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Amware Pallet Services, LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF FRESNO**

ESTEBAN CAMPOS SOTO, individually and  
on behalf of all others similarly situated,

Plaintiff,

vs.

AMWARE PALLET SERVICES, LLC, a limited  
liability corporation doing business in California;  
and DOES 1-20, inclusive,

Defendants.

Case No. 20CECG00227

*Assigned for all purposes to  
Hon. D. Tyler Tharpe  
Dept. 501*

**AMENDED STIPULATION AND  
SETTLEMENT OF CLASS ACTION  
CLAIMS**

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of  
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be  
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein  
4 shall have the meanings set forth in Article I or as defined elsewhere in this Amended Joint  
5 Stipulation of Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Plaintiff Esteban Campos Soto (“Plaintiff”) and the  
7 Class Members, on the one hand, and Defendant Amware Pallet Services, LLC (“Defendant”), on  
8 the other hand. Plaintiff and Defendant collectively are referred to in this Agreement as “the Parties.”

9 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and  
10 concluded by agreement of Defendant to pay the settlement amount of One Million One Hundred  
11 Thousand Dollars (\$1,100,000.00) as provided in Section 3.06(a) below (“Gross Settlement  
12 Amount”) pursuant to the terms and conditions of this Agreement and for the consideration set forth  
13 herein, including but not limited to, a release of all claims by Plaintiff and the Class Members as set  
14 forth herein.

15 **ARTICLE I**

16 **DEFINITIONS**

17 Unless otherwise defined herein, the following terms used in this Agreement shall have the  
18 meanings ascribed to them as set forth below:

19 a. “Action” means the action described as follows: *Esteban Campos Soto, individually*  
20 *and on behalf of all others similarly situated v. Amware Pallet Services, LLC; and DOES 1 through*  
21 *20, inclusive*, Case No. 20CECG00227, commenced on January 21, 2020, in the Superior Court of  
22 the State of California for the County of Fresno.

23 b. “Agreement” means this Joint Stipulation and Settlement of Class Action Claims,  
24 including the attached Exhibit(s).

25 c. “Class” means all current and former non-exempt employees who are or were  
26 employed by Defendant in California at any time during the Class Period.

27 d. “Class Counsel” means the attorneys for the Class and the Class Members, who are:  
28 AEGIS LAW FIRM, PC

1 Kashif Haque  
2 Samuel A. Wong  
3 Jessica L. Campbell  
4 Joseph M. Szilagyi  
5 9811 Irvine Center Drive, Suite 100  
6 Irvine, California 92618  
7 Telephone: (949) 379-6250  
8 Facsimile: (949) 379-6251

9 e. "Class List" means a list based on Defendant's business records that identifies each  
10 Class Member's name, last known home or mailing address, Social Security number or, as  
11 applicable, other taxpayer identification number, dates of employment, and the number of Qualifying  
12 Workweeks worked during the Class Period.

13 f. "Class Member(s)" means all members of the Class.

14 g. "Class Period" means from May 15, 2018 through the Preliminary Approval Date.

15 h. "Court" means the California Superior Court for the County of Fresno, where the  
16 Action is currently pending.

17 i. "Date of Finality" means the later of the following: (1) the date the Final Order is  
18 signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no  
19 appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or  
20 other judicial review is taken from the Court's overruling of objections to the settlement, ten (10)  
21 days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes  
22 final.

23 j. "Defendant" means Amware Pallet Services, LLC.

24 k. "Defense Counsel" means counsel for Defendant:

25 GORDON REES SCULLY MANSUKHANI, LLP  
26 Mark S. Posard  
27 Annette L. Rose  
28 3 Parkcenter Drive, Suite 200  
Sacramento, CA 95825  
Telephone: (916) 565-2900  
Facsimile: (916) 920-4402

l. "Disposition" means the method by which the Court approves the terms of the  
Settlement and retains jurisdiction over its enforcement, implementation, construction,  
administration, and interpretation.

1 m. “Final Order Approving Settlement of Class Action” or “Final Order” means the final  
2 formal court order signed by the Court following the Final Fairness and Approval Hearing in  
3 accordance with the terms herein, approving this Agreement.

4 n. “Gross Settlement Amount” means One Million One Hundred Thousand Dollars and  
5 Zero Cents (\$1,100,000.00) to be paid by Defendant as provided by this Agreement to settle this  
6 Action. Pursuant to Section 3.06 below, all claims of the Class and all administration costs,  
7 attorney’s fees and costs, and Incentive Award, shall be paid out of the Gross Settlement Amount.  
8 The employer’s share of payroll taxes arising from the payments made under this settlement shall be  
9 paid by Defendant separate from and in addition to the Gross Settlement Amount. The Gross  
10 Settlement Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the  
11 Gross Settlement Amount shall revert to Defendant.

12 o. “Incentive Award” means a monetary amount of up to Ten Thousand Dollars  
13 (\$10,000.00) for the Plaintiff, subject to Court approval, for his services as representative of the Class  
14 Members, and for his general release of claims.

15 p. “Individual Settlement Payment(s)” means each Participating Class Member’s  
16 respective share of the Net Settlement Amount. Individual Settlement Payments will be determined  
17 by the calculations provided in this Agreement.

18 q. “LWDA” means The State of California Labor and Workforce Development Agency.

19 r. “LWDA Payment” means 75% of the \$40,000 allocated to the settlement of PAGA  
20 claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.06(e) of  
21 this Agreement, as provided for below.

22 s. “Motion for Final Approval” means Plaintiff’s submission of a written motion,  
23 including any evidence as may be required for the Court to conduct an inquiry into the fairness of  
24 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and  
25 to enter a Final Order in this Action.

26 t. “Motion for Preliminary Approval” means Plaintiff’s submission of a written motion,  
27 including any evidence as may be required for the Court to grant preliminary approval of the  
28 Settlement as required by Rule 3.769 of the California Rules of Court.

1 u. “Plaintiff” means Esteban Campos Soto.

2 v. “Net Settlement Amount” means the Gross Settlement Amount less Court-approved  
3 administration costs, Class Counsels’ attorney’s fees and costs, Incentive Award, and LWDA  
4 Payment, pursuant to Section 3.06(a)-(f) below.

5 w. “Non-Participating Class Member(s)” means any Class Member(s) who submit to the  
6 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant  
7 to Section 3.04(b) below.

8 x. “Notice Packet” means the Notice of Proposed Class Action Settlement in a form  
9 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

10 y. “PAGA” means the California Private Attorneys General Act of 2004, which is  
11 codified in California Labor Code §§ 2698 *et seq.*

12 z. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount  
13 allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties have  
14 agreed that the PAGA Settlement Amount is Forty Thousand Dollars (\$40,000), subject to Court  
15 approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the  
16 remaining 25% will be maintained as part of the Net Settlement Amount and distributed to PAGA  
17 Group Members.

18 aa. “PAGA Group Members” means all Class Members employed by Defendant at any  
19 time between January 21, 2019 through the Preliminary Approval Date (“PAGA Period”).

20 bb. “Participating Class Member(s)” is defined as a Class Member who does not timely  
21 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net  
22 Settlement Amount automatically without the need to return a claim form. Each Participating Class  
23 Member will be paid his/her Individual Settlement Payment.

24 cc. “Preliminary Approval Date” means the date the Court preliminarily approves the  
25 Settlement embodied in this Agreement.

26 dd. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury  
27 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement  
28 Administrator for the benefit of Participating Class Members.

1 ee. “Qualifying Workweeks” means the number of weeks that Class Members worked  
2 for Defendant as non-exempt employees during the Class Period.

3 ff. “Released Parties” means Defendant and its past, present and/or future officers,  
4 directors, shareholders, employees, agents, payroll service providers, operators, principals, owners,  
5 heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, successors and  
6 predecessors in interest, subsidiaries, affiliates, members, divisions, fiduciaries, trustees, partners,  
7 shareholders, investors, benefit plans, parents and attorneys, if any.

8 gg. “Response Deadline” means the deadline by which Class Members must postmark or  
9 fax to the Settlement Administrator requests for exclusion or written notices of objection. The  
10 Response Deadline will be forty-five (45) calendar days after the initial mailing of the Notice Packet  
11 by the Settlement Administrator, unless the forty-fifth (45th) calendar day falls on a Sunday or  
12 federal holiday, in which case the Response Deadline will be extended to the next day on which the  
13 U.S. Postal Service is open. The Response Deadline will be extended as set forth herein if there is a  
14 re-mailing.

15 hh. “Settlement Administration Costs” means all costs incurred by the Settlement  
16 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to  
17 the class, calculation of Individual Settlement Payments, generation of Individual Settlement  
18 Payment checks and related tax reporting forms, administration of unclaimed checks, and generation  
19 of checks to Class Counsel for attorneys’ fees and costs, to Named Plaintiff for her Incentive Award,  
20 and to the LWDA. The Settlement Administration Costs shall be paid from the Gross Settlement  
21 Amount.

22 ii. “Settlement Administrator” means Phoenix Settlement Administrators, which the  
23 Parties have agreed will be responsible for the administration of the Individual Settlement Payments  
24 to be made by Defendant from the Gross Settlement Amount and related matters under this  
25 Agreement.

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**ARTICLE II**

**CONTINGENT NATURE OF THE AGREEMENT**

**Section 2.01: Stipulation of Class Certification for Settlement Purposes**

Because the Parties have stipulated to the certification of the Class with respect to all causes of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification of the Class with respect to all causes of action alleged in the Action. Defendant does not consent to certification of the Class for any purpose other than to effectuate settlement of the Action. If the Date of Finality does not occur, or if Disposition of this Action is not effectuated, any certification of the Class as to Defendant will be vacated and Plaintiff, Defendant, and the Class will be returned to their positions with respect to the Action as if the Agreement had not been entered into. For purposes of this Agreement, should the Date of Finality or Disposition of this Action not be effectuated, the Parties agree that they will resume their positions as of March 8, 2021.

In the event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, the fact that Defendant did not oppose the certification of a Class under this Agreement, or that the Court preliminarily approved the certification of the Class, shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly reserves the right to challenge the propriety of class certification in the Action for any purpose, if the Date of Finality does not occur.

1 The Parties and their respective counsel shall take all steps that may be requested by the Court  
2 relating to the approval and implementation of this Agreement and shall otherwise use their  
3 respective best efforts to obtain Court approval and implement this Agreement. If the Court does not  
4 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree  
5 to meet and confer to address the Court’s concerns. If the Parties are unable to agree upon a  
6 resolution, the Parties agree to seek the assistance of mediator Paul Grossman to resolve the dispute.

7 As set forth fully in Section 3. 04, if ten percent (10%) or more of the Class Members validly  
8 opt out of the Agreement pursuant to the terms and procedures as set forth herein, then Defendant  
9 shall retain the right to cancel, void, or otherwise rescind this Agreement.

10 **ARTICLE III**

11 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

12 The procedure for obtaining Court approval of and implementing this Agreement shall be as  
13 follows:

14 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

15 Plaintiff will bring a motion before the Court for an order conditionally certifying the Class  
16 to include all claims pled in the Action based on the preliminary approval of this Agreement. The  
17 date that the Court grants preliminary approval of this Agreement will be the “Preliminary Approval  
18 Date.”

19 **Section 3.02: The Settlement Administrator**

20 The Parties have chosen Phoenix Settlement Administrators to administer this Settlement and  
21 to act as the Settlement Administrator, including but not limited to distributing and responding to  
22 inquiries about the Notice Packet, determining the validity of exclusions/opt-outs, calculating the Net  
23 Settlement Amount and the Individual Settlement Payments, issuing the Individual Settlement  
24 Payment checks and distributing them to Participating Class Members, establishing and maintaining  
25 the QSF, and issuing the payment to Class Counsel for attorneys’ fees and costs, the Incentive Award  
26 check to Plaintiff, and the employer payroll taxes to the appropriate taxing authorities. The Settlement  
27 Administrator shall expressly agree to all of the terms and conditions of this Agreement.



1 All costs of administering the Settlement, including but not limited to all costs and fees  
2 associated with preparing, issuing and mailing any and all notices to Class Members and/or  
3 Participating Class Members, all costs and fees associated with computing, processing, reviewing,  
4 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax  
5 returns and any other filings required by any governmental taxing authority or agency, all costs and  
6 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the  
7 course of administering disbursements from the Net Settlement Amount, and any other costs and fees  
8 incurred and/or charged by the Settlement Administrator in connection with the execution of its  
9 duties under this Agreement (“Settlement Administration Costs”), shall be paid to the Settlement  
10 Administrator from the Gross Settlement Amount.

11 **Section 3.03: Notice to Class Members**

12 No later than ten (10) business days after the Preliminary Approval Date, Defendant will  
13 provide the Settlement Administrator with a “Class List” in electronic format based on its business  
14 records, identifying the names of the Class Members, their last known home addresses, Social  
15 Security numbers or, as applicable, other taxpayer identification number, their dates of employment  
16 and weeks worked during the Class Period.

17 Within ten (10) business days of receiving a Class List from Defendant, the Settlement  
18 Administrator will send Class Members, by first-class mail, at their last known address, the Court  
19 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the  
20 Settlement Class. The Notice Packet will include a calculation of the Class Member’s approximate  
21 share of the Net Settlement Amount. Class Members will have forty-five (45) days from the date of  
22 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the  
23 Settlement Administrator will check all Class Member addresses against the National Change of  
24 Address database and shall update any addresses before mailing. The Settlement Administrator will  
25 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a  
26 Notice Packet was undeliverable. If a Class Member’s notice is re-mailed, the Class Member shall  
27 have fifteen (15) calendar days from the re-mailing, or forty-five (45) calendar days from the date of  
28 the initial mailing, whichever is later, in which to postmark objections or requests for exclusion.

1 Class Members shall not be required to submit claim forms in order to receive a proportional share  
2 of the Net Settlement Amount.

3         If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall  
4 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose  
5 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement  
6 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or  
7 mass search on LexisNexis or comparable databases based on set criteria and, if another address is  
8 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties  
9 that reasonable means be used to locate Class Members and that the Settlement Administrator be  
10 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the  
11 Individual Settlement Payments to all Participating Class Members.

12         If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records  
13 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly  
14 status report provided to the Parties.

15         In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days  
16 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class  
17 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class  
18 Member's Individual Settlement Payment during the check cashing period on behalf of the Class  
19 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and  
20 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement  
21 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the  
22 procedures set forth in Section 3.06(f) below.

23         No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the  
24 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration  
25 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses  
26 for and re-sending of any returned Notice Packets, as well as the number of valid requests for  
27 exclusion and objections that the Settlement Administrator received.

28

1           **Section 3.04: Responses to Notice**

2           **a.       Class Member Disputes**

3           If any Class Member disagrees with Defendant’s records as to his or her Qualifying  
4 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set  
5 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period  
6 and submit such writing to the Settlement Administrator by the Response Deadline, along with any  
7 supporting documentation. The Notice will also provide a method for the Class Member to challenge  
8 the employment data on which his or her Individual Settlement Payment is based. The Settlement  
9 Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith  
10 to resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the  
11 final arbiter of the Qualifying Workweeks for each Class Member during the Class Period based on  
12 the information provided to it.

13           **b.       Requests for Exclusion from Class**

14           In order for any Class Member to validly exclude himself or herself from the Class and this  
15 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class  
16 Member or his or her authorized representative, and must be sent to the Settlement Administrator,  
17 postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement  
18 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall  
19 contain instructions on how to validly exclude himself or herself from the Class and this Settlement  
20 (*i.e.*, opt out), including the language to be used in a request for exclusion. The date of the initial  
21 mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be  
22 conclusively determined according to the records of the Settlement Administrator. Any Class  
23 Member who timely and validly requests exclusion from the Class and this Settlement will not be  
24 entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this  
25 Agreement, and will not have any right to object, appeal, or comment thereon.

26           Any Class Member who fails to timely submit a request for exclusion shall automatically be  
27 deemed a Class Member whose rights and claims with respect to the issues raised in the Action are  
28 determined by the Court’s Final Order Approving Settlement of Class Action, and by the other

1 rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action  
2 and/or released in this Agreement will be extinguished.

3 If ten percent (10%) or more of the Class Members' validly opt out of the Agreement pursuant  
4 to the terms and procedures as set forth herein, then Defendant shall retain the right to cancel, void,  
5 or otherwise rescind this Agreement pursuant to Section 3.04(f).

6 **c. Objections to Settlement**

7 For any Class Member to object to this Agreement, or any term of it, the person making the  
8 objection must submit a request for exclusion (*i.e.*, must opt out), and should send to the Settlement  
9 Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15) days after  
10 the Settlement Administrator re-mails the Notice to the Class Member, whichever is later), a written  
11 statement of the grounds of objection, signed by the objecting Class Member or his or her attorney,  
12 along with all supporting papers. The date of the initial mailing of the Notice Packet, and the date  
13 the signed objection was postmarked, shall be conclusively determined according to the records of  
14 the Settlement Administrator. The Settlement Administrator shall send any objections it receives to  
15 Defense Counsel and Class Counsel within three (3) business days of receipt. Class Members may  
16 also appear at the final approval hearing to object. The Court retains final authority with respect to  
17 the consideration and admissibility of any Class Member objections.

18 **d. Encouragement of Class Members**

19 The Parties to this Agreement and the counsel representing such Parties shall not, directly or  
20 indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from  
21 this Settlement (opt out), or to object to it. However, Class Counsel or Defense Counsel may respond  
22 to inquiries from Class Members. In the event Defendant receives inquiries from Class Members,  
23 Defendant shall refer Class Members to the Notice Packet and to the Settlement Administrator.

24 **e. Right of Plaintiff to Adjust the Gross Settlement Amount**

25 Defendant has estimated the number of workweeks to be 53,181 as of March 8, 2021 when  
26 the Parties participated in a full-day mediation with Mediator Paul Grossman. If the number of  
27 workweeks increases by more than 10% (*e.g.* if there are more than 58,499 workweeks) as of March  
28 8, 2021, there will be a pro rata adjustment to the Gross Settlement Amount per additional workweek.

1           **f.       Option of Defendant to Terminate the Settlement**

2           Defendant maintains the right, in its sole discretion, to terminate the settlement and its  
3 stipulation to class certification prior to the final fairness hearing in the event that ten percent (10%)  
4 or more of Class Members opt-out of the Settlement. If Defendant exercises the option to terminate  
5 this Settlement, Defendant shall: (a) provide written notice to Plaintiff’s counsel within fourteen (14)  
6 calendar days after the Response Deadline and (b) pay all Settlement Administration Costs incurred  
7 up to the date or as a result of the termination. The Parties shall proceed in all respects as if this  
8 Agreement had not been executed and resume the status quo as of March 8, 2021.

9           **Section 3.05: Final Fairness and Approval Hearing**

10          On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final  
11 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement  
12 and determine whether the Court should give it final approval, and (2) consider any objections made  
13 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the  
14 Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a  
15 Proposed Final Order Approving Settlement of Class Action.

16           **Section 3.06: Settlement Payment Procedures**

17           **a.       Settlement Amount**

18          In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the  
19 Gross Settlement Amount in the amount of One Million One Hundred Thousand Dollars  
20 (\$1,100,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e). The  
21 Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class  
22 Members, all administration costs, Class Counsel’s attorney’s fees and costs, PAGA Settlement  
23 Amount, and the Incentive Award.

24          Within thirty (30) calendar days after the Court signs the Final Order, Defendant shall transfer  
25 the Gross Settlement Amount plus Defendant’s share of employer-side payroll taxes, as set forth  
26 herein, into a QSF established by the Settlement Administrator either directly or by sending the funds  
27 to the Settlement Administer to be deposited and distributed. Defendant may provide the Gross  
28 Settlement Amount plus Defendant’s share of employer-side payroll taxes through electronic or other

1 means as agreed upon with the Settlement Administrator. The Settlement Administrator will use  
2 these funds to fund payment of the Individual Settlement Payments to Participating Class Members,  
3 Class Counsel's attorneys' fees and costs, the Incentive Award, the LWDA Payment, and the  
4 Settlement Administration Costs.

5         Within ten (10) court days after receiving Defendant's final payment, funding the Gross  
6 Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments  
7 to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the  
8 Incentive Award, and employer and employee tax withholdings applicable to the Net Settlement  
9 Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a  
10 search based on the National Change of Address Database to update and correct for any known or  
11 identifiable address changes.

12                     **b. Payment of Attorneys' Fees and Costs**

13         Class Counsel shall submit an application for an award of attorneys' fees of up to thirty-five  
14 percent (35%) of the Gross Settlement Amount, which, based on the current Gross Settlement  
15 Amount, is Three Hundred Eighty Five Thousand Dollars (\$385,000.00). Class Counsel shall submit  
16 an application for an award of costs not to exceed Fifteen Thousand Dollars (\$15,000.00). Such  
17 application for attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval  
18 Hearing. Defendant shall not object to or oppose any such application in these amounts. Class  
19 Counsel shall serve Defendant with copies of all documents submitted in support of their application  
20 for an award of attorneys' fees and costs.

21         Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the  
22 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'  
23 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,  
24 and expenses related to the investigation, prosecution, and settlement of the Action incurred through  
25 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees  
26 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts  
27 will be reallocated to the Net Settlement Amount.

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**c. Payment of Settlement Administration Costs**

The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member(s). The amount shall not exceed Fourteen Thousand Seven Hundred Fifty Dollars (\$14,750.00).

**d. Payment of Incentive Award to Plaintiff**

Subject to Court approval, the Plaintiff shall receive an Incentive Award of up to Ten Thousand Dollars (\$10,000.00), the request for which Defendant will not object to or oppose. The Incentive Award shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member(s) other than Plaintiff. To the extent that the Court approves less than the amount of incentive award that Class Counsel request, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

Because it is the intent of the Parties that the Incentive Award represents payment to Plaintiff for his service to the Class Members, and not wages, the Settlement Administrator will not withhold any taxes from the Incentive Award. The Incentive Award will be reported on a Form 1099, which the Settlement Administrator will provide to Plaintiff and to the pertinent taxing authorities as required by law.

**e. Payment to the Labor and Workforce Development Agency**

In consideration of claims made under PAGA, Class Counsel will request that the Court approve allocation of Forty Thousand Dollars (\$40,000) of the Gross Settlement Amount to these claims. Seventy-five percent (75%) of this payment will be paid to the California Labor and Workforce Development Agency (“LWDA Payment”), and twenty-five percent (25%) will be paid to the Net Settlement Amount for distribution to PAGA Group Members. Defendant will not oppose this request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount. The Court’s adjustment, if any, of the amount allocated to Named Plaintiff’s PAGA claim in the Action, will not invalidate this Agreement.

**f. Payment of Individual Settlement Payments to Participating Class Members**

The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement Payments. The Parties agree that the Net Settlement Amount shall be divided between all

1 Participating Class Members in proportion to the number of individual Qualifying Workweeks for  
2 each Class Member. To calculate the minimum amount each Class Member will receive based on  
3 their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total  
4 number of Qualifying Workweeks by all Class Members during the Class Period and then allocated  
5 on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class  
6 Member's approximate Individual Settlement Payment amount will be included in his or her Notice  
7 Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to  
8 Participating Class Members (those who did not validly opt out) on a pro rata basis based on the  
9 individual s worked during the Class Period by each Participating Class Member.

10 Each Individual Settlement Payment will represent wages and penalties allocated using the  
11 following formula: 25% allocated to wages and 75% allocated to penalties and interest. The amounts  
12 paid as wages shall be subject to all tax withholdings customarily made from an employee's wages  
13 and all other authorized and required withholdings and shall be reported by W-2 forms. The  
14 employer-side taxes will be paid separate from and in addition to the Gross Settlement Amount. The  
15 amounts paid as penalties and interest shall be subject to all authorized and required withholdings  
16 other than the tax withholdings customarily made from employees' wages and shall be reported by  
17 IRS 1099 forms.

18 No later than ten (10) business days after receiving the Gross Settlement Amount from  
19 Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual  
20 Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the  
21 Net Settlement Amount allocated to wages will be reduced by applicable employer and employee  
22 tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of  
23 the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the  
24 extent required by law for the interest and penalty portions of the Individual Settlement Payments.  
25 Participating Class Members shall have 180 days from the date their Individual Settlement Payment  
26 checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration  
27 of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller  
28 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.



1 If a check is returned to the Settlement Administrator as undeliverable, the Settlement  
2 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or  
3 a mass search on LexisNexis or a comparable databases based on set criteria and, if another address  
4 is identified, the Settlement Administrator shall mail the check to the newly identified address. If the  
5 Settlement Administrator is unable to obtain a valid mailing address through this process, the  
6 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller  
7 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

8 Plaintiff acknowledges and agrees that Defendant and Defense Counsel make no  
9 representations as to the tax consequences of payment of the Individual Settlement Payment,  
10 Incentive Award or any payment made to Plaintiff and Participating Class Members pursuant to this  
11 Agreement. Plaintiff and Participating Class Members shall be exclusively liable for the payment of  
12 all federal and state taxes that may be due as the result of the consideration received from the  
13 settlement of disputed claims as set forth herein, except to the extent that Defendant has withheld  
14 taxes as part of the Individual Settlement Payments as set forth in this Agreement.

15 **g. Default on Payment.**

16 Defendant's failure to fund the Gross Settlement Amount within thirty (30) calendar days  
17 after the date that the Court grants final approval of the Settlement shall be considered a default. In  
18 the event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator  
19 will provide notice to Class Counsel and Defendant's Counsel within three (3) business days of the  
20 missed payment. Thereafter, Defendant will have ten (10) days to cure the default and tender payment  
21 to the Settlement Administrator. In the event Defendant fails to cure the default within the times set  
22 forth herein, Plaintiff may elect to enter judgment against Defendant, on an *ex parte* basis, for the  
23 balance of the unpaid Gross Settlement Amount to date, and Plaintiff will be entitled to recover  
24 interest at ten percent (10%) per year from the due date for such payment and reasonable attorneys'  
25 fees and costs.

26 ///

27 **h. No Credit Toward Benefit Plans.**

28 The Individual Settlement Payments made to Participating Class Members under this

1 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to  
2 calculate any additional benefits under any benefit plans to which any Class Members may be  
3 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase  
4 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'  
5 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class  
6 Members may be entitled under any benefit plans.

7 **ARTICLE IV**

8 **LIMITATIONS ON USE OF THIS SETTLEMENT**

9 **Section 4.01: No Admission**

10 Defendant disputes the allegations in the Action and disputes that, but for this Settlement, a  
11 Class should not have been certified in the Action. Defendant denies that there is any factual or legal  
12 basis for Plaintiff's claims or Class' claims, and denies that it subjected Plaintiff or any of the Class  
13 Members to any unlawful conduct during their employment with Defendant. This Agreement is  
14 entered into solely for the purpose of settling highly disputed claims. Nothing in this Agreement is  
15 intended nor will be construed as an admission of liability or wrongdoing by Defendant.

16 **Section 4.02: Non-Evidentiary Use**

17 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor  
18 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or  
19 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,  
20 including but not limited to, evidence of a presumption, concession, indication, or admission by any  
21 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or  
22 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further  
23 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this  
24 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims  
25 released through this Agreement.

26 **Section 4.03: Nullification**

27 The Parties have agreed to the certification of the Class encompassing all claims alleged in  
28 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason

1 fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this  
2 Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order  
3 is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the  
4 Action in its entirety, or (f) if Defendant rescinds this Agreement as set forth in Section 3.04(f), then  
5 (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related  
6 negotiations or proceedings shall be of any force or effect; (iii) all Parties to this Agreement shall  
7 stand in the same position, without prejudice, as if the Agreement had been neither entered into nor  
8 filed with the Court and resume the status quo as of March 8, 2021; and (iv) the fact that the Parties  
9 were willing to stipulate to class certification of all causes of action pled in the Action as part of the  
10 Settlement will have no bearing on, and will not be admissible in connection with, the issue of  
11 whether the Class should be certified by the Court in a non-settlement context in this Action or any  
12 other action, and in any of those events. Defendant expressly reserves the right to oppose certification  
13 of the Class.

14 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the  
15 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

16 **ARTICLE V**

17 **RELEASES**

18 **Section 5.01: Released Claims by Class Members**

19 Upon the Date of Finality, Plaintiff and Participating Class Members who do not opt out of  
20 the Settlement, fully discharge and release Defendant and the Released Parties, as defined herein,  
21 from any and all claims, actions, demands, causes of action, suits, debts, obligations, guarantees,  
22 costs, expenses, attorneys' fees, damages, restitution, injunctive relief, penalties, rights or liabilities,  
23 of any nature and description whatsoever that are based on the same factual predicate and arise from  
24 the claims upon which Plaintiff's Action is based, which arise during the Class Period or the PAGA  
25 Period, which were alleged or could have been alleged in Plaintiff's Operative Second Amended  
26 Complaint, First Amended Complaint, or Complaint, during the Class Period, including but not  
27 limited to (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide  
28 meal periods, (4) failure to authorize or permit rest periods, (5) failure to furnish accurate itemized

1 wage statements wage statement violations, (6) failure to pay all wages due upon separation of  
2 employment, (7) violation of California Business and Professions Code §§17200, et seq., and (8)  
3 claims asserted under the Private Attorney General Act, based on the preceding claims, including  
4 claims for failure to pay minimum wage, straight time wages, regular wages, and overtime wages,  
5 unpaid premium pay for violations of California’s meal period and rest break law, waiting time  
6 penalties, penalties for non-compliant wage statements and failure to keep accurate payroll records,  
7 and failure to pay wages upon separation and claims pursuant to Labor Code sections 201, 202, 203,  
8 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198, and  
9 claims under Business and Professions Code section 17200, *et seq.* (“Released Claims”).

10 **Section 5.02: Released Claims by PAGA Group Members**

11       Upon the Date of Finality, the State of California and PAGA Group Members discharge and  
12 release the Defendant and any Released Parties, as defined herein, from all PAGA claims attorneys’  
13 fees and costs, civil penalties, arising during the PAGA Period, which were alleged or could have  
14 been alleged in Plaintiff’s notice(s) sent to the LWDA and alleged in the operative complaint, or  
15 prior complaints, and which arise from the same factual predicate as the PAGA claim in Plaintiff’s  
16 Action, regardless of whether PAGA Group Members opt out of the Class Settlement, including, but  
17 not limited to PAGA claims for failure to pay minimum wage, straight time wages, regular wages,  
18 and overtime wages, unpaid premium pay for violations of California’s meal period and rest break  
19 law, waiting time penalties, penalties for non-compliant wage statements and failure to keep accurate  
20 payroll records, failure to pay wages upon separation, and claims pursuant to Labor Code sections  
21 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1175, 1194, 1194.2, 1197, 1197.1,  
22 and 1198.

23       **Section 5.03: Plaintiff’s Release of Unknown Claims**

24       **a.**       Upon the Date of Finality, Plaintiff, in consideration of the Incentive Award,  
25 payments, promises, and covenants set forth above, and to the fullest extent permitted by law,  
26 individually and on behalf of his successors, assigns, heirs, estates, executors, administrators, agents,  
27 representatives, and attorneys, and each of them, voluntarily, irrevocably, and unconditionally  
28 releases, acquits, and forever discharges Defendant and the Released Parties, as defined herein, and

1 each of them, from any and all charges, complaints, claims, promises, agreements, controversies,  
2 suits, demands, costs, losses, debts, actions, causes of action, damages, judgments, obligations,  
3 liabilities, and expenses of whatever kind and character, known or unknown, suspected or  
4 unsuspected, including any claims for attorneys' fees and costs, which Plaintiff now has, owns, holds,  
5 or claims to have, own, or hold, or may have had, owned, or held, or may in the future claim to have,  
6 own, or hold against the Released Parties, or any of them regarding events that have occurred in  
7 connection with or related to Plaintiff's employment and separation of employment with Defendant  
8 (or otherwise), including but not limited to claims for discrimination, retaliation, harassment, claims  
9 under the Labor Code, or any acts of the Released Parties, including, without limitation, any and all  
10 claims that have or could have been asserted against them, or any claims under the Americans with  
11 Disabilities Act of 1990, the Family and Medical Leave Act of 1993, the Employee Retirement  
12 Income Security Act of 1974, Civil Rights Act of 1991, the Fair Labor Standards Act, Title VII of  
13 the Civil Rights Act of 1964, Sections 503 and 504 of the Rehabilitation Act of 1973, the California  
14 Government Code, the California Fair Employment and Housing Act, California Pregnancy  
15 Disability Law, the California Family Rights Act, the California Labor Code, any amendments to  
16 any of these statutes, and any other federal, state, or local statute, ordinance, regulation, or common  
17 law, including any claims, demands, and causes of action in the Action or which could have been  
18 asserted by Plaintiff in the Action. Plaintiff understands and acknowledges that Title VII of the Civil  
19 Rights Act of 1964, the Employee Retirement Income Security Act of 1974, the Americans with  
20 Disabilities Act of 1990, the Civil Rights Act of 1991, the Family and Medical Leave Act of 1993,  
21 the Fair Labor Standards Act, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended,  
22 the California Fair Employment and Housing Act, the California Family Rights Act, and the  
23 California Labor Code, as well as any amendments to any of these statutes, and common law, provide  
24 the right to an individual to bring charges, claims, or complaints against their employer or their  
25 former employer if the individual believes they have been discriminated against, or harassed,  
26 including, but not limited to, discrimination, or harassment on the basis of race, ancestry, color,  
27 religion, sex, marital status, national origin, age, physical or mental disability, or medical condition.  
28 Plaintiff, with full understanding of the rights afforded to him under these laws and explained by

1 Class Counsel, and to the fullest extent permitted by law, hereby waives any right to assert a claim  
2 for any relief available under these acts or statutes (including, but not limited to, back pay, attorneys'  
3 fees, damages, lost benefits, reinstatement, injunctive relief, and/or other relief) he may otherwise  
4 recover based upon any alleged violation(s) of these acts or statutes for causes of action that arose  
5 up to the date this Agreement is executed by Plaintiff. This Release does not extend to those rights  
6 which as a matter of law cannot be waived. Notwithstanding the above, this release in no way affects  
7 Plaintiff's workers compensation claim.

8       **b.** Plaintiff expressly acknowledges and agrees that the releases contained in this  
9 Agreement include a waiver of all rights under Section 1542 of the California Civil Code, which  
10 provides as follows:

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

16 Plaintiff acknowledges that he has read all of this Agreement, including the above Civil Code  
17 section, and that he fully understands both the Agreement and the Civil Code section. Plaintiff  
18 expressly waives any benefits and rights granted pursuant to Civil Code section 1542..

19                   **ARTICLE VI**

20                   **MISCELLANEOUS PROVISIONS**

21                   **Section 6.01: Amendments or Modification**

22                   The terms and provisions of this Agreement may be amended or modified only by an express  
23 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

24                   **Section 6.02: Assignment**

25                   None of the rights, commitments, or obligations recognized under this Agreement may be  
26 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written  
27 consent of each other Party and their respective counsel. The representations, warranties, covenants,  
28

1 and agreements contained in this Agreement are for the sole benefit of the Parties under this  
2 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

3 **Section 6.03: Governing Law**

4 This Agreement, and any disputes arising out of enforcement of this Agreement, shall be  
5 governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance  
6 with the laws of the State of California, without regard to conflicts of laws.

7 **Section 6.04: Entire Agreement**

8 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,  
9 contains the entire understanding of the Parties with respect to the subject matter contained herein.  
10 In case of any conflict between text contained in Articles I through VI of this Agreement and text  
11 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be  
12 controlling, unless the Exhibits are changed by or in response to a Court order. There are no  
13 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject  
14 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement  
15 supersedes all prior agreements and understandings among the Parties with respect to the settlement  
16 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of  
17 prior agreements or proposals.

18 **Section 6.05: Waiver of Compliance**

19 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any  
20 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived  
21 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective  
22 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or  
23 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or  
24 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

25 **Section 6.06: Counterparts and Fax/PDF Signatures**

26 This Agreement, and any amendments hereto, may be executed in any number of counterparts  
27 and any Party and/or their respective counsel may execute any such counterpart, each of which when  
28 executed and delivered shall be deemed to be an original. All counterparts taken together shall

1 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original  
2 signature. The Parties agree that they may, at their discretion, execute this Agreement with electronic  
3 signatures. In the event a Party or their counsel elects to execute this Agreement with an electronic  
4 signature, the electronic signature shall be as valid as an original signature.

5 **Section 6.07: Meet and Confer Regarding Disputes**

6 Should any dispute arise among the Parties or their respective counsel regarding the  
7 implementation or interpretation of this Agreement, a representative of Class Counsel and a  
8 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior  
9 to submitting such disputes to the Court.

10 **Section 6.08: Agreement Binding on Successors**

11 This Agreement will be binding upon, and inure to the benefit of, the successors in interest  
12 of each of the Parties.

13 **Section 6.09: Cooperation in Drafting**

14 The Parties have cooperated in the negotiation and preparation of this Agreement. This  
15 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,  
16 was the drafter or participated in the drafting of this Agreement.

17 **Section 6.10: Fair and Reasonable Settlement**

18 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of  
19 the Action and have arrived at this Agreement through arm's-length negotiation and in the context  
20 of adversarial litigation, taking into account all relevant factors, past, current, and potential. The  
21 Parties further believe that the Settlement is and is consistent with public policy, and fully complies  
22 with applicable law.

23 **Section 6.11: Headings**

24 The descriptive heading of any section or paragraph of this Agreement is inserted for  
25 convenience of reference only and does not constitute a part of this Agreement and shall not be  
26 considered in interpreting this Agreement.

27  
28



1           **Section 6.12: Notice**

2           Except as otherwise expressly provided in the Agreement, all notices, demands, and other  
3 communications under this Agreement must be in writing and addressed as follows:

4                       *To Plaintiff and the Class:*

5                       Samuel A. Wong  
6                       Kashif Haque  
7                       Jessica L. Campbell  
8                       Joseph M. Szilagyi  
9                       AEGIS LAW FIRM, PC  
10                      9811 Irvine Center Drive, Suite 100  
11                      Irvine, California 92618  
12                      Telephone: (949) 379-6250  
13                      Facsimile: (949) 379-6251

14                      And

15                      *To Defendant:*

16                      GORDON REES SCULLY MANSUKHANI, LLP  
17                      Mark S. Posard  
18                      Annette L. Rose  
19                      3 Parkcenter Drive, Suite 200  
20                      Sacramento, CA 95825  
21                      Telephone: (916) 565-2900  
22                      Facsimile: (916) 920-4402

23           **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

24           To the extent consistent with class action procedure, this Agreement shall be enforceable by  
25 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court  
26 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the  
27 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the  
28 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall  
retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest  
extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more  
of the Parties institutes any legal action or other proceeding against any other Party or Parties to  
enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover  
from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness  
fees incurred in connection with any enforcement actions.

1           **Section 6.14: Mutual Full Cooperation**

2           The Parties agree fully to cooperate with each other to accomplish the terms of this  
3 Agreement, including but not limited to the execution of such documents, and the taking of such  
4 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties  
5 to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its  
6 terms. In the event the Parties are unable to reach agreement on the form or content of any document  
7 needed to implement the Settlement, or on any supplemental provisions that may become necessary  
8 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

9           **Section 6.15: Authorization to Act**

10          Class Counsel warrants and represents that they are authorized by Plaintiff, and Defense  
11 Counsel warrants that they are authorized by Defendant, to take all appropriate action required to  
12 effectuate the terms of this Agreement, except for signing documents, including but not limited to  
13 this Agreement, that are required to be signed by the Parties themselves. Defendant represents and  
14 warrants that the individual executing this Agreement on its behalf has the full right, power, and  
15 authority to enter into this Agreement and to carry out the transactions contemplated herein.

16          **Section 6.16: No Reliance on Representations**

17          The Parties have made such investigation of the facts and the law pertaining to the matters  
18 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,  
19 on any statement, promise, or representation of fact or law, made by any of the other parties, or any  
20 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted  
21 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect  
22 to any other matters. No representations, warranties, or inducements, except as expressly set forth  
23 herein, have been made to any party concerning this Agreement.

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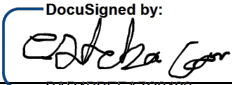
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**EXECUTION BY PARTIES AND COUNSEL**

The Parties hereby execute this Agreement.

Dated: 2/24/2022

ESTEBAN CAMPOS SOTO

By:   
Esteban Campos Soto

Dated: \_\_\_\_\_

AMWARE PALLET SERVICES, LLC

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

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**EXECUTION BY PARTIES AND COUNSEL**

The Parties hereby execute this Agreement.

Dated: \_\_\_\_\_

ESTEBAN CAMPOS SOTO

By: \_\_\_\_\_

Esteban Campos Soto

Dated: MAR 1, 2022

AMWARE PALLET SERVICES, LLC

By:   
(Signature)

Dillon DeMore  
(Printed Name)

CFO  
(Title)

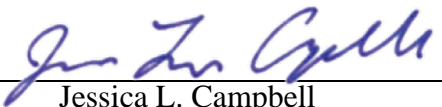
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Approved as to form:


Dated: 02/25/2022

**AEGIS LAW FIRM, PC**

By:   
\_\_\_\_\_  
Jessica L. Campbell  
Attorneys for Plaintiff  
Esteban Campos Soto

Dated: March 1, 2022

**GORDON REES SCULLY  
MANSUKHANI, LLP**

By:   
\_\_\_\_\_  
Mark S. Posard  
Attorneys for Defendant  
Amware Pallet Services, LLC

# **EXHIBIT A**

THIS IS AN IMPORTANT COURT APPROVED NOTICE. PLEASE READ CAREFULLY.

**If you worked as a non-exempt employee in California for Amware Pallet Services, LLC, at any time from May 15, 2018 through [DATE OF PRELIMINARY APPROVAL], a class action lawsuit may affect your rights.**

*This is a court-authorized notice. It is not a solicitation from a lawyer.*

### **BASIC INFORMATION ABOUT THIS LAWSUIT**

#### **1. Why did I get this notice?**

You are being sent this Notice because records show that you currently work, or previously worked, for Amware Pallet Services, LLC (“Defendant”) in California at any time from May 15, 2018 through [DATE OF PRELIMINARY APPROVAL]. This Notice relates to a proposed settlement (“Settlement”) of class action litigation brought against Defendant in the case entitled *Esteban Campos Soto v. Amware Pallet Services, LLC, et al*, Case Number 20CECG00227, filed in the Fresno County Superior Court. If you are a Class Member, this Notice contains important information about your rights to an anticipated payment from the Settlement or to be excluded from the Settlement according to the procedures described in this Notice.

#### **2. What is this lawsuit about?**

Plaintiff Esteban Campos Soto alleges in this lawsuit that Defendant did not pay its non-exempt employees all minimum and overtime wages, compliant meal periods and rest breaks, wages due upon termination of employment, accurate itemized wage statements. Based on these allegations, Plaintiff further alleges that Defendant violated the Business and Professions Code §§ 17200, *et. seq.*, and California’s Private Attorneys General Act. The initial complaint in this action was filed in Fresno County Superior Court on January 21, 2020.

At all times, Defendant has denied—and continues to deny—the factual and legal allegations in the case and have maintained that it fully complied with all applicable California laws. Defendant denies any wrongdoing, asserts that its pay practices complied with the law at all times, and that it has defenses to each cause of action. Defendant further denies that it owes the monies claimed in the lawsuit. Defendant also denies that this action can or should proceed as a class and/or PAGA action. By entering into this settlement, Defendant does not concede that Plaintiff or the class members’ claims have any merits and the company has voluntarily agreed to the terms of a negotiated settlement in order to avoid the burden and expense of continued litigation.

#### **3. What is a class action and who is involved?**

In a class action lawsuit such as this, the employee called the “Class Representative” sues on behalf of other employees who may have similar claims. The employees together are a “Class” or “Class Members.” The employee who is the Class Representative is also called the Plaintiff. The company sued is called the Defendant.

#### **4. What are the terms of the proposed Settlement?**

The major terms of the settlement are as follows:

1. Defendant has agreed to pay \$1,100,000.00 to settle the claims made in this lawsuit, subject to a pro rata increase. This amount is also known as the “Gross Class Settlement Amount.”
2. Upon final Court approval, Plaintiff and those Class Members who do not validly opt out, agree to release and of their claims in this lawsuit against Defendant.
3. Plaintiff and his attorneys seek the following deductions from the \$1,100,000.00 Gross Class Settlement Amount:
  - a. Up to thirty-five percent (35%) of the Gross Class Settlement Amount (approximately \$385,000.00) for Class Counsel’s attorneys’ fees.
  - b. Up to \$15,000.00 for reimbursement of Class Counsel’s litigation costs.
  - c. An incentive award of up to \$10,000.00 to Plaintiff for filing a Lawsuit, performing work in connection with the Lawsuit, and undertaking the risks of filing the Lawsuit.
  - d. Up to \$14,750.00 to cover the costs of the Settlement Administrator.
  - e. Payment of \$40,000.00 to the California Labor and Workforce Development Agency for release of Private Attorneys General Act claims.

If the Court approves each of the requested deductions from the Gross Class Settlement Amount, the Parties estimate there will be approximately \$645,250.00 remaining. The remaining funds will be referred to as the “Net Settlement Amount.” The Net Settlement Amount will be distributed to Class Members who do not request exclusion (the “Participating Class Members”) no later than ten (10) court days after receipt of the Gross Class Settlement Amount, and according to the following formula:

The Net Settlement Amount will be divided between all Participating Class Members in proportion to the number of Qualifying Workweeks for each Participating Class Member. To calculate the amount each Participating Class Member will receive, the Net Settlement Amount will be divided by the total number of Qualifying Workweeks worked by all Participating Class Members during the Class Period to determine the base dollar amount per Qualifying Workweek. The Settlement Administrator shall then calculate the initial allocation amounts for each Class Member based on the Qualifying Workweeks for each Class Member.

Your estimated Individual Settlement Payment is listed in Section 5 of this Notice. Each Individual Settlement Payment will represent wages and penalties allocated using the following formula: twenty-five percent (25%) allocated to wages and seventy-five percent (75%) allocated to penalties and interest.

#### **Disputing Your Payment Amount**

If you dispute your Individual Settlement Payment in Section 5 of this Notice, you must send a letter to the Settlement Administrator at the address below in Section 13 indicating what information you believe is incorrect and produce evidence to the Settlement Administrator of the number of Qualifying Workweeks you believe you worked during the Class Period. The Settlement Administrator will attempt to resolve any



dispute based upon Defendant's records and any information you provide. Defendant's records will be presumed determinative, absent evidence to rebut Defendant's records. The Settlement Administrator will evaluate the evidence submitted by the Class Member and make the final decision as to the validity of such evidence. Any such dispute must be mailed to the Settlement Administrator no later than [DATE].

**5. What is my approximate Individual Settlement Payment if I participate in the Settlement?**

According to payroll records maintained by Defendant, the number of Qualifying Workweeks you worked in California for Defendant as a non-exempt employee during the Class Period is [REDACTED].

Based on information provided above, anticipated court-approved deductions, and preliminary calculations, it is estimated your share of the settlement will be \$ [REDACTED], less applicable taxes and withholdings.

**YOUR RIGHTS AND OPTIONS**

**PARTICIPATE IN THE SETTLEMENT – NO ACTION REQUIRED**

**6. How do I participate in the Settlement?**

Provided that the Court granted final approval of the Settlement, you do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 13, below, of any changes to your mailing address for timely payment.

Settlement Payment checks returned as undeliverable and unclaimed and uncashed 180 days after issuance and delivered checks remaining uncashed for more than 180 days after issuance will be void. The funds from any voided checks will be paid to State of California's State Controller Unclaimed Property Fund with an identification of the amount of unclaimed funds attributable to each Participating Class Member.

**7. What rights am I releasing if I participate in the Settlement?**

If the Court grants final approval of the Settlement Class Members and you do not opt out of the Settlement, you will be deemed to have released or waived the following claims below ("Released Claims") against Defendant, including and its past, present and/or future officers, directors, shareholders, employees, agents, operators, principals, owners, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, successors and predecessors in interest, subsidiaries, affiliates, members, divisions, fiduciaries, trustees, partners, shareholders, investors, benefit plans, parents and attorneys (collectively, the "Released Parties").

All causes of action alleged in Plaintiff's complaint including (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to authorize or permit rest periods, (5) failure to furnish accurate itemized wage statements wage statement violations, (6) failure to pay all wages due upon separation of employment, (7) violation of California Business and Professions Code §§17200, et seq., and (8) claims asserted under the Private Attorney General Act, based on the preceding claims, including claims for failure to pay minimum wage, straight time wages, regular wages, and overtime wages, unpaid premium pay for violations of California's meal period and rest break law, waiting time penalties, penalties for non-compliant wage statements and failure to keep accurate payroll records, and failure to pay wages upon separation and claims pursuant to Labor Code sections 201, 202, 203, 204, 210,

226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198, and claims under Business and Professions Code section 17200, *et seq.* (“Released Claims”).

Plaintiff and Participating Class Members will waive and release the Released Claims against the Released Parties. Plaintiff and Participating Class Members will release the Released Claims through the end of the Class Period and for the entire Class Period. As of the Effective Date of Settlement, each Class Member who has not opted out of the Settlement shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims. This waiver and release of claims shall be binding on Plaintiff and all members of the Class who have not timely opted out of the Settlement, including each of their respective attorneys, agents, spouses, executors, representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the Released Parties.

## **8. What rights am I releasing regardless of whether I participate in the Settlement?**

In addition to those rights discussed in Section 7, if the Court grants final approval of the Settlement, you will be deemed to have released Defendant and the Released Parties from all PAGA Released Claims during the PAGA Period upon the date Defendant funds the Settlement. “PAGA Released Claims” are defined claims for failure to pay minimum wage, straight time wages, regular wages, and overtime wages, unpaid premium pay for violations of California’s meal period and rest break law, waiting time penalties, penalties for non-compliant wage statements and failure to keep accurate payroll records, failure to pay wages upon separation, and claims pursuant to Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1175, 1194, 1194.2, 1197, 1197.1, and 1198.

The release of the PAGA Released Claims shall apply whether or not you participate in the Settlement. Under this release, the right of the LWDA to investigate the PAGA Released Claims is not released, but the PAGA Released Claims does include a release of claims for penalties by a California Class Member under the PAGA.

## **OBJECT TO THE SETTLEMENT**

### **9. How do I object to the Settlement?**

If you are a Class Member and would like to object to the Settlement, you must not request exclusion (*i.e.*, must not opt out). You may mail a written Notice of Objection to the Settlement Administrator (at the address in Section 13 below) no later than [DATE]. The Notice of Objection should include: (i) your full name, signature, last four digits of your social security number, and telephone number; and (ii) a written statement of all grounds for the objection. You may appear in person at the Final Fairness and Approval Hearing to present any oral objections even if you do not submit a timely Notice of Objection.

## **ASK TO BE EXCLUDED**

### **10. How do I ask to be excluded from the Class?**

You have the right to exclude yourself from the Settlement. If you exclude yourself from the Class –referred to as "opting out" of the Class – you won't get your pro rata individual settlement payment from the settlement. If you opt out, you will not be legally bound by the Court's disposition of this lawsuit. If you opt out, you may speak with legal counsel to discuss your ongoing legal rights, if any.

If you are a member of the Class described above and would like to exclude yourself from the Class (“opt out”), you, or your authorized representative, need to timely request exclusion from the Class. To request exclusion, you **must** mail a letter to the to the Settlement Administrator at the address below in Section 13, stating, “I request to be excluded from the settlement in the case *Esteban Campos Soto v. Amware Pallet Services, LLC*, Case Number 20CECG00227.” The letter **must** include your full name, address, last four digits of your social security number, and signature. The letter **must** be postmarked on or before [DATE]. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted.

Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the settlement and will not be bound by the settlement or have any right to object, appeal, or comment thereon. Class Members who fail to submit a valid and timely request for exclusion on or before [DATE] will be bound by all terms of the settlement and any final disposition entered in this Class Action if the Settlement is approved by the Court. Defendant has the option to revoke the entire Settlement if ten percent (10%) or more of Class Members request exclusion.

### THE LAWYERS REPRESENTING YOU

#### 11. How will the lawyers be paid?

As part of the Settlement with Defendant, Class Counsel has requested a maximum of thirty-five percent of the Gross Class Settlement Amount (approximately \$385,000.00) in attorneys' fees, plus costs not to exceed \$15,000.00, to be paid from the Gross Class Settlement Amount to compensate Class Counsel for their work on this matter. You will not have to pay Class Counsel’s fees and costs from your Individual Settlement Payment.

### THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS

#### 12. Who is handling the Settlement Administration process?

**[PHOENIX SETTLEMENT ADMINISTRATORS]**

**Address**

**Phone: (\*\*\*) \*\*\*-\*\*\*\***

**Facsimile: (\*\*\*) \*\*\*-\*\*\*\***

#### 13. When is the Final Fairness and Approval Hearing and do I have to attend?

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the Final Fairness and Approval Hearing. The Final Fairness and Approval Hearing has been set for [DATE], at [TIME] a.m. in Department 501 of the Fresno County Superior Court for the State of California, located at 1130 “O” Street, Fresno, California 93721. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement, you may appear at the hearing. Please note that the hearing may be continued without further notice to the Class. You may check the date of the new hearing by following the steps in Section 16 below.

#### 14. When will I receive my share of the settlement proceeds?

The Court will hold a hearing on [DATE], to decide whether to approve the settlement. If the Court approves the settlement, after that there may be appeals if anyone objects. It is always uncertain when these objections and appeals can be resolved, and resolving them can take time.

If the Court approves the settlement and if you do not opt out, your Individual Settlement Payment set forth in Section 5 above is expected to be distributed within ten (10) court days of the Settlement Administrator receiving the Gross Class Settlement Amount from Defendant.

#### GETTING MORE INFORMATION

#### 15. Are more details available?

This Notice only summarizes the lawsuit, the Settlement, and related matters. For more information, you may contact the Court's clerk to inspect the Court files at the Fresno County Superior Court, 1130 "O" Street, Fresno, California 93721, from 8:00 a.m. to 3:00 p.m. Mondays-Thursdays, and 8:00 a.m. to 12:00 p.m. on Fridays. You can view the case record online at the court's website: [http://www.fresno.courts.ca.gov/case\\_info/](http://www.fresno.courts.ca.gov/case_info/). Access the "Case Information," then select "Smart Search." Here, insert the Case Number (20CECG00227). Then click "Submit" to view the case record.

Any questions regarding this Class Notice or the Lawsuit may be directed to the Claims Administrator at the below address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact Class Counsel or Defense Counsel at the address or telephone number set forth below. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

**Settlement Administrator:**  
[Phoenix Settlement Admin.]  
Address  
Phone: (\*\*\*) \*\*\*-\*\*\*\*  
Facsimile: (\*\*\*) \*\*\*-\*\*\*\*

**Class Counsel:**  
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**PLEASE DO NOT CALL OR WRITE TO THE JUDGE OR TO THE COURT CLERK FOR INFORMATION ABOUT THE SETTLEMENT.**