchange for the consideration provided for by this Agreement are

all claims, rights, demands, damages, liabilities and causes of action, in law or in equity, arising at any time during the Class Period, including but not limited to the causes of action alleged in the Complaints, Plaintiffs' letters to the LWDA, or that could have arisen out of or been alleged based on the facts pleaded. The released claims include, but are not limited to, claims pursuant to Labor Code sections 200, 218.6, 510, 1198, 226.7, 512, 1194, 1194.2, 1197, 1199, 1021.5, 201, 202, 203, 204, 226, 2800, 2802, 2698 et seq., and California Business and Professions Code section 17200 et seq.

**GG. Released Parties:** Defendants and their former, present and future owners, each of their respective parent companies, and subsidiaries, and all of their current, former and future spouse(s), children, officers, directors, members, managers, management companies, agents (including without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, or legal representatives.

**HH. Response Deadline:** Forty-five (45) calendar days from the initial mailing of the Notice Packet.

**II. Settlement Administration:** The Settlement Administrator will conduct a skip trace for the addresses of all former employee Class Members. The Settlement Administrator will mail the Notice Packet by first-class U.S. mail to all current employee Class Members at the addresses Defendants have on file for those Class Members and to all former employee Class Members at the addresses obtained via skip trace. The Notice Packet will inform Class Members that they have until the Response Deadline to either object to the Settlement or to opt out (exclude themselves) of the Settlement. Any Class Member who does not receive a Notice Packet after the Settlement Administrator has taken the steps outlined above will still be bound by the Settlement and/or Judgment.

**JJ. Settlement Administrator:** The third-party administrator agreed upon by Parties to administer this Settlement is Phoenix Class Action Administration Solutions ("Phoenix").

**KK. Superior Court:** The Superior Court of California, County of San Bernardino.

## **II. RECITALS**

**A. Procedural History.** On July 31, 2020, Plaintiff Spry provided written notice to the LWDA and Defendants of the specific provisions of the Labor Code he contends were violated and the theories supporting his contentions. On September 9, 2020, Plaintiff Spry filed his wage-and-hour class action complaint against Defendants, entitled *Spry v. Prime Lube, Inc., et al.*, Case Number CIVDS2018738, in the San Bernardino County Superior Court,

alleging the following causes of action: (1) violation of Labor Code sections 510 and 1198 (unpaid overtime); (2) violation of Labor Code sections 226.7 and 512(a) (unpaid meal period premiums); (3) violation of Labor Code section 226.7 (unpaid rest period premiums); (4) violation of Labor Code sections 1194 and 1197 (unpaid minimum wages); (5) violation of Labor Code sections 201 and 202 (final wages not timely paid); (6) violation of Labor Code section 226(a) (noncompliant wage statements); (7) violation of Labor Code sections 2800 and 2802 (unreimbursed business expenses); and (8) violation of Business & Professions Code sections 17200, *et seq.* On February 9, 2021, Plaintiff Carrillo provided written notice to the LWDA and Defendants of the specific provisions of the Labor Code he contends were violated and the theories supporting his contentions. On February 9, 2021, Plaintiff Carrillo filed a wage-and-hour class action complaint against Defendants, entitled *Carrillo v. Prime Lube, Inc., et al.*, Case Number CVR12100655, in the Riverside County Superior Court, alleging the following claims: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to pay all wages upon termination; (6) failure to provide accurate wage statements; (7) failure to reimburse employees for business related expenses; and (8) engagement in unfair competition. On September 9, 2021, Plaintiff Carrillo filed a First Amended Class Action Complaint against Defendants in the Riverside County Superior Court, adding a cause of action for violation of Labor Code section 2698, *et seq.* (PAGA).

- B. Investigation and Discovery.** Prior to mediation, the Parties conducted significant investigation and discovery of the relevant facts and law. Specifically, Defendants produced documents relating to their policies, practices, and procedures regarding meal and rest periods, overtime, and other payroll and operational policies. As part of Defendants' production, Plaintiffs also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiffs to understand the number of workweeks in the Class Period. Plaintiffs also interviewed Class Members who worked for Defendants throughout the Class Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis.
- C. Mediation.** Plaintiffs and Class Counsel have engaged in good faith, arm's-length negotiations with Defendants concerning possible settlement of the claims asserted in the Class Action. On November 12, 2021, the Parties participated in a mediation with mediator Jeffrey Krivis, Esq., and, under the auspices of the mediator, the Parties reached a settlement of the Class Action. As part of the settlement following mediation, Plaintiff Carrillo dismissed his complaint, without prejudice, filed in the Riverside County Superior Court, Case Number CVR12100655, and Plaintiff Spry filed a First Amended

Complaint on January 1, 2022, in the San Bernardino County Superior Court, adding Plaintiff Carrillo as an additional plaintiff and class representative, updating the class definition, and adding a cause of action for violation of Labor Code section 2698, *et seq.* (PAGA).

- D. Benefits of Settlement to Class Members.** Plaintiffs and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendants through trial and through any possible appeals. Plaintiffs and Class Counsel also have considered the uncertainty and risks of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiffs and Class Counsel conducted extensive settlement negotiations, including formal mediation on November 12, 2021. Based on the foregoing, Plaintiffs and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.
- E. Defendants' Reasons for Settlement.** Defendants recognize that the defense of this litigation will be protracted and expensive. Substantial amounts of Defendants' time, energy, and resources have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiffs. Defendants, therefore, have agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.
- F. Defendants' Denial of Wrongdoing.** Defendants generally and specifically deny any and all liability or wrongdoing of any sort with regard to any of the claims alleged, make no concessions or admissions of liability of any sort, and contend that for any purpose other than settlement, the Class Action is not appropriate for class or PAGA treatment. Defendants also assert several defenses to the claims and have denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Class Action. Neither this Agreement nor any document referred to or contemplated herein, nor any statements, discussions, or communications, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendants or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiffs can serve as adequate Class Representatives. There has been no final determination by any court as to the merits of the claims asserted by Plaintiffs against Defendants or as to whether a class or classes should be certified, other than for settlement purposes only.
- G. Plaintiffs' Claims.** Plaintiffs assert that Defendants' defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession, or indication by or against Plaintiffs, Class Members, or Class Counsel as to the merits of any claims or defenses

asserted, or lack thereof, in the Class Action. However, in the event that this Settlement is finally approved by the Court, none of Plaintiffs, Participating Class Members, or Class Counsel will oppose Defendants' efforts to use this Agreement to prove that Plaintiffs and Participating Class Members have resolved and are forever barred from re-litigating the Released Claims.

### **III. SETTLEMENT TERMS AND CONDITIONS**

- A. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount, excluding payroll taxes, that Defendants are obligated to pay under this Settlement Agreement is Two Hundred Ten Thousand Dollars (\$210,000.00).
  
- B. Notice to the Labor and Workforce Development Agency ("LWDA").** On July 31, 2020, Plaintiff Spry filed and served his Notice of Labor Code Violations Pursuant to Labor Code section 2699.3. On February 9, 2021, Plaintiff Carrillo filed and served his Notice of Labor Code Violations Pursuant to Labor Code section 2699.3. Thus, Plaintiffs have satisfied their notice obligations under PAGA.
  
- C. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that for this Settlement to occur, the Court must certify the Class as defined in this Agreement.
  
- D. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiffs and Class Members for purposes of this Settlement only. This Stipulation is contingent upon the Preliminary and Final Approval and certification of the Class for purposes of this Settlement only. If the Settlement does not become final, for whatever reason, the fact that the Parties were willing to stipulate provisionally to certification as part of the Settlement shall have no bearing on and shall not be admissible or used in any way in connection with, the question of whether the Court should certify any claims in a non-settlement context in this Class Action or in any other lawsuit. Defendants expressly reserve the right to oppose class certification and/or to proactively move to deny class certification should this Settlement be materially modified, reversed on appeal, or otherwise not become final.
  
- E. Appointment of Class Representatives.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiffs shall be appointed as the representatives for the Class.
  
- F. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Class.



**G. Individual Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Settlement Share from the Net Settlement Amount to each Participating Class Member.

**1. Calculation.**

**a. Individual Settlement Share Calculation.** Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to: (i) the number of weeks he or she worked as an hourly non-exempt employee for Defendants in California during the Class Period, based on the Class Data provided by Defendants, divided by (ii) the total number of weeks worked by any and all Participating Class Members collectively, during the Class Period based on the same Class Data, (iii) which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a week for purposes of this calculation. Therefore, the value of each Participating Class Member's Individual Settlement Share is tied directly to the number of weeks he or she worked during the Class Period.

**2. Tax Withholdings.** Each Participating Class Member's Individual Settlement Share will be apportioned as follows: thirty-three percent (20%) as payment for alleged unpaid wages and sixty-seven percent (80%) as alleged unpaid interest and unpaid civil penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. The employees' share of payroll tax withholdings shall be withheld from each person's Individual Settlement Share. Each Eligible Aggrieved Employee's portion of the PAGA Payment will be allocated as one hundred percent (100%) penalties and will be issued an IRS form 1099 if it exceeds \$600.00.

**H. Settlement Disbursement.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:

**1. To the Plaintiffs, Aharon Spry and Christopher Carrillo.** In addition to their respective Individual Settlement Shares, and subject to the Court's approval, Plaintiffs Aharon Spry and Christopher Carrillo will each receive up to Seven Thousand Five Hundred Dollars (\$7,500.00) as their Class Representative Enhancement Payment. The Settlement Administrator will pay the Class Representative Enhancement Payments out of the Qualified

Settlement Fund. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payments. IRS Forms 1099 will be issued to Plaintiffs with respect to their Class Representative Enhancement Payments. In the event the Court does not approve the entirety of the application for the Class Representative Enhancement Payments, the Settlement Administrator shall pay whatever amounts the Court awards, and neither Defendants nor the Settlement Administrator shall be responsible for paying the difference between the amounts requested and the amounts awarded. If the amounts awarded are less than the amounts requested by Plaintiffs, the differences shall become part of the Net Settlement Amount and be available for distribution to Participating Class Members.

- 2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendants agree not to oppose, a total Attorney Fee Award not to exceed thirty-five percent (35%) or \$73,500.00 of the Gross Settlement Amount and a Cost Award not to exceed \$20,000.00. The Settlement Administrator will pay the Court-approved amounts for the Attorney Fee Award and Cost Award out of the Gross Settlement Amount. The Settlement Administrator may purchase an annuity to utilize U.S. treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. In the event the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendants nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the Net Settlement Amount and be available for distribution to Participating Class Members. Except as provided herein, each side shall bear its own attorneys' fees and costs.
- 3. To the Responsible Tax Authorities.** The Settlement Administrator will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each person's Individual Settlement Share. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendants' portions of payroll withholding taxes. The Settlement Administrator will submit Defendants' portion of payroll withholding tax calculation to Defendants for additional funding and will forward that amount along with each Participating Class Member's Individual Settlement Share withholdings to the appropriate taxing authorities.
- 4. To the Settlement Administrator.** The Settlement Administrator – Phoenix – will pay to itself Administration Costs (reasonable fees and

expenses) approved by the Court in an amount currently estimated at \$5,000.00 and not to exceed \$7,500.00. This will be paid out of the Qualified Settlement Fund. If the actual amount of Administration Costs is less than the amount estimated, the difference shall become part of the Net Settlement Amount and be available for distribution to Participating Class Members. In the event the Court does not approve the entirety of the application for the Administration Costs, the Settlement Administrator shall pay to itself whatever amount the Court awards, and neither Defendants nor the Plaintiffs shall be responsible for paying the difference between the amount requested and the amount awarded.

**5. To Class Members.** The Settlement Administrator will pay Participating Class Members according to the Individual Settlement Share calculations set forth above. All payments to Participating Class Members shall be made from the Qualified Settlement Fund.

**6. To Eligible Aggrieved Employees.** The Settlement Administrator shall pay each Eligible Aggrieved Employee according to his or her proportional share, which will be based upon the total number of pay periods the Eligible Aggrieved Employee worked for Defendants in California during the PAGA Timeframe. Each individual share will be calculated by (i) determining the total number of pay periods during the PAGA Timeframe during which the Eligible Aggrieved Employee was employed, (ii) dividing this number by the total number of pay periods during the PAGA Timeframe during which all Eligible Aggrieved Employees were employed (i.e., the sum of all pay periods of employment for all Eligible Aggrieved Employees), and (iii) multiplying this number by the \$2,500.00 allocated to the Eligible Aggrieved Employees. Settlement checks issued to the Eligible Aggrieved Employees pursuant to this Agreement shall expire one hundred eighty (180) calendar days after the date they are initially mailed by the Settlement Administrator. After one hundred eighty (180) calendar days, any unclaimed funds shall be turned over by the Settlement Administrator to the California State Controller: Unpaid Wage Fund. Eligible Aggrieved Employees shall not have the right to opt out of the PAGA portion of the settlement.

**I. Appointment of Settlement Administrator.** Solely for the purposes of this Settlement, the Parties stipulate and agree that Phoenix Class Action Administration Solutions shall be retained to serve as Settlement Administrator. The Settlement Administrator shall be responsible for: (a) preparing, printing, and mailing the Notice Packet to the Class Members; (b) keeping track of any objections or requests for exclusion from Class Members; (c) performing skip traces and remailing Notice Packets, Individual Settlement Shares, and portions of the PAGA Payment to Class Members; (d) calculating any and all payroll tax deductions as required by law; (e) calculating each Participating Class Member's Individual Settlement Share and each Eligible Aggrieved Employee's portion of the PAGA

Payment; (f) providing weekly status reports to Counsel for Defendants and Class Counsel, which are to include updates on any objections or requests for exclusion that have been received; (g) mailing Individual Settlement Shares and portions of the PAGA Payment to Participating Class Members and Eligible Aggrieved Employees, respectively; (h) mailing the LWDA's portion of the PAGA Payment to the LWDA; (i) distributing the Attorney Fee Award and the Cost Award to Class Counsel; (j) printing and providing Class Members and Plaintiffs with W-2 and 1099 forms as required under this Agreement and applicable law; (k) providing a due diligence declaration for submission to the Court upon completion of the Settlement and prior to the Final Approval Hearing; (l) turning over any funds remaining in the Qualified Settlement Fund at the close of the 180-day period as a result of uncashed checks to the California State Controller: Unpaid Wage Fund; and (m) performing other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in Phoenix or otherwise have a relationship with Phoenix that could create a conflict of interest.

## **J. Procedure for Approving Settlement.**

### **1. Motion for Preliminary Approval and Conditional Certification.**

- a.** Plaintiffs will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice and Exclusion Form.
- b.** At the Preliminary Approval Hearing, the Plaintiffs will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representatives, Class Counsel, and Settlement Administrator; approving the Notice Packet; and setting the Final Approval Hearing.
- c.** If the Court does not approve the Settlement, the Parties agree to work cooperatively together to renegotiate the terms of the Settlement within sixty (60) days of the first date the Court fails to approve the Settlement. Should Court approval still not occur within sixty (60) days of any such renegotiation, then any settlement or agreement is null and void, of no force and effect whatsoever, and shall not be referred to or used for any purpose whatsoever, and the Parties will be restored to their positions prior to mediation, unless the Parties mutually agree otherwise in writing.

- 2. Notice to Class Members.** After the Court enters its Preliminary Approval Order, every Class Member will be provided with the Notice Packet in accordance with the following procedure:

- a. Within twenty-one (21) calendar days after entry of the Preliminary Approval Order, Defendants shall deliver to the Settlement Administrator the following information about each Class Member: (1) first and last name; (2) last known mailing address; (3) Social Security number; (4) hire and termination dates; and (5) the total number of weeks during the Class Period during which the Class Member performed any actual work for Defendants in California as an hourly non-exempt employee (“collectively “Class Data”). If any or all this information is unavailable to Defendants, Defendants will so inform Class Counsel, and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator will conduct a skip trace for the addresses of all former employee Class Members of Defendants. The Settlement Administrator shall maintain the Class Data and all information contained within the Class Data as private and confidential. This provision will not impede Class Counsel’s ability to discharge their fiduciary duties, including effectuating the terms of this settlement.
- b. The Settlement Administrator shall run all addresses contained in the Class Data through the United States Postal Service National Change of Address (“NCOA”) Database (which provides updated addresses for individuals who have moved in the previous four years and who have provided the U.S. Postal Service with a forwarding address) to obtain current address information. The Settlement Administrator shall mail the Notice Packet to the Class Members via first-class regular U.S. Mail using the most current mailing address information available within fourteen (14) calendar days after the receipt of the Class Data from Defendants.
- c. If a Notice Packet is returned because of an incorrect address, within ten (10) calendar days after receipt of the returned Notice Packet, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Notice Packet to the Class Member. The Settlement Administrator will use the NCOA Database and skip tracing to attempt to find the Class Member’s current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Notice Packet is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing Notice Packets to Class Members for whom new addresses are found. If the

Settlement Administrator is unable to locate a better address, the Notice Packet shall be re-mailed to the original address. If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip trace or forwarded mail, will have their Response Deadline to postmark a request for exclusion from or objection to the Settlement **extended by ten (10) calendar days** from the original Response Deadline. The Settlement Administrator shall mark on the envelope whether the Notice Packet is a re-mailed packet.

- d. Class Members may dispute the information provided in their Notice Packets. All such disputes must be in writing, postmarked by the Response Deadline, and sent via first-class U.S. mail to the Settlement Administrator. To the extent a Class Member disputes the number of weeks or pay periods with which he or she has been credited or the amount of his or her Individual Settlement Share or portion of the PAGA Payment, the Class Member must produce and submit evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendants' records, Defendants' records will be presumed determinative. However, if a Class Member produces evidence rebutting Defendants' records, the Parties will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible weeks or pay periods with which the Class Member should be credited and/or the amount of the Individual Settlement Share or portion of the PAGA Payment to which the Class Member may be entitled.
- e. If the Settlement Administrator receives an incomplete or deficient request for exclusion, the Settlement Administrator shall send a letter informing the Class Member of the deficiency and shall provide the Class Member fourteen (14) calendar days with which to cure the deficiency. However, the provision of a cure period will not extend the Response Deadline. If the Settlement Administrator does not receive a cured request for exclusion, postmarked on or before the last day of the cure period, the Class Member will be determined not to have excluded himself or herself from the Settlement and will be bound by the Settlement.
- f. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Counsel for Defendants of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice

Packets re-mailed, and the number of requests for exclusion received.

- g.** No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel no later than ten (10) calendar days before the Final Approval Hearing. If any material changes occur after the date of the filing of Settlement Administrator's declaration of due diligence but before the Final Approval Hearing, the Settlement Administrator will supplement its declaration.

**3. Objections to Settlement.** The Class Notice will provide that Class Members who wish to object to the Settlement must do so by submitting objections in writing, signed, and dated, to the Settlement Administrator, postmarked no later than the Response Deadline. Class Members who object to this Settlement or any of its terms may not also submit requests for exclusion from this Settlement (i.e., may not opt out of this Settlement). In the event a Class Member submits both a request for exclusion and a written objection, the request for exclusion will be deemed invalid, and the objection will remain valid. The postmark date of mailing shall be deemed the exclusive means for determining that an objection was timely served.

- a. Format.** For an objection to be valid, it must: (a) state the objecting Class Member's full name, address, and telephone number, as well as the name and address of counsel, if any; (b) include the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list any witness(es) the objecting Class Member may call to testify at the Final Approval Hearing; (e) include true and correct copies of any exhibit(s) the objecting Class Member intends to offer at the Final Approval hearing; (f) be signed by the objecting Class Member or his or her attorney; and (g) state whether the objecting Class Member (or someone on his or her behalf) intends to appear at the Final Approval Hearing.

- b. Appearance at Final Approval and Oral Objection.** Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objecting Class Member's own counsel, at the Class Member's own expense and orally object to the Settlement. Any attorney who will represent a Class Member objecting to this Settlement must file a notice of appearance with the Court and serve Class Counsel and Counsel

for Defendants no later than fifteen (15) calendar days before the Final Approval Hearing.

- c. A Class Member who objects to the Settlement will remain a member of the Settlement, i.e., a Participating Class Member, and if the Court finally approves the Settlement, the objecting Class Member will be bound by the terms of the Settlement in the same way and to the same extent as those Participating Class Members who do not object.
  - d. Plaintiffs and Defendants will be permitted to respond in writing to such objections no later than seven (7) calendar days before the Final Approval Hearing. Plaintiffs waive any right to object to the Settlement and hereby endorse the Settlement as fair, reasonable, adequate and in the best interests of the Class Members.
4. **Request for Exclusion from the Settlement (“Opt-Out”).** The Notice Packet will provide that Class Members who wish to exclude themselves from the Settlement must mail a request for exclusion to the Settlement Administrator. The request for exclusion must: (a) include the Class Member’s name and address, and the last four digits of the Class Member’s Social Security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member or his or her lawful representative; and (d) be postmarked no later than the Response Deadline.
- a. **Confirmation of Authenticity.** The date of the initial mailing of the Notice Packet and the date the signed request for exclusion is postmarked shall be conclusively determined according to the records of the Settlement Administrator. If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member’s identity. Any Class Member who returns a timely and valid executed request for exclusion will not participate in or be bound by the Settlement and Judgment, will not receive an Individual Settlement Share, and will not have any right to object, appeal, or comment thereon. A Class Member who does not complete and mail a timely request for exclusion will automatically be included in the Settlement, will receive an Individual Settlement Share, and will be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement.
  - b. **Report.** No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notice



Packets mailed to Class Members, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed to Class Members, the number of re-mailed Notice Packets returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.

**c. Eligible Aggrieved Employees May Not Opt Out of PAGA Settlement.** Notwithstanding the foregoing, the Parties agree that there is no statutory or other right for any Eligible Aggrieved Employee to opt out or otherwise exclude himself or herself from the PAGA portion of the Settlement, which releases the claims enumerated in Section III(L) below (“PAGA Released Claims”). An Eligible Aggrieved Employee who submits a timely and valid request for exclusion shall still receive his or her share of the PAGA Payment and shall release the PAGA Released Claims.

**5. No Solicitation of Objection or Requests for Exclusion.** Neither the Parties nor their respective counsel will solicit or otherwise encourage, directly or indirectly, any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Final Approval Order or Judgment.

**6. Motion for Final Approval.**

**a.** Upon expiration of the Response Deadline, Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorney Fee Award; (2) the Cost Award; (3) the Administration Costs; (4) the Class Representative Enhancement Payments; and (5) the PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment), pursuant to which all Participating Class Members shall release all Released Claims.

**b.** If the Court does not grant Final Approval of the Settlement, or if the Court’s Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendants to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. An award by the Court of a lesser amount than sought

by Plaintiffs and Class Counsel for the Class Representative Enhancement Payments, the Attorney Fee Award, and/or the Cost Award, will not constitute a material modification to the Settlement within the meaning of this paragraph.

- c. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the Class Action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters; and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law.

**7. Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, if Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the Judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the Judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.

**8. Disbursement of Settlement Shares and Payments.** Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Superior Court's Final Approval Order and Judgment. The maximum amount Defendants can be required to pay under this Settlement for any purpose is the Gross Settlement Amount, other than Defendants' shares of payroll taxes or as specifically provided in Section III(N)(19). The Settlement Administrator shall keep Counsel for Defendants and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Counsel for Defendants and Class Counsel.

a. **Funding the Settlement:** Upon the Effective Final Settlement Date, Defendants shall deposit the Gross Settlement Amount of Two Hundred Ten Thousand Dollars (\$210,000.00) into the QSF (as defined below). Defendants shall also at this time provide any tax information that the Settlement Administrator may need to calculate each Participating Class Member's Individual Settlement Share.

b. **Disbursement:** Within fourteen (14) calendar days after the funding of the Settlement, the Settlement Administrator shall

calculate and pay all payments due under the Settlement Agreement, including all Individual Settlement Shares, the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payments, the PAGA Payment, and the Administration Costs. The Settlement Administrator will also forward a check for seventy-five percent (75%) of the PAGA Payment (\$7,500.00) to the LWDA for settlement of the PAGA claims.

- c. **Qualified Settlement Fund:** The Parties and Settlement Administrator shall treat the Qualified Settlement Fund as coming into existence on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

9. **Uncashed Checks.** Participating Class Members must cash or deposit their Individual Settlement Share checks within one hundred eighty (180) calendar days after the checks are mailed to them. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) calendar days, it will expire and become non-negotiable, and offering to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are initially mailed, cancel the check(s), and pay the amount of the Individual Settlement Share(s) to the California State Controller: Unpaid Wage Fund.

10. **Final Report by Settlement Administrator.** Within ten (10) calendar days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.

11. **Defendants' Legal Fees.** Defendants are responsible for paying for all Defendants' own legal fees, costs, and expenses incurred in this Class Action outside of the Gross Settlement Amount.

**K. Release of Claims.** Upon Court approval of the Settlement and Defendants' fulfillment of their payment obligations under Section III (J)(8)(a) of this Agreement, Plaintiffs and the other Participating Class Members will fully and finally release and discharge the Released Parties from the Released Claims.

**L. Effect of PAGA Settlement.** Upon Court approval of the Settlement and Defendants' fulfillment of their payment obligations under Section III (J)(8)(a) of this Agreement, the LWDA, and any other representative, proxy, or agent thereof,

including, but not limited to, any and all Eligible Aggrieved Employees are barred from pursuing any action for civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698, *et seq.*, against the Released Parties, based on or arising out of the Released Claims, any and all claims, debts, liabilities, demands, obligations, guarantees, damages, wages, benefits, penalties, interest, attorney’s fees, costs, expenses, actions or causes of action, in law or equity, whether known or unknown, which have been or could have been asserted by each of the Plaintiff and/or any of the Aggrieved Employees and/or that could have been assessed upon and collected from the Released Parties under PAGA, based on the factual allegations in the Complaints, including, but not limited to, purported violations, alleged violations of Labor Code sections alleged in Plaintiffs’ letters to the LWDA which occurred during the PAGA Timeframe.

**M. Plaintiffs’ Release of Claims and General Release.** Upon Defendants’ fulfillment of their payment obligations under Section III (J)(8)(a) of this Agreement, in exchange for the Class Representative Enhancement Payments in amounts not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00) to each Plaintiff, and in recognition of their work and efforts in obtaining the benefits for the Class and undertaking the risk of paying litigation costs in the event this matter had not successfully resolved, Plaintiffs hereby provide a general release of claims for themselves and their respective spouses, heirs, successors and assigns, and forever release, remise, and discharge the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature and description whatsoever, known or unknown, suspected or unsuspected, asserted or that might have been asserted, whether in tort, contract, equity, or otherwise, arising out of Plaintiffs’ respective employment with Defendants, payment of wages during that employment and the cessation of that employment and/or violation of any federal, state or local statute, rule, ordinance or regulation. With respect to the General Release, each of the Plaintiffs stipulates and agrees that, as of the Effective Final Settlement Date, Plaintiffs shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

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

**N. Miscellaneous Terms.**

- 1. No Admission of Liability.** Defendants make no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendants reserve the right to contest any issues relating to class

certification and liability if the Settlement is not approved. Defendants deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Case, or that but for the Settlement, a Class should be certified in the Case. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended as or will be construed as an admission by Defendants of liability or wrongdoing. This Settlement and Plaintiffs' and Defendants' willingness to settle the Case will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).

- 2. No Effect on Employee Benefits.** The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy or bonus program sponsored by Defendants. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendants' policies or bonus programs. Any payments made under the terms of this Settlement shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendants' benefit plans, policies or bonus programs. Defendants retain the right to modify the language of their benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not required by this Settlement.
- 3. Publicity.** The Parties agree that no Party will communicate with or to anyone about the Settlement or anything to do with the Settlement, including, but not limited to, the issuance of any press release or other public or non-public representation regarding the Settlement other than as necessary to obtain Court approval and effectuate the terms of the Settlement.
- 4. Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such

extrinsic oral or written representations or terms shall modify, vary, or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence.

- 5. Authorization to Enter Into Settlement Agreement.** Class Counsel and Counsel for Defendants warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.
- 6. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
- 7. Deadlines Falling on Weekends or Holidays.** To the extent that any deadline set forth in this Settlement Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.
- 8. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Class Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.
- 9. Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.
- 10. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.

- 11. No Prior Assignment.** Plaintiffs hereby represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 12. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of California, without giving effect to any conflict of law principles or choice of law principles.
- 13. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Class Action and have arrived at this Agreement through arm's-length negotiations, taking into account all relevant factors, current and potential.
- 14. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member, such Class Member assumes all responsibility for the payment of such taxes.
- 15. Jurisdiction of the Superior Court.** Pursuant to Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Superior Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.
- 16. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

**17. Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

**18. Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

**19. Escalation Clause.** Defendants believe that there are approximately 4,297 workweeks applicable to Class Members as of the date of this Agreement. If the total number of workweeks applicable to Class Members in the Class Period exceeds 4,297 by more than five percent (5%) of 4,297, the Net Settlement Amount shall be proportionally increased by any increase above five percent (5%).

**20. Neutral Reference for Plaintiffs.** In response to requests for employment verification for Plaintiffs, Defendant will provide only: (i) dates of employment and (ii) last position.

[SIGNATURES ON NEXT PAGE]

#### IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 01/31/2022, 2022

**PLAINTIFF AHARON SPRY**



\_\_\_\_\_  
Aharon Spry

Dated: \_\_\_\_\_, 2022

**PLAINTIFF CHRISTOPHER CARRILLO**

\_\_\_\_\_  
Christopher Carrillo



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[SIGNATURES ON NEXT PAGE]

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Dated: \_\_\_\_\_, 2022

**PLAINTIFF AHARON SPRY**

\_\_\_\_\_  
Aharon Spry

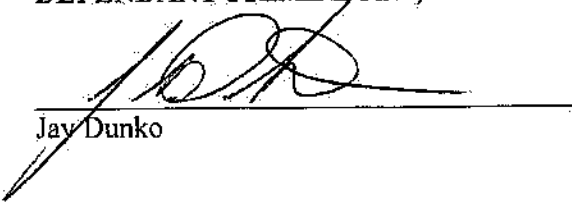
Dated: <sup>2/1/2022</sup> \_\_\_\_\_, 2022

**PLAINTIFF CHRISTOPHER CARRILLO**

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\_\_\_\_\_  
Christopher Carrillo

Dated: 2/2, 2022

**DEFENDANT PRIME LUBE, INC.**

  
\_\_\_\_\_  
Jay Dunko

Dated: 2/2, 2022

**DEFENDANT BLUE SKY GOLDEN STATE,  
LLC**

  
\_\_\_\_\_  
Jay Dunko

Dated: \_\_\_\_\_, 2022

**JUSTICE LAW CORPORATION**

\_\_\_\_\_  
Douglas Han, Esq.  
Shunt Tatavos-Gharajeh, Esq.  
Phillip Song, Esq.  
*Attorneys for Plaintiff Aharon Spry, on behalf of  
himself and all others similarly situated*

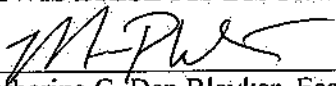
Dated: \_\_\_\_\_, 2022

**THE NOURMAND LAW FIRM, APC**

\_\_\_\_\_  
Michael Nourmand, Esq.  
James A. De Sario, Esq.  
*Attorneys for Plaintiff Christopher Carrillo, on behalf  
of himself and all others similarly situated*

Dated: 2/2, 2022

**LEWIS BRISBOIS BISGAARD & SMITH, LLP**

  
\_\_\_\_\_  
Katherine C. Den Bleyker, Esq.  
Michael P. Witczak, Esq.  
*Attorneys for Defendants Prime Lube, Inc. and Blue  
Sky Golden State, LLC*

Dated: \_\_\_\_\_, 2022

**DEFENDANT PRIME LUBE, INC.**

\_\_\_\_\_  
Jay Dunko

Dated: \_\_\_\_\_, 2022

**DEFENDANT BLUE SKY GOLDEN STATE,  
LLC**

\_\_\_\_\_  
Jay Dunko

Dated: 1/31/\_\_\_\_\_, 2022

**JUSTICE LAW CORPORATION**

  
\_\_\_\_\_

Douglas Han, Esq.

Shunt Tatavos-Gharajeh, Esq.

Phillip Song, Esq.

*Attorneys for* Plaintiff Aharon Spry, on behalf of  
himself and all others similarly situated

Dated: \_\_\_\_\_, 2022

**THE NOURMAND LAW FIRM, APC**

\_\_\_\_\_  
Michael Nourmand, Esq.

James A. De Sario, Esq.

*Attorneys for* Plaintiff Christopher Carrillo, on behalf  
of himself and all others similarly situated

Dated: \_\_\_\_\_, 2022

**LEWIS BRISBOIS BISGAARD & SMITH, LLP**

\_\_\_\_\_  
Katherine C. Den Bleyker, Esq.

Michael P. Witzak, Esq.

*Attorneys for* Defendants Prime Lube, Inc. and Blue  
Sky Golden State, LLC

Dated: \_\_\_\_\_, 2022

**DEFENDANT PRIME LUBE, INC.**

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Jay Dunko

Dated: \_\_\_\_\_, 2022

**DEFENDANT BLUE SKY GOLDEN STATE,  
LLC**

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Jay Dunko

Dated: \_\_\_\_\_, 2022


**JUSTICE LAW CORPORATION**

---

Douglas Han, Esq.  
Shunt Tatavos-Gharajeh, Esq.  
Phillip Song, Esq.  
*Attorneys for Plaintiff Aharon Spry, on behalf of  
himself and all others similarly situated*

Dated: 2/11, 2022

**THE NOURMAND LAW FIRM, APC**



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Michael Nourmand, Esq.  
James A. De Sario, Esq.  
*Attorneys for Plaintiff Christopher Carrillo, on behalf  
of himself and all others similarly situated*

Dated: \_\_\_\_\_, 2022

**LEWIS BRISBOIS BISGAARD & SMITH, LLP**

---

Katherine C. Den Bleyker, Esq.  
Michael P. Witzak, Esq.  
*Attorneys for Defendants Prime Lube, Inc. and Blue  
Sky Golden State, LLC*