

1 **JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

2 This Joint Stipulation of Class and PAGA Representative Action Settlement (“Agreement”
3 or “Settlement Agreement”) is made and entered into by and between Plaintiff FRANCISCO
4 CHAVEZ, individually, and on behalf of all others similarly situated and Defendant AMERICAN
5 PAPER AND PLASTICS INC.

6 **I. RECITALS**

7 On February 24, 2021, former American Paper employee Francisco Chavez brought a
8 putative class action against American Paper and Plastics Inc. in Superior Court for the State of
9 California, County of Los Angeles, *Francisco Chavez v. American Paper and Plastics Inc.*, Case No.
10 21STCV07182 (“Complaint”), asserting claims for (1) California Labor Code sections 510 and 1198
11 (unpaid overtime); (2) California Labor Code sections 226.7 and 512(a) (unpaid meal period
12 premiums); (3) California Labor Code section 226.7 (unpaid rest period premiums); (4) California
13 Labor Code sections 1194, 1197, and 1197.1 (unpaid wages); (5) California Labor Code sections
14 201-203 (failure to timely pay wages); (6) California Labor Code section 204 (failure to timely pay
15 wages upon separation of employment); (7) California Labor Code section 226(a) (failure to provide
16 complete and accurate wage statements); (8) California Labor Code section 1174(d) (failure to keep
17 requisite payroll records); (9) failure to reimburse business expenses; and (10) California Business
18 & Professions Code sections 17200, *et seq.* (unfair business competition).

19 On August 9, 2021, Plaintiff filed the First Amended Complaint dismissing his claims for
20 failure to pay timely wages under Labor Code § 204 and failure to keep requisite payroll records
21 under Labor Code § 1174(d).

22 On February 1, 2022, the Parties participated in private mediation with Paul Grossman. The
23 Parties reached a preliminary agreement to resolve this matter, the terms of which are set forth in this
24 Settlement Agreement. The Parties successfully settled the matter at mediation and executed a
25 Memorandum of Understanding (“MOU”) memorializing the Parties’ agreement. The settlement
26 discussions were conducted at arm’s-length, and the Settlement is the result of an informed and
27 detailed analysis of Defendant’s potential liability of total exposure in relation to the costs and
28 risks associated with continued litigation. Based on the documents produced, as well as Class

1 Counsel's own independent investigation and evaluation, and the Mediator's efforts, Class Counsel
2 believes that the Settlement with Defendant for the consideration and on the terms set forth in this
3 Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class
4 Members in light of all known facts and circumstances, including the risk of significant delay and
5 uncertainty associated with litigation and various defenses asserted by Defendant.

6 On February 25, 2022 Plaintiff sent a letter to the Labor and Workforce Development
7 Agency, pursuant to California Labor Code § 2699.3, providing notice of his intent to seek civil
8 penalties under the Private Attorneys General Act, California Labor Code § 2698, *et seq.*, for
9 Defendant's alleged violations of California Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512,
10 1194, 1197, 1198, 2800, and 2802, and Industrial Welfare Commission Wage Orders ("PAGA
11 Letter").

12 In order to formally allege all causes of action investigated, litigated, mediated, and settled,
13 Plaintiff will file a Second Amended Class Action Complaint for Damages and Enforcement of
14 Private Attorneys' General Act, Cal. Labor Code § 2698, *et seq.* ("Second Amended Complaint").

15 This Settlement Agreement is made and entered into by and between Plaintiff, individually,
16 and on behalf of all others similarly situated, and Defendant, and is subject to the terms and
17 conditions hereof and to the Court's approval. The Parties expressly acknowledge that this agreement
18 is entered into solely for the purpose of compromising significantly disputed claims and that nothing
19 herein is an admission of liability or wrongdoing by Defendant. If for any reason the Settlement
20 Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to their
21 original respective positions.

22 **II. DEFINITIONS**

23 The following definitions are applicable to this Settlement Agreement. Definitions contained
24 elsewhere in this Settlement Agreement shall also be effective:

25 1. "Action" means *Francisco Chavez v. American Paper and Plastics Inc.*, Los Angeles
26 County Superior Court Case No. 21STCV07182.

27 2. "Attorneys' Fees" means attorneys' fees agreed upon by the Parties and approved by
28 the Court for Class Counsel's litigation and resolution of the Action, and all costs incurred and to be

1 incurred by Class Counsel in the Action. Subject to Court approval, Class Counsel Attorney's Fees
2 payment shall not exceed the amount of thirty-five percent (35%) of the Gross Settlement Amount,
3 or FIVE HUNDRED SIXTY THOUSAND DOLLARS AND ZERO CENTS (\$560,000.00).

4 3. "Class" or "Class Member(s)" means all individuals who are currently employed or
5 were formerly employed by Defendant (or who worked at the same physical location of American
6 Paper and Plastics, Inc. for its successor Imperial Bag & Paper Co. LLC, d/b/a Imperial Dade) in
7 California as hourly non-exempt employees, from February 24, 2017 to May 2, 2022.

8 4. "Class Counsel" means mean Edwin Aiwasian, Arby Aiwasian, Joanna Ghosh, and
9 Brian J. St. John of Lawyers *for* Justice, PC and all the lawyers of this firm acting on behalf of
10 Plaintiff and the Class.

11 5. "Class List" means a complete list of all Class Members that Defendant will diligently
12 and in good faith compile from its records and provide to the Settlement Administrator within
13 twenty-one (21) calendar days after Preliminary Approval of this Settlement. The Class List shall be
14 formatted in Microsoft Office Excel and shall include each Class Member's: (i) name; (ii) most
15 recent known mailing address; (iii) telephone number; (iv) Social Security Number (v) dates of
16 employment as an as hourly non-exempt employee of Defendant; and (vi) the respective number of
17 Workweeks that each Class Member worked during the Class Period.

18 6. "Class Member(s)" means all individuals who are currently employed or were
19 formerly employed by Defendant (or who worked at the same physical location of American Paper
20 and Plastics, Inc. for its successor Imperial Bag & Paper Co., LLC, d/b/a Imperial Dade) in California
21 as hourly non-exempt employees, from February 24, 2017, to May 2, 2022.

22 7. "Class Period" means the period from February 24, 2017, to May 2, 2022.

23 8. "Class Released Claims" any and all claims, rights, demands, liabilities, and causes
24 of action based on the same set of operative facts as those set forth in the operative Complaint,
25 including but not limited to claims based on the following categories of allegations: all claims under
26 state, federal or local law, whether statutory, common law or administrative law, arising out of or
27 related to allegations set forth in the operative Complaint, claims for failure to pay overtime wages,
28 failure to provide meal periods, failure to provide rest periods, failure to furnish accurate wage

1 statements, failure to pay all wages earned, failure to maintain required records, failure to pay earned
2 wages upon termination or discharge, failure to reimburse business expenses, unfair competition,
3 including, but not limited to, claims for injunctive relief, punitive damages, liquidated damages,
4 interest, fees, including fees under California Code of Civil Procedure section 1021.5; costs; and all
5 other claims and allegations made or which could have been made in the Action based on the facts and
6 allegations pled in the operative Complaint from February 24, 2017, through May 2, 2022.

7 9. "Class Settlement" means the settlement and release of Class Released Claims.

8 10. "Complaint" means the Second Amended Class Action Complaint , or any
9 subsequently amended complaint filed thereafter in Action.

10 11. "Court" means the Los Angeles County Superior Court.

11 12. "Defendant" means American Paper and Plastics, Inc.

12 13. "Defense Counsel" or "Defendant's Counsel" shall mean Jackson Lewis P.C.

13 14. "Effective Date" means the date when all of the following events have occurred: (1)
14 the Stipulation of Settlement has been executed by all Parties, Class Counsel and Defendant's
15 Counsel; (2) the Court has given preliminary approval to the Stipulation of Settlement; (3) the Notice
16 of Class Action Settlement has been given to the putative members of the Class, providing them with
17 an opportunity to object to the terms of this Stipulation of Settlement or opt out of the settlement; (4)
18 the Court has held a formal fairness hearing and entered a Final Approval Order and Judgment
19 certifying the Class, and approving the Stipulation of Settlement; (5) 65 calendar days have passed
20 since the Court has entered a Final Approval Order and Judgment certifying the Class, and approving
21 the Stipulation of Settlement; and (6) in the event there are written objections filed prior to the final
22 fairness hearing which are not later withdrawn or denied, the later of the following events: five
23 business days after the period for filing any appeal, writ or other appellate proceeding opposing the
24 Court's Final Approval Order and Judgment has elapsed without any appeal, writ or other appellate
25 proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing the
26 Court's Final Approval Order and Judgment approving the Stipulation of Settlement has been filed,
27 five business days after any appeal, writ or other appellate proceedings opposing the Stipulation of
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1 Settlement has been finally and conclusively dismissed with no right to pursue further remedies or
2 relief.

3 15. “Final Approval Hearing” means the final hearing held to ascertain the fairness,
4 reasonableness, and adequacy of the Settlement Agreement, at which time the Court will enter its
5 order granting final approval of the Settlement Agreement.

6 16. “Final Approval Order and Judgment” means the order certifying the Class, granting
7 final approval of the Settlement, and entering judgment based thereon, after the Court has determined
8 that the Settlement is fair, adequate, and reasonable to the Class, following notice to the Class and a
9 hearing on the fairness of the Settlement.

10 17. “Gross Settlement Amount” means the maximum settlement amount OF ONE
11 MILLION SIX HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$1,600,000.00) to be
12 paid by Defendant in full satisfaction of all class and representative action claims arising from the
13 facts alleged in the Action and LWDA Notice, which includes all Individual Settlement Payments to
14 Participating Class Members, Settlement Administration Costs, the PAGA Settlement Amount,
15 Plaintiff’s Incentive Award, Attorneys’ Fees and Litigation Costs. This Gross Settlement Amount
16 has been agreed to by Plaintiff and Defendant based on an “all in” Gross Settlement Amount. In no
17 event will Defendant be liable for more than the Gross Settlement Amount for the Released Claims,
18 with the exception of Defendant’s share of payroll taxes, which shall be funded by Defendant
19 separately. Not later than thirty (30) calendar days after the Effective Date, Defendant shall deposit
20 the Gross Settlement Amount into a non-interest-bearing Qualified Settlement Fund created by the
21 Settlement Administrator. The Settlement Administrator shall handle such monies pursuant to the
22 terms of the Joint Stipulation of Class and Representative Action Settlement.

23 18. “Individual PAGA Payment” means each PAGA Employee’s share of the 25%
24 portion of the PAGA Settlement Amount allocated to PAGA Employees.

25 19. “Individual Settlement Payment” means each Participating Class Member’s share of
26 the Net Settlement Amount, to be distributed to the Participating Class Members.

27 20. “Litigation Costs” mean the amount awarded to Class Counsel to compensate them
28 for their expenses, including, but not limited to, their filing of the Action, and all related litigation

costs and expenses, this Settlement, and all post-Settlement compliance procedures. Subject to Court approval, Class Counsel's Litigation Expenses shall be an amount not to exceed THIRTY THOUSAND DOLLARS AND ZERO CENTS (\$30,000.00).

21. "LWDA" means The State of California Labor and Workforce Development Agency.

22. "LWDA Payment" means means TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$225,000) (75% of the \$300,000.00 payment allocated to PAGA Settlement Amount allocated to the settlement of PAGA claims, which, subject to Court approval, will be paid to the LWDA.)

23. "Net Settlement Amount" means the portion of the Gross Settlement Amount remaining after deduction of the approved Settlement Administration Costs, Attorneys' Fees, Litigation Costs, PAGA Settlement Amount, and Plaintiff's Incentive Award. The Net Settlement Amount will be distributed to Participating Class Members and PAGA Employees.

24. "Notice of Objection" means a Class Member's valid and timely written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must be: (a) signed by the Class Member; (b) filed with the Court and served on all parties; and (c) be postmarked on or before the Response Deadline. Class Members may not object to or opt out of the PAGA Settlement Amount or the release of the PAGA claims.

25. "Notice" means the Notice of Class and Representative Action Settlement, substantially in the form attached as **Exhibit A**.

26. "PAGA" means the California Private Attorneys General Act of 2004, which is codified in California Labor Code §§ 2698 *et seq.*

27. "PAGA Employees" means all non-exempt who worked in California for Defendant from February 24, 2020, through May 2, 2022.

28. "PAGA Period" means the period from February 24, 2020, through May 2, 2022.

29. "PAGA Released Claims" means all claims, demands, rights, liabilities and causes of action under California Labor Code Private Attorneys General Act of 2004 (Labor Code section 2698 *et seq.*) alleged in the letter to the Labor & Workforce Development Agency dated February 25, 2022 (i.e, the PAGA Letter), based on the factual allegations in the operative Complaint, that arose

1 during the PAGA Period including but not limited to the following claims for civil penalties: (a)
2 failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to
3 provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and
4 permit rest periods, or premium pay for non-compliant rest periods; (e) failure to timely pay all wages
5 due upon separation of employment; (f) failure to issue accurate, itemized wage statements based on
6 the foregoing Labor Code violations, Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194,
7 1197, 1197.1; 1198, 2800, and 2802, and sections 11 and 12 of IWC Wage Order No. 1. The Parties
8 agree that there is no statutory right for any PAGA Employee to opt out or otherwise exclude himself
9 or herself from the PAGA Payment and the associated release of claims and rights under PAGA.

10 30. "PAGA Settlement" means the settlement and release of PAGA Released Claims.

11 31. "PAGA Settlement Amount" means the amount that the Parties have agreed to
12 allocate toward penalties under the Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698,
13 *et seq.*). The Parties have agreed that THREE HUNDRED THOUSAND DOLLARS AND ZERO
14 CENTS (\$300,000.00) of the Gross Settlement Amount shall be allocated to the resolution of any
15 and all Class Members' and the State of California's claims arising under PAGA. Pursuant to PAGA,
16 Seventy-Five Percent (75%), or TWENTY-TWO THOUSAND FIVE HUNDRED DOLLARS AND
17 ZERO CENTS (\$225,000.00), of the PAGA Settlement Amount shall be paid to the LWDA, and
18 twenty-five percent (25%), or SEVENTY-FIVE THOUSAND FIVE HUNDRED DOLLARS AND
19 ZERO CENTS (\$75,000.00), of the PAGA Settlement Amount shall be distributed to the PAGA
20 Employees.

21 32. "Parties" means Plaintiff and Defendant collectively.

22 33. "Participating Class Members" means all Class Members who do not submit valid
23 Requests for Exclusion.

24 34. "Plaintiff" means Plaintiff Francisco Chavez

25 35. "Plaintiff's Incentive Award" or "Incentive Award" means the amount awarded to
26 Plaintiff, not to exceed SEVEN THOUSAND FIVE HUNDRED DOLLARS and ZERO CENTS
27 (\$7,500.00) in exchange for a general release of all claims, and in recognition of his effort and work
28 in prosecuting the Action on behalf of the Class Members and negotiating the Settlement.

1 36. “Preliminary Approval” means the court order granting preliminary approval of the
2 Settlement Agreement.

3 37. “Preliminary Approval Hearing” means the hearing held on the motion for
4 preliminary approval of the Settlement Agreement.

5 38. “Qualified Settlement Fund Account” means a non-interest bearing transaction
6 account at a FDIC-insured institution established under this Settlement Agreement from which all
7 monies payable under this Settlement Agreement will be paid, as set forth herein.

8 39. “Released Parties” means Defendant, and any of its former and present parents,
9 subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors
10 (including its successor Imperial Bag & Paper., LLC), and assigns, as well as all past and present
11 officers, directors, employees, partners, shareholders and agents, attorneys, insurers, and any other
12 successors, assigns, or legal representatives.

13 40. “Request for Exclusion” or “Opt-Out” means a request by a Class Member to opt out
14 of the Class Settlement, and by which a Class Member excludes himself or herself from participating
15 in, receiving any payment from, and being bound by, the terms of this Settlement through the
16 procedures set forth in Section V.D of this Settlement Agreement. PAGA Employees are not
17 permitted to opt-out of the PAGA Settlement.

18 41. “Response Deadline” means the deadline by which Class Members must postmark to
19 the Settlement Administrator valid Requests for Exclusion, Notices of Objection, and/or Workweek
20 Disputes. Response Deadline will be forty-five (45) calendar days from the initial mailing of the
21 Notice Packet by the Settlement Administrator, unless the 45th day falls on a Sunday or Federal
22 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
23 Postal Service is open. The Response Deadline will be extended fifteen (15) calendar days for any
24 Class Member who is re-mailed a Notice Packet by the Settlement Administrator in accordance with
25 the Notice Procedure, unless the 15th day falls on a Sunday or Federal holiday, in which case the
26 Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The
27 Response Deadline may also be extended by express agreement between Class Counsel and
28 Defendant. Under no circumstances, however, shall the Settlement Administrator have the authority

1 to extend the deadline for Class Members to submit a Request for Exclusion, Notice of Objection, or
2 Workweek Dispute.

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4 42. "Settlement Administrator" means Phoenix Settlement Administration Solutions. The
5 Parties each represent that they do not have any financial interest in the Settlement Administrator or
6 otherwise have a relationship with the Settlement Administrator that could create a conflict of
7 interest.

8 43. "Settlement Administration Costs" means the costs payable from the Gross
9 Settlement Amount to the Settlement Administrator for administering this Settlement, including, but
10 not limited to, printing, translating, distributing, and tracking documents for this Settlement,
11 calculating estimated settlement amounts per Class Member, providing necessary reports and
12 declarations, mailing the Notices, processing Requests for Exclusions and objections, tax reporting,
13 establishing and maintaining an interest bearing settlement fund for the purpose of administering the
14 Settlement and disbursing sums from the fund, and other duties and responsibilities set forth herein
15 to process this Settlement as requested by the Parties. The Settlement Administration Costs shall be
16 paid from the Gross Settlement Amount. The Settlement Administration Costs are estimated to be
17 no greater than Eight Thousand Dollars (\$8000.00).

18 44. "Workweeks" means the number of weeks worked by a Class Member during the
19 Class Period according to Defendant's payroll records, with any partial weeks excluded from the
20 calculations. Workweeks will be calculated by the Settlement Administrator for each Class Member,
21 using each Class Member's start and end dates of employment, excluding leaves of absences, to
22 determine the number of days the Class Member was employed by Defendant within the Class Period
23 or PAGA Period, and dividing the total days by seven (7). Defendant's Workweek data will be
24 presumed to be correct, unless a particular Class Member proves otherwise to the Settlement
25 Administrator by credible, written evidence. All Workweek disputes will be resolved and decided
26 by the Settlement Administrator and the Settlement Administrator's decision on all Workweeks
27 Disputes will be final and non-appealable.

28 45. "Workweek(s) Dispute(s)" means the submission by a Class Member to the

1 Settlement Administrator to dispute the number of Workweeks credited to the Class Member.

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4 **III. PRE-TRIAL PROCEEDINGS AND NEGOTIATIONS**

5 A. **Discovery, Investigation and Research.** The Parties engaged in extensive
6 investigation of the facts and law during the prosecution of the Action. The investigation included
7 the exchange of information through formal and informal discovery. Specifically, it included, among
8 other things, the exchange of a volume of documents including Defendant's employment policies,
9 practices, and procedures and a sampling of Class Members' time and pay records. The Parties also
10 prepared for and attended a full-day mediation with mediator Paul Grossman, a well-regarded
11 mediator experienced in mediating complex wage-and-hour matters. Counsel for the Parties also
12 investigated applicable law as applied to the facts in the case and potential defenses, and conducted
13 their own evaluations of the potential recoveries based on the claims in the Action.

14 B. **Allegations of Plaintiff and Benefits of Settlement.**

15 1. This Agreement was reached after arm's-length bargaining between the
16 Parties with the assistance of an experienced mediator, and after Class Counsel thoroughly reviewed
17 all available information. The information exchanged between the Parties allowed them to assess the
18 merits and to compromise the issues on a fair and equitable basis.

19 2. Plaintiff and Class Counsel contend the claims asserted in the Action have
20 merit. But, they acknowledge the expense and delay of continued litigation to prosecute the Action
21 through class certification, trial, and appeal. Plaintiff and Class Counsel have considered the
22 uncertain outcome and risk of litigation, and the difficulties and delays inherent in such litigation,
23 including, and not limited to, considering the risks associated with class certification, trial, and/or
24 appeals. Plaintiff and Class Counsel determined this Settlement Agreement confers substantial
25 benefit to the Class and PAGA Employees and is in the best interests of Plaintiff, Class Members,
26 PAGA Employees, and the State of California.

27 C. **Defendant's Denials of Wrongdoing and Benefits of Settlement.** Defendant
28 generally denies all claims alleged in the Action and further denies class treatment is appropriate for

1 any purpose other than this Settlement. Defendant contends it complied with California and other
2 applicable law. It is Defendant's position that, if litigation continued, class certification would be
3 denied on all claims. Defendant concluded further litigation of the Action would be protracted and
4 expensive. Defendant further determined it is desirable that the Action be fully and finally settled in
5 the manner and upon the terms and conditions in this Joint Stipulation.

6 **IV. SETTLEMENT TERMS**

7 The Plaintiff, on behalf of himself, the Class Members, and PAGA Employees and Defendant
8 agree as follows:

9 A. **Gross Settlement Amount.** To settle the Action, the PAGA Released Claims, and
10 the Class Released Claims under the terms of this Settlement Agreement, Defendant will pay the
11 maximum amount of ONE MILLION SIX HUNDRED THOUSAND DOLLARS AND ZERO
12 CENTS (\$1,600,000.00) (*i.e.*, the Gross Settlement Amount) as set forth above. Defendant will not
13 be required to contribute additional sums to fund the Settlement or otherwise resolve this Action and
14 the PAGA Release Claims or the Released Claims unless the total number of Workweeks is greater
15 than 39,054. In the event the total number of Workweeks worked by Participating Class Members
16 exceeds 39,054, the Gross Settlement Amount shall be increased proportionately for each additional
17 week worked. The Gross Settlement Amount is non-reversionary and distribution will be on a non-
18 claims-made basis. Defendant will pay the Gross Settlement Amount within thirty (30) calendar days
19 of the Effective Date.

20 B. **Funding of the Gross Settlement Amount.** Defendant shall make a one-time deposit
21 of the Gross Settlement Amount into a Qualified Settlement Fund Account to be established by the
22 Settlement Administrator. The Gross Settlement Amount shall be used to pay: (a) Individual
23 Settlement Payments; (b) the Attorneys' Fees; (c) Litigation Costs; (d) Settlement Administration
24 Cost; (e) Plaintiff's Incentive Award; and (f) the PAGA Settlement (including the LWDA Payment
25 and Individual PAGA Payments). Defendant shall deposit the Gross Settlement Amount within
26 THIRTY (30) days after the Effective Date.

27 C. **Allocation of Settlement Proceeds.**

28 The Gross Settlement Amount is inclusive of and will be allocated as follows:

1 1. Class Counsel's Attorneys' Fees, as approved by the Court, in an amount not to
2 exceed the thirty-five percent (35%) of the Gross Settlement Amount, OR FIVE HUNDRED SIXTY
3 THOUSAND DOLLARS AND ZERO CENTS (\$560,000.00). Defendant agrees to not object to
4 Class Counsel requesting a Class Counsel Award that does not exceed thirty-five percent (35%) of
5 the Gross Settlement Amount OR FIVE HUNDRED SIXTY THOUSAND DOLLARS AND ZERO
6 CENTS (\$560,000.00). The Attorneys' Fees shall be detailed in Class Counsel's application for fees
7 and costs in this Action, to be heard at the time of Final Approval. Class Counsel is responsible for
8 any and all taxes associated with any payments to Class Counsel under this Settlement Agreement.
9 Defendant will not be obligated to pay any Attorneys' Fees of Class Counsel, Plaintiff, or Class
10 Members above this amount. No part of the Gross Settlement Amount will be used to pay any
11 attorney's fees of Class Counsel, Plaintiff, or Class Members above this amount. In the event that
12 the Court reduces or does not approve the requested Class Counsel Attorney's Fees, Class Counsel
13 shall not have the right to revoke this Settlement Agreement, and it will remain binding.

14 With respect to the Attorneys' Fees and Litigation Costs to Class Counsel, the Settlement
15 Administrator may purchase an annuity to utilize United States Treasuries and bonds or other
16 attorney fee deferral vehicles, for Class Counsel. Any additional expenses for the purchase of an
17 annuity by the Settlement Administrator shall be paid separately by Class Counsel and will not be
18 included within the Settlement Administration Costs. Defendant and Defendant's counsel shall not
19 be liable for any expenses associated with the purchase of an annuity by the Settlement
20 Administrator.

21 2. Litigation Costs, as approved by the Court, not to exceed thirty thousand dollars
22 (\$30,000.00), which shall be paid from the Gross Settlement Amount. The Litigation Costs shall be
23 detailed in Class Counsel's application for fees and costs in this Action, to be heard at the time of
24 Final Approval. Class Counsel is responsible for any and all taxes associated with any payments to
25 Class Counsel under this Settlement Agreement. Defendant will not be obligated to pay any costs
26 of Class Counsel, Plaintiff, or Class Members above this amount. No part of the Gross Settlement
27 Amount will be used to pay any costs of Class Counsel, Plaintiff, or Class Members above this
28 amount. In the event that the Court reduces or does not approve the requested Litigation Costs, Class

1 Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding.

2 3. Settlement Administration Costs, as approved by the Court in an amount estimated
3 not exceed Eight Thousand Dollars (\$8,000.00). The Settlement Administrator shall be paid from
4 the Gross Settlement Amount for the reasonable costs of administration of the Settlement and
5 distribution of payments from the Gross Settlement Amount.

6 a. Acknowledgement of Potential Administration Cost Increases. The Parties
7 hereby acknowledge that Settlement Administration Costs may increase above the current
8 estimate of Eight Thousand Dollars (\$8,000.00) and that any such additional Settlement
9 Administration Costs shall be taken out of the Gross Settlement Amount. Any portion of the
10 estimated or designated Class Administration Costs, which are not in fact required to fulfill
11 the total Settlement Administration Costs, shall become part of the Net Settlement Amount.

12 4. Incentive Payment to Plaintiff, as approved by the Court, for his service on behalf of
13 the Class, in an amount not to exceed SEVEN THOUSAND FIVE HUNDRED DOLLARS AND
14 ZERO CENTS (\$7,500.00.) This award will be in addition to Plaintiff's Individual Settlement
15 Payment and Individual PAGA Payment and shall be reported on an IRS Form 1099 issued by the
16 Settlement Administrator. Defendant will not be obligated to pay any incentive payment above this
17 amount. No part of the Gross Settlement Amount will be used to pay any incentive payment above
18 this amount. Even in the event that the Court reduces or does not approve the requested Incentive
19 Payment to Plaintiff, Plaintiff shall not have the right to revoke this Settlement, and it will remain
20 binding. Plaintiff is responsible for any and all taxes associated with this Incentive Payment.

21 5. PAGA Settlement Amount. In consideration of claims made under PAGA, Class
22 Counsel will request that the Court approve allocation of THREE HUNDRED THOUSAND
23 DOLLARS AND ZERO CENTS (\$300,000.00) of the Gross Settlement Amount to these claims.
24 Seventy-five percent (75%) of this payment will be paid to the California Labor and Workforce
25 Development Agency (i.e., the LWDA Payment), and twenty-five percent (25%) will be paid
26 distributed to PAGA Employees on a *pro rata* basis. Defendant will not oppose this request. The
27 entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount. The Court's
28 adjustment, if any, of the amount allocated to the PAGA claim in the Action, will not invalidate this

1 Agreement.

2 6. The Net Settlement Amount shall be used to satisfy Individual Settlement Payments
3 to Participating Class Members in accordance with the terms of this Agreement after deduction of
4 the approved payments set out in section 1-6, above.

5 D. **Tax Treatment.**

6 1. For withholding tax characterization purposes and payment of taxes, the Individual
7 Settlement Payments to Participating Class Members shall be deemed twenty percent (20%) wages
8 and eighty percent (80%) penalties, interest, and non-wage damages, and the Individual PAGA
9 Payments to PAGA Employees shall be deemed one hundred percent (100%) penalties

10 2. Plaintiff, PAGA Employees, and Class Members shall be exclusively liable for any
11 and all of their respective tax liability, if any. Plaintiff, PAGA Employees, and Class Members should
12 consult with their tax advisors concerning the tax consequences of the payments they receive under
13 the Settlement Agreement. Each Class Member will be responsible for paying all applicable state,
14 local, and federal income taxes on all amounts they receive pursuant to this Settlement Agreement.
15 Plaintiff, PAGA Employees, and Participating Class Members shall cooperate with Defendant and
16 provide documentation as requested to demonstrate such payment should any taxing authority
17 challenge the tax treatment of any such payment made under the Settlement.

18 3. Each Party to this Settlement Agreement acknowledges and agrees that:

19 a. He, she, or it: (a) has relied exclusively upon his, her, or its own,
20 independent legal and tax advisers for advice (including tax advice) in connection with this
21 Settlement Agreement; (b) has not entered into this Settlement Agreement based upon the
22 recommendation of any other Party or any attorney or advisor to any other Party; and (c) is not
23 entitled to rely upon any communication or disclosure by any attorney or advisor to any other Party
24 to avoid any tax penalty that may be imposed on him or her; and

25 4. No attorney or adviser to any other Party has imposed any limitation that protects the
26 confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such
27 limitation is legally binding) upon disclosure by him or her of the tax treatment or tax structure of
28 any transaction, including any transaction contemplated by this Settlement Agreement.

1 5. Tax Liability. Defendant makes no representation as to the tax treatment or legal
2 effect of the payments called for hereunder, and Plaintiff, Participating Class Members, and Class
3 Members who timely exclude themselves from the class settlement but receive a portion of the
4 LWDA Payment are not relying on any statement, representation, or calculation by Defendant or by
5 the Settlement Administrator in this regard. Plaintiff, Participating Class Members, and Class
6 Members who timely exclude themselves from the class settlement but receive a portion of the
7 LWDA Payment understand and agree that they will be solely responsible for the payment of any
8 taxes and penalties assessed on the payments described herein and will defend, indemnify, and hold
9 Defendant free and harmless from and against any claims resulting from treatment of such payments
10 as non-taxable damages.

11 6. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
12 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO
13 THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”)
14 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND
15 NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES
16 OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
17 SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE
18 CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED
19 STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2)
20 THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
21 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
22 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
23 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
24 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY
25 UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO
26 ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
27 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
28 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF

1 ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
2 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
3 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
4 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
5 AGREEMENT.

6 E. **Release of Claims by Plaintiff, PAGA Employees and Participating Class**
7 **Members.**

8 1. Upon the Effective Date, and after the settlement has been fully funded,
9 Plaintiff and the PAGA Employees will be deemed to have fully released and discharged the Released
10 Parties of and from all of the PAGA Released Claims.

11 2. Upon the Effective Date, and after the settlement has been fully funded,
12 Plaintiff and Participating Class Members will be deemed to have fully released and discharged the
13 Released Parties of and from all of the Class Released Claims.

14 3. In addition, upon the Effective Date, and after the settlement has been fully
15 funded, Plaintiff will be deemed to have fully released and discharged the Released Parties of and
16 from all claims arising from his employment with Defendant, separation of employment from
17 Defendant, and any acts that have or could have been asserted in any legal action or proceeding against
18 Defendant, whether known or unknown, arising under any federal, state, or local law, or statute,
19 including, *inter alia*, those arising under the California Labor Code, Fair Labor Standards Act,
20 Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement
21 Income Security Act, National Labor Relations Act, California Corporations Code, California
22 Business and Professions Code, California Fair Employment and Housing Act, California
23 Constitution (all as amended), and law of contract and tort, as well as for discrimination, harassment,
24 retaliation, wrongful termination, lost wages, benefits, other employment compensation, emotional
25 distress, medical expenses, other economic and non-economic damages, attorney fees, and costs,
26 arising on or before the Effective Date. With respect to those claims released by Plaintiff in an
27 individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under
28 California Civil Code section 1542, which provides:

1 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
2 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
3 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
4 RELEASE, AND THAT IF KNOWN BY HIM OR HER WOULD HAVE
5 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
6 DEBTOR OR RELEASED PARTY

7 V. ADMINISTRATION OF THE SETTLEMENT

8 A. Preliminary Approval. Class counsel shall promptly move the Court for an order
9 granting Preliminary Approval of the settlement pursuant to this Settlement Agreement; approving
10 the Class Notice to be provided to the potential Class Members and the PAGA Employees;
11 establishing a procedure and approving the form for potential Class Members to opt out or request
12 payment; and scheduling a hearing on final approval, no earlier than ninety (90) days from the order
13 granting Preliminary Approval. Defendant will not oppose the motion.

14 B. Settlement Administrator.

15 1. The third-party company known as Phoenix Settlement Administration
16 Solutions will act as Settlement Administrator. The Settlement Administrator will be responsible for:
17 (1) preparing, translating, printing and mailing simultaneously the Class Notice in substantially the
18 same form as attached “**Exhibit A,**” in **English and Spanish**; (2) receiving and reviewing Requests
19 for Exclusion, Notices of Objection, and Workweek Disputes; (3) calculating workweeks and
20 payments under the Settlement; (4) handling inquiries from Class Members concerning the Class
21 Notice, including attempting to resolve disputes concerning Workweeks; (5) providing weekly
22 status reports to Defendant’s Counsel and Class Counsel regarding the mailings and Requests for
23 Exclusion, Notices of Objection, and Workweek Disputes; (6) distributing all payments under the
24 Settlement, as well as payments to taxing authorities as appropriate; (7) providing due diligence
25 declarations for submission to the Court, as needed; (8) printing and providing Participating Class
26 Members and Plaintiff with tax forms as required under this Settlement Agreement and applicable
27 law, and providing copies of same to Defendant; and (9) such other tasks as the Parties mutually
28 agree or the Court orders the Settlement Administrator to perform.

 2. The Parties each represent they do not have a financial interest in the
Settlement Administrator or otherwise have a relationship with the Settlement Administrator that

creates or could create a conflict of interest. Settlement Administration Costs are estimated not to exceed EIGHT THOUSAND DOLLARS AND ZERO CENTS (\$8,000.00) and are to be paid from the Gross Settlement Amount subject to approval by the Court.

C. **Notice to Class Members.** Class Members and PAGA Employees will be provided notice of the Settlement in the following manner:

1. Within twenty-one (21) calendar days of Preliminary Approval, Defendant will provide the Settlement Administrator with the Class List. The information contained in the Class List will not be shared with Class Counsel. Any report required to provide to Class Counsel will only include an identifying number for the employee and the settlement amount owed.

2. Within twenty-one (21) calendar days after the Settlement Administrator's receipt of the Class List, the Settlement Administrator will format and mail the Notice to the Class Members and PAGA Employees via first-class U.S. mail.

3. Prior to mailing the Notice to the Class, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct the Class Members' and/or PAGA Employees addresses, contained in the Class List, for any known or identifiable address changes. It will be conclusively presumed that if the Notice has not been returned within thirty (30) calendar days of mailing, that the Class Member and/or PAGA Employee received the Notice and all of its contents.

4. The Settlement Administrator will perform a skip-trace search and re-mail all Notices that are returned as undelivered on or before the Response Deadline, within seven (7) calendar days of receiving the returned Notice. If a new address is obtained after a Notice is returned as undeliverable, the Settlement Administrator shall promptly forward the original Notice to the updated address via first-class U.S. mail, indicating the date of such re-mailing. A returned Class Notice will be forwarded only once by the Settlement Administrator. Upon completion of these steps by the Settlement Administrator, Defendant shall be deemed to have satisfied its obligation to provide notice of the Settlement to Class Members and or PAGA Employees. Such persons shall be bound by all terms of the Agreement (including the Release Claims and/or PAGA Released Claims) and the Court's order granting final approval of the Settlement and judgment based thereon, unless

1 they validly request exclusion from the Settlement.

2 5. Class Members shall have forty-five (45) calendar days from the date the
3 Class Notice is first mailed (*i.e.*, the Response Deadline) to submit a Request for Exclusion,
4 Workweeks Dispute, or Notice of Objection. Unless a Class Member validly opts out of the
5 Settlement, the Class Member will be bound by all terms of the Settlement Agreement (including the
6 release of Released Claims) and the Court's order granting final approval of the Settlement and
7 judgment based thereon. PAGA Employees will be bound by the PAGA Settlement and receive their
8 Individual PAGA Payment regardless of whether they submit a Request for Exclusion from the Class
9 Settlement.

10 D. **Procedure to Opt Out of Settlement.**

11 1. Class Members who wish to exclude themselves from the Class Settlement
12 must submit to the Settlement Administrator a Request for Exclusion, which shall be a written
13 statement (as directed by the Notice) requesting exclusion from the Settlement Agreement (also
14 referred to herein as "opt out"), and which must: (a) contain the full name, address, telephone
15 number, last four (4) digits of the Social Security Number, and signature of the person requesting
16 exclusion; (b) contain a clear statement indicating that the person wishes to exclude himself or herself
17 from the Settlement, and referencing the Action by name and/or case number; and (c) be postmarked
18 no later than the Response Deadline. Any Class Member who properly opts out of the Class
19 Settlement using this procedure will not be a Participating Class Member, will be barred from
20 participating in this Settlement, will be barred from objecting to this Settlement, and will receive no
21 benefit from this Settlement. PAGA Employees may not opt out of the PAGA Settlement under any
22 circumstances and will be bound by the PAGA Settlement and receive their Individual PAGA
23 Payment regardless of whether they submit a Request for Exclusion from the Class Settlement.

24 2. A Request for Exclusion shall be deemed valid only if: (1) the Class Member
25 has provided his or her full name, address, and the last four digits of his or her Social Security
26 Number on the Request for Exclusion; (2) the Class Member has completed, dated, and signed the
27 Request for Exclusion; (3) the name and last four digits of the Social Security Number provided by
28 the Class Member on the Request for Exclusion matches Defendant's records; and (4) the Request

1 for Exclusion is postmarked on or before the Response Deadline.

2 3. Any Class Member who submits a timely and valid Request for Exclusion will
3 not be entitled to recovery under the Settlement and will not be bound by the Settlement or the order
4 granting final approval of the Settlement and judgment based thereon. A Class Member who opts
5 out of the Settlement does not have the right to object, appeal, or comment on the Settlement. Class
6 Members who do not submit a timely and valid Request for Exclusion shall be bound by all terms of
7 the Settlement and the order granting final approval of the Settlement and judgment based thereon.

8 4. The Settlement Administrator shall provide Defendant's Counsel and Class
9 Counsel with weekly updates about Class Members who submit Requests for Exclusion.

10 E. **Procedure to Object to Settlement.**

11 1. Any Class Member who seeks to object to the Settlement may do so by
12 submitting his or her written objection to the Settlement Administrator by mail. The objection must:
13 (a) contain the objecting Class Member's full name, address, telephone number, last four digits of
14 his or her Social Security number, and signature; (b) contain the words "Notice of Objection" or
15 "Formal Objection"; (c) contain the case name and number of the Action; (d) a clear and concise
16 statement, including factual and legal arguments, explaining his or her objection(s) to the Settlement;
17 (e) contain a statement indicating whether or not the Class Member is represented by counsel and
18 identifying any such legal counsel; (f) contain a statement indicating whether the Class Member
19 intends to appear at the Final Approval Hearing to present his or her objection(s); (g) list any
20 witnesses the objecting Class Member may call to testify at the Final Approval Hearing; and (h) be
21 filed with the Court and submitted to the Settlement Administrator no later than the Response
22 Deadline. The date of the postmark on the objection submission to the Settlement Administrator
23 shall be the exclusive means used to determine whether a Class Member has timely submitted his or
24 her objection on the Settlement Administrator. Within three (3) business days of receiving any
25 objection to the Settlement, the Settlement Administrator shall provide copies of such objections to
26 Class Counsel and Defendant's Counsel. The Settlement Administrator shall also attach copies of
27 such objections to its declaration that is filed with the Court in advance of the Final Approval
28 Hearing.

2. Plaintiff and/or Defendant may file a response to any objection(s) to the Settlement no later than five (5) court days before the Final Approval Hearing.

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3. Class Members do not need to provide a written objection or notice of intent to appear to appear and object at the Final Approval Hearing. The Class Member may appear personally or through an attorney, at his or her own expense, at the Final Approval Hearing. However, any attorney who will represent an objector must file a notice of appearance with the Court and serve Class Counsel and Defendant's counsel no later than the Response Deadline.

4. Class Members who do not timely object to this Agreement shall have no right to appeal the final approval order or judgment.

5. Only Class Members who do not opt out of the Class may submit objections.

6. The Parties and their respective counsel agree not to solicit or encourage any Class Member to object to the settlement or to appeal the final approval order or judgment.

F. **Workweeks Disputes.** A Class Member may dispute the accuracy of the Workweeks credited to him or her in conformity with the instructions in the Class Notice ("Workweeks Dispute"). Any such Workweeks Dispute must be in writing and must: (a) contain the Class Member's full name, address, telephone number, last four digits of his or her Social Security number, and signature; (b) contain the case name and number of the Action; (c) contain a clear statement explaining that he or she disputes the number of Workweeks credited to him or her and what he or she contends is the correct number that should be credited to him or her; (d) any documentation that he or she has to support the dispute; and (e) be mailed to the Settlement Administrator, postmarked on or before the Response Deadline. The Settlement Administrator shall provide copies of all Workweek Disputes to Class Counsel and Defendant's Counsel within three (3) business days of receipt, and shall immediately attempt to resolve all such disputes with the assistance of Defendant's Counsel and Class Counsel. In the event of a dispute, Defendant's records regarding the number of Workweeks of the Class Member shall be presumed to be correct and the Class Member will bear the burden of proof (*i.e.* a Class Member who fails to provide written proof will have his or her challenge denied). The Settlement Administrator shall investigate the challenge, requesting information from Defendant

1 as necessary and make the final determination of whether any additional amount is owed. All
2 Workweek Disputes will be resolved and decided by the Settlement Administrator and the Settlement
3 Administrator's decision on all Workweeks Disputes will be final and non-appealable.

4 G. **Final Approval.**

5 1. At the Final Approval Hearing, Class Counsel will move the Court for an order
6 granting final approval of the Settlement and entry of judgment in accordance with the California Rule
7 of Court 3.769(h). Class Counsel will seek approval of the Settlement as being fair, reasonable, and
8 adequate to the Class Members. Class Counsel and Defendant's Counsel will submit to the Court such
9 pleading and/or evidence as required for the Court's determination. Class Counsel will also submit a
10 fee and cost application to be determined at the Final Approval Hearing.

11 2. The Final Approval Order and Judgment will, among other things: (a) find
12 that the dissemination of the Class Notice in the form and manner ordered by the Court was
13 accomplished as directed, met the requirements of due process, was the best notice practicable under
14 the circumstances, and constituted due and sufficient notice to all persons entitled thereto; (b) find
15 that the Class Representative and Class Counsel herein have fairly and adequately represented and
16 protected the interests of the Class at all times in the Action; (c) grant Final Approval to the
17 Settlement as fair, reasonable, adequate, in good faith, and in the best interests of the Class as a
18 whole, and order the Parties to carry out the provisions of this Settlement Agreement; (d) certify the
19 Class; (e) direct the Parties to implement the terms of the Settlement Agreement, including, without
20 limitation, the provisions regarding payments under the Settlement; (f) enter judgment, adjudging
21 that the Participating Class Members are conclusively deemed to have released the Released Parties
22 from the Class Released Claims and that PAGA Employees are conclusively deemed to have released
23 the Released Parties from the PAGA Released Claims; (g) award Attorneys' Fees and Litigation
24 Costs to Class Counsel, the Incentive Award to Plaintiff, and Settlement Administration Costs to the
25 Settlement Administrator, in accordance with this Agreement; (h) approve the allocation for the
26 PAGA Payment; and (h) reserving continuing jurisdiction as provided herein.

27 After entry of the Final Approval Order and Judgment, the Court shall have continuing and exclusive
28 jurisdiction over the Action for purposes of: (i) administration and consummation of the terms of this

1 Settlement Agreement; (ii) enforcing, constructing, and interpreting this Settlement Agreement; (iii)
2 addressing such post-judgment matters as may be appropriate under Court rules or applicable law;
3 and (iv) enforcing, constructing, and interpreting the Final Approval Order and Judgment.

4 H. **Distribution of Settlement Proceeds.**

5 1. The Settlement Administrator shall keep Defendant's Counsel and Class
6 Counsel apprised of all distributions from the Qualified Settlement Fund Account. No person shall
7 have any claim against Defendant, Defendant's Counsel, Plaintiff, Class Counsel, or the Settlement
8 Administrator based on distributions and payments made in accordance with this Settlement
9 Agreement.

10 2. Within fifteen (15) calendar days of the Effective Date, the Settlement
11 Administrator will establish a Qualified Settlement Fund Account in a non-interest-bearing
12 transaction account at a FDIC-insured institution for the benefit of Participating Class Members and
13 PAGA Employees.

14 3. Within thirty (30) calendar days of the Effective Date, Defendant will pay the
15 Gross Settlement Amount

16 4. Within forty-five (45) calendar days after the Effective Date, the Settlement
17 Administrator shall distribute all Individual Settlement Payments to Participating Class Members,
18 all Individual PAGA Payments to PAGA Employees, the LWDA Payment to the LWDA, Attorneys'
19 Fees and Litigation Costs to Class Counsel, the Incentive Award to Plaintiff, and Settlement
20 Administration Costs to itself, all as determined by the Court at the Final Approval Hearing.

21 5. The Settlement Administrator will be responsible for calculating each
22 Participating Class Member's share of the Net Settlement Amount (i.e., Individual Settlement
23 Payment), as follows:

24 a. **Individual Settlement Payment Calculations.** Individual Settlement Payments
25 will be calculated and apportioned from the Net Settlement Amount based on the number
26 of Workweeks a Participating Class Member worked during the Class Period. The Net
27 Settlement Amount shall be divided by the total number of Workweeks worked by all
28 Participating Class Members and multiplied by the individual Workweeks of each

1 Participating Class Member to determine his or her Individual Settlement Payment.

2 b. Individual PAGA Payments. Individual PAGA Payments will be calculated
3 and apportioned from the 25% portion of the PAGA Settlement Amount approved for
4 distribution by the Court (which is expected to be \$75,000.00) based on the number of
5 Workweeks worked during the Class Period. The 25% portion of the PAGA Settlement
6 Amount approved for distribution to the PAGA Employees by the Court shall be divided
7 by the total number of Workweeks worked by all PAGA Employees and multiplied by
8 the Workweeks of each PAGA Employee to determine his or her Individual PAGA
9 Payment.

10 6. Each Participating Class Member, including Plaintiff, will be responsible for
11 the payment of their employee share of payroll taxes. The portion of the Individual Settlement
12 Payment attributable to wages will be subject to the employees' share of payroll taxes, contributions,
13 and withholdings. The Settlement Administrator's determination of eligibility for, and the amounts
14 of, any settlement payments under this Settlement Agreement shall be conclusive, final, and binding
15 on all parties, including all Class Members.

16 7. Any settlement checks paid to Participating Class Members and/or PAGA
17 Employees will remain valid and negotiable for one hundred eighty (180) calendar days from the
18 date of their issuance after which they will become stale ("Check Stale Date") and shall automatically
19 be cancelled if not cashed or deposited by Participating Class Members or PAGA Employees within
20 that time. Any funds remaining in the Settlement Fund Account as a result of Participating Class
21 Members' failure to cash or deposit their checks by the Check Stale Date, shall be transmitted in the
22 names and respective amounts of the checks that are cancelled, to the Controller of the State of
23 California to be held pursuant to the Unclaimed Property Law, California Civil Code section 1500
24 *et seq.*, for the benefit of those Participating Class Members and PAGA Employees whose checks
25 were cancelled, until such time that they claim their property. Defendant will not be required to pay
26 any interest on said amount. The Parties agree that this disposition results in no "unpaid residue"
27 under California Code of Civil Procedure section 384, as the entire Net Settlement Amount will be
28 paid out to Participating Class Members, whether or not they cash or deposit their settlement checks.

1 8. The Settlement Administrator shall prepare any and all reports and/or
2 declarations regarding the distribution of funds under the Settlement, as ordered by the Court. The
3 Settlement Administrator shall also undertake amended and/or supplemental tax filings and
4 reporting, required under applicable local, state, and federal tax laws, that are necessitated due to the
5 cancellation of any settlement checks. To the extent that the Settlement Administrator is able to
6 obtain or receive the return or refund of the amounts that were transmitted to taxing authorities for
7 the employer's and employee's share of payroll taxes, contributions, and withholding associated with
8 cancelled Individual Settlement Payments, these amounts shall be transmitted to the Controller of
9 the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code
10 section 1500 *et seq.*, along with the funds associated with cancelled settlement checks.

11 9. Notwithstanding the above, within fourteen (14) calendar days after the
12 disbursement of all funds as set forth in Section V.H.4, the Settlement Administrator will serve on
13 the Parties a declaration providing a final report on the disbursements of all funds.

14 10. Plaintiff and Class Members will be solely responsible for the reporting and
15 payment of any state, local, and/or federal income tax, if any, on the amounts paid to them under the
16 Settlement. If it is determined that any taxes are due in connection with any amount paid under the
17 Settlement, Plaintiff and Class Members will be solely responsible for all liability for taxes and any
18 costs, fees, interest, assessments, penalties, damages, or other losses due to such a determination. No
19 payments made under this Settlement Agreement will have an effect on any employee pension
20 benefit plan or employee welfare benefit plan sponsored by Defendant.

21 11. No Credit Toward Benefit Plans. The Individual Settlement Payments made
22 to Participating Class Members and the Individual PAGA Payments made to PAGA Employees
23 under this Settlement Agreement, as well as any other payments made pursuant to this Agreement,
24 shall not be utilized to calculate any additional benefits under any benefit plans to which any Class
25 Members may be eligible, including, but not limited to: welfare plans, benefit plans, ERISA plans,
26 profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave
27 plans, PTO plans, and any other welfare or benefit plan.

28 **VI. DUTIES OF THE PARTIES**

1 A. **Second Amended Complaint.** Prior to bringing the motion for preliminary approval,
2 Plaintiff and Defendant will file a joint stipulation seeking leave to file the Second Amended
3 Complaint.

4 B. **Mutual Cooperation.** The Parties agree to cooperate to accomplish and implement
5 the terms of this Joint Stipulation. Such cooperation will include, but not be limited to, execution of
6 such other documents and taking such other actions as may reasonably be necessary to fulfill the
7 terms of this Joint Stipulation. The Parties will use their reasonable best efforts, including all efforts
8 contemplated by this Joint Stipulation and any other efforts that may become necessary by court
9 order, or otherwise, to effectuate this Joint Stipulation and the terms set forth herein. As soon as
10 practicable after execution of this Joint Stipulation, Class Counsel, with the cooperation of Defendant
11 and its counsel, will try to secure Preliminary Approval and Final Approval.

12 C. **Duty to Support and Defend the Settlement.** The Parties agree the settlement is fair
13 and reasonable and will so represent to the Court. In addition, the mediator (Paul Grossman) may
14 execute a declaration supporting the settlement, and the Court may contact the mediator to discuss
15 the settlement and whether or not it is fair and reasonable. The Parties agree to abide by all terms of
16 the Joint Stipulation in good faith and to support the Joint Stipulation fully, and to use their best
17 efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack.
18 Plaintiff agrees to take all steps necessary to implement and effectuate the Settlement.

19 **VII. MISCELLANEOUS PROVISIONS:**

20 1. **Interim Stay of Proceedings.** Plaintiff and Defendant agree to the stay of all
21 proceedings in the Litigation, including with respect to California Code of Civil Procedure section
22 583.310, except such proceedings necessary to implement and complete the Settlement, pending final
23 approval of the Settlement by the Court.

24 2. **Revocation of Settlement Agreement.** Notwithstanding any other provision included
25 herein, the Parties agree that Defendant retains the right, in the exercise of their sole discretion, to
26 nullify the Settlement within 30 calendar days after expiration of the opt-out period if five percent
27 (5%) or more of the Class Members opt out of the Settlement and/or if the combined workweeks
28 worked by Class Members who timely exclude themselves amounts to more than five percent (5%)

1 of the total workweeks worked by all Class Members.

2 3. Administration Costs if Settlement Fails or is Delayed. If an objection to the
3 Settlement Agreement is filed with the Court, regardless of the ultimate outcome of any appeals
4 taken, or if the Settlement is voided, delayed, or rescinded, any costs incurred by the Settlement
5 Administrator shall be paid equally by the Parties (half by Class Counsel and half by Defendant),
6 unless otherwise specified in this Agreement.

7 4. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
8 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
9 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
10 cause of action, or right herein released and discharged.

11 5. Nullification of Settlement Agreement. In the event that (i) the Court does not finally
12 approve the Settlement as provided herein, or (ii) the Settlement does not become final for any other
13 reason, then this Settlement Agreement, and any documents generated to bring it into effect, shall be
14 null and void. Any order or judgment entered by the Court in furtherance of this Settlement
15 Agreement shall likewise be treated as void from the beginning.

16 6. Continued Jurisdiction. Upon final approval of the Settlement by the Court or after
17 the Final Approval/Settlement Fairness Hearing, the Court shall have continuing jurisdiction solely
18 for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement; (b)
19 settlement administration matters; and (c) such matters as may be appropriate under Court rules or
20 as set forth in this Agreement.

21 7. Exhibits Incorporated by Reference. The terms of this Agreement include the terms
22 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
23 herein. Any Exhibits to this Agreement are an integral part of the Settlement.

24 8. Confidentiality. The Parties will not make any public disclosures of any kind
25 regarding the Settlement, including but not limited to postings on Class Counsel's website and
26 postings on any social media sites/outlets. Class Counsel will take all steps necessary to ensure the
27 Class Representatives are aware of, and will encourage them to adhere to, the restriction against any
28 public disclosures regarding the Settlement or this Confidential Memorandum of Understanding.

1 Class Counsel will not include or use the Settlement for any marketing or promotional purposes, or
2 for attempting to influence Defendant's business relationships, either before or after the Motion for
3 Preliminary Approval is filed. Following preliminary approval of the Settlement, the Class
4 Representatives and Class Counsel will not initiate any communications with the media or third
5 parties. If contacted by the media or third parties, Class Counsel will only discuss information
6 publicly available. Class Counsel will take all steps necessary to ensure the Class Representatives
7 are aware of, and will encourage them to adhere to, the restriction against initiating any media
8 comment. Class Counsel further agrees not to use the Settlement or any of its terms for any marketing
9 or promotional purposes. Nothing herein will restrict Class Counsel from including publicly
10 available information regarding this settlement in future judicial submissions regarding Class
11 Counsel's qualifications and experience.

12 9. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute
13 the entirety of the Parties' settlement terms as it relates to the Released Claims.

14 10. Amendment or Modification. This Settlement Agreement may be amended or
15 modified only by a written instrument signed by counsel for all Parties or their successors-in-interest
16 and approved by the Court. Notwithstanding the above, before the Settlement Agreement has been
17 submitted to the Court in connection with seeking preliminary approval of the Settlement, the
18 Settlement Agreement may be amended or modified only by a written instrument signed by counsel
19 for all Parties or their successors-in-interest

20 11. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
21 represent they are expressly authorized by the Parties whom they represent to negotiate this
22 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
23 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
24 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
25 counsel will cooperate with each other and use their best efforts to effect the implementation of the
26 Settlement. If the Parties are unable to reach agreement on the form or content of any document
27 needed to implement the Settlement, or on any supplemental provisions that may become necessary
28 to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve

1 such disagreement.

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

4 13. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto
5 shall be governed by and interpreted according to the laws of the State of California.

6 14. Execution and Counterparts. This Settlement Agreement is subject only to the
7 execution of all Parties. However, the Agreement may be executed in one or more counterparts. All
8 executed counterparts and each of them, including facsimile and scanned copies of the signature
9 page, shall be deemed to be one and the same instrument provided that counsel for the Parties shall
10 exchange among themselves original signed counterparts. Electronically generated signatures (e.g.,
11 DocuSign signatures) shall have the same legal effect as an ink signature and shall be valid and fully
12 enforceable.

13 15. Acknowledgement that the Settlement is Fair, Adequate, Reasonable, and Advances
14 the Policies Underlying PAGA. The Parties believe this Settlement Agreement is a fair, adequate,
15 and reasonable settlement of the Action and have arrived at this Settlement after arm's-length
16 negotiations and in the context of adversarial litigation, taking into account all relevant factors,
17 present and potential. The Parties also believe this Settlement Agreement advances the public policy
18 underlying PAGA. The Parties further acknowledge that they are each represented by competent
19 counsel and that they have had an opportunity to consult with their counsel regarding the fairness
20 and reasonableness of this Agreement.

21 16. Invalidity of Any Provision. Before declaring any provision of this Settlement
22 Agreement invalid, the Court shall first attempt to construe the provision as valid to the fullest extent
23 possible consistent with applicable precedents so as to define all provisions of this Settlement
24 Agreement valid and enforceable.

25 17. Plaintiff's Waiver of Right to Be Excluded. Plaintiff agrees to sign this Settlement
26 Agreement and, by signing this Settlement Agreement, is hereby bound by the terms herein. For
27 good and valuable consideration, Plaintiff further agrees that he shall not request to be excluded from
28 the Settlement Agreement. Any such request for exclusion by Plaintiff shall be void and of no force

1 or effect. Efforts by Plaintiff to circumvent the terms of this paragraph shall be void and of no force
2 or effect.

3 ///

4 18. Appeals. Either party may appeal any court order that materially alters the Settlement
5 Agreement's terms. Class Counsel and Plaintiff, however, waive any appeal of any reduction in the
6 Class Counsel Award or Plaintiff's Incentive Award below the amount requests from the Court.

7 19. Class Action Certification for Settlement Purposes Only. The Parties agree to
8 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the
9 Settlement is not approved, the stipulation to certification will be void. The Parties further agree that
10 certification for purposes of the Settlement is not an admission that class action certification is proper
11 under the standards applied to contested certification motions and that this Settlement Agreement
12 will not be admissible in this or any other proceeding as evidence that either (i) a class action should
13 be certified, or (ii) Defendant is liable to Plaintiff or any Class Member, other than according to the
14 Settlement's terms.

15 20. Notices. All notices, demands, and other communications to be provided concerning
16 this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at
17 the addresses set forth below, or such other addresses as either Party may designate in writing from
18 time to time:

19 if to Defendant: Chad D. Bernard and Danielle C. Cepeda of Jackson Lewis, P.C, 725
20 South Figueroa Street, Suite 2500, Los Angeles, California 90017;
chad.bernard@jacksonlewis.com; and
danielle.cepeda@jacksonlewis.com

21 if to Plaintiff: Edwin Aiwarzian, Arby Aiwarzian, Joanna Ghosh, and Brian St.
22 John of LAWYERS for JUSTICE, PC 410 West Arden Avenue,
23 Suite 203 Glendale, California 9120; edwin@calljustice.com;
arby@calljustice.com; joanna@calljustice.com; and
24 brian@calljutsice.com

25 21. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
26 dispute that has arisen between them and to avoid the burden, expense, and risk of continued
27 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, that
28 they have violated any federal, state, or local law; violated any regulations or guidelines promulgated

pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local, or other applicable law.

22. Captions. The captions and section numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the provisions of this Agreement.

23. Waiver. No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto shall be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right, or remedy.

24. Enforcement Actions. 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 or to declare rights and/or obligations under this Settlement, the successful Party or Parties shall 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.

25. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement shall not be construed more strictly against one party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

26. Representation by Counsel. The Parties acknowledge that they have been represented

1 by counsel throughout all negotiations that preceded the execution of this Agreement, and that this
2 Agreement has been executed with the consent and advice of counsel. Further, Plaintiff and Class
3 Counsel warrant and represent that there are no liens on the Settlement Agreement.

4 27. All Terms Subject to Final Court Approval. All terms described in this Settlement
5 Agreement herein shall be subject to final Court approval.

6 28. Cooperation and Execution of Necessary Documents. All Parties shall cooperate in
7 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
8 this Settlement Agreement.

9 29. Binding Agreement. The Parties warrant that they understand and have full authority
10 to enter into this Agreement, and further intend that this Agreement shall be fully enforceable and
11 binding on all Parties, and agree that it shall be admissible and subject to disclosure in any proceeding
12 to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might
13 apply under federal or state law.

14
15 **IT IS SO AGREED:**

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17 [Signatures on next page]
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1 Date: 02/09/2023, 2023

Electronically Signed 2023-02-09 22:34:16 UTC - 172.58.31.81
Nintex AssureSign® 02434591-46a7-4495-98ea-afa30159896c

Francisco Chavez

4 Date: _____, 2023

American Paper and Plastics Inc.

Name:

Title:

9 APPROVED AS TO FORM:

12 LAWYERS *for* JUSTICE

14 Date: February 9, 2023



Edwin Aiwanian
Arby Aiwanian
Joanna Ghosh
Brian J. St. John
Counsel for Plaintiff Francisco Chavez

19 JACKSON LEWIS P.C.


20 Date: _____, 2023

Chad D. Bernard
Danielle C. Cepeda
Counsel for Defendant American Paper and
Plastics Inc.

1 Date: _____, 2023

Francisco Chavez

2
3
4 Date: 2/6, 2023


American Paper and Plastics Inc.

Name: Paul M. Cervino

Title: Chief Financial Officer

5
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9 **APPROVED AS TO FORM:**

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11
12 **LAWYERS *for* JUSTICE**

13
14 Date: _____, 2023

15 Edwin Aiwazian
16 Arby Aiwazian
17 Joanna Ghosh
18 Brian J. St. John
19 Counsel for Plaintiff Francisco Chavez

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21 **JACKSON LEWIS P.C.**

22 Date: _____, 2023

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24
25
26
27
28
Chad D. Bernard
Counsel for Defendant American Paper and
Plastics Inc.

1 Date: _____, 2023

2 Francisco Chavez

3
4 Date: _____, 2023

5 American Paper and Plastics Inc.
6 Name: Paul M. Cervin0
7 Title: Chief Financial Officer

8
9 **APPROVED AS TO FORM:**

10
11
12 **LAWYERS *for* JUSTICE**

13
14 Date: _____, 2023

15 Edwin Aiwarzian
16 Arby Aiwarzian
17 Joanna Ghosh
18 Brian J. St. John
19 Counsel for Plaintiff Francisco Chavez

20
21 **JACKSON LEWIS P.C.**

22 Date: February 7, 2023

23 

24 Chad D. Bernard
25 Counsel for Defendant American Paper and
26 Plastics Inc.

EXHIBIT A

EXHIBIT “A” – NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

Francisco Chavez v. American Paper and Plastics Inc.
Superior Court of California, County of Los Angeles
Case No. 21STCV07182

TO: ALL INDIVIDUALS WHO ARE CURRENTLY EMPLOYED OR WERE FORMALLY EMPLOYED BY DEFENDANT AMERICAN PAPER AND PLASTICS, INC. (“DEFENDANT”) IN CALIFORNIA AS HOURLY, NON-EXEMPT EMPLOYEES, FROM FEBRUARY 24, 2017 TO MAY 2, 2022.

IMPORTANT LEGAL NOTICE- THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS. YOU MAY BE ENTITLED TO MONEY FROM THIS SETTLEMENT.

YOU ARE NOTIFIED THAT: on [REDACTED], the Superior Court of the State of California, in and for the County of Los Angeles, granted preliminary approval of a class and representative settlement (the “Settlement”) in the class action lawsuit entitled *Francisco Chavez v. American Paper and Plastics Inc.* Case No. 21STCV07182 (the “Action”) and scheduled a hearing on [hearing date] at [hearing time] (“Final Approval Hearing”) to determine whether or not the Court should grant final approval of the settlement.

THIS NOTICE IS TO INFORM YOU ABOUT:

- A POTENTIAL SETTLEMENT OF THIS PROPOSED CLASS ACTION LAWSUIT;
- YOUR RIGHT TO RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT AND, IF APPLICABLE, AN INDIVIDUAL PAGA PAYMENT;
- YOUR RIGHT TO CHALLENGE THE WORKWEEKS USED TO COMPUTE YOUR ESTIMATED SETTLEMENT SHARE(S);
- YOUR RIGHT TO SUBMIT ANY OBJECTIONS YOU MAY HAVE TO THE PROPOSED CLASS PORTION OF THE SETTLEMENT; AND
- YOUR RIGHT TO EXCLUDE YOURSELF FROM THE CLASS PORTION OF THE SETTLEMENT.

You have the option to be part of the proposed class portion of the Settlement (“Class Settlement”) and receive a share of the settlement funds for the Class (“Individual Settlement Payment”), pending approval by the Court. If you **do not** want to be included in the Class Settlement, you must opt out of the Class Settlement as described below by [REDACTED], or you will be bound by the terms and conditions of the Class Settlement, including the release of Released Claims (as defined in Section 10 below) except for those arising under the Private Attorneys General Act, California Labor Code section 2698, *et seq.* (“PAGA”) in the event the Court grants final approval of the Settlement. Released Claims arising under PAGA will be released as provided in Section 10 below, and PAGA Employees will be entitled to their share of the settlement funds for PAGA Employees (“Individual PAGA Payment”) under the PAGA-portion of the Settlement (“PAGA Settlement”), regardless of whether or not the Class Member opts out.

This Notice provides you with a summary of the terms and conditions of the proposed Settlement. You have the right to view the entire Settlement Agreement and all other documents submitted to the Court in the Action, which are on file with the Superior Court of the State of California, in and for the County of Los Angeles, located at 312 North Spring Street, Los Angeles, California 90012.

If you wish to be included in this Settlement and receive an Individual Settlement Payment and, if applicable, an Individual PAGA Payment, you need not do anything. If you do not do anything, you will receive a payment of your Individual Settlement Payment and, if applicable, Individual PAGA Payment and you will be bound by the terms and conditions of the Settlement, including the full release of Released Claims (as defined in Section 10 below). **Your estimated Settlement Share is \$ [REDACTED].**

1. Why am I receiving this Notice?

You are receiving this Notice because records indicate that you are part of the proposed class for purposes of this Settlement. The purpose of this Notice is to describe the lawsuit and Settlement to you and inform you of your rights and options in connection with the Settlement.

2. Who is in the Class and who is a PAGA Member?

The Class consists of all individuals who are currently employed or were formerly employed by Defendant American Paper and Plastics, Inc. (“Defendant”) (or who worked at the same physical location of American Paper and Plastics, Inc. for its successor Imperial Bag & Paper Co., LLC, d/b/a Imperial Dade) in California as hourly, non-exempt employees, from February 24, 2017, to May 2, 2022 (“Class Period”). A member of the Class is referred to as “Class Member.”

“PAGA Employees” consist of all non-exempt employees who worked in California for Defendant from February 24, 2020, through May 2, 2022. (“PAGA Period”).

3. What is the Case About?

Plaintiffs Francisco Chavez (“Plaintiff”) brought claims against Defendant, individually and on behalf of the Class Members, alleging that Defendant committed various wage-and-hour violations relating to hourly-paid employees. Specifically, the Second Amended Class Action Complaint for Damages and Enforcement of Private Attorneys General Act, California Labor Code § 2698, *Et Seq.*, filed on [REDACTED], 2022 (“Operative Complaint”), alleges that Defendants: failed to provide meal periods and rest breaks, failed to pay all wages due including overtime and minimum wages, failed to provide accurate itemized wage statements, failed to reimburse business expenses, and thereby engaged in unfair business practices and conduct giving rise to civil penalties under the Private Attorneys General Act (“PAGA”). The Operative Complaint seeks to recover these allegedly unpaid wages, related interest and penalties, as well as attorneys’ fees and costs.

Defendant denies all of Plaintiff’s allegations and specifically denies that they violated the law in any way as described in the lawsuit. Nothing in this Notice, or the Settlement, or any actions to carry out the terms of the Settlement mean that Defendants admit any fault, guilt, negligence, wrongdoing, or liability whatsoever. There have been no findings by any court of wrongdoing by the Defendant.

The Parties participated in mediation with a respected class action mediator and, as a result, the Parties reached a settlement. The Parties have since entered into the Joint Stipulation of Class and Representative Action Settlement (“Settlement Agreement”).

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Phoenix Settlement Administration Solutions as the administrator of the Settlement (“Settlement Administrator”), Plaintiff Francisco Chavez as representative of the Class (“Class Representative”), and the following Plaintiff’s attorneys as counsel for the Class (“Class Counsel”):

Edwin Aiwazian, Esq.
Arby Aiwazian, Esq.
Joanna Ghosh, Esq.
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

The Settlement represents a compromise and settlement of highly disputed claims. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of

continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members. The Court has made no ruling on the merits of the Class Members' claims and has determined only that certification of the Class for settlement purposes is appropriate under California law. Class Counsel believes that the Settlement described below is fair, adequate, reasonable, and in the best interests of Plaintiffs and the Class.

4. What are the terms of the Settlement?

The terms of the Settlement are summarized generally below but are more specifically detailed in the Settlement Agreement on file with the Court.

Defendants have agreed to pay a total of one million six hundred thousand dollars (\$1,600,000) under the Settlement (the "Gross Settlement Amount") to resolve all claims and causes of action of the Settlement Class associated with the allegations and facts alleged in the Operative Complaint. The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) Attorneys' Fees in an amount not to exceed 35% of the Gross Settlement Amount (i.e., \$560,000) and reimbursement of litigation costs in an amount not to exceed thirty thousand dollars (\$30,000) to Class Counsel; (2) Incentive Award in an amount not to exceed seven thousand five hundred dollars (\$7,500) to Plaintiff for his services in the Action; (3) PAGA Settlement Amount in the amount of one hundred thousand dollars (\$100,000), of which seventy-five thousand dollars (\$75,000) will be paid to the Labor and Workforce Development Agency ("LWDA") for its 75% portion of the PAGA Settlement Amount ("LWDA Payment") and the remaining twenty-five thousand dollars (i.e., 25% of the PAGA Settlement Amount) will be distributed to PAGA Employees on a *pro rata* basis; and (4) Administration Expenses in an amount not to exceed fifteen thousand dollars (\$15,000) to the Settlement Administrator.

- Attorneys' Fees and Litigation Costs: Under the terms of the Settlement, Class Counsel will receive an amount up to thirty-five percent (35%) of the Gross Settlement Amount (i.e., \$560,000) as Attorneys' Fees to compensate them for their work in the Action. Class Counsel will also receive an additional amount for reimbursement of actual costs they have incurred in this Action, not to exceed thirty thousand dollars (\$30,000). These payments are for services provided, and to be provided, to the Class, and to compensate the lawyers for the risk of bringing this case on a contingency fee basis (that is, without being paid any money to date) where they invested time and all litigation costs with the chance of no recovery. These amounts are subject to approval by the Court.
- Plaintiff's Incentive Award: Plaintiff will seek an amount up to seven thousand five hundred dollars (\$7,500) ("Incentive Award") to compensate him for his services in connection with the Action, including undergoing the burden of bringing and prosecuting the Action.
- Settlement Administration Costs: The Parties estimate that the settlement administration costs will be approximately eight thousand dollars (\$8,000) ("Settlement Administration Costs"). This amount will be paid to the Settlement Administrator, Phoenix, for its work in administering this Settlement, including and not limited to, the expense of notifying the Class Members of the Settlement, processing requests for exclusion, objections, and Workweeks disputes, calculating Individual Settlement Payments and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.
- PAGA Settlement Amount: The amount of three hundred thousand dollars (\$300,000) of the Gross Settlement Amount is allocated to civil penalties under the PAGA. Seventy-five percent (75%) of the PAGA Payment, or \$225,000, will be paid to the LWDA, and twenty-five percent (25%) of the PAGA Payment, or \$75,000, will be distributed to the PAGA Employees.

Class Members who do not opt out of the Class Settlement ("Participating Class Members") are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount ("Individual Settlement Payment") and PAGA Employees will receive payment under the PAGA Settlement of their *pro rata* share of the 25% portion of the PAGA Settlement Amount ("Individual PAGA Payment") based on the number of weeks they

were each employed by Defendant as an hourly, non-exempt employee (excluding any weeks that the Class Member was employed as an exempt employee) (“Workweeks”) during the relevant time period.

Your estimated Individual Settlement Payment (as stated below in Section 5) was determined first by calculating the number of Workweeks you worked during the Class Period, then by dividing the Net Settlement Amount by the Workweeks of all Class Members during the Class Period and multiplying the result by your individual Workweeks during the Class Period (stated below in Section 5).

Your estimated Individual PAGA Payment (as stated below in Section 5) was determined first by calculating the number of Workweeks you worked during the PAGA Period, then by dividing the 25% portion of the PAGA Settlement Amount approved for distribution to the PAGA Employees by the Workweeks of all PAGA Employees during the PAGA Period and multiplying the result by your individual Workweeks during the PAGA Period (stated below in Section 5).

Each Individual Settlement Payment will be allocated twenty percent (20%) as wages (“wages portion”) to be reported on IRS Form W-2, and eighty percent (80%) as penalties interest, and other non-wages (“non-wages portion”) to be reported on IRS Form 1099 (if applicable). Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties.

If the Court grants final approval of the Settlement, payments for Individual Settlement Payments and Individual PAGA Payments will be mailed to any Participating Class Member and/or PAGA Member at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

Participating Class Members and PAGA Employees will have one hundred eighty (180) calendar days to cash, deposit, and/or negotiate their Settlement Share Check. After the 180-day period, the checks will become null and void, and the monies remaining in the distribution account will be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.* for the benefit of those Participating Class Members and/or PAGA Employees who did not cash their checks until such time that they claim their property.

5. What is my estimated Individual Settlement Payment and Individual PAGA Payment?

According to Defendants’ records:

During the period from February 24, 2017 through May 2, 2022, you were employed by Defendant as an hourly-paid, non-exempt employee for a total of [NUMBER] Workweeks during the Class Period.

During the period from February 24, 2020 through May 2, 2022, you were employed by Defendant as an hourly-paid, non-exempt employee for a total of [NUMBER] Workweeks during the PAGA Period.

Your estimated Individual Settlement Payment is based on the number of Workweeks during the Class Period credited to you.

Under the terms of the Settlement, your Individual Settlement Payment is estimated to be \$[REDACTED]. The Individual Settlement Payment is subject to reduction for the employee’s share of all applicable income and payroll taxes with respect to the wages portion of the Individual Settlement Payment and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Your estimated Individual PAGA Payment is based on the number of Workweeks during the PAGA Period credited to you.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED]. The Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

If you do nothing you will receive payment of your Individual Settlement Payment and, if applicable, your Individual PAGA Payment, and you will be bound by the terms of the Settlement, including the release of Released Claims described below in Section 10. You will not need to submit a claim form to receive your Individual Settlement Payment and, if applicable, Individual PAGA Payment.

6. How do I dispute the number of Workweeks stated in this Notice?

If you believe the number of Workweeks indicated above in Section 5 is incorrect, you may submit a challenge in writing to the Settlement Administrator. The dispute must be sent to the Settlement Administrator at the address listed below in Section 9, postmarked **on or before [Response Deadline]**, and must: (a) contain your full name, address, telephone number, last four digits of your Social Security number, and signature; (b) contain the case name and number of the Action (*Chavez v. American Paper and Plastics Inc.*, Case No. 21STCV07182); (c) contain a clear statement explaining that you dispute the number of Workweeks credited to you and what you contend is the correct number that should be credited to you; (d) any documentation that you have to support the dispute. The Settlement Administrator will use Defendant's records and any information you provide to resolve any dispute about your employment data.

If you challenge the Workweeks worked as stated above, the Settlement Administrator will investigate and review the records available from the Defendant to determine whether the Workweeks you worked during the Class Period and/or PAGA Period are correct as stated above. Your submission of a dispute will be your authorization for the Settlement Administrator to review your employment and payment records, and for the Defendant to release any such records to the Settlement Administrator for the limited purpose of determining the Workweeks you worked.

After reviewing the available records, the Settlement Administrator will make a determination regarding your Workweeks to compute your Individual Settlement Payment and/or Individual PAGA Payment. Your share of the Net Settlement Amount and/or 25% portion of the PAGA Settlement Amount approved for distribution to the PAGA Employees may be increased or decreased as a result of this process. The Settlement Administrator's decision regarding your number of Workweeks will be based on the information contained in the records produced in the Action and will prevail over a dispute that does not provide persuasive documentation indicating that these records are wrong. The decision of the Settlement Administrator will be final and will not be subject to appeal.

7. How do I opt out if I do not want to be part of the Class Settlement?

If you request to be excluded from, or opt out of, the Class Settlement, you will NOT receive an Individual Settlement Payment, nor will you release any of the Class Released Claims, as described below in Section 10. To opt out, you must submit to the Settlement Administrator a written exclusion from the Class Settlement (opt out) **on or before [Response Deadline]**. The written request for exclusion from the Class Settlement must: (a) contain your name, address, telephone number, and last four digits of your Social Security number, and signature; (b) contain the case name and number of the Action (*Chavez v. American Paper and Plastics Inc.*, Case No. 21STCV07182); (c) clearly state that you wish to be excluded from the Class Settlement; and (d) be returned to the Settlement Administrator by mail at the address listed below in Section 9, postmarked on or before **[Response Deadline]**.

You may withdraw your request for exclusion prior to **[Response Deadline]** by writing to the Settlement Administrator and stating your intent to withdraw your request for exclusion from the Class Settlement.

Any Class Member who properly requests to opt out from the Class Settlement will not be entitled to receive an Individual Settlement Payment and will not be bound by the Class Settlement or have any right to object, appeal or comment thereon. Notwithstanding the above, all PAGA Employees will be bound by the PAGA Settlement and will receive their Individual PAGA Payment irrespective of whether they submit a request for exclusion from the Class Settlement.

8. Can I object to the Class Settlement?

Any Class Member who has not opted out of the Class Settlement (i.e., Participating Class Member) may object to the Class Settlement. Written objections to the Class Settlement must be mailed to the Settlement Administrator no later than **[Response Deadline]** and must: (a) contain your full name, address, telephone number, last four digits of your Social Security number, and signature; (b) contain the words “Notice of Objection” or “Formal Objection”; (c) contain the case name and number of the Action (*Chavez v. American Paper and Plastics Inc.*, Case No. 21STCV07182); (d) a clear and concise statement, including factual and legal arguments, explaining your objection(s) to the Settlement; (e) contain a statement indicating whether or not you are represented by counsel and identifying any such legal counsel; (f) contain a statement indicating whether you intend to appear at the Final Approval Hearing to present your objection(s); (g) list any witnesses you may call to testify at the Final Approval Hearing; and (h) be filed with the Court and submitted to the Settlement Administrator no later than **[Response Deadline]**.

Participating Class Members may also present their objections at the Final Approval Hearing, regardless of whether they submitted a written objection.

If a Participating Class Member unsuccessfully objects to the Class Settlement, the Participating Class Member will remain a member of the Settlement Class and if the Court grants final approval of the Settlement, the Participating Class Member will be bound by the terms of the Settlement and judgment in the same way and to the same extent as a Participating Class Member who does not object.

9. Who is the Settlement Administrator?

The Settlement Administrator is the company approved by the Court to administer the Settlement. The Settlement Administrator’s contact information is:

PHOENIX
INSERT ADDRESS AND CONTACT INFORMATION

The Settlement Administrator’s duties include processing challenges, objections, and exclusions to the Class Settlement, making payments to the Participating Class Members PAGA Employees, and providing answers to any questions you may have. The Settlement Administrator will also post a copy of the final judgment on its website for a period of at least sixty (60) calendar days. The costs of administering the Settlement, estimated at \$8,000, will be deducted from the Gross Settlement Amount.

10. What is Being Released as Part of the Settlement?

If the Court grants final approval of the Settlement, upon the full funding of the Gross Settlement Amount, all Class Members who have not opted out of the Class Settlement are bound by the terms of the Class Settlement, including the release of all Class Released Claims that they may have against the Released Parties at any time during the Class Period, as set forth in the Settlement Agreement and below. In addition, all PAGA Employees are bound by the release of all PAGA Released Claims that they may have against the Released Parties at any time during the PAGA Period, as set forth in the Settlement Agreement and below.

“Class Released Claims” means any and all claims, rights, demands, liabilities, and causes of action based on the same set of operative facts as those set forth in the operative Complaint, including but not limited to claims based on the following categories of allegations: all claims under state, federal or local law, whether statutory, common law or administrative law, arising out of or related to allegations set forth in the operative Complaint, claims for failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to furnish accurate wage statements, failure to pay all wages earned, failure to maintain required records, failure to pay earned wages upon termination or discharge, failure to reimburse business expenses, unfair competition, including, but not limited to, claims for injunctive relief, punitive damages, liquidated damages, interest, fees, including fees under California Code of Civil Procedure section 1021.5; costs; and all other claims and allegations made or which could have been made in the Action based on the facts and allegations pled in the operative Complaint from February 24, 2017, through May 2, 2022.

“PAGA Released Claims” means all claims, demands, rights, liabilities and causes of action under California Labor Code Private Attorneys General Act of 2004 (Labor Code section 2698 et seq.) alleged in the letter to the Labor & Workforce Development Agency dated February 25, 2022 (i.e., the PAGA Letter), based on the factual allegations in the operative Complaint, that arose during the PAGA Period including but not limited to the following claims for civil penalties: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods; (e) failure to timely pay all wages due upon separation of employment; (f) failure to issue accurate, itemized wage statements based on the foregoing Labor Code violations, Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1197, 1197.1; 1198, 2800, and 2802, and sections 11 and 12 of IWC Wage Order No. 1. The Parties agree that there is no statutory right for any PAGA Employee to opt out or otherwise exclude himself or herself from the PAGA Payment and the associated release of claims and rights under PAGA.

“Released Parties” means Defendant, and any of its former and present parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors (including its successor Imperial Bag & Paper., LLC), and assigns, as well as all past and present officers, directors, employees, partners, shareholders and agents, attorneys, insurers, and any other successors, assigns, or legal representatives.

11. What if the Settlement is not approved by the Court?

The Court will hold a Final Approval Hearing on [REDACTED] at [REDACTED] in Department 6 of the Spring Street Courthouse, located at 312 North Spring Street Los Angeles, California 90012, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award the Attorneys’ Fees and Litigation Costs to Class Counsel, Incentive Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear remotely if you wish to.

If the Settlement Agreement is not approved by the Court, or if any of their conditions are not satisfied, the conditional settlement will be voided, no money will be paid, and the parties will continue to litigate this case. If that happens there is no assurance: (a) that any decision at trial would be in favor of class members; (b) that a trial decision, if any, would be as favorable to the class members as this settlement; or (c) that any favorable trial decision would be upheld if an appeal is filed

12. What if I have further questions about the Settlement or Action?

For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action at the Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012, during business hours. Because of the Los Angeles Superior Court's COVID-19 pandemic procedures, in order to view documents filed in the lawsuit, Class Members may be required to make an appointment with the Court to view documents. To schedule an appointment, you may call the Court Support Services at the following number: (213) 310-7000, or you may visit the Court's website at www.lacourt.org.

Individuals who come to the courthouse must wear facial coverings and maintain social distancing at all times within the public areas of the courthouse or courtroom. For more information regarding the mandatory use of facial coverings and social distancing requirements in all Los Angeles County courthouses, you may visit the Los Angeles Superior Court's *Here For You | Safe For You* page at <http://www.lacourt.org/newsmedia/ui/HfySfy.aspx>.

You may also contact the Settlement Administrator or Class Counsel at the address listed above without having to pay for any attorneys' fees. You also have the right to speak with an attorney of your choosing at your own expense. Please do not contact Defendants' Counsel.

**DO NOT CONTACT THE COURT. THE COURT CANNOT PROVIDE YOU WITH LEGAL ADVICE
OR ANY OPINION AS TO THIS SETTLEMENT OR LAWSUIT.**