

1 Sam Kim [SBN 258467]  
2 Yoonis Han [SBN 256151]  
3 **VERUM LAW GROUP, APC**  
4 841 Apollo Street, Suite 340  
5 El Segundo, CA 90245  
6 Telephone: (424) 320-2000  
7 Facsimile: (424) 221-5010  
8 skim@verumlg.com

9 Attorneys for Plaintiff MIGUEL GUERRERO, and  
10 all other similarly situated persons

11 \*\*\*Additional Counsel Listed on Next Page

12 UNITED STATES DISTRICT COURT  
13 SOUTHERN DISTRICT OF CALIFORNIA

14 MIGUEL GUERRERO, individually  
15 and on behalf of all others similarly  
16 situated,

17 Plaintiff,

18 v.

19 UNITED STATES GYPSUM  
20 COMPANY, a Delaware corporation;  
21 and DOES 1-20, inclusive,

22 Defendants.

Case No. 3:21-cv-01502-GPC-JLB

**STIPULATION, SETTLEMENT,  
AND RELEASE OF CLASS ACTION  
AND PRIVATE ATTORNEYS  
GENERAL ACT CLAIMS**

Judge: Hon. Gonzalo P. Curiel  
Magistrate Judge: Hon. Jill L. Burkhardt  
Courtroom: 2D

1 Anthony Choe [SBN 259129]  
2 **LAW OFFICES OF ANTHONY CHOE**  
3 3700 Wilshire Boulevard, Suite 260  
4 Los Angeles, CA 90010  
5 Telephone: (213) 788-4448  
6 Facsimile: (213) 788-4450  
7 anthony@choelawfirm.com

8 Attorneys for Plaintiff MIGUEL GUERRERO, and  
9 all other similarly situated persons

10 **SHEPPARD, MULLIN, RICHTER & HAMPTON LLP**

11 A Limited Liability Partnership  
12 Including Professional Corporations  
13 TRACEY KENNEDY, Cal. Bar No. 150782  
14 Y. DOUGLAS YANG, Cal. Bar No. 307550  
15 333 South Hope Street, 43rd Floor  
16 Los Angeles, California 90071  
17 Telephone: 213.620.1780  
18 Facsimile: 213.620.1398  
19 Email: tkennedy@sheppardmullin.com  
20 dyang@sheppardmullin.com

21 Attorneys for Defendant UNITED STATES  
22 GYPSUM COMPANY

23 **SHEPPARD, MULLIN, RICHTER & HAMPTON LLP**

24 A Limited Liability Partnership  
25 Including Professional Corporations  
26 BABAK YOUSEFZADEH, Cal. Bar No. 235974  
27 Four Embarcadero Center, 17th Floor  
28 San Francisco, California 94111-4109  
Telephone: 415.434.9100  
Facsimile: 415.434.3947  
Email: byousefzadeh@sheppardmullin.com

Attorneys for Defendant UNITED STATES  
GYPSUM COMPANY

1 **SHEPPARD, MULLIN, RICHTER & HAMPTON LLP**

2 A Limited Liability Partnership

3 Including Professional Corporations

4 **ROBERT K. FOSTER**, Cal. Bar No. 329353

5 12275 El Camino Real, Suite 100

6 San Diego, California 92130-4082

7 Telephone: 858.720.8900

8 Facsimile: 858.509.3691

9 Email: rfooster@sheppardmullin.com

10 Attorneys for Defendant UNITED STATES

11 GYPSUM COMPANY

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1 This Stipulation, Settlement, and Release of Class Action and Private  
2 Attorneys General Act Claims is entered into by and between Plaintiff Miguel  
3 Guerrero (“Plaintiff”), as an individual, on behalf of all other similarly situated and  
4 allegedly aggrieved employees, and as a representative of the State of California  
5 on the one hand, and Defendant United States Gypsum Company (“Defendant”) on  
6 the other hand. Plaintiff and Defendant will be individually referred to as “Party,”  
7 and collectively as the “Parties” in this Agreement. This Settlement was reached  
8 pursuant to a mediation conducted by Steve Rottman, Esq. on February 3, 2022.

9 **I. DEFINITIONS**

10 A. “Agreement” or “Settlement” or “Settlement Agreement” means this  
11 Stipulation, Settlement, and Release of Class Action and Private Attorneys General  
12 Act Claims, and all exhibits attached hereto and incorporated herein, including all  
13 subsequent amendments agreed to in writing by the Parties and any exhibits to such  
14 amendments.

15 B. “Action” means the class and representative action lawsuit, entitled  
16 *Miguel Guerrero v. United States Gypsum Company*, filed on April 29, 2021, in  
17 the Superior Court of San Diego, and thereafter removed to the United States  
18 District Court for the Southern District of California, Case No. 3:21-cv-01502-  
19 GPC-JLB.

20 C. “Class Counsel” means Sam Kim and Yoonis Han of Verum Law  
21 Group, APC, 841 Apollo Street, Suite 340, El Segundo, CA 90245.

22 D. “Class Counsel Costs Award” means the expenses and costs incurred  
23 by Class Counsel in connection with litigation of the Action, which are not to  
24 exceed Seventeen Thousand Dollars (\$17,000.00) and are paid from the Gross  
25 Settlement Amount.

26 E. “Class Counsel Fees Award” means attorneys’ fees for Class  
27 Counsel’s litigation and resolution of the Action, which are not to exceed 30% of  
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1 the Gross Settlement Amount, or One Hundred Eighty Thousand Dollars  
2 (\$180,000.00) and are paid from the Gross Settlement Amount.

3 F. “Class Period” means the period from April 29, 2017 through January  
4 27, 2022.

5 G. “Class Representative” means Plaintiff in his capacity as a  
6 representative of the Settlement Class Members.

7 H. “Class Settlement Period” means the period from April 29, 2017  
8 through the date of preliminary approval of the Settlement or June 3, 2022,  
9 whichever occurs first.

10 I. “Compensable Workweeks” means the total number of workweeks  
11 during which Settlement Class Members worked for Defendant during the Class  
12 Settlement Period.

13 J. “Compensable PAGA Pay Periods” means the total number of pay  
14 periods during which PAGA Group Members worked for Defendant during the  
15 PAGA Settlement Period.

16 K. “Court” means the United States District Court for the Southern  
17 District of California.

18 L. “Defendant” means United States Gypsum Company.

19 M. “Effective Date” means the date by which the final judgment becomes  
20 final. For purposes of this Agreement, the final judgment “becomes final” on: (a)  
21 the date upon which the time for appeal of the Court’s order granting final approval  
22 of the Settlement Agreement expires; unless (b) an appeal is timely filed, then  
23 “Effective Date” means the date of final resolution of any appeal from the order  
24 granting final approval of the Settlement Agreement.  
25

26 N. “Employee List” means a complete list of all Settlement Class  
27 Members and PAGA Group Members that Defendant will, in good faith, compile  
28 from its records and provide to the Settlement Administrator. It shall be formatted

1 as a Microsoft Excel spreadsheet and shall include the following information for  
2 each Settlement Class Member and PAGA Group Member: (1) employee  
3 identification number; (2) full name; (3) last known address; (4) last known home  
4 telephone number; (5) Social Security Number; (6) start and end dates of  
5 employment; and (7) whether the Settlement Class Member previously received an  
6 individual settlement payment as part of the Pick-Up Stix Payments paid by  
7 Defendant.

8 O. “Employer Taxes” shall mean Defendant’s share of any employer  
9 payroll taxes and other required employer withholdings due on the Individual  
10 Settlement Payments, and Pick-Up Stix Adjustment Payments, including, but not  
11 limited to, Defendant’s FICA and FUTA contributions, estimated at Ten Thousand  
12 Five Hundred Eighty-Seven Dollars and Seventy-Five Cents (\$10,587.75).

13 P. “General Release Payment” means the Court approved payment of  
14 Ten Thousand Dollars (\$10,000.00) to Plaintiff in exchange for his execution of a  
15 general release of known and unknown claims and waiver pursuant to California  
16 Civil Code § 1542.

17 Q. “Gross Settlement Amount” means a non-reversionary common fund  
18 that shall have a total all-in value of Six Hundred Thousand Dollars (\$600,000.00),  
19 subject to a credit of One Hundred Sixty-Seven Thousand and Seven Hundred  
20 Dollars (\$167,700.00) for Pick-Up Stix Payments previously paid by Defendant,  
21 and includes without limitation any and all payments Defendants may be  
22 responsible for under the Settlement, including the Individual Settlement  
23 Payments, Pick-Up Stix Adjustment Payments, Service Award, General Release  
24 Payment, PAGA Payment, Class Counsel Costs Award, Class Counsel Fees  
25 Award, Settlement Administration Costs, and Employer Taxes.  
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1 R. "Individual Settlement Payment" means the amount payable from the  
2 Net Settlement Amount to each Settlement Class Member who has not submitted  
3 a Request for Exclusion.

4 S. "Net Settlement Amount" or "NSA" means the Gross Settlement  
5 Amount, less the Service Award, General Release Payment, PAGA Payment, Class  
6 Counsel Costs Award, Class Counsel Fees Award, Settlement Administration  
7 Costs, Employer Taxes, Pick-Up Stix Payments, and Pick-Up Stix Adjustment  
8 Payments.

9 T. "Notice Packet" means the Notice of Class Action Settlement in a  
10 form substantially similar to the form attached hereto as Exhibit 1.

11 U. "PAGA" means California's Private Attorneys General Act,  
12 California Labor Code § 2699 *et seq.*

13 V. "PAGA Group Members" means "all current and former non-exempt  
14 employees employed by Defendant in the State of California during the PAGA  
15 Settlement Period.

16 W. "PAGA Notices" means the PAGA notice sent by Plaintiff to the  
17 LWDA dated April 29, 2021, and the amended PAGA notice sent by Plaintiff to  
18 the LWDA dated October 25, 2021.

19 X. "PAGA Payment" means the amount of Ten Thousand Dollars  
20 (\$10,000.00) allocated to penalties under the PAGA, of which Seven Thousand  
21 Five Hundred Dollars (\$7,500.00) shall be paid by the Settlement Administrator  
22 directly to the LWDA; and the remaining Two Thousand Five Hundred Dollars  
23 (\$2,500.00) shall be distributed to PAGA Group Members based on Compensable  
24 PAGA Pay Periods.  
25

26 Y. "PAGA Period" means the period from April 29, 2020 through  
27 January 27, 2022.  
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1           Z.     “PAGA Settlement Period” means the period between April 29, 2020  
2 to the date of preliminary approval of the Settlement, or June 3, 2022, whichever  
3 is earlier

4  
5           AA.   “Parties” means Plaintiff and Defendant, collectively, and “Party”  
6 shall mean either Plaintiff or Defendant, individually.

7           BB.   “Pick-Up Stix Adjustment Payments” means payments set aside to  
8 give to employees who were not already paid by Defendant for signing Pick-Up  
9 Stix settlement agreements. The Pick-Up Stix Adjustment Payments will be  
10 subtracted from the Gross Settlement Value, and will be set aside for and will go  
11 to employees who did not sign a Pick-Up Stix settlement agreement, to account for  
12 a credit of settlement funds that did not go to them. Five Thousand Dollars  
13 (\$5,000.00) from the Gross Settlement Value will be set aside for Pick-Up Stix  
14 Adjustment Payments, and distributed to employees who did not sign a Pick-Up  
15 Stix settlement agreement on a pro rata basis as set forth below, and any amount  
16 that remains unused shall be part of the Net Settlement Amount and shall be  
17 distributed to Settlement Class Members as provided in this Agreement.

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19           CC.   “Pick-Up Stix Payments” means the One Hundred Sixty-Seven  
20 Thousand and Seven Hundred Dollars (\$167,700.00) already paid by Defendant  
21 for Pick-Up Stix settlement agreements entered into with 352 out of 393 Settlement  
22 Class Members to settle the Action prior to this Settlement, and for which  
23 Defendant shall receive credit as part of this Settlement.

24           DD.   “Plaintiff” means former non-exempt employee Miguel Guerrero.

25           EE.   “Preliminary Approval Date” means the date on which the Court  
26 enters an order granting preliminary approval of the Settlement.

27           FF.   “Service Award” means the Court approved payment of Five  
28 Thousand Dollars (\$5,000.00) paid to Plaintiff as Class Representative, in addition



1 to his Individual Settlement Payment and General Release Payment, in recognition  
2 of his efforts and risks in assisting with the prosecution of the Action.

3 GG. “Released Parties” means (1) Defendant, (2) its past, present, and/or  
4 future parent, subsidiary, affiliated or related entities (including any companies,  
5 corporations, partnerships, alter egos, joint venturers, and actual or alleged joint  
6 employers), including each related companies/corporations and/or partnerships  
7 (defined as a company/corporation and/or partnership that is, directly or indirectly,  
8 under common control with that Defendant or any of its parents and/or affiliates),  
9 and (3) each of the previously listed entities’ respective past, present and future  
10 agents, contractors, employees, servants, officers, directors, principals, partners,  
11 members, trustees, fiduciaries, representatives, shareholders, stockholders,  
12 attorneys, equity sponsors, divisions, assigns, predecessors, successors, insurers,  
13 and consultants.  
14

15 HH. “Response Deadline” means the date forty-five (45) days after the  
16 Settlement Administrator mails Notice Packets to Settlement Class Members and  
17 the last date on which Settlement Class Members may submit Requests for  
18 Exclusion or objections to the Settlement.

19 II. “Settlement Administration Costs” means the costs payable from the  
20 Gross Settlement Amount to the Settlement Administrator for administering this  
21 Settlement, including, but not limited to the Settlement Administrator’s  
22 responsibilities outlined in this Settlement Agreement.

23 JJ. “Settlement Administrator” means, subject to appointment by the  
24 Court, Phoenix Settlement Administrators, who shall be responsible for the  
25 administration of the Settlement, distribution of any amounts owed under this  
26 settlement, and matters necessarily related thereto pursuant to the terms of this  
27 Agreement.  
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1           KK. “Settlement Class Members” or “Settlement Class” means all current  
2 and former non-exempt employees employed by Defendant in the State of  
3 California during the Class Settlement Period. The “Settlement Class Members”  
4 or “Settlement Class” shall not include any person who submits a timely and valid  
5 Request for Exclusion as provided in this Agreement.

6 **II. RECITALS**

7           A. On April 29, 2021, Plaintiff filed a putative class action against  
8 Defendant in the San Diego County Superior Court, Case No. 37-2021-00019113-  
9 CU-OE-CTL, alleging claims for: 1) failure to pay all wages; 2) non-payment of  
10 overtime compensation; 3) failure to provide proper meal breaks; 4) failure to  
11 authorize and permit proper rest breaks 5) failure to properly maintain and submit  
12 itemized wage statements; 6) violation of Labor Code §§ 201 and 202.7; 7) failure  
13 to reimburse business expenses; 8) violation of California Business & Professions  
14 Code § 17200 *et seq.* (the “Action”). On July 29, 2021, Plaintiff filed a First  
15 Amended Complaint (“FAC”) adding a claim under the PAGA. On August 24,  
16 2021, Defendant removed the Action to the United States District Court for the  
17 Southern District of California, pursuant to the Class Action Fairness Act of 2005,  
18 28 U.S.C. §§ 1332 (d) (“CAFA”). On February 3, 2022, the Parties participated in  
19 a mediation with Steve Rottman, Esq., a well-regarded mediator with experience  
20 in mediating complex labor and employment matters.  
21

22           B. Defendant has denied and continues to deny any liability or  
23 wrongdoing of any kind associated with the claims alleged in the Action, disputes  
24 the wages, damages and penalties claimed by the Plaintiff, and further contends  
25 that, for any purpose other than settlement, Plaintiff’s claims are not appropriate  
26 for class or representative action treatment. Defendant contends, among other  
27 things, that, at all times, it has complied with the California Labor Code, the  
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1 Industrial Wage Commission Orders, and the California Business and Professions  
2 Code.

3 C. The Plaintiff and Class Representative are represented by Class  
4 Counsel. Class Counsel conducted an investigation into the facts relevant to the  
5 Action, including interviewing Settlement Class Members, propounding written  
6 discovery and obtaining formal written responses, and reviewing documents and  
7 information provided by Defendant formally and informally during discovery.  
8 Based on their own independent investigation and evaluation, Class Counsel is of  
9 the opinion that the Settlement with Defendant is fair, reasonable and adequate, and  
10 in the best interest of the Settlement Class in light of all known facts and  
11 circumstances, including the risks of significant delay, defenses asserted by  
12 Defendant, and uncertainties regarding a class and representative action trial on the  
13 merits. Although Defendant denies any liability, Defendant has concluded that,  
14 because of the substantial expense of defending against the Action, the length of  
15 time necessary to resolve the issues presented herein, the inconvenience involved  
16 in such litigation, and the concomitant disruption to its business operations, it is in  
17 its best interests to accept the terms of this Agreement to avoid the burden, expense  
18 and uncertainty of continuing litigation and for the purpose of putting to rest the  
19 controversies engendered by the Action. Accordingly, the Parties and their counsel  
20 desire to fully, finally, and forever settle, compromise and discharge all disputes  
21 and claims arising from or relating to the Action on the terms set forth herein.  
22

23 **III. TERMS OF SETTLEMENT AGREEMENT**

24 A. Settlement Consideration. Defendant shall pay the Gross Settlement  
25 Amount of Six Hundred Thousand Dollars (\$600,000.00) to settle this Action.  
26 Subject to a credit for Pick-Up Stix Payments previously paid by Defendant to 352  
27 out of 393 Settlement Class Members during the pendency of the Action, the Gross  
28 Settlement Amount shall include the sum of the Individual Settlement Payments,

1 Service Award, General Release Payment, PAGA Payment, Class Counsel Costs  
2 Award, Class Counsel Fees Award, Settlement Administration Costs, and  
3 Employer Taxes. In no event shall Defendant be required to pay more than the  
4 Gross Settlement Amount, except as provided in Section B below. The Settlement  
5 is non-reversionary.

6 B. Pro Rata Increase of Gross Settlement Amount. The Settlement  
7 negotiations were premised on the assumption that Settlement Class Members  
8 worked approximately 63,684 workweeks during the Class Period and PAGA  
9 Group Members worked approximately 23,195 pay periods during the PAGA  
10 Period. If the total number of workweeks worked by Settlement Class Members  
11 during the Class Period increases by more than 10% of the 63,684 workweeks (i.e.,  
12 more than 6,369 additional workweeks), then Defendant will have the option to (1)  
13 pay an adjusted pro-rata settlement amount to reflect the increased number of  
14 workweeks beyond the original estimate of 63,684 workweeks; (2) cap the  
15 workweeks and the scope of the release as of the date that they exceed the above-  
16 referenced 10% threshold; or (3) terminate the Settlement.

17  
18 C. Released Class Claims. As of the Effective Date, in exchange for the  
19 consideration set forth in this Agreement, the claims settled, fully released and  
20 forever discharged by the Settlement Class Members, including Plaintiff, constitute  
21 any and all claims, causes of action, or legal theories that are asserted in, arising  
22 from, or reasonably related to the factual allegations made in the Action. The  
23 released class claims include all claims, causes of action, or legal theories that were  
24 or could have been asserted based on the factual allegations alleged in the Action  
25 up through and specifically including the entire Class Settlement Period, whether  
26 or not specifically delineated as a claim or cause of action in the Action, including  
27 but not limited to those alleged in the operative complaint in the Action, and any  
28 amended complaint in the Action, including claims that reasonably arise out of or

1 arise in connection with the claims and facts alleged in the Action, and any claims  
2 which could have reasonably been asserted in the Action arising from the alleged  
3 facts and/or primary rights alleged to have been invaded, and any claims that are  
4 premised upon or that allege failure to pay all wages due, failure to provide  
5 minimum wages or pay for all hours worked, failure to pay overtime compensation,  
6 failure to provide meal and/or rest periods, failure to pay proper meal or rest period  
7 penalties, failure to provide and maintain accurate itemized wage statements,  
8 failure to timely pay wages due during or at separation of employment, failure to  
9 reimburse all business-related expenses, and claims arising under or relating to the  
10 alleged violations of California Labor Code sections 201, 202, 203, 204, 223, 226,  
11 226.7, 256, 510, 512, 558, 1174, 1194, 1197 1174, 1174.5, 1182.12, 1194, 1197,  
12 2802, applicable California Industrial Welfare Commission (“IWC”) Wage Orders,  
13 including but not limited to IWC Wage Order No. 16-2001; and California  
14 Business & Professions Code § 17200 *et seq.* (“Released Class Claims”), against  
15 the Released Parties. The release extends to all remedies that could be claimed for  
16 any Released Class Claims, including but not limited to statutory, constitutional,  
17 contractual, and common law claims for interest, attorney fees and costs, injunctive  
18 relief, punitive damages, liquidated damages, restitution, disgorgement, and civil  
19 and/or statutory penalties, including under Labor Code sections 218.5, 203, 206,  
20 226(e) and 558(a). Upon approval of the Agreement, Plaintiff and the Settlement  
21 Class Members will be forever barred from pursuing against the Released Parties  
22 any and all claims, causes of action, or legal theories that are asserted in, arising  
23 from, or reasonably related to the factual allegations made in the Action during the  
24 Class Settlement Period.  
25

26 D. Released PAGA Claims. As of the Effective Date, in exchange for  
27 the PAGA Payment set forth in this Agreement, the claims settled, fully released  
28 and forever discharged by Plaintiff as a representative of the State of California and

1 on behalf of the LWDA, constitute any and all claims, causes of action, or legal  
2 theories that are asserted in, arising from, or reasonably related to the factual  
3 allegations made in the Action, and PAGA Notices. The released PAGA claims  
4 include all claims, causes of action, or legal theories that were or could have been  
5 asserted based on the factual allegations alleged in the Action and PAGA Notices  
6 alleged up through and specifically including the entire PAGA Settlement Period,  
7 whether or not specifically delineated as a claim or cause of action in the Action,  
8 including but not limited to those alleged in Plaintiff’s PAGA Notices provided to  
9 the LWDA, the operative complaint in the Action, and any amended complaint in  
10 the Action, including claims that reasonably arise out of or arise in connection with  
11 the claims and facts alleged in the Action, and any claims which could have  
12 reasonably been asserted in the Action arising from the alleged facts and/or primary  
13 rights alleged to have been invaded, and any claims that are premised upon or that  
14 allege claims for failure to pay all wages due, failure to provide minimum wages  
15 or pay for all hours worked, failure to pay overtime compensation, failure to  
16 provide meal and/or rest periods, failure to pay proper meal or rest period penalties,  
17 failure to provide and maintain accurate itemized wage statements, failure to timely  
18 pay wages due during or at separation of employment, failure to reimburse all  
19 business-related expenses, and claims arising under or relating to the alleged  
20 violations of California Labor Code sections 201, 202, 203, 204, 223, 226, 226.7,  
21 256, 510, 512, 558, 1174, 1194, 1197 1174, 1174.5, 1182.12, 1194, 1197, 2698,  
22 2699, 2802, and applicable California Industrial Welfare Commission (“IWC”)  
23 Wage Orders, including but not limited to IWC Wage Order No. 16-2001  
24 (“Released PAGA Claims”), against the Released Parties. The release extends to  
25 all remedies that could be claimed for any Released PAGA Claims, including but  
26 not limited to statutory, constitutional, contractual, and common law claims for  
27 interest, attorney fees and costs, injunctive relief, punitive damages, liquidated  
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1 damages, restitution, disgorgement, and civil and/or statutory penalties, including  
2 under Labor Code sections 218.5, 203, 206, 226(e) and 558(a), which includes  
3 penalties recoverable under PAGA in an amount equal to underpaid wages. PAGA  
4 Group Members will be bound to the Judgment entered by the Court as to the  
5 Released PAGA Claims. Upon approval of the Agreement, Plaintiff and the PAGA  
6 Group Members will be forever barred from pursuing against the Released Parties  
7 any and all claims, causes of action, or legal theories that are asserted in, arising  
8 from, or reasonably related to the factual allegations made in the Action and PAGA  
9 Notices during the PAGA Settlement Period.

10 E. General Release by Plaintiff. As of the Effective Date, in addition to  
11 releasing the Released Class Claims and Released PAGA Claims, in exchange for  
12 the General Release Payment, Plaintiff, for himself and his heirs, successors and  
13 assigns, does hereby fully and finally release the Released Parties, from any and all  
14 claims, known and unknown, under federal, state and/or local law, statute,  
15 ordinance, regulation, common law, public policy, or other source of law, including  
16 but not limited to claims arising from or related to Plaintiff's employment with  
17 Defendant and/or the termination of Plaintiff's employment from Defendant,  
18 including but not limited to all claims asserted in, arising from, or related in any  
19 way to the Action, including without limitation any and all claims that could have  
20 been asserted as part of the Action based on the facts alleged; any and all claims  
21 for violation of the National Labor Relations Act (NLRA) (to the extent permitted  
22 by law), Title VII of the Civil Rights Act (Title VII), the Americans With  
23 Disabilities Act of 1990 (ADA), the Age Discrimination in Employment Act  
24 (ADEA), the Older Worker Benefit Protection Act (OWBPA), the Employee  
25 Retirement Income Security Act (excluding vested benefits) (ERISA); the  
26 Rehabilitation Act, the Occupational Safety and Health Act (OSHA) (federal and  
27 California), the Consolidated Omnibus Budget Reconciliation Act of 1985  
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1 (COBRA), the Families First Coronavirus Response Act (FFCRA), the Fair Labor  
2 Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the California  
3 Family Rights Act (CFRA), the Worker Adjustment and Retraining Notification  
4 Act (federal and California), the California Fair Employment and Housing Act  
5 (FEHA), the Unfair Business Practices Act/Unfair Competition Law (UCL); the  
6 California Labor Code, the California Government Code, the California Civil  
7 Code, the applicable California Wage Order(s), and the California Private  
8 Attorneys General Act (to the extent permitted by law) (all as amended); any and  
9 all claims for discrimination or harassment on the basis of any protected status  
10 recognized by applicable federal, state or local law, rule, ordinance or regulation;  
11 any and all whistleblower or retaliation claims on the basis of any protected activity  
12 or other protected basis; any and all claims for breach of any express or implied  
13 promise, contract or agreement (express or implied), or breach of the implied  
14 covenant of good faith and fair dealing; (e) any tort or common law claims,  
15 including wrongful discharge, intentional or negligent infliction of emotional  
16 distress, negligence, fraud, misrepresentation, defamation, interference with  
17 prospective economic advantage, or other tort or common law actions; any and all  
18 claims for misclassification, wage and hour, or other claims related to hours,  
19 conditions, or compensation related to work; and any and all claims for any other  
20 violation of local, state, or federal law, constitution, statute, regulation, ordinance,  
21 order, guidance, resolution, public policy, contract, or tort or common law claim,  
22 whether for legal or equitable relief, having any bearing whatsoever on the terms  
23 and conditions of employment, or association or working relationship, with any of  
24 the Released Parties, including but not limited to any allegations for penalties,  
25 interest, costs and fees, including attorneys' fees. Plaintiff's Released Claims  
26 include all claims, whether known or unknown. Even if Plaintiff discovers facts in  
27 addition to or different from those that Plaintiff now knows or believes to be true  
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1 with respect to the subject matter of Plaintiff's Released Claims, those claims will  
2 remain released and forever barred. Thus, Plaintiff expressly waives and  
3 relinquishes the provisions, rights and benefits of section 1542 of the California  
4 Civil Code, which reads:

5  
6 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**  
7 **THAT THE CREDITOR OR RELEASING PARTY DOES NOT**  
8 **KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT**  
9 **THE TIME OF EXECUTING THE RELEASE AND THAT, IF**  
10 **KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY**  
11 **AFFECTED HIS OR HER SETTLEMENT WITH THE**  
12 **DEBTOR OR RELEASED PARTY.**

13 Notwithstanding the foregoing, Plaintiff does not waive or release any claim  
14 which cannot be waived or released by private agreement. Further, nothing in this  
15 Agreement shall prevent Plaintiff from filing a charge or complaint with, or from  
16 participating in, an investigation or proceeding conducted by the SEC, OSHA,  
17 EEOC, DFEH, NLRB or any other federal, state or local agency charged with the  
18 enforcement of any employment or other applicable laws. Plaintiff, however,  
19 understands that by signing this Agreement, he waives the right to recover any  
20 damages or to receive other relief in any claim or suit brought by or through the  
21 EEOC, the DFEH or any other state or local deferral agency on their behalf to the  
22 fullest extent permitted by law, but expressly excluding any monetary award or  
23 other relief available from the SEC/OSHA, including an SEC/OSHA  
24 whistleblower award, or other awards or relief that may not lawfully be waived.

25 F. Conditions Precedent: This Settlement will become final and  
26 effective only upon the occurrence of all of the following events:

27 1. The Court enters an order granting preliminary approval of the  
28 Settlement;

1           2.     The Court enters an order granting final approval of the  
2 Settlement and a Final Judgment in the Action;

3           3.     The time for appeal of the Final Judgment and Order Granting  
4 Final Approval of Class Action Settlement expires; or, if an appeal is timely filed,  
5 there is a final resolution of any appeal from the Judgment and Order Granting  
6 Final Approval of Class Action Settlement;

7           4.     Defendant funds the Gross Settlement Amount; and

8           5.     Defendant does not invoke its right to revoke the Settlement as  
9 provided herein.

10           G.    Certification of the Settlement Class.   The Parties stipulate to  
11 conditional class certification of the Settlement Class for the Class Settlement  
12 Period for purposes of settlement only. In the event that this Settlement is not  
13 approved by the Court, fails to become effective, or is reversed, withdrawn or  
14 modified by the Court, or in any way prevents or prohibits Defendant from  
15 obtaining a complete resolution of the claims as described herein, the conditional  
16 class certification (obtained for any purpose) shall be void *ab initio* and of no force  
17 or effect, and shall not be admissible in any judicial, administrative or arbitral  
18 proceeding for any purpose or with respect to any issue, substantive or procedural.

19           H.    Nullification of Settlement Agreement.   In the event that (i) this  
20 Settlement Agreement is not preliminarily or finally approved by the Court, (ii) the  
21 Court does not enter a final judgment as provided herein which becomes final as a  
22 result of the occurrence of the Effective Date, or (iii) if the Settlement is construed  
23 in a manner in which Defendant is required to pay more than the Gross Settlement  
24 Amount, Defendant shall have the right to withdraw from the Settlement and:  
25

26           1.     This Settlement Agreement shall be null and void and any order  
27 or judgment entered by the Court in furtherance of this Settlement shall be treated  
28 as void *ab initio*, and the Agreement shall not be admissible in any judicial,

1 administrative or arbitral proceeding for any purpose or with respect to any issue,  
2 substantive or procedural;

3           2.     The conditional class certification (obtained for any purpose)  
4 shall be void *ab initio* and of no force or effect, and shall not be admissible in any  
5 judicial, administrative or arbitral proceeding for any purpose or with respect to  
6 any issue, substantive or procedural;

7           3.     None of the Parties to this Settlement will be deemed to have  
8 waived any claims, objections, defenses or arguments in the Action, including with  
9 respect to the issue of class certification;

10           4.     The fact that the Parties were willing to stipulate to class  
11 certification as part of the Settlement shall have no bearing on, and shall not be  
12 admissible in connection with, the issues of whether a class should be certified in  
13 a non-settlement context in the Action. Nor shall the fact that the Parties were  
14 willing to stipulate that Plaintiff's counsel may be appointed Class Counsel and  
15 that Plaintiff may be appointed as Class Representative as part of the Settlement  
16 have any bearing on, and be admissible in connection with, the issues of whether  
17 Plaintiff's counsel should be appointed as Class Counsel and whether Plaintiff  
18 should be appointed as Class Representative in a non-settlement context in the  
19 Action; and  
20

21           5.     Any funds to be awarded under this Settlement shall be returned  
22 to Defendant as of the date and time immediately prior to the execution of this  
23 Agreement, and the Parties shall proceed in all respects as if this Settlement  
24 Agreement had not been executed, except that any fees already incurred by the  
25 Settlement Administrator shall be borne equally by the Parties.

26           I.     Tax Liability. The Parties make no representations as to the tax  
27 treatment or legal effect of the payments called for hereunder, and the Parties,  
28 Settlement Class Members, and PAGA Group Members are not relying on any

1 statement, representation, or calculation by the Parties in this regard. Plaintiff,  
2 Settlement Class Members, and PAGA Group Members understand and agree that  
3 except for the employer's portion of any payroll taxes, Plaintiff, Settlement Class  
4 Members, and PAGA Group Members will be solely responsible for the payment  
5 of any taxes and penalties assessed on the payments described herein and will hold  
6 the Parties and their respective counsel free and harmless from and against any  
7 claims, liabilities, costs and expenses, including attorney's fees, resulting in any  
8 way from personal tax treatment of the payments made pursuant to this Agreement,  
9 including the treatment of such payments as not subject to withholding or deduction  
10 for payroll and employment taxes (except for any obligation to pay Employer Taxes  
11 under the Settlement). Employer Taxes due on the Individual Settlement  
12 Payments, including, but not limited to, Defendant's FICA and FUTA  
13 contributions, estimated at Ten Thousand Five Hundred Eighty-Seven Dollars and  
14 Seventy-Five Cents (\$10,587.75) shall be paid from the Gross Settlement Amount.

15  
16 J. Circular 230 Disclaimer. Each Party to this Agreement (for purposes  
17 of this section, the "acknowledging party" and each Party to this Agreement other  
18 than the acknowledging party, an "other party") acknowledges and agrees that: (1)  
19 no provision of this Agreement, and no written communication or disclosure  
20 between or among the Parties or their attorneys and other advisers, is or was  
21 intended to be, nor shall any such communication or disclosure constitute or be  
22 construed or be relied upon as, tax advice within the meaning of United States  
23 Treasury Department circular 230 (31 CFR part 10, as amended); (2) the  
24 acknowledging party (a) has relied exclusively upon his, her or its own,  
25 independent legal and tax counsel for advice (including tax advice) in connection  
26 with this Agreement, (b) has not entered into this Agreement based upon the  
27 recommendation of any other Party or any attorney or advisor to any other Party,  
28 and (c) is not entitled to rely upon any communication or disclosure by any attorney

1 or adviser to any other party to avoid any tax penalty that may be imposed on the  
2 acknowledging party, and (3) no attorney or adviser to any other Party has imposed  
3 any limitation that protects the confidentiality of any such attorney's or adviser's  
4 tax strategies (regardless of whether such limitation is legally binding) upon  
5 disclosure by the acknowledging party of the tax treatment or tax structure of any  
6 transaction, including any transaction contemplated by this Agreement.

7 K. Preliminary Approval Motion. At the earliest practicable time,  
8 Plaintiff shall file with the Court a Motion for Order Granting Preliminary  
9 Approval and supporting papers, which shall include this Settlement Agreement.

10 L. Notice Obligations Under 28 U.S.C. Section 1715. Within ten (10)  
11 days after the filing of the Motion for Order Granting Preliminary Approval,  
12 Defendant shall provide notice of the Settlement, consistent with the requirements  
13 of 28 U.S.C. Section 1715, to the Attorney General of the United States and the  
14 California Attorney General. If any of the notified federal or state officials takes  
15 any action adversely affecting the validity or enforceability of the Settlement, or  
16 seeking to impose additional liability on Defendant for the matters resolved by the  
17 Released Claims, Defendant may, at its option, suspend the implementation of the  
18 Settlement pending the outcome of the action initiated by the notified federal or  
19 state official or may elect to void the Settlement by written notice to Class Counsel.

20 M. Settlement Administrator. The Settlement Administrator shall be  
21 responsible for: (a) calculating Individual Settlement Payments and the portion of  
22 the PAGA Payment paid to each PAGA Group Member; (b) processing and  
23 mailing payments to the Class Representative, Class Counsel, LWDA, Settlement  
24 Class Members and PAGA Group Members; (c) preparing, printing and mailing  
25 the Notice Packets to the Settlement Class Members and PAGA Group Members  
26 as directed by the Court; (d) receiving and reporting the objections and requests for  
27 exclusion; (e) calculating and withholding all required state and federal taxes owed  
28

1 by the Settlement Class Members, PAGA Group Members, and Defendant; (f)  
2 processing and mailing tax payments to the appropriate state and federal taxing  
3 authorities; (g) providing declaration(s), as necessary, in support of preliminary  
4 and/or final approval of this Settlement; (h) preparing and mailing the required  
5 notices pursuant to 28 U.S.C. § 1715, as provided by Section L herein; and (i) other  
6 tasks as the Parties mutually agree or the Court orders the Settlement Administrator  
7 to perform. The Settlement Administrator shall keep the Parties timely apprised of  
8 the performance of all Settlement Administrator responsibilities.

9 N. Settlement Administration.

10 1. Employee List. No later than fifteen (15) business days after  
11 the Preliminary Approval Date, Defendant shall provide the Settlement  
12 Administrator with the Employee List for purposes of preparing, printing and  
13 mailing Notice Packets to Settlement Class Members and PAGA Group Members.  
14 The Employee List shall be used solely for the administration of this Settlement  
15 and for no other purpose, and shall not be shared with any persons or entity not  
16 employed by the Settlement Administrator and working on the administration of  
17 this Settlement, unless required by the Court to be reviewed by Class Counsel.  
18 Because sensitive personal information is included in the Employee List, the  
19 Settlement Administrator shall maintain the Employee List securely and in  
20 confidence. Access to such Employee List shall be limited to employees of the  
21 Settlement Administrator with a need to use the Employee List for administration  
22 of the Settlement. In the event that the Settlement Agreement is not finally  
23 approved by the Court, or if it is in any way altered or disapproved on appeal, the  
24 Settlement Administrator shall not thereafter use the Employee List, and shall  
25 destroy any and all copies or versions of it (including any in electronic form).

26 2. Notice Packets.

1 a) The Notice Packet shall contain the Notice of Class  
2 Action Settlement in a form substantially similar to the form attached hereto as  
3 Exhibit 1. The Notice of Class Action Settlement shall set forth the material terms  
4 of the Settlement, including the release to be given by all members of the  
5 Settlement Class who do not request to be excluded from the Settlement Class. The  
6 Notice Packet also shall be individualized by including the Compensable  
7 Workweeks and Compensable PAGA Pay Periods (if applicable), and the estimated  
8 amount of the Individual Settlement Payment for the Settlement Class Member and  
9 the payment for the PAGA Group Member (if applicable).

10 b) The Notice Packet's mailing envelope shall include the  
11 following language: "IMPORTANT LEGAL DOCUMENT- YOU ARE  
12 ENTITLED TO MONEY FROM A CLASS ACTION SETTLEMENT; YOUR  
13 PROMPT REPLY IS REQUIRED AS EXPLAINED IN THE ENCLOSED  
14 NOTICE."  
15

16 3. Notice By First Class U.S. Mail. Upon receipt of the Employee  
17 List, the Settlement Administrator will perform a search based on the National  
18 Change of Address Database and/or similar database(s) to update and correct any  
19 known or identifiable address changes. No later than fourteen (14) calendar days  
20 after receiving the Employee List from Defendant as provided herein, the  
21 Settlement Administrator shall mail copies of the Notice Packet to all Settlement  
22 Class Members and PAGA Group Members via regular First-Class U.S. Mail. The  
23 Settlement Administrator shall exercise its best judgment to determine the current  
24 mailing address for each Settlement Class Member and PAGA Group Member.  
25 The address identified by the Settlement Administrator as the current mailing  
26 address shall be presumed to be the best mailing address for each Settlement Class  
27 Member and PAGA Group Member. In the event more than one address is  
28

1 identified, then the Settlement Administrator shall mail to each potentially valid  
2 address.

3 4. Undeliverable Notices. Any Notice Packets returned to the  
4 Settlement Administrator as non-delivered on or before the Response Deadline  
5 shall be re-mailed to the forwarding address affixed thereto. If no forwarding  
6 address is provided, the Settlement Administrator shall promptly attempt to  
7 determine a correct address by lawful use of skip-tracing, or other search using the  
8 name, address and/or Social Security number of the Settlement Class Member and  
9 PAGA Group Member involved, and shall then perform a re-mailing, if another  
10 mailing address is identified by the Settlement Administrator. Settlement Class  
11 Members and PAGA Group Members who received a re-mailed Notice Packet  
12 shall have their Response Deadline extended fifteen (15) days from the original  
13 Response Deadline.  
14

15 5. Notice Satisfies Due Process. Compliance with the notice  
16 procedures specified in this Settlement Agreement shall constitute due and  
17 sufficient notice to Settlement Class Members and PAGA Group Members of this  
18 Settlement and shall satisfy the requirements of due process. Nothing else shall be  
19 required of, or done by, the Parties, Class Counsel, or Defendant's counsel to  
20 provide notice of the proposed Settlement. In the event the procedures in this  
21 Settlement Agreement are followed and the intended recipient of a Notice Packet  
22 still does not receive the Notice Packet, the intended recipient shall be a Settlement  
23 Class Member and will be bound by all the terms of the Settlement and the Final  
24 Approval entered by the Court if the Settlement becomes effective.

25 6. Disputes Regarding Individual Settlement Payments.  
26 Settlement Class Members and PAGA Group Members will have the opportunity,  
27 should they disagree with Defendant's records regarding the Compensable  
28 Workweeks and/or Compensable PAGA Pay Periods stated in their Notice Packet,



1 to provide documentation and/or an explanation to show contrary Compensable  
2 Workweeks and/or Compensable PAGA Pay Periods. Settlement Class Members  
3 must submit information to the Settlement Administrator in writing no later than  
4 the Response Deadline. If there is a dispute, the Settlement Administrator will  
5 consult with the Parties to determine whether an adjustment is warranted. The  
6 Settlement Administrator shall determine the eligibility for, and the amounts of,  
7 any Individual Settlement Payments under the terms of this Agreement. The  
8 Settlement Administrator's determination of the eligibility for and amount of any  
9 Individual Settlement Payment shall be binding upon the Settlement Class Member  
10 and the Parties.

11           7. Disputes Regarding Administration of Settlement. Any  
12 disputes not resolved by the Settlement Administrator concerning the  
13 administration of the Settlement will be resolved by the Court under the laws of the  
14 State of California. Prior to any such involvement of the Court, counsel for the  
15 Parties will confer in good faith to resolve the disputes without the necessity of  
16 involving the Court.

17           8. Request for Exclusion. The Notice of Class Action Settlement  
18 contained in the Notice Packet shall state that Settlement Class Members who wish  
19 to exclude themselves from the Settlement must submit to the Settlement  
20 Administrator a signed, written statement requesting exclusion from the Settlement  
21 ("Request for Exclusion"). The written statement must contain the Settlement  
22 Class Member's name, address, telephone number, and the last four digits of the  
23 Settlement Class Member's Social Security number and/or the Employee ID  
24 number. The Request for Exclusion will not be valid if it is not signed by the person  
25 requesting exclusion, timely submitted by the Response Deadline, and received by  
26 the Settlement Administrator. The date of the postmark on the return mailing  
27 envelope on the Request for Exclusion shall be the exclusive means used to  
28

1 determine whether the Request for Exclusion was timely submitted. If the  
2 postmark is illegible, then the Request for Exclusion must arrive within three (3)  
3 days after the Objection/Exclusion Deadline Date to be considered timely. Any  
4 Settlement Class Member who requests to be excluded from the Settlement Class  
5 will not be entitled to any recovery under the Settlement and will not be bound by  
6 the terms of the Settlement or have any right to object, appeal or comment thereon.  
7 Settlement Class Members who fail to submit a valid and timely written Request  
8 for Exclusion on or before the Response Deadline shall be bound by all terms of  
9 the Settlement and any final judgment entered in this Action if the Settlement is  
10 approved by the Court. No later than fourteen (14) calendar days after the  
11 Response Deadline, the Settlement Administrator shall provide counsel for the  
12 Parties with a final list of the Settlement Class Members who have timely submitted  
13 Requests for Exclusion. At no time shall any of the Parties or their counsel seek to  
14 directly or indirectly solicit or otherwise encourage members of the Settlement  
15 Class to submit Requests for Exclusion from the Settlement. Settlement Class  
16 Members who submit a Request for Exclusion are not entitled to object to the  
17 Settlement. PAGA Group Members will not have the opportunity to opt out of, or  
18 object to, their payment from the portion of the PAGA Payment paid to PAGA  
19 Group Members or the Released PAGA Claims set forth in this Settlement  
20 Agreement.  
21

22           9.     Objections. The Notice of Class Action Settlement contained  
23 in the Notice Packet shall state that Settlement Class Members who wish to object  
24 to the Settlement should serve on the Settlement Administrator a written statement  
25 of objection (“Notice of Objection”) by the Response Deadline. The Notice of  
26 Objection should be signed by the Settlement Class Member and state: (1) the full  
27 name of the Settlement Class Member; (2) the dates of employment of the  
28 Settlement Class Member; (3) the last four digits of the Settlement Class Member’s

1 Social Security number and/or the Employee ID number; and (4) the basis for the  
2 objection. Settlement Class Members who fail to make objections shall be deemed  
3 to have waived any objections and shall be foreclosed from making any objections  
4 (whether by appeal or otherwise) to the Settlement. The Parties will be permitted  
5 to respond in writing to such objections prior to the Court's ruling on the same  
6 Settlement Class Members have a right to appear at the Final Approval/Settlement  
7 Fairness Hearing in order to have their objections heard by the Court. At no time  
8 shall any of the Parties or their counsel seek to directly or indirectly solicit or  
9 otherwise encourage Settlement Class Members to file or serve written objections  
10 to the Settlement or appeal from the Order and Final Judgment. Settlement Class  
11 Members who submit a Request for Exclusion are not entitled to object to the  
12 Settlement.

13  
14 O. Funding and Allocation of the Gross Settlement Amount. No later  
15 than fourteen (14) calendar days after the Effective Date (the "funding date"),  
16 Defendant shall provide the Gross Settlement Amount, minus the Pick-Up Stix  
17 Payments of One Hundred Thousand Sixty-Seven Dollars (\$167,700.00) already  
18 paid by Defendant, to the Settlement Administrator to fund the Settlement, as set  
19 forth in this Agreement.

20 1. Individual Settlement Payments. Individual Settlement  
21 Payments shall be paid from the Net Settlement Amount and shall be paid pursuant  
22 to the formula set forth herein; provided, however, that prior to the calculation of  
23 Individual Settlement Payments, employees who were not paid already by  
24 Defendant for signing Pick-Up Stix settlement agreements will receive Pick-Up  
25 Stix Adjustment Payments.

26 a) Calculation of Individual Settlement Payments. Using  
27 the Employee List, the amount of each Individual Settlement Payment will be  
28 calculated on a pro rata basis, based on the number of Compensable Workweeks

1 each Settlement Class Member worked during the Class Settlement Period. To  
2 establish the value of each Compensable Workweek (“Compensable Workweek  
3 Value”), the Settlement Administrator will first determine the total number of  
4 workweeks worked by the Settlement Class Members during the Class Settlement  
5 Period. The Compensable Workweek Value will be equal to the Net Settlement  
6 Amount divided by the total number of workweeks worked by all Settlement Class  
7 Members during the Class Settlement Period. The Compensable Workweek Value  
8 will be rounded to the nearest cent. The Individual Settlement Payment to each  
9 Settlement Class Member will be determined by multiplying the Compensable  
10 Workweek Value by the total number of Compensable Workweeks each Settlement  
11 Class Member worked during the Class Settlement Period. The total of all  
12 Individual Settlement Payments for all Settlement Class Members shall equal the  
13 Net Settlement Amount. There is no need for a Settlement Class Member to submit  
14 a claim form in order to be eligible for and to receive an Individual Settlement  
15 Payment. Any partial workweek will be rounded up to the nearest full workweek.  
16 Individual Settlement Payments will be reduced by any required deductions for  
17 each Settlement Class Member, including employee-side tax withholdings and/or  
18 deductions.  
19

20 b) Calculation of Pick-Up Stix Adjustment Payments.

21 Using the Employee List, the Settlement Administrator will identify all employees  
22 who did not sign Pick-Up Stix settlement agreements. The amount of each Pick-  
23 Up Stix Adjustment Payment will be calculated on a pro rata basis, based on the  
24 number of Compensable Workweeks worked during the Class Settlement Period  
25 by each Settlement Class Member who did not sign a Pick-Up Stix settlement  
26 agreement. To establish the value of each Compensable Workweek for Pick-Up  
27 Stix Adjustment Payments (“Compensable Workweek Adjustment Value”), the  
28 Settlement Administrator will first determine the total number of workweeks

1 worked during the Class Settlement Period by the Settlement Class Members who  
2 did not sign a Pick-Up Stix settlement agreement. The Compensable Workweek  
3 Adjustment Value will be equal to five thousand dollars (\$5,000.00) divided by the  
4 total number of workweeks worked during the Class Settlement Period by all  
5 Settlement Class Members who did not sign a Pick-Up Stix settlement agreement.  
6 The Compensable Workweek Adjustment Value will be rounded to the nearest  
7 cent. Each Pick-Up Stix Adjustment Payment will be determined by multiplying  
8 the Compensable Workweek Adjustment Value by the total number of  
9 Compensable Workweeks worked during the Class Settlement Period by all  
10 Settlement Class Members who did not sign a Pick-Up Stix settlement agreement.  
11 The sum of all Pick-Up Stix Adjustment Payments shall equal \$5,000. There is no  
12 need for a Settlement Class Member who did not sign a Pick-Up Stix settlement  
13 agreement to submit a claim form in order to be eligible for and to receive an Pick-  
14 Up Stix Adjustment Payment. Any partial workweek will be rounded up to the  
15 nearest full workweek. Pick-Up Stix Adjustment Payments will be reduced by any  
16 required deductions for each Settlement Class Member, including employee-side  
17 tax withholdings and/or deductions.  
18

19  
20 c) Allocation. For tax purposes, Pick-Up Stix Adjustment  
21 Payments shall be allocated and treated as one hundred percent (100%) wages. For  
22 tax purposes, Individual Settlement Payments shall be allocated and treated as  
23 follows: twenty percent (20%) as wages; eighty percent (80%) as penalties and  
24 interest.

25 d) Mailing. Individual Settlement Payments and shall be  
26 mailed by regular First-Class U.S. Mail to Settlement Class Members' last known  
27 mailing address no later than twenty-five (25) calendar days after the Effective  
28 Date. Pick-Up Stix Adjustment Payments will be mailed along with Individual

1 Settlement Payments to employees eligible for a Pick-Up Stix Adjustment  
2 Payment.

3 e) Expiration. Any checks issued to Settlement Class  
4 Members shall remain valid and negotiable for one hundred and eighty (180) days  
5 from the date of their issuance. If a Settlement Class Member does not cash his or  
6 her settlement check within 180 days, the uncashed funds, plus any accrued interest  
7 that has not been distributed pursuant to the Order of this Court, shall be voided by  
8 the Settlement Administrator and the Settlement Administrator will take all steps  
9 necessary to ensure that the proceeds from the Settlement Class Member's un-  
10 cashed check(s), including unpaid cash residue(s), or other unclaimed or  
11 abandoned fund(s), shall be distributed by the Settlement Administrator to the  
12 California State Controller's Office Unclaimed Property Fund in the name of the  
13 Settlement Class Member.  
14

15 2. Service Award and General Release Payment. Defendant  
16 agrees not to oppose or object to any application or motion by Plaintiff for a Service  
17 Award of up to Five Thousand Dollars (\$5,000). The Service Award is for  
18 Plaintiff's time, effort and risk in bringing and prosecuting the Action. The  
19 Settlement Administrator shall pay the Service Award to Plaintiff from the Gross  
20 Settlement Amount no later than twenty-five (25) calendar days after the Effective  
21 Date. Any portion of the requested Service Award that is not awarded to the Class  
22 Representative shall be part of the Net Settlement Amount and shall be distributed  
23 to Settlement Class Members as provided in this Agreement. The Settlement  
24 Administrator shall issue an IRS Form 1099 — MISC to Plaintiff for his Class  
25 Service Award. Plaintiff shall be solely and legally responsible to pay any and all  
26 applicable taxes on his respective Service Award and shall hold harmless  
27 Defendant from any claim or liability for taxes, penalties, or interest arising as a  
28 result of the Service Award. The Class Representative Service Award shall be in

1 addition to the Plaintiff's Individual Settlement Payment as a Settlement Class  
2 Member and General Release Payment. In addition, Defendant agrees not to  
3 oppose or object to any application or motion by Plaintiff for a payment of up to  
4 Ten Thousand Dollars (\$10,000) for his execution of a general release and waiver  
5 of Civil Code § 1542 ("General Release Payment"). The General Release Payment  
6 includes the release of any and all known or unknown non-wage related claims that  
7 Plaintiff may have against Defendant, as set forth above.

8           3.     Class Counsel's Attorneys' Fees and Costs. Defendant agrees  
9 not to oppose or object to any application or motion by Class Counsel for the Class  
10 Counsel Fees Award for attorneys' fees not to exceed 30% of the Gross Settlement  
11 Amount (\$180,000.00), plus a request for the Class Counsel Costs Award for costs  
12 and expenses not to exceed Seventeen Thousand Dollars (\$17,000.00), supported  
13 by a declaration from Class Counsel, from the Gross Settlement Amount. The  
14 Parties agree that any and all claims for reasonable attorneys' fees and costs have  
15 been settled by this Agreement and that neither Plaintiff, Settlement Class  
16 Members, nor Class Counsel shall seek payment of attorneys' fees or  
17 reimbursement of costs/expenses from Defendant except as set forth in this  
18 Agreement. Any portion of the requested Class Counsel Fees Award or Class  
19 Counsel Costs Award that is not awarded to Class Counsel shall be part of the Net  
20 Settlement Amount and shall be distributed to Settlement Class Members as  
21 provided in this Agreement. Notwithstanding anything else in this Agreement,  
22 Settlement is not contingent upon the Court awarding Class Counsel any particular  
23 amount in attorneys' fees and costs and, in the event that the Court does not approve  
24 the requested amount of, or reduces the Class Counsel Fees Award and/or Class  
25 Counsel Costs Award amounts, Plaintiff and Class Counsel shall not have the right  
26 to modify or revoke the Settlement, or to appeal such order, nor will Plaintiff or  
27 Class Counsel seek, request, or demand an increase to the Gross Settlement  
28

1 Amount on that basis. The Settlement Administrator shall pay the Class Counsel  
2 Fees Award and the Class Counsel Costs Award to Class Counsel from the Gross  
3 Settlement Amount no later than twenty-five (25) calendar days after the Effective  
4 Date. Class Counsel shall be solely and legally responsible to pay all applicable  
5 taxes on the payment made pursuant to this paragraph. Class Counsel agrees to  
6 provide the Settlement Administrator (and not Defendant or Defendant's counsel)  
7 with executed IRS Forms W-9 within five (5) days after the funding date and before  
8 payments for the Class Counsel Fees Award and Class Counsel Costs Award are  
9 issued. The Settlement Administrator shall issue an IRS Form 1099 — MISC to  
10 Class Counsel for the payments made pursuant to this paragraph. Neither Class  
11 Counsel nor any other current or past counsel for Plaintiff shall be permitted to  
12 petition the Court for, or accept, any additional payments for fees, costs, or interest,  
13 and the Class Counsel Fees Award and Class Counsel Costs Award shall be for all  
14 claims for attorneys' fees and costs whenever incurred, including past and present  
15 fees and costs incurred in the Action to date and through and including the Effective  
16 Date, as well as final distribution of all payments under this Settlement Agreement  
17 and through and after final judgment. Upon the Gross Settlement Amount funding  
18 date, payment of the Class Counsel Fees Award and Class Counsel Costs Award to  
19 Class Counsel as set forth herein shall constitute full satisfaction of the obligation  
20 to pay any amounts to any person, attorney or law firm for attorneys' fees, expenses  
21 or costs in the Action incurred by any attorney on behalf of Plaintiff, the Settlement  
22 Class, and/or any of the PAGA Group Members, and shall relieve the Settlement  
23 Class, PAGA Group Members, Defendant, the Settlement Administrator, and  
24 Defendant's Counsel of any other claims or liability to any other attorney or law  
25 firm for any attorneys' fees, expenses and/or costs to which any of them may claim  
26 to be entitled on behalf of Plaintiff, the Settlement Class, and/or the PAGA Group  
27 Members in connection with the claims released in this Settlement.  
28



1           4.     PAGA Payment. Ten Thousand Dollars (\$10,000) shall be  
2 allocated from the Gross Settlement Amount for settlement of claims for civil  
3 penalties under the PAGA. The Settlement Administrator shall pay seventy-five  
4 percent (75%) of the PAGA Payment, or \$7,500.00, to the California Labor and  
5 Workforce Development Agency no later than twenty-five (25) calendar days after  
6 the Effective Date; and the remaining Two Thousand Five Hundred Dollars  
7 (\$2,500.00) shall be distributed to PAGA Group Members as follows:

8                     a)     Calculation. Using the Employee List, the remaining  
9 Two Thousand Five Hundred Dollars (\$2,500.00) shall be distributed to all PAGA  
10 Group Members, with each receiving a pro rata share based on the number of  
11 Compensable PAGA Periods each PAGA Group Member worked during the  
12 PAGA Settlement Period. To establish the value of each Compensable PAGA  
13 Period (“Compensable PAGA Period Value”), the Settlement Administrator will  
14 first determine the total number of pay periods worked by the PAGA Group  
15 Members during the PAGA Settlement Period. The Compensable PAGA Period  
16 Value will be equal to Two Thousand Five Hundred Dollars (\$2,500.00) divided  
17 by the total number of pay periods worked by all PAGA Group Members during  
18 the PAGA Settlement Period. The Compensable PAGA Period Value will be  
19 rounded to the nearest cent. The payment to each PAGA Group Member will be  
20 determined by multiplying the Compensable PAGA Period Value by the total  
21 number of Compensable PAGA Periods each PAGA Group Member worked  
22 during the PAGA Settlement Period. The total of all payments for all PAGA Group  
23 Members shall equal Two Thousand Five Hundred Dollars (\$2,500.00). Any  
24 partial pay period will be rounded up to the nearest full pay period. The portion of  
25 the PAGA Payment paid to the PAGA Group Members shall be treated entirely as  
26 penalties. In the event that the Court awards less than the full amount requested  
27  
28

1 for the PAGA Payment, the un-awarded amount shall remain in the Net Settlement  
2 Amount and be distributed to Settlement Class Members.

3           b) Mailing. Payments to PAGA Group Members shall be  
4 mailed along with Individual Settlement Payments by regular First-Class U.S. Mail  
5 to the PAGA Group Member's last known mailing address no later than twenty-  
6 five (25) calendar days after the Effective Date.

7           c) Expiration. Any checks issued to PAGA Group  
8 Members shall remain valid and negotiable for one hundred and eighty (180) days  
9 from the date of their issuance. If a PAGA Group Member does not cash his or her  
10 settlement check within 180 days, the uncashed funds, plus any accrued interest  
11 that has not been distributed pursuant to the Order of this Court, shall be voided by  
12 the Settlement Administrator and the Settlement Administrator will take all steps  
13 necessary to ensure that the proceeds from the PAGA Group Member's un-cashed  
14 check(s), including unpaid cash residue(s), or other unclaimed or abandoned  
15 fund(s), shall be distributed by the Settlement Administrator to the California State  
16 Controller's Office Unclaimed Property Fund in the name of the PAGA Group  
17 Member.  
18 Member.

19           5. Settlement Administration Costs. The Settlement Administrator  
20 shall be paid for the costs of administration of the Settlement from the Gross  
21 Settlement Amount. The Settlement Administration Costs are not to exceed Nine  
22 Thousand Dollars (\$9,000.00). The Settlement Administrator shall be paid the  
23 Settlement Administration Costs no later than twenty-five (25) calendar days after  
24 Defendant provides funds to the Settlement Administrator for disbursement under  
25 this Agreement.

26           P. Government Actions Affecting Settlement. If any administrative  
27 proceeding or action is commenced on or before a date that is one (1) year from the  
28 Preliminary Approval Date by any federal, state or local government authority,

1 including, without limitation, the U.S. Department of Labor or the California  
2 Division of Labor Standards Enforcement, in a *parens patriae* or other function  
3 asserting the Released Claims, Plaintiff and Class Counsel will sign an appropriate  
4 declaration at the request of Defendant supporting the Settlement and asserting that  
5 the governmental action is within the scope of this Stipulation, the Actions and the  
6 Final Judgment. Additionally, in the event any action is commenced by a  
7 governmental authority as stated herein, Defendant shall have the option to seek an  
8 Order from the Court, requesting that payments to the Settlement Class Members  
9 be immediately suspended pending the outcome of the suit or administrative  
10 proceeding brought by the governmental authority.

11 Q. Final Approval Motion. At the earliest practicable time following the  
12 expiration of the Response Deadline, Plaintiff shall file with the Court a Motion for  
13 Order Granting Final Approval and Entering Judgment, which motion shall request  
14 final approval of the Settlement and the amounts payable for the Service Award,  
15 General Release Payment, Class Counsel Costs Award, Class Counsel Fees Award,  
16 PAGA Payment, Employer Taxes, Settlement Administration Costs, and the credit  
17 for Pick-Up Stix Payments. Upon final approval of the Settlement by the Court at  
18 or after the Final Approval hearing, the Parties shall present a Proposed Final  
19 Judgment to the Court for its approval. Class Counsel will be responsible for  
20 drafting all documents necessary to obtain Final Approval, including the Final  
21 Judgment.

22 1. Declaration by Settlement Administrator. Upon completion of  
23 administration of the Settlement, the Settlement Administrator shall submit a  
24 declaration, under penalty of perjury, in support of Plaintiff's motion for final  
25 approval of this Settlement detailing (a) the number of Notice Packets mailed and  
26 re-mailed to Settlement Class Members, (b) the number of undeliverable Notice  
27 Packets, (c) the number of timely Requests for Exclusion, (d) the number of timely  
28

1 objections received, (e) the amount of the average Individual Settlement Payment,  
2 (f) the Settlement Administration Costs, (g) the confirmed mailing of notices to the  
3 federal and state governmental agencies pursuant to 28 U.S.C. § 1715, and (h) any  
4 other information as the Parties mutually agree or the Court orders the Settlement  
5 Administrator to provide.

6           2.     Final Approval Order and Judgment. The Parties shall present  
7 a Judgment and Order Granting Final Approval of Class Action Settlement to the  
8 Court for its approval. The Final Judgment shall, among other things:

9           (a)     Find that the Court has personal jurisdiction over all Settlement  
10 Class Members and PAGA Group Members, and that the Court has subject matter  
11 jurisdiction to approve this Stipulation and all exhibits thereto;

12           (b)     Approve this Agreement and the proposed Settlement as fair,  
13 reasonable and adequate, consistent and in compliance with all applicable  
14 requirements of the Federal Rules of Civil Procedure, the California and United  
15 States Constitutions (including the due process clauses), the Southern District of  
16 California Local Rules and any other applicable law, and in the best interests of  
17 each of the Parties and the Settlement Class Members and PAGA Group Members;  
18 direct the Parties and their counsel to implement this Agreement according to its  
19 terms and provisions; and declare this Agreement as to the Released Class Claims  
20 to be binding on Plaintiff and all other Settlement Class Members, except those  
21 who timely and properly filed Request for Exclusions, as well as their heirs,  
22 executors and administrators, successors and assigns, and also declare that the  
23 judgment entered by the Court as to the Released PAGA Claims is binding on all  
24 PAGA Group Members;

25           (c)     Find that the Notice and notice methodology implemented  
26 pursuant to this Agreement (i) constituted the best practicable notice; (ii)  
27 constituted notice that was reasonably calculated, under the circumstances, to  
28 apprise Settlement Class Members of the pendency of the Action, their right to

1 object to or exclude themselves from the proposed Settlement and their right to  
2 appear at the Final Settlement Hearing; (iii) were reasonable and constituted due,  
3 adequate and sufficient notice to all persons entitled to receive notice; and (iv) met  
4 all applicable requirements of the Federal Rules of Civil Procedure, the California  
5 and United States Constitutions (including the Due Process Clause), the Southern  
6 District Local Rules and any other applicable law;

7 (d) Find that Plaintiff and Class Counsel adequately represented the  
8 Settlement Class for purposes of entering into and implementing the settlement;

9 (e) Dismiss the Action (including all individual claims, Released  
10 Class Claims and Released PAGA Claims) with prejudice, without fees or costs to  
11 any party except as provided in this Stipulation;

12 (f) (i) Without affecting the finality of the Final Judgment, the  
13 Court shall retain continuing jurisdiction over the Action, the Parties, and the  
14 Settlement Class, as well as the administration and enforcement of the Settlement.  
15 Any disputes or controversies arising with respect to the interpretation,  
16 consummation, enforcement, or implementation of the Settlement shall be  
17 presented by motion to the Court;

18 R. Option to Terminate Settlement. If, after the Response Deadline, the  
19 total number of Settlement Class Members who submitted timely and valid  
20 Requests for Exclusion from the Settlement is at least five percent (5%) of all  
21 Settlement Class Members, Defendant shall have, in its sole discretion, the option  
22 to terminate this Settlement. If Defendant exercises the option to terminate this  
23 Settlement, Defendant shall: (a) provide written notice to Class Counsel within  
24 seven (7) calendar days after the Response Deadline and (b) pay all Settlement  
25 Administration Costs incurred up to the date or as a result of the termination; and  
26 the Parties shall proceed in all respects as if this Agreement had not been executed.  
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1           S.     Motions for Preliminary and Final Approval. Class Counsel will  
2 provide an opportunity for Counsel for Defendant to review the Motions for  
3 Preliminary and Final Approval prior to filing with the Court. The Parties and their  
4 counsel will cooperate with each other and use their best efforts to seek Court  
5 approval of the Motions for Preliminary and Final Approval of the Settlement.

6           T.     No Impact on Benefit Plans. Neither this Settlement nor any amounts  
7 paid under the Settlement will modify any previously credited hours or service  
8 under any employee benefit plan, policy, or bonus program sponsored by  
9 Defendant. Such amounts will not form the basis for additional contributions to,  
10 benefits under, or any other monetary entitlement under Defendant-sponsored  
11 benefit plans, policies, or bonus programs. The payments made under the terms of  
12 this Stipulation shall not be applied retroactively, currently, or on a going forward  
13 basis, as salary, earnings, wages, or any other form of compensation for the  
14 purposes of Defendant’s benefit plan, policy, or bonus program. Defendant retains  
15 the right to modify the language of its benefit plans, policies and bonus programs  
16 to effect this intent, and to make clear that any amounts paid pursuant to this  
17 Settlement are not for “hours worked,” “hours paid,” “hours of service,” or any  
18 similar measuring term as defined by applicable plans, policies and bonus programs  
19 for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that  
20 additional contributions or benefits are not required by this Settlement.

21           U.     Notices. Unless otherwise specifically provided herein, all notices,  
22 demands, or other communications given hereunder shall be in writing and shall be  
23 deemed to have been duly given as of the third (3rd) business day after mailing by  
24 United States certified mail, return receipt requested, addressed as follows:  
25

26           **To Plaintiff and the Settlement Class:**

27           Sam Kim  
28           VERUM LAW GROUP, APC

1 841 Apollo Street, Suite 340  
2 El Segundo, CA 90245  
3 Telephone: (424) 320-2000  
4 Facsimile: (424) 221-5010

5 **To Defendant:**

6 Tracey Kennedy  
7 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
8 A Limited Liability Partnership  
9 Including Professional Corporations  
10 333 South Hope Street, 43rd Floor  
11 Los Angeles, California 90071  
12 Telephone: 213.620.1780  
13 Facsimile: 213.620.1398

14 V. Cooperation. The Parties and their counsel will cooperate with each  
15 other and use their best efforts to implement the Settlement. The Parties have  
16 cooperated in the drafting and preparation of this Settlement Agreement. Hence,  
17 in any construction made to this Settlement Agreement, the same shall not be  
18 construed against any of the Parties

19 W. Admissibility of Agreement. This Agreement shall not be admissible  
20 in any proceeding for any purpose, except to enforce it according to its terms.

21 X. Amendment or Modification. This Agreement may be amended or  
22 modified only by a written instrument signed by counsel for all Parties or their  
23 successors-in-interest, and approved by the Court.

24 Y. Entire Agreement. This Agreement and any attached Exhibits  
25 constitute the entire Agreement among these Parties, and no oral or written  
26 representations, warranties or inducements have been made to any Party  
27 concerning this Agreement or its Exhibits other than the representations, warranties  
28 and covenants contained and memorialized in the Agreement and its Exhibits.

1           Z.     Authorization to Enter Into Settlement Agreement. Counsel for all  
2 Parties warrant and represent they are expressly authorized by the Parties whom  
3 they represent to negotiate this Agreement and to take all appropriate actions  
4 required or permitted to be taken by such Parties pursuant to this Agreement to  
5 effectuate its terms, and to execute any other documents required to effectuate the  
6 terms of this Agreement. The persons signing this Agreement on behalf of  
7 Defendant represent and warrant that they are authorized to sign this Agreement on  
8 behalf of Defendant. Plaintiff represents and warrant that he is authorized to sign  
9 this Agreement and that he has not assigned any claim, or part of a claim, covered  
10 by this Settlement to a third-party.

11           AA.   Binding on Successors and Assigns. This Agreement shall be binding  
12 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as  
13 previously defined.

14           BB.   California Law Governs. All terms of this Agreement and the Exhibits  
15 hereto and any disputes arising hereunder shall be governed by and interpreted  
16 according to the laws of the State of California.

17           CC.   Counterparts. This Agreement may be executed in one or more  
18 counterparts. All executed counterparts and each of them shall be deemed to be  
19 one and the same instrument provided that counsel for the Parties to this Agreement  
20 shall exchange among themselves copies or originals of the signed counterparts.

21           DD.   This Settlement Is Fair, Adequate and Reasonable. The Parties  
22 believe this Settlement is a fair, adequate and reasonable settlement of this Action  
23 and have arrived at this Settlement after extensive arms-length negotiations, taking  
24 into account all relevant factors, present and potential. This Settlement was reached  
25 after extensive negotiations and mediation with a well-renowned class action  
26 mediator.  
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1           EE. Jurisdiction of the Court. The Parties agree that the Court shall retain  
2 jurisdiction with respect to the interpretation, implementation and enforcement of  
3 the terms of this Agreement and all orders and judgments entered in connection  
4 therewith, and the Parties and their counsel hereto submit to the jurisdiction of the  
5 Court for purposes of interpreting, implementing and enforcing the settlement  
6 embodied in this Agreement and all orders and judgments entered in connection  
7 therewith.

8           FF. Invalidity of Any Provision. Before declaring any provision of this  
9 Agreement invalid, the Court shall first attempt to construe the provisions valid to  
10 the fullest extent possible consistent with applicable precedents so as to define all  
11 provisions of this Agreement valid and enforceable. Should the Court deem any  
12 clause or provision of this Agreement be invalid, illegal, or unenforceable, it shall  
13 first attempt to modify or reform it as minimally necessary to be valid, lawful, and  
14 enforceable.

15           GG. Publicity. Neither Plaintiff nor Plaintiff’s counsel shall issue any  
16 press release or announcement of any kind related in any way to the settlement.  
17 Plaintiff and Plaintiff’s counsel agree that, prior to preliminary approval of the  
18 settlement, they will keep the terms of the settlement confidential except for  
19 purposes of communicating with Plaintiff only. Plaintiff understands that the  
20 settlement is confidential and shall keep the settlement confidential. From and after  
21 preliminary approval of the settlement, Plaintiff and Plaintiff’s counsel may: (1) as  
22 required by law; (2) as required under the terms of the settlement; or (3) as required  
23 under counsel’s duties and responsibilities as class counsel, comment regarding the  
24 specific terms of the settlement. In all other cases, Plaintiff and Plaintiff’s counsel  
25 agree to limit their statements regarding the terms of the settlement, whether oral,  
26 written or electronic (including the world wide web), to say the Lawsuit has been  
27 resolved and that Plaintiff and Plaintiff’s counsel are satisfied with the settlement  
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1 terms. Nothing in this Paragraph is intended to interfere with Plaintiff's counsel's  
2 duties and obligations to faithfully discharge their duties as class counsel, including  
3 but not limited to, communicating with Settlement Class Members regarding the  
4 settlement, and nothing shall prohibit Plaintiff's counsel from referring to the  
5 settlement in adequacy of counsel declarations or related court filings.

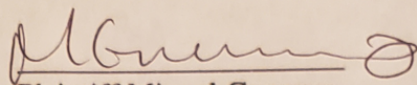
6 HH. Waiver of Certain Appeals. Except as provided herein, the Parties  
7 agree to waive any and all rights to appeal, this waiver being contingent upon the  
8 Court entering the Final Judgment. This waiver includes waiver of all rights to any  
9 post-judgment proceeding and appellate proceeding, including, but not limited to,  
10 motions for relief from judgment and motions to amend or alter the judgment.

11 II. No Admissions. Plaintiff has claimed and continues to claim that the  
12 Released Class Claims and Released PAGA Claims have merit and give rise to  
13 liability on the part of Defendant. Defendant has claimed and continues to claim  
14 that the Released Class Claims and Released PAGA Claims have no merit and do  
15 not give rise to liability. This Agreement is a compromise of disputed claims.  
16 Nothing contained in this Agreement and no documents referred to herein and no  
17 action taken to carry out this Agreement may be construed or used as an admission  
18 by or against the Defendant or Plaintiff or Class Counsel as to the merits or lack  
19 thereof of the claims asserted. Whether or not the Settlement is finally approved,  
20 neither the Settlement, nor any document, statement, proceeding or conduct related  
21 to this Settlement Agreement, nor any reports or accounts thereof, shall in any event  
22 be: (1) construed as, offered or admitted in evidence as, received as, or deemed to  
23 be evidence for any purpose adverse to the Released Parties, including, but not  
24 limited to, evidence of a presumption, concession, indication or admission by any  
25 of the Released Parties of any liability, fault, wrongdoing, omission, concession or  
26 damage; or (2) disclosed, referred to or offered or received in evidence against any  
27 of the Released Parties, in any further proceeding in the Lawsuits, or any other  
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1 civil, criminal or administrative action or proceeding, except for purposes of  
2 settling the Lawsuits pursuant to this Settlement Agreement.  
3

4  
5 Dated: March 23, 2022

  
Plaintiff Miguel Guerrero

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9 Dated: March \_\_, 2022

\_\_\_\_\_  
Defendant United States Gypsum  
Company  
Noreen Cleary  
Chief Human Resources Officer

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13 **AGREED AS TO FORM:**

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16 Dated: March \_\_, 2022

\_\_\_\_\_  
Sam Kim  
Verum Law Group, APC  
Attorneys for Plaintiff

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22  
23 Dated: March \_\_, 2022

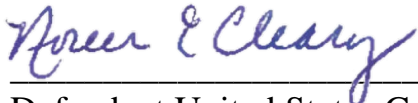
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Tracey A. Kennedy  
Sheppard, Mullin, Richter & Hampton LLP  
Attorneys for Defendant

1 civil, criminal or administrative action or proceeding, except for purposes of  
2 settling the Lawsuits pursuant to this Settlement Agreement.

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4  
5 Dated: March \_\_\_\_, 2022

\_\_\_\_\_  
6 Plaintiff Miguel Guerrero

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8  
9 Dated: March 22, 2022


  
\_\_\_\_\_  
10 Defendant United States Gypsum  
11 Company  
12 Noreen Cleary  
13 Chief Human Resources Officer

14 **AGREED AS TO FORM:**

15  
16 Dated: March \_\_\_\_, 2022

\_\_\_\_\_  
17 Sam Kim  
18 Verum Law Group, APC  
19 Attorneys for Plaintiff

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21  
22  
23 Dated: March 24, 2022

  
\_\_\_\_\_  
24 Tracey A. Kennedy  
25 Sheppard, Mullin, Richter & Hampton LLP  
26 Attorneys for Defendant  
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1 civil, criminal or administrative action or proceeding, except for purposes of  
2 settling the Lawsuits pursuant to this Settlement Agreement.

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5 Dated: March \_\_\_\_, 2022

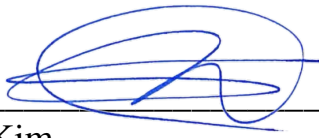
\_\_\_\_\_  
6 Plaintiff Miguel Guerrero

7  
8  
9 Dated: March \_\_\_\_, 2022

\_\_\_\_\_  
10 Defendant United States Gypsum  
11 Company  
12 Noreen Cleary  
13 Chief Human Resources Officer

14 **AGREED AS TO FORM:**

15  
16 Dated: March 24, 2022

  
\_\_\_\_\_  
17 Sam Kim  
18 Verum Law Group, APC  
19 Attorneys for Plaintiff

20  
21  
22  
23 Dated: March \_\_\_\_, 2022

\_\_\_\_\_  
24 Tracey A. Kennedy  
25 Sheppard, Mullin, Richter & Hampton LLP  
26 Attorneys for Defendant  
27  
28