

1 MOON & YANG, APC
 Kane Moon (SBN 249834)
 2 kane.moon@moonyanglaw.com
 Allen Feghali (SBN 301080)
 3 allen.feghali@moonyanglaw.com
 Edwin Kamarzarian (SBN 327830)
 4 edwin.kamarzarian@moonyanglaw.com
 5 1055 W. Seventh St., Suite 1880
 Los Angeles, California 90017
 6 Telephone: 213.232.3128
 7 Facsimile: 213.232.3125

8 Attorneys for Plaintiff
 HILARIO REYES PRECIADO
 9
 Matthew C. Sgnilek, Esq. (State Bar No. 235299)
 10 msgnilek@ohaganmeyer.com
 Andrea Rosenkranz, Esq. (State Bar No. 301559)
 11 arosenkranz@ohaganmeyer.com
 O’HAGAN MEYER
 12 3200 Park Center Drive, Suite 700
 Costa Mesa, CA 92626
 13 Telephone: (949) 942-8500
 Facsimile: (949) 942-8510

14 Attorneys for Defendant
 15 KIP INCORPORATED

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 17 **FOR THE COUNTY OF RIVERSIDE – HISTORIC COURTHOUSE**

18 HILARIO REYES PRECIADO, individually, and
 19 on behalf of all other similarly situated,

20 Plaintiff,

21 vs.

22 KIP INCORPORATED, a California corporation;
 23 and DOES 1 through 10, inclusive,

24 Defendants.

Case No.: CVRI2103836

CLASS ACTION

**THIRD AMENDED JOINT STIPULATION
 OF CLASS ACTION SETTLEMENT AND
 RELEASE OF CLAIMS**

[Assigned for All Purposes to the Hon. Craig
 Riemer; Dept. 01]

Complaint Filed: August 24, 2021
 FAC Filed: March 22, 2022
 Trial: Not Yet Set

25 This Amended Joint Stipulation of Class Action Settlement and Release of Claims (“Settlement” or
 26
 27

1 “Agreement”) is made and entered into by and between Plaintiff HILARIO REYES PRECIADO
2 (“Plaintiff” or “Class Representative”), individually and on behalf of all putative class members, and
3 Defendant KIP INCORPORATED (“Defendant”). Plaintiff and Defendant are collectively referred
4 to herein as “the Parties.”

5 **I. DEFINITIONS**

6 The following definitions are applicable to this Settlement, in addition to other terms defined
7 elsewhere in this Settlement:

8 1. “Action” shall mean the operative Complaint of the civil action commenced on
9 August 24, 2021, filed and maintained by Plaintiff against Defendant designated *Preciado v. KIP*
10 *Incorporated*, in the Superior Court of the County of Riverside, County of Riverside, Case No.
11 CVR12103836.

12 2. “Aggrieved Employees” means all current and former non-exempt employees who
13 worked for Defendant in California during PAGA Period (or if any such person is incompetent,
14 deceased, or unavailable due to military service, the person’s legal representative or successor in
15 interest evidenced by reasonable verification).

16 3. “Class” or “Eligible Employee(s)” shall mean all current and former non-exempt
17 employees who worked for Defendant in California during the Class Period.

18 4. “Class Counsel” shall mean the attorneys representing Plaintiff and the Putative Class
19 in the Action, Kane Moon, Allen Feghali, Esq., and Edwin Kamarzarian of Moon & Yang PC.

20 5. “Class Counsel Fees Payment” shall mean one-third of the Maximum Settlement
21 Amount, of up to one-third of the Maximum Settlement Amount, or \$150,000.00 in attorneys’ fees,
22 subject to approval by the Superior Court as Class Counsel’s attorneys’ fees incurred in connection
23 with the Action, including fees incurred in pre-filing investigation, filing of the Action, and all related
24 litigation activities, this Settlement, and all post-Settlement compliance procedures.

25 6. “Class Counsel Litigation Expenses Payment” shall mean the actual litigation
26 expenses and/or costs expended by Class Counsel subject to approval by the Superior Court incurred
27 in connection with the Action, including pre-filing investigation, filing of the Action, and all related
28

1 litigation activities, this Settlement, and all post-Settlement compliance procedures. Class Counsel's
2 expenses are not to exceed Eighteen Thousand Dollars and Zero Cents (\$18,000.00).

3 7. "Class Members" shall mean individuals who are a member of the Class (or if any
4 such person is incompetent, deceased, or unavailable due to liminary service, the person's legal
5 representative or successor in interest evidenced by reasonable verification). The term "Class
6 Members" shall not include any person who submits a timely and valid request for exclusion.

7 8. "Class Notice" shall mean the Notice of Proposed Settlement, Preliminary Approval
8 of Settlement, and Hearing Date for Final Court Approval, a sample of which is attached hereto as
9 **Exhibit A**. The Class Notice shall further contain (i) a Class Member's first and last name, (ii) last
10 known address, (iii) employee identification number, if applicable, (iv) the Class Member's
11 Individual Workweeks, (v) the PAGA Group Member's Individual Workweeks, if applicable; (vi) the
12 Class Member's estimated amount of the Settlement Share; and (vii) the PAGA Group Member's
13 estimated PAGA Payment Share, if applicable. The Class Notice shall also provide the Class
14 Members with instructions on how to opt-out of and/or object to the Settlement.

15 9. The "Class Period" shall be defined as the time from August 24, 2017August 15,
16 2022.

17 10. "Class Representative Payment" shall mean the special payment made to Plaintiff in
18 his capacity as Class Representative to compensate him for prosecuting the Action, and performing
19 work in support of the Action, in the amount of Seven Thousand, Five Hundred Dollars and Zero
20 Cents (\$7,500.00), subject to approval by the Superior Court. This enhancement payment is in
21 addition to the payment to which he is entitled as a Settlement Class Member.

22 11. "Defendant" means the Defendant named by Plaintiff in his Complaint in the Action,
23 KIP Incorporated.

24 12. "Defense Counsel" shall mean the attorneys representing Defendant in the Action,
25 Matthew C. Sgnilek, Esq. and Andrea Rosenkranz, Esq. of O'Hagan Meyer.

26 13. "Effective Date" shall mean the following occurrences: (i) if no Class Member both
27 objects and files either a timely motion to intervene and/or timely motion to vacate the judgment, then
28

1 the date the Court enters an order granting Final Approval of the Settlement; (ii) if a Class Member
2 both objects and either files a timely motion to intervene or timely motion to vacate the judgment,
3 then sixty-one (61) days following the date the Court enters an order granting final approval, assuming
4 no appeal is filed; or (iii) if a Class Member both objects and also files a timely motion to intervene
5 or files a motion to vacate the Judgment and also files a timely appeal, then the date of final resolution
6 of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final
7 and complete judicial approval of the Settlement in its entirety, with no further challenge to the
8 Settlement being possible. The occurrence of the Effective Date is a prerequisite to any obligation of
9 Defendants to pay any funds into the Settlement Account.

10 14. "Employer's Payroll Taxes" shall mean Defendant's share of all payroll taxes payable
11 to any and all government agencies incurred for any payments of Settlement Shares to Participating
12 Class Members pursuant to this Settlement.

13 15. "Final Approval Hearing" shall mean the hearing to be conducted by the Superior
14 Court to determine whether to finally approve and implement the terms of this Settlement.

15 16. "Individual Pay Periods" shall mean the number of Pay Periods for an individual
16 PAGA Group Member.

17 17. "Individual Workweeks" shall mean the number of Workweeks for an individual Class
18 Member.

19 18. "Judgment" shall mean the Order of Final Judgment entered by the Superior Court that
20 the Parties anticipate will be entered following a Final Approval Hearing on the Settlement in this
21 Action.

22 19. "LWDA Payment" shall mean the payment to the California Labor and Workforce
23 Development Agency ("LWDA") constituting seventy-five percent (75%) of the value assigned to
24 the claim for penalties under the California Labor Code Private Attorneys General Act, California
25 Labor Code Section 2698, *et seq.* ("PAGA"). Specifically, Thirty Thousand, Dollars and Zero Cents
26 (\$30,000.00), which shall constitute the LWDA's seventy-five percent (75%) share of Forty
27 Thousand (\$40,000.00) in civil penalties paid under this Settlement. The remaining Ten Thousand,
28

1 Dollars and Zero Cents (\$10,000.00) in civil penalties shall be distributed on a *pro rata* basis based
2 upon the number workweeks worked by each PAGA Group Member (“PAGA Payment”).

3 20. “Maximum Settlement Amount” shall mean the maximum settlement amount of Four
4 Hundred Fifty Thousand Dollars and Zero Cents (\$450,000.00) (unless increased pursuant to
5 Paragraph 34 below) in full and complete settlement of this matter, which sum includes all payments
6 to Settlement Class Members, Aggrieved Employees, Class Counsel’s attorney’s fees and litigation
7 costs, third-party administration costs, payment to the Labor Workforce Development Agency
8 (“LWDA”), and the enhancement award to Plaintiff. exclusive of the normal employer’s share of any
9 payroll taxes attributable to the Settlement Share payments allocated to wages.

10 21. “Net Settlement Amount” shall mean the Maximum Settlement Amount, less (i) the
11 Class Representative Payment approved by the Superior Court; (ii) the Class Counsel Fees Payment
12 approved by the Superior Court; (iii) the Class Counsel Litigation Expenses Payment approved by
13 the Superior Court; (iv) the LWDA Payment approved by the Superior Court; (v) the PAGA Payment
14 approved by the Superior Court; (vi) the Settlement Administrator Payment approved by the Superior
15 Court; and (vii) any other fees or expenses (other than Class Counsel Fees Payment and Class Counsel
16 Litigation Expenses Payment) incurred in implementing the terms and conditions of this Agreement
17 as approved by the Superior Court. At present, this Net Settlement Amount equates to Two Hundred
18 Thirty-Four Thousand Five Hundred Dollars and zero cents (\$234,500.00); this amount will be
19 amended when the amount payable to the Settlement Administrator becomes known to the Parties.
20 The Net Settlement Amount shall be distributed on a *pro rata* basis to Class Members, subject to the
21 distribution formula agreed upon by the Parties.

22 22. “Non-Participating Class Member” shall mean a Class Member who submits a
23 complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
24 provided in the Class Notice.

25 23. The “PAGA Group” shall mean (a) all persons who, during the PAGA Period, have
26 previously been or currently are employed in California by Defendant KIP Incorporated, as an hourly-
27 paid, non-exempt employee. “PAGA Group Member” shall mean an individual who is a member of

28

1 the PAGA Group (or if any such person is incompetent, deceased, or unavailable due to military
2 service, the person’s legal representative or successor in interest evidenced by reasonable
3 verification).

4 24. The “PAGA Payment” shall be Ten Thousand (\$10,000.00) in civil penalties.

5 25. “PAGA Payment Share” shall mean the value of each PAGA Group Member’s share
6 of the PAGA Payment as provided by this Agreement.

7 26. The “PAGA Period” shall mean the period of time from August 24, 2020 through the
8 date of the granting of the preliminary approval or 60 days following the mediation (i.e., August 15,
9 2022), whichever is earlier.

10 27. “Participating Class Member” shall mean all Class Members who have not submitted
11 a complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
12 provided in the Class Notice.

13 28. “Pay Period” shall mean any pay period in which a Class Member actually received
14 payment from Defendant as an hourly-paid, non-exempt employee.

15 29. “Preliminary Approval” shall mean the Superior Court’s preliminary approval of the
16 Settlement without material change that the Parties anticipate will be made following submission of
17 this Agreement to the Court.

18 30. “Settlement Administrator” shall mean Phoenix Settlement Administrators who was
19 selected and mutually agreed upon by the Parties on the basis of cost and competence, with the best
20 interests of the Settlement Class Members in mind, and appointed by the Superior Court to administer
21 the Settlement.

22 31. “Settlement Administrator Payment” shall mean the payment to the Settlement
23 Administrator for its fees and expenses in administering this Settlement.

24 32. “Settlement Share” shall mean the value of each Participating Class Member’s share
25 of the Net Settlement Amount as provided by this Agreement.

26 33. “Superior Court” shall mean the Superior Court of California for the County of
27 Riverside.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

36. Defendant denies and continues to deny all of Plaintiff’s material allegations. Specifically, Defendant contends (1) it provided the Class with all meal periods according to law; (2) it provided the Class with all rest periods according to law (3) it did not fail to pay the Class the minimum wage; (4) it did not require or permit the Class to work off the clock and paid the Class the overtime compensation to which they were entitled; (5) it did not require the Class to incur any business-related expenses; (6) it provided the Class with accurate itemized wage statements, consistent with Labor Code Section 226; (7) it did not fail to timely pay the Class wages due and owing upon separation; (8) it did not violate Business & Professions Code Section 17200, *et seq.*; (9) the PAGA Group is not entitled to penalties under PAGA; and (10) Defendant is not liable for damages, including unpaid wages, liquidated damages, statutory penalties, civil penalties, attorneys’ fees, or costs of litigation to the Class.

37. In connection with the Action, and in order to work toward a mediated resolution without the time and expense of formal discovery, the Parties produced voluminous documents and data (including, by Defendant, human resource documents and policies, time records, and payroll data during the Class Period) which were reviewed, investigated, and analyzed by Class Counsel.

38. On June 15, 2022, the Parties in Action participated in a full day of mediation before an experienced employment and class action mediator, Steve Rottman, Esq., which resulted in a settlement of the Action (the “Mediation”).

39. The Settlement described in this Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission by Defendant that Plaintiff’s claims in the Action have any merit or that they have any liability to Plaintiff, the Class, the PAGA Group or the State on those claims, or as an admission by Plaintiff that Defendant’s defenses in Action have any merit. This Settlement is intended to fully, finally, and forever compromise, release, resolve, discharge, and settle the released claims subject to the terms and conditions set forth in this Settlement.

1 40. Based on its own thorough, independent investigation and evaluation of this case,
2 Class Counsel is of the opinion that the Settlement of this Action with Defendant for the consideration
3 and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the best interest of
4 the Class in light of all known facts and circumstances, including the risk of significant costs and
5 delay, the risk of non-certification of the Class, the defenses asserted by Defendant including the risks
6 of adverse determinations on the merits and numerous potential appellate issues. Although Defendant
7 contends that it has no liability in the Action, Defense Counsel shares Class Counsel’s belief that the
8 Settlement represents a fair and adequate settlement given the respective risks associated with the
9 case.

10 41. Based on the foregoing Recitals, the Parties agree as follows:

11
12 **III. PROCEDURE FOR APPROVING SETTLEMENT**

13 42. **Motion for Preliminary Approval of Settlement by the Superior Court.** Plaintiff
14 will move the Superior Court for an order granting Preliminary Approval of the Settlement, setting a
15 date for the Final Approval Hearing no earlier than 120 days from the date of the order granting
16 Preliminary Approval of the Settlement, and approving the Class Notice (attached as **Exhibit A** to
17 this Stipulation) (“Motion for Preliminary Approval”). Any unresolved disagreement among the
18 Parties concerning the Class Notice or other documents necessary to implement the Settlement will
19 be referred first to Steve Rottman, Esq., and if no resolution is reached, then to the Superior Court.

20 43. At the hearing on the Motion for Preliminary Approval, the Parties anticipate that they
21 will jointly appear, support the granting of the Motion for Preliminary Approval, and obtain an order
22 granting Preliminary Approval, granting approval of the Class Notice, and setting a date for the Final
23 Approval Hearing no earlier than 120 days from the date of the order granting Preliminary Approval.

24 44. Should the Superior Court require any amendments to this Agreement or the Motion
25 for Preliminary Approval, the Parties agree to work jointly to resolve any issues in order to secure the
26 Superior Court’s Preliminary Approval and agree to comply with the Court’s Case Management
27 Order in securing approval.

1 45. Should the Superior Court decline to preliminarily approve any material aspects of the
2 Settlement, the Settlement will be null and void and the Parties will have no further obligations under
3 it. In such event, the Parties shall be returned to their respective positions as of the date and time
4 immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as
5 if this Agreement had not been executed.

6 46. **Class Notice.** After the Superior Court enters its order granting Preliminary Approval,
7 every Class Member will be provided with the Class Notice (which will include the Class Notice
8 completed to reflect the order granting Preliminary Approval of the Settlement and the Class
9 Member’s information as follows:

10 (a) Within twenty-one (21) days after the Motion for Preliminary Approval is
11 granted, Defendant will provide to the Settlement Administrator the “Class Members’ Data,” which
12 shall consist of an electronic database containing (i) each Class Member’s first and last name, (ii) last
13 known mailing address, (iii) the Class Member’s Social Security number or Tax ID, (iv) the Class
14 Member’s employee identification number, if applicable, based on Defendant’s payroll records, (v)
15 the Class Member’s total number of Individual Workweeks, and (vi) the PAGA Group Members’
16 total number of Individual Pay Periods, if applicable. If any or all of the Class Members’ Data are
17 unavailable to Defendant, Defendant will so inform Class Counsel prior to the date on which
18 Defendant is required to submit the Class Members’ Data to the Settlement Administrator and the
19 Parties will make their best efforts to reconstruct or otherwise agree upon the Class Members’ Data
20 prior to when it must be submitted to the Settlement Administrator. If the Parties are unable to agree,
21 the dispute will be resolved by the Settlement Administrator as provided in Paragraph 49. This
22 information will otherwise remain confidential and will not be disclosed to anyone, except as required
23 to applicable taxing authorities, as required to carry out the reasonable efforts to identify Class
24 Member information as described in this Paragraph 46(c), pursuant to Defendant’s express written
25 authorization, or by order of the Superior Court.

26 (b) Upon receipt of the Class Members’ Data, the Settlement Administrator will
27 conduct a national change of address search and an in-depth skip trace for the most current address
28

1 of all Class Members and will update such employees' addresses as necessary prior to the mailing of
2 the Class Notice. Within seven (7) days after receiving the Class Members' Data, or as soon thereafter
3 as it is able to do so, the Settlement Administrator will mail the Class Notice to all identified Class
4 Members via first-class U.S. Mail using the mailing address information provided by Defendant,
5 unless modified by any updated address information that the Settlement Administrator obtains in the
6 course of administration of the Settlement.

7 (c) If a Class Notice is returned by the U.S. Postal Service because of an incorrect
8 address, the Settlement Administrator will promptly, and not later than five (5) days from receipt of
9 the returned packet, search for a more current address for the Class Member and re-mail the Class
10 Notice to the Class Member. The Settlement Administrator will use the Class Members' Data and
11 otherwise work with Defense Counsel or utilize its own resources such as skip traces to find a more
12 current address. The Settlement Administrator will be responsible for taking reasonable steps,
13 consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing address of
14 any Class Member for whom a Class Notice is returned by the U.S. Postal Service. These reasonable
15 steps shall include the tracking of all undelivered mail; performing address searches for all mail
16 returned without a forwarding address; and promptly re-mailing to Class Members for whom new
17 addresses are found. Any such Class Members who failed to receive a Class Notice, or who were
18 subject to a re-mailing of the Class Notice as described herein shall be given an additional fourteen
19 (14) days to opt out or object to the Settlement.

20 (d) The Settlement Administrator will inform Class Counsel and Defense Counsel
21 of the number of returned Class Notices it receives and Class Notices re-mailed in a weekly status
22 report.

23 (e) Not later than the filing of the Motion for Final Approval Hearing, the
24 Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its
25 compliance with its obligations under this Settlement and authenticating the requests for exclusions
26 and/or objections received. The declaration will be filed with the papers submitted with the Motion
27 for Final Approval. Prior to the Final Approval Hearing, the Settlement Administrator will
28

1 supplement its declaration of due diligence if any material changes occur from the date of the filing
2 of its prior declaration.

3 **47. Participating Class Members; Requests for Exclusion from Class Settlement; and**
4 **Objections to Settlement.** Class Members may submit requests to be excluded from the effect of
5 the Settlement; or objections to the Settlement, pursuant to the following procedures:

6 **(a) Participating Class Members.** Each Class Member shall be deemed to be a
7 Participating Class Member unless they submit a complete, timely, and valid request to be excluded
8 from the effect of the Settlement as provided below. All Participating Class Members shall be bound
9 by the provisions and releases contained in this Settlement.

10 **(b) Request for Exclusion from Settlement.** Class Members who wish to
11 exclude themselves from the Settlement (“opt out” of the Settlement) must submit to the Settlement
12 Administrator, not later than forty-five (45) days after the date that the Settlement Administrator first
13 mails the Class Notices, an Exclusion Request (“the Exclusion Period”). Exclusion Requests must
14 be mailed or delivered to the Settlement Administrator via U.S. Mail, Fax, or E-mail. Class Members
15 must complete, sign, date, and timely return an Exclusion Request (attached hereto as Exhibit B) to
16 the Settlement Administrator to exclude themselves from the Settlement, setting forth information
17 necessary to identify the person as a class member. The Settlement Administrator shall contact any
18 Class Member who submits an Exclusion Request to clarify any uncertainty that may exist. A Class
19 Member who does not complete and submit a valid and timely Exclusion Request in the manner and
20 by the deadline specified above will remain a Participating Class Member and, if the Court approves
21 the Settlement, will be bound by all terms and conditions of the Settlement and by the Judgment. Per
22 the Court’s Case Management Order, Class Members may use the Request for Exclusion Form, which
23 is attached to the Class Notice as a means to exclude themselves from the settlement. A Class Member
24 who timely submits a valid Exclusion Request will not participate in, or be bound by, the Settlement
25 of the Judgment and will not receive any payment pursuant to the Settlement except for a payment
26 from the portion of the PAGA Payment to the PAGA Group if the Class Member is a PAGA Group
27 Member, and will not be bound by the terms of the Settlement, except for the release of the PAGA

28

1 Group Released Claims if the Class Member is a PAGA Group Member, and will not have any right
2 to object, appeal, or comment thereon. To be valid, Exclusion Requests must be completed in full,
3 signed, and returned to the Settlement Administrator before the expiration of the Exclusion Period.
4 Non-Participating Class Members will not be permitted to file objections to the Settlement and/or
5 appear at the Final Approval Hearing to voice any objections to the Settlement. Members of the
6 PAGA Group cannot seek to exclude themselves from the Settlement of the PAGA claim but retain
7 all rights to exclude themselves from the Class Settlement as delineated herein. No later than fourteen
8 (14) calendar days after the close of the Exclusion Period, the Settlement Administrator shall provide
9 Counsel for both Parties with a complete list of all Class Members who have submitted timely and
10 valid Requests for Exclusion. Per the Court's Case Management Order, the Settlement Administrator
11 shall provide a declaration authenticating the requests for exclusion at the time that the motion for
12 final approval is due.

13 (c) **Objections to Settlement.** The Class Notice will provide that any Class
14 Member who does not request exclusion from the Settlement and who wishes to object to the
15 Settlement must serve on the Settlement Administrator, not later than forty-five (45) days after the
16 Settlement Administrator initially mails the Class Notice, a written objection to the Settlement which
17 sets forth the grounds for the objection and the other information required by Paragraph 47(d) or by
18 sending the Objection Form which is attached to the Class Notice.

19 (d) The written objection must provide the minimum information necessary to (i)
20 identify the objector as a person entitled to object to the settlement, (ii) describe the nature of and
21 basis for the objection, and (iii) contact the objector to clarify any uncertainties. A Class Member
22 may elect to use the Objection Form attached hereto as Exhibit C, which will be mailed along with
23 the Class Notice. A Class Member who does not serve a written objection in the manner and by the
24 deadline specified may appear at the Final Approval Hearing to state their objection to the Settlement.
25 If a Class Member fails to submit a written objection or make an oral objection at the Final Approval
26 Hearing, the Class Member will be deemed to have waived all objections and will be foreclosed from
27 making any objections – whether by appeal or otherwise – to the Settlement. Per the Court's Case
28

1 Management Order, the Settlement Administrator shall provide a declaration to the Court no later
2 than the filing the Motion for Final Approval authenticating any and all objections received.

3 (e) If a Class Member submits both a Request for Exclusion and a written
4 objection, the Settlement Administrator shall attempt to contact and determine whether the Class
5 Member would like to withdraw either the Request for Exclusion or the objection. If the Class
6 Member does not withdraw the Request for Exclusion or if the Settlement Administrator cannot
7 contact a Class Member who submits both a Request for Exclusion and an objection, the Request for
8 Exclusion shall be valid and it shall be presumed that the Class Member does not wish to participate
9 in the Settlement.

10 (f) If the Superior Court rejects the Class Member's objection, or if the Superior
11 Court approves the settlement despite any objections, the Class Member will be deemed to be a
12 Participating Class Member and will be bound by the terms of this Settlement.

13 (g) A Class Member who timely submits a valid Exclusion Request will not
14 participate in, or be bound by, the Settlement or the Judgment and will not receive any payment
15 pursuant to the Settlement except for a payment from the portion of the PAGA Payment to the PAGA
16 Group if the Class Member is a PAGA Group Member, and will not be bound by the terms of the
17 Settlement and Judgment, and will not have any right to object, appeal, or comment thereon.

18 48. **Report.** Not later than seven (7) days after the deadline for submission of requests to
19 be excluded and/or objections, the Settlement Administrator will provide Defense Counsel, with a
20 complete and accurate list of names for all Participating Class Members, all Non-Participating Class
21 Members, all PAGA Group members, and all Class Members who objected to the settlement. The
22 report shall also be accompanied by an itemized calculation of the Settlement Shares for each
23 Participating Class Member, with identifying information redacted, which shall be provided to both
24 Class and Defense Counsel. The Settlement Administrator shall also provide both Parties with a
25 report identifying the number of Participating Class Members, the number of Non-Participating Class
26 Members, the number of PAGA Group members, and the number of Class Members who submitted
27 a valid, timely, and complete objection. Class Counsel shall also receive a list of Class Members who
28

1 objected to the Settlement and/or excluded themselves from the Settlement, which will be used in the
2 Parties' Final Approval Order.

3 **49. Resolution of Class Member and PAGA Group Member Disputes.** If a Class
4 Member and/or PAGA Group Member disputes the number of his or her Individual Workweeks
5 and/or Individual Pay Periods stated in their Class Notice, the Class Member and/or PAGA Group
6 Member must, within forty-five (45) days after the Settlement Administrator initially mails the Class
7 Notice, ask the Settlement Administrator to resolve the matter by submitting a statement of the
8 number of Workweeks and/or Pay Periods that he or she contends were worked and include any
9 documentation the Class Member and/or PAGA Group Member has to support their contention. The
10 Settlement Administrator shall notify Defendants of the dispute and provide them with a copy of the
11 Class Notice and any documentation received in support of the dispute within three (3) court days of
12 receipt thereof. Defendant shall review its payroll and personnel records and verify the correct
13 number of Workweeks and/or Pay Periods within five (5) court days of the Settlement Administrator's
14 notification. Defendant's records will have a rebuttable presumption of accuracy. After consultation
15 with Class Counsel, Defense Counsel, and the applicable Class Member and/or PAGA Group
16 Member, the Settlement Administrator will, within three (3) court days of Defendant's verification,
17 make a determination of the Class Member's and/or PAGA Group Member's number of Workweeks
18 and/or Pay Periods and that determination will be final, binding on the Parties and the Class Member
19 and/or PAGA Group Member, and is not appealable.

20 **50. No Solicitation of Objection; Right to Void.** Neither the Parties, nor their respective
21 counsel, will directly or indirectly solicit or otherwise encourage any Class Member to exclude him
22 or herself from the Settlement, object to the Settlement, and/or appeal from the Judgment. If ten
23 percent (10%) or more of the Class Members submit a complete, valid, and timely request to be
24 excluded from the Settlement and are deemed to be Non-Participating Class Members, then
25 Defendant shall have the unilateral right to void this Settlement. Defendant may do so by giving
26 notice to Plaintiff and the Court of its election to void the Settlement not later than fourteen (14) days
27 after the Settlement Administrator issues its report identifying the number of Participating Class
28

1 Members, the number of Non-Participating Class Members, and the number of Class Members who
2 objected to the settlement as described in Paragraph 47(c). Notwithstanding any other provisions in
3 this Settlement, no sums shall be payable by Defendants in the event that this Settlement is voided as
4 provided for herein.

5 **51. Additional Briefing and Final Approval.**

6 (a) Not later than sixteen (16) court days before the Final Approval Hearing, the
7 Plaintiff will prepare and the Parties will jointly file with the Superior Court a Motion for Final
8 Approval of the Settlement, including payment of the Settlement Administrator’s Payment, and a
9 memorandum in support of their motion (“Motion for Final Approval”), which shall include a request
10 for Awards of the Class Representative Payment, Class Counsel Fees Payment, and the Class Counsel
11 Litigation Expenses Payment, pursuant to this Settlement, and memoranda in support of its motion.
12 Plaintiff will seek fees pursuant to *Laffitte v. Robert Half Intern., Inc.* (2016) 1 Cal. 5th 480, 503.
13 Plaintiff will not seek additional fees from Defendant or an increase in the Maximum Settlement
14 Amount as part of the Motion for awards of the Class Representative Payment, Class Counsel Fees
15 Payment, and the Class Counsel Litigation Expenses Payment.

16 (b) Not later than five (5) court days before the Final Approval Hearing, the Parties
17 shall be entitled to file and serve a response to any Class Member’s objection to the Settlement and/or
18 reply in support of their Motion for Final Approval, to the extent that any opposition to said Motion
19 is filed. Plaintiff and Class Counsel may file a reply in support of their Motion for Final Approval,
20 to the extent that any opposition to said Motion is filed.

21 (c) If the Superior Court ultimately does not grant final approval of the Settlement
22 or grants final approval conditioned on any material change to the Settlement that is not agreed to by
23 one of the Parties, then either Party will have the right to void the Settlement. If the Settlement is
24 voided in this manner, the Parties will have no further obligations under the Settlement, including any
25 obligation by Defendant to pay any amounts that otherwise would have been payable under this
26 Settlement, except that the voiding Party will pay the Settlement Administrator’s reasonable fees and
27 expenses incurred as of the date that the Party exercises the right to void the Settlement under this
28

1 paragraph. For the purposes of this paragraph, a “material change” is a change to the terms outlined
2 in the accepted Memorandum of Understanding, a copy of which is attached hereto as **Exhibit B**.
3 However, an award by the Superior Court of a lesser amount than that sought by Plaintiff and Class
4 Counsel for the Class Representative Payment, the Class Counsel Fees Payment, and/or the Class
5 Counsel Litigation Expenses Payment, will not constitute a material change to the Settlement within
6 the meaning of this paragraph.

7 (d) Upon final approval of the Settlement by the Superior Court at or after the Final
8 Approval Hearing, the Parties will present for the Superior Court’s approval and entry a Proposed
9 Final Order and Judgment.

10 (e) After entry of the Judgment, the Superior Court will have continuing
11 jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Settlement,
12 (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as
13 may be appropriate under court rules or applicable law. However, any judgment shall not: (i) expose
14 the Participating Class Members to a potential contempt charge by barring or otherwise enjoining the
15 Participating Class Members from prosecuting the released claims; (ii) include a provision that the
16 Participating Class Members shall be deemed to have agreed not to sue on any released claims, or
17 any other provision that may expose the Participating Class Members to potential liability for either
18 breach of contract or misrepresentation; and/or (iii) provide for the dismissal of the Action.

19 **52. Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms
20 and conditions of this Settlement, Plaintiff, Participating Class Members, Defendant, and their
21 respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights
22 to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a
23 motion for new trial, a motion under Code of Civil Procedure Section 473, and any extraordinary
24 writ, and the Judgment therefore will become non-appealable by them at the time it is entered. The
25 waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings,
26 or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation
27 of the Settlement (including making payments under the Settlement) will be suspended until such
28

1 time as the appeal is finally resolved and the Judgment, consistent with the terms of this Settlement,
2 becomes Final.

3 **53. Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.**

4 If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion,
5 petition, writ, or application, the reviewing court vacates, reverses, or modifies the Judgment such
6 that there is a material modification to the Settlement, and that court’s decision is not completely
7 reversed and the Judgment is not fully affirmed on review by a higher court, then either Party will
8 have the right to void the Settlement, which the Party must do by giving written notice to the other
9 Parties, the reviewing court, and the Superior Court, not later than fourteen (14) days after the
10 reviewing court’s decision vacating, reversing, or materially modifying the Judgment becomes final.
11 For the purposes of this paragraph, a “material change” is a change to the terms outlined in the
12 accepted Memorandum of Understanding, a copy of which is attached hereto as **Exhibit B**. A
13 vacation, reversal, or modification of the Superior Court’s award of the Class Representative
14 Payment, the Class Counsel Fees Payment, and/or Class Counsel Litigation Expenses Payment will
15 not constitute a vacation, reversal, or material modification of the Judgment within the meaning of
16 this paragraph.

17 **54. Establishment of Settlement Account.** Within seven (7) calendar days after the

18 Effective Date, the Settlement Administrator will provide the Parties with an accounting of all
19 anticipated payments from the Settlement Fund Account as specified in this Settlement Agreement
20 and approved by the Court, including, but not limited to: (a) Plaintiff’s Enhancement Payment; (b)
21 the Class Counsel Fees Payment; (c) the Class Counsel Litigation Expenses Pay; (d) Settlement
22 Administration Costs; (e) the PAGA Payment; and (f) Payment of Settlement Shares to Class
23 Members and related taxes thereon. The Settlement Administrator shall establish a Settlement
24 Account within ten (10) days of the Effective Date and notify the Parties when the Settlement Account
25 has been established. Within ten (10) days after receiving notification of the Settlement Account and
26 statement for the Settlement Account Deposit, Defendant shall pay into the Settlement Account an
27 amount equal to the Settlement Account Deposit. Defendant shall have no obligation to pay any
28

1 additional funds into the Settlement Account, besides its share of employer taxes.

2 **55. Payment of Settlement Shares and PAGA Payment Shares.** The Settlement
3 Administrator shall pay to each Participating Class Member his or her Settlement Share and to each
4 PAGA Group Member his or her PAGA Payment Share from the Settlement Account. The Settlement
5 Administrator shall pay each Settlement Share by sending a check in the appropriate amount after
6 withholdings to the Participating Class Member at the address indicated in the Class Member's Data.
7 The Settlement Administrator shall pay each PAGA Payment Share by sending a check in the
8 appropriate amount to the PAGA Group Member at the address indicated in the PAGA Group
9 Member's Data. Such payment shall be sent by the Settlement Administrator via U.S. Mail within
10 fourteen (14) days of its receipt of the Settlement Account Deposit from Defendant. The Settlement
11 Administrator shall mail a reminder postcard to any Class Member whose Settlement Share and/or
12 PAGA Payment Share has not been negotiated within 60 days after the first mailing. If (i.) any of the
13 Class Members are current employees of the Defendant, (ii) the distribution mailed to those
14 employees is returned to the Settlement Administrator as being undeliverable, and (iii) the Settlement
15 Administrator is unable to locate a valid mailing address, the Settlement Administrator shall arrange
16 with the Defendant to have those distributions delivered to the Class Member at their place of
17 employment.

18 **56. Uncashed Settlement Share and PAGA Payment Share Checks.** Any checks paid
19 to Participating Class Members and/or PAGA Group Members shall be negotiable for one hundred
20 and eighty (180) calendar days from the date of their issuance. A Participating Class Member must
21 cash his or her Settlement Share check within one hundred and eighty (180) calendar days after it is
22 mailed to him or her. A PAGA Group Member must cash his or her PAGA Payment Share check
23 within one hundred and eighty (180) calendar days after it is mailed to him or her. If a check remains
24 uncashed after one hundred and eighty (180) calendar days from the initial mailing, or if a check is
25 returned to the Settlement Administrator as undeliverable during the one hundred eighty-day period,
26 the Settlement Administrator shall take all reasonable efforts to identify the Participating Class
27 Member's and/or PAGA Group Member's correct address, including the performance of a "skip-

28

1 trace.” If an updated address can be identified, the Settlement Administrator shall issue another check
2 to the Participating Class Member and/or PAGA Group Member and mail it to the Participating Class
3 Member and/or PAGA Group Member at his or her updated address. If an updated address for the
4 Participating Class Member and/or PAGA Group Member cannot be identified, if a reissued check is
5 once again returned to the Settlement Administrator as undeliverable, or if the reissued check remains
6 uncashed after one hundred eighty (180) calendar days, the Settlement Administrator will keep an
7 accounting of such funds and shall give notice to the Parties of the total balance of uncashed
8 Settlement Shares and/or PAGA Payment Shares. A Participating Class Member who fails to
9 negotiate or receive their Settlement Share check despite the procedures described above shall
10 nevertheless remain bound by the Settlement and the releases contained herein. A PAGA Group
11 Member who fails to negotiate or receive their PAGA Payment Share check despite the procedures
12 described above shall nevertheless remain bound by the Settlement, shall forfeit those funds, and
13 those funds shall be sent to the LWDA by the Administrator if the collective amount of those checks
14 do not justify the expense of a second distribution to aggrieved employees who did cash their checks.

15 57. The funds represented by Settlement Share and/or PAGA Payment Share checks
16 remaining uncashed for more than one hundred and eighty (180) calendar days after issuance shall be
17 voided and then shall be transmitted to the Controller of the State of California to be held pursuant to
18 the Unclaimed Property Law, California Civil Code Section 1500, *et seq.*, in the names of those
19 Participating Class Members and/or PAGA Group Members who did not cash their checks until such
20 time they claim their property. The Parties agree that this disposition results in no “unpaid residue”
21 under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out
22 to Participating Class Members, whether or not they all cash their settlement checks.

23 58. **Final Report by Settlement Administrator to Superior Court.** Within ten (10) days
24 after final disbursement of all funds from the Settlement Account, the Settlement Administrator will
25 serve on the Parties and file with the Superior Court a declaration providing a final summary report
26 on the disbursements of all funds from the Settlement Account. Within ten (10) days after
27 transmission of any remaining unclaimed funds to Controller of the State of California the Settlement
28

1 Administrator will serve on the Parties and file with the Superior Court a declaration providing a final
2 summary report on the transmission of any remaining unclaimed funds to Controller of the State of
3 California as outlined Paragraph 54.

4 **IV. SETTLEMENT TERMS AND CONDITIONS**

5 **59. Conditional Certification for Settlement Purposes.** Solely for the purposes of
6 effectuating this Settlement, and subject to Court approval, the Parties hereby stipulate to the
7 conditional certification of the following Settlement Class: “all persons who, during the Class Period,
8 have previously been or currently are employed in California by Defendant KIP Incorporated as an
9 hourly-paid non-exempt employee.” The Parties agree that if for any reason the Settlement is not
10 preliminarily and/or finally approved, the conditional certification of the Settlement Class will be of
11 no force or effect, does not constitute an admission by Defendant that class certification is proper,
12 and will not be deemed admissible in this or any other proceeding, and that the Parties will litigate
13 the issue of class certification.

14 **60. Settlement Shares.** Subject to the terms and conditions of this Settlement, the
15 Settlement Administrator will calculate the estimated Settlement Shares for each Class Member
16 within ten (10) days after Defendant provide the Settlement Administrator with the Class Members’
17 Data. The Settlement Share for each Class Member will be calculated as follows, understanding that
18 the formulas below do not constitute an admission by either Party, and are intended only to provide a
19 practical means to simplify and administer the claims process:

20 (a) **Number of Class Members and Workweeks.** Defendant shall determine the
21 total number of Class Members and the aggregate number of Workweeks for those Class Members
22 who worked during the Class Period. This information shall be provided to the Settlement
23 Administrator along with the Class Members’ Data as described in Paragraph 47(a) above.

24 (b) **Calculation of the Workweek Value.** The Settlement Administrator shall
25 determine the value of a Workweek (“Workweek Value”) by taking the Net Settlement Amount and
26 dividing it by the sum of all Class Members’ Workweeks who do not opt out of the Settlement.

27 (c) **Calculation of Settlement Shares.** The Settlement Administrator shall assign
28

1 to each Participating Class Member a Settlement Share which shall be equal to the Workweek Value
2 multiplied by each Participating Class Member's Individual Workweeks. Upon calculation of the
3 Participating Class Members' Settlement Shares, the Settlement Administrator shall furnish to Class
4 Counsel and Defense Counsel a worksheet containing a list of employee identification numbers for
5 the Class Members with their corresponding Individual Workweeks and Settlement Shares.

6 **61. PAGA Payment Shares.** Subject to the terms and conditions of this Settlement, the
7 Settlement Administrator will calculate the PAGA Payment Shares for each PAGA Group Member
8 within ten (10) days after Defendants provide the Settlement Administrator with the PAGA Group
9 Members' Data. The PAGA Payment Share for each PAGA Group Member will be calculated as
10 follows, understanding that the formulas below do not constitute an admission by either Party, and
11 are intended only to provide a practical means to simplify and administer the claims process:

12 **(a) Number of PAGA Group Members and Pay Periods.** Defendant shall
13 determine the total number of PAGA Group Members and the aggregate number of Pay Periods for
14 those PAGA Group Members as of the time of Preliminary Approval. This information shall be
15 provided to the Settlement Administrator along with the Class Members' Data as described in
16 Paragraph 43(a) above.

17 **(b) Calculation of the Pay Period Value.** The Settlement Administrator shall
18 determine the value of a Pay Period ("Pay Period Value") by taking the PAGA Payment amount and
19 dividing it by the sum of all PAGA Group Members' Pay Periods.

20 **(c) Calculation of PAGA Payment Shares.** The Settlement Administrator shall
21 assign to each PAGA Group Member a PAGA Payment Share which shall be equal to the Pay Period
22 Value multiplied by each PAGA Group Member's Individual Pay Periods. Upon calculation of the
23 PAGA Group Members' PAGA Payment Shares, the Settlement Administrator shall furnish to Class
24 Counsel and Defense Counsel a worksheet containing a list of employee identification numbers for
25 the PAGA Group Members with their corresponding Individual Pay Periods Pay Periods and PAGA
26 Payment Shares.

27 **62. Taxes and Withholdings.** Each Settlement Share is intended to settle the Class
28

1 Members' claims for unpaid wages and penalties. Accordingly, ten percent (10%) of each Settlement
2 Share shall represent unpaid wages and the remaining ninety percent (90%) of each Settlement Share
3 shall represent penalties and interest. The portion of the Settlement Share representing unpaid wages
4 shall be paid to each Participating Class Member subject to any applicable employee-side tax
5 withholdings and deductions, and the Settlement Administrator shall issue an IRS Form W-2 to each
6 Participating Class Member for that amount. The portion of the Settlement Share representing
7 penalties shall be paid to the Participating Class Member in full without deductions or withholdings,
8 and the Settlement Administrator shall issue an IRS Form 1099 to each Participating Class Member
9 for that amount. Each Participating Class Member shall be individually responsible for their own
10 share of applicable income tax withholdings and deductions from the Settlement Share attributable to
11 the portion of the settlement for which an IRS Form 1099 will be issued. Defendant shall be
12 responsible for payment of the Employer Payroll Tax attributable to the Settlement Share payments
13 constituting wages. The Employer's Payroll Tax shall not be deducted from the Maximum Settlement
14 Amount and shall not be included in any payments of Settlement Shares. The Parties agree and
15 understand that Defendant has not made any representations regarding the tax obligations or
16 consequences, if any, related to this Settlement. The Parties agree that Defendant and each
17 Participating Class Member are solely responsible for determining the tax consequences of payments
18 made pursuant to this Settlement and for paying taxes, if any, which are determined to be owed by
19 each of them on such payments (including penalties and interest related thereto) by any taxing
20 authority, whether state, local, or federal.

21 63. Each PAGA Payment Share is intended to settle the PAGA Group Members' claims
22 for civil penalties. Accordingly, one hundred percent (100%) of each PAGA Payment Share shall
23 represent civil penalties. The PAGA Payment Share shall be paid to the PAGA Group Member in
24 full without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form
25 1099 to each PAGA Group Member for that amount, to the extent the PAGA Group Member's PAGA
26 Payment Share is Six Hundred Dollars and Zero Cents (\$600.00) or more. Each PAGA Group
27 Member shall be individually responsible for his or her own share of applicable income tax

28

1 withholdings and deductions for his or her PAGA Payment Share.

2 64. **Total Payment Amount.** In no event will Defendants be required to pay more than
3 the Maximum Settlement Amount for distribution to the Plaintiff, Class Counsel, Participating Class
4 Members, PAGA Group Members, LWDA, Settlement Administrator, or for any other costs or
5 expenses not otherwise enumerated. However, Defendant shall be responsible for paying any
6 Employer Payroll Taxes for the payment of Settlement Shares attributable to wages, which shall not
7 be paid from the Settlement Account and shall not be included in the Maximum Settlement Amount.

8 65. **Payments to Plaintiff and Class Counsel and Others.** Subject to the terms and
9 conditions of this Settlement, the Settlement Administrator will make the following payments out of
10 the Maximum Settlement Amount as follows:

11 (a) **To Plaintiff:** In addition to his Settlement Share, Plaintiff will apply to the
12 Superior Court for a Class Representative Payment in an amount not to exceed Seven Thousand Five
13 Hundred Dollars and Zero Cents (\$7,500.00). Defendant will not oppose this Class Representative
14 Payment. The Settlement Administrator will pay the Class Representative Payment approved by the
15 Superior Court out of the Maximum Settlement Amount. Payroll tax withholding and deductions will
16 not be taken from the Class Representative Payment and an IRS Form 1099 will be issued to Plaintiff
17 for this payment.

18 (b) **To Class Counsel:** Class Counsel will apply to the Superior Court for the
19 Class Counsel Fees Payment in an amount not to exceed One Hundred and Fifty Thousand Dollars
20 and Zero Cents (\$150,000), or one-third (1/3) of the Maximum Settlement Amount. Class Counsel
21 will also submit to the Superior Court a memorandum of costs for the Class Counsel Litigation
22 Expenses Payment in an amount not to exceed Eighteen Thousand Dollars and Zero Cents
23 (\$18,000.00) as request reasonable costs of suit to be paid from the Maximum Settlement Amount.
24 Defendant will not oppose these requests. The Settlement Administrator will pay the amounts
25 approved by the Superior Court out of the Maximum Settlement Amount. Withholding and
26 deductions will not be taken from the Class Counsel Fees Payment or Class Counsel Litigation
27 Expenses Payment and one or more IRS Forms 1099 will be issued to Class Counsel with respect to

28

1 those payments.

2 (c) **To the LWDA:** As part of their Motions for Preliminary and Final Approval,
3 the Parties will jointly apply to the Superior Court for approval of the LWDA Payment in the amount
4 of Thirty Thousand Dollars and Zero Cents (\$30,000.00), which shall constitute the LWDA’s
5 seventy-five percent (75%) share of Forty Thousand Dollars and Zero Cents (\$40,000.00) in civil
6 penalties paid under this Settlement. The remaining Ten Thousand Dollars and Zero Cents
7 (\$10,000.00) in civil penalties shall be distributed on a *pro rata* basis based upon the number of pay
8 periods worked by each PAGA Group Member (“PAGA Payment”).

9 (d) **To the Settlement Administrator:** The Settlement Administrator will be paid
10 from the Maximum Settlement Amount its reasonable fees and expenses as approved by the Superior
11 Court, which are estimated not to exceed \$7,000 (Seven Thousand Dollars and Zero Cents).

12 66. **Appointment of Settlement Administrator.** The Parties will ask the Superior Court
13 to appoint Phoenix Settlement Administrators, a qualified and experienced administrator based in
14 California where the Action is venued, to serve as the Settlement Administrator, which, as a condition
15 of appointment, will agree to be bound by this Agreement with respect to the performance of its duties
16 and its compensation. The Settlement Administrator’s duties will include (i) calculating Settlement
17 and PAGA Payment Shares; (ii) preparing, printing, and mailing the Class Notice to all Class
18 Members; (iii) using reasonable measures to contact all Class Members, including conducting a
19 National Change of Address search on all Class Members before mailing the Class Notice to each
20 Class Member’s address; (iv) re-mailing the Class Notice to the Class Member’s new address for
21 those Class Members whose address had changed; (v) setting up a toll-free telephone number to
22 receive calls from Class Members; (vi) receiving requests for exclusion and objections to the
23 Settlement; (vii) providing the Parties with weekly status reports about the delivery of Class Notices
24 and any requests for exclusion and objections; (viii) issuing the checks to effectuate the payments due
25 under the Settlement; (ix) using reasonable measures to deliver issued checks to Participating Class
26 Members, including use of a “skip-trace” for undeliverable checks; and (x) otherwise administering
27 the Settlement pursuant to this Agreement including paying and reporting the employer’s share of the

28

1 payroll taxes to the appropriate taxing agency. The Settlement Administrator will have the final
2 authority to resolve all disputes concerning the calculation of a Participating Class Member's
3 Settlement Share and/or PAGA Group Member's PAGA Payment Share, subject to the terms set forth
4 in this Agreement. The Settlement Administrator's reasonable fees and expenses will be paid out of
5 the Maximum Settlement Amount, as set forth herein, subject to Court approval.

6 **V. RELEASE OF CLAIMS**

7 **67. Plaintiff's Released Claims.** Plaintiff, individually and on behalf of Plaintiff's heirs,
8 executors, administrators, representatives, attorneys, successors and assigns knowingly and
9 voluntarily releases and forever discharges Defendant, including any and all parent corporation,
10 affiliates, subsidiaries, managers, divisions, predecessors, insurers, franchisors, successors and
11 assigns, including but not limited to each of their current and former employees, attorneys, officers,
12 directors and agents thereof, both individually and in their business capacities, and their employee
13 benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and
14 programs (collectively, "Plaintiff's Released Parties"), to the fullest extent permitted by law, of and
15 from any and all claims, known and unknown, asserted and unasserted, which Plaintiff has or may
16 have against the Plaintiff's Released Parties as of the date of execution of this Settlement
17 Agreement. Plaintiff is not waiving any rights Plaintiff may have to: (i) Plaintiff's own vested
18 accrued employee benefits under the Defendant's health, welfare or retirement benefits plans, if any,
19 as of the date of execution of this Settlement Agreement; (ii) benefits or rights to seek benefits under
20 applicable workers' compensation (except as to claims under Labor Code §§ 132a and 4553 which
21 are expressly released herein) or unemployment insurance or indemnification statutes; (iii) pursue
22 claims which by law cannot be waived by signing this Settlement Agreement; and (iv) enforce this
23 Settlement Agreement.

24 **68.** To affect a full and complete general release as described above, Plaintiff expressly
25 waives and relinquishes all rights and benefits of § 1542 of the Civil Code of the State of California,
26 without exception, except as may be prohibited by law, and does so understanding and acknowledging
27 the significance and consequence of specifically waiving § 1542. Thus, notwithstanding the
28

1 provisions of § 1542, and to implement a full and complete release and discharge of all parties,
2 Plaintiff expressly acknowledges this Settlement Agreement is intended to include in its effect,
3 without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff’s favor at the time
4 of signing this Settlement Agreement, and that this Settlement Agreement contemplates the
5 extinguishment of any such claims. Plaintiff warrants Plaintiff has read this Settlement Agreement,
6 including this waiver of California Civil Code § 1542, and that Plaintiff has consulted with or had the
7 opportunity to consult with counsel of Plaintiff’s choosing about this Settlement Agreement and
8 specifically about the waiver of § 1542, and that Plaintiff understands this Settlement Agreement and
9 the § 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement Agreement.
10 Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to
11 those Plaintiff now knows or believes to be true regarding the matters released or described in this
12 Settlement Agreement, and even so Plaintiff agrees that the releases and agreements contained in this
13 Settlement Agreement shall remain effective in all respects notwithstanding any later discovery of
14 any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in
15 connection with the true facts involved in the matters, disputes or controversies released or described
16 in this Settlement Agreement or with regard to any facts now unknown to Plaintiff relating thereto.

17 **69. Participating Class Members Released Claims.** As of the date of the Judgment,
18 each Participating Class Member, and without the need to manually sign a release document, shall
19 release the Released Parties from all causes of action and claims stated in the complaint and those
20 based solely upon the facts alleged in the complaint, including all of the following claims for relief
21 from August 24, 2017, through August 15, 2022: (1) Failure to Provide Meal Periods; (2) Failure to
22 Provide Rest Breaks; (3) Failure to Pay Minimum and regular Wages; (4) Failure to Pay Overtime
23 Wages; (5) Failure to Indemnify Necessary Business Expenses; (6) Failure to Timely Pay Wages
24 Pursuant to Labor Code Section 204 and 210; (7) Failure to Timely Pay All Wages Due Upon
25 Separation of Employment; (8) Failure to Provide Accurate and Itemized Wage Statements; and (9)
26 Violation of Business & Professional Code Section 17200. (“Class Released Claims”). The Class
27 Released Claims for the Participating Class Members excludes all claims for vested benefits,
28

1 wrongful termination, unemployment insurance, disability, social security, workers' compensation,
2 claims while not an Eligible Employee, and claims outside of the Class Period. The Class Released
3 Claims only covers the time period of from August 24, 2020 through August 15, 2022.

4 **70. The PAGA Group Released Claims:** As of the date of the Judgment, Plaintiff, the
5 PAGA Group Members, and the LWDA shall release, from August 24, 2020, through August 15,
6 2022, the Released Parties from all claims for civil penalties under the California Labor Code Private
7 Attorney's General Act of 2004 that were alleged in Plaintiff's LWDA Exhaustion Letter and/or in the
8 Action, including claims for relief for: (1) Failure to Provide Meal Periods; (2) Failure to Provide Rest
9 Breaks; (3) Failure to Pay Minimum and regular Wages; (4) Failure to Pay Overtime Wages; (5)
10 Failure to Indemnify Necessary Business Expenses; (6) Failure to Timely Pay Wages Pursuant to
11 Labor Code section 204 and 210; (7) Failure to Timely Pay All Wages Due Upon Separation of
12 Employment; and (8) Failure to Provide Accurate and Itemized Wage Statements. The PAGA
13 Released Claims only cover the time period of August 24, 2020, through August 15, 2022.

14 71. Released Parties include Defendant KIP Incorporated, together with its past and
15 present, officers, directors, and employees.

16 72. The PAGA Released Claims, coupled with the approval Order and Judgment has full
17 *res judicata* effect, is final, and preclude and bar any future suits involving the PAGA Released
18 Claims from August 24, 2020 through August 15, 2022. *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46
19 Cal.4th 969, 986 ("Because an aggrieved employee action under the Labor Code Private Attorneys
20 General Act of 2004 functions as a substrate for an action brought by the government itself, a
21 judgment in that action binds all those, including nonparty aggrieved employees who would be bound
22 by a judgment in an action brought by the government").

23 73. The Participating Class Members Released Claims and PAGA Released Claims
24 described in Paragraphs 69 and 70 expressly exclude all claims made for vested benefits, wrongful
25 termination, unemployment insurance, disability, social security, workers' compensation, claims
26 while classified as exempt, and claims outside of the Class Period and/or PAGA Period.

27 74. **Class Counsel.** As of the Effective Date, and except as otherwise provided by this
28

1 Settlement, Class Counsel and any counsel associated with Class Counsel waive any further claims
2 to costs and attorneys' fees and expenses against Defendant or the Releasees arising from or related
3 to the Action, including but not limited to claims based on the Labor Code, the Code of Civil
4 Procedure, PAGA, the Fair Labor and Standards Act, the Business and Professions Code, or any other
5 contract, statute or law ("Class Counsel Released Claims").

6 75. **No Effect on Other Benefits.** The payment of Settlement Shares and/or PAGA
7 Payment Shares will not result in any additional employee benefit payments (such as 401(k), vacation,
8 or bonus) and shall not have any effect on the eligibility for, or calculation of, any employee benefit.

9 **VI. DUTIES OF THE PARTIES**

10 76. **Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to
11 accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be
12 limited to, execution of such other documents and the taking of such other actions as may reasonably
13 be necessary to fulfill the terms of this Settlement unless the Court denies the Settlement with
14 prejudice. The Parties shall use their best efforts, including all efforts contemplated by this Stipulation
15 and any other efforts that may become necessary by court order or otherwise, to effectuate this
16 Stipulation and the terms set forth herein. As soon as practicable after execution of this Stipulation,
17 Class Counsel, with the cooperation of Defendant and Defense Counsel, shall take all necessary and
18 reasonable steps to secure the Court's approval of this Stipulation. The Parties will work together to
19 make any non-material modifications of the Settlement requested by the Court to obtain approval of
20 the Parties' Settlement.

21 77. **Duty to Support and Defend the Class Settlement.** The Parties agree to abide by
22 all of the terms of the Settlement in good faith and to support the Settlement fully and to use their best
23 efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack.

24 78. **Duties Prior to Court Approval.** Class Counsel shall promptly submit this
25 Stipulation to the Court for preliminary approval and determination by the Court as to its fairness,
26 adequacy, and reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall
27 apply to the Court for the entry of a preliminary order, scheduling a hearing on the question of whether

1 the proposed Class Settlement should be approved as fair, reasonable, and adequate as to the Class
2 Members, approving as to form and content the proposed Class Notice attached hereto as **Exhibit A**,
3 respectively, and directing the mailing of the Class Notice to Settlement Class Members.

4 79. **Non-Monetary Relief and Catalyzation of Policy Change.** Although Defendant
5 denies any liability of any kind associated with the claims alleged in the Action, denies any liability
6 or intentional wrongdoing, KIP Incorporated revised and updated its meal and rest period policies
7 and practices.

8 **VII. MISCELLANEOUS TERMS**

9 80. **No Admission of Liability.** Defendant denies that they have engaged in any unlawful
10 activity, have failed to comply with the law in any respect, or have any liability to anyone under the
11 claims asserted in the Action. This Settlement is entered into solely for the purpose of compromising
12 highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission
13 of liability or wrongdoing by Defendant, an admission by Plaintiff that any of his claims were non-
14 meritorious, or any defense asserted by Defendant was meritorious. This Settlement and the fact that
15 Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be
16 admissible in connection with, any litigation between the Parties (other than solely in connection with
17 the Settlement).

18 81. As it relates to the Parties only, the Parties also agree that this release constitutes a
19 resolution of a good faith dispute concerning wages and complies with Labor Code Section 206.5,
20 which reads in part:

21
22 “Execution of release of claim or right on account of wages due. No
23 employer shall require the execution of any release of any claim or
24 right on account of wages due, or to become due, or made, or made
25 as an advance on wages to be earned, unless payment of those wages
26 has been made.”

27 82. As it relates to the Parties only, whether or not the Judgment becomes Final, neither
28

1 the Settlement, any document, statement, proceeding or conduct related to the Settlement, nor any
2 reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as,
3 received as, or deemed to be evidence for any purpose adverse to Defendant or any other beneficiary
4 of the releases granted under this Settlement (the “Released Parties”), including, but not limited to,
5 evidence of a presumption, concession, indication or admission by any of the Released Parties of any
6 liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered
7 in evidence against any of the Released Parties, or any other civil, criminal or administrative action
8 or proceeding except for purposes of effectuating this Settlement.

9 83. Notwithstanding Paragraph 82 of this Settlement, any and all provisions of this
10 Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce any
11 or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

12 84. **Confidentiality.** The Parties and their Counsel will keep the settlement confidential
13 through preliminary approval. Thereafter, the Parties will agree to make no comments to the media
14 or otherwise publicize the terms of the settlement. However, Plaintiff’s counsel shall be allowed to
15 discuss the Settlement Administration with Class Members and disclose the Settlement to any Court
16 for any matter for the of determining Plaintiff’s counsel’s adequacy as counsel.

17 85. **Integrated Agreement.** After this Settlement is signed and delivered by all Parties
18 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the
19 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,
20 covenants, or inducements have been made to any Party concerning this Settlement or its exhibits
21 other than the representations, warranties, covenants, and inducements expressly stated in this
22 Settlement and its exhibits.

23 86. **Attorney Authorization.** Class Counsel and Defense Counsel warrant and represent
24 that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action
25 required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms,
26 and to execute any other documents required to effectuate the terms of this Settlement. The Parties
27 and their counsel will cooperate with each other and use their best efforts to affect the implementation

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Allen Feghali (SBN 301080)
Edwin Kamarzarian (SBN 327830)
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017

To Defense Counsel:

Matthew C. Sgnilek, Esq.
Andrea Rosenkranz, Esq.
O'HAGAN MEYER
3200 Park Center Drive, Suite 700
Costa Mesa, CA 92626

94. **Execution in Counterpart.** This Settlement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures will be presumptive evidence of execution of the original, which shall be produced on reasonable request. Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

DATED: 4/4/2023 _____

HILARIO REYES PRECIADO

DocuSigned by:
Hilario Reyes Preciado
E102602C231746A... _____

DATED: _____

KIP INCOPROATED


By: _____

Its: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: 4/4/2023 _____

MOON & YANG, APC

By:  _____
Kane Moon, Esq.
Allen Feghali, Esq.
Edwin Kamarzarian, Esq.
Attorneys for Plaintiff
HILARIO REYES PRECIADO

DATED: _____

O'HAGAN MEYER

By: _____
Matthew C. Sgnilek, Esq.
Andrea Rosenkranz, Esq.
Attorneys for Defendant
KIP INCORPORATED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Allen Feghali (SBN 301080)
Edwin Kamarzarian (SBN 327830)
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017

To Defense Counsel:

Matthew C. Sgnilek, Esq.
Andrea Rosenkranz, Esq.
O'HAGAN MEYER
3200 Park Center Drive, Suite 700
Costa Mesa, CA 92626

94. **Execution in Counterpart.** This Settlement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures will be presumptive evidence of execution of the original, which shall be produced on reasonable request. Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

DATED: _____

HILARIO REYES PRECIADO

DATED: 4/5/2023

KIP INCOPRORATED

By: _____

DocuSigned by:
Michael Kennedy
D8894EB44F29421...

Its: _____

President

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: _____

MOON & YANG, APC

By: _____

Kane Moon, Esq.
Allen Feghali, Esq.
Edwin Kamarzarian, Esq.
Attorneys for Plaintiff
HILARIO REYES PRECIADO

DATED: 4/4/2023

O'HAGAN MEYER

By: _____

DocuSigned by:
Andrea Rosenkranz
Matthew C. Semilet, Esq.
Andrea Rosenkranz, Esq.
Attorneys for Defendant
KIP INCORPORATED

EXHIBIT A

|||||
 <<PSA ID>>

<<First Last>>

<<Address>>

<<City, State, Zip, Country>>

Name/Address Changes (if any):

NOTICE OF CLASS ACTION SETTLEMENT AFFECTING YOUR RIGHTS

If you are or were an Eligible Employee of KIP Incorporated (or “KIP”) at any time between August 24, 2017 to August 15, 2022, you may be able entitled to receive money from a Settlement.

“Eligible Employee” is an hourly employee of KIP whose work subjected KIP to the minimum wage laws, overtime laws, meal and rest period laws, and other related laws in the California Labor Code and Industrial Welfare Commission Wage Orders.

A court approved this notice. This is not a solicitation from a lawyer. You are not being sued.

PLEASE READ THIS NOTICE.

Your legal rights are affected whether you act or don’t act. Your legal rights and options—and the deadlines to use them—are explained in this notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE SETTLEMENT PAYMENT	You are not required to take action to receive a payment. If you do nothing, you will automatically receive a payment from the Settlement if the Court finally approves the Settlement. In exchange, you will be bound by the Settlement including the release of all claims covered by the Settlement.
REQUEST EXCLUSION	Request to be excluded and receive no benefits from the Settlement. If you submit a Request for Exclusion, you will not receive a settlement payment. However, if you are a PAGA Group Member, as defined below, you cannot opt out of the PAGA Payment.
OBJECT	If you wish to object to the Settlement, you may submit a written objection and supporting papers to the Settlement Administrator. Any written objections will be provided to the Court. In order to object, you must not have excluded yourself from the Settlement.

1. Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Hilario Reyes Preciado v. KIP Incorporated*, Riverside County Superior Court Case No. CVR12103836 (the “Action” or

“Lawsuit”) that affects your rights. The Defendant in the Action is KIP Incorporated (referred in this Notice as “Defendant.”)

The Court has granted preliminary approval of a “Settlement Class” defined as follows:

All persons employed in the State of California as an Eligible Employee at any time between August 24, 2017, to August 15, 2022.

The Court has also granted preliminary approval of a “PAGA Group” defined as follows:

All persons employed in the State of California as an Eligible Employee at any time between August 24, 2020, to August 15, 2022.

Defendant’s employment records indicate that you meet one or both of these definitions, which makes you a member of the Settlement Class (referred to in this Notice as a “Class Member”) and possibly a member of the PAGA Group (referred to in this Notice as a “PAGA Group Member”). The Court directed that this Notice be sent to all Class Members and PAGA Group Members to inform you about the case and your rights and options before the Court decides to approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to all Class Members who have not opted out of the Settlement and all PAGA Group Members.

This Notice explains the Lawsuit, the Settlement, your legal rights and options, what benefits are available and how to get them.

2. What is this Lawsuit about?

On August 24, 2021, Plaintiff Hilario Reyes Preciado filed a complaint against Defendant on behalf of other employees alleging several violations of California wage and hour laws. Plaintiff filed the Action on behalf of himself and on behalf of all Eligible Employees from August 24, 2017. Plaintiff amended the complaint (referred to in this notice as the “Operative Complaint”) on March 22, 2022. By Plaintiff’s Operative Complaint, Plaintiff alleges that the Defendant committed the following violations: (1) Failure to Provide Meal Periods; (2) Failure to Provide Rest Breaks; (3) Failure to Pay Minimum and regular Wages; (4) Failure to Pay Overtime Wages; (5) Failure to Indemnify Necessary Business Expenses; (6) Failure to Timely Pay Wages Pursuant to Labor Code Section 204 and 210; (7) Failure to Timely Pay All Wages Due Upon Separation of Employment; (8) Failure to Provide Accurate and Itemized Wage Statements; (9) Violation of Business & Professional Code Section 17200.; and (10) Owes civil penalties under California’s Private Attorneys General Act of 2004, California Labor Code Sections 2698-2699.5 (“PAGA”). Defendant vigorously denies all the claims and contentions made in the Operative Complaint and maintains its fully complied with the law. However, Defendant has agreed to settle the Lawsuit to avoid the expense of litigation.

3. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a Settlement. This allows the Parties to avoid the risk and uncertainty of trial and any subsequent appeal, and all affected employees who have not opted out of the Settlement will receive compensation. The Settlement is not an admission of liability by Defendant. Plaintiff and the attorneys believe the Settlement is fair, reasonable and adequate, and in the best interests of all Class Members.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing.

4. What are the terms of the Settlement?

Defendant will pay Four Hundred Fifty Thousand Dollars and Zero Cents (\$450,000.00) to settle the Action (the “Maximum Settlement Amount”). The Maximum Settlement Amount includes: (a) all Settlement Payments to Participating Class Members; (b) the Service Award to Plaintiff (“the Class Representative”); (c) the Class Counsel’s attorneys’ fees and costs; (d) a payment to the California Labor and Workforce Development Agency for civil penalties brought under PAGA; (e) all PAGA Payments to the PAGA Group Members; and (f) the reasonable fees and costs of the Settlement Administrator. Defendant will pay their portion of all payroll taxes resulting from the Settlement in addition to the Maximum Settlement Amount.

The Court has preliminarily approved the following payments from the Maximum Settlement Amount. Class Counsel will request that the Court award Class Counsel up to one-third (1/3) of the Maximum Settlement Amount (currently estimated to be One Hundred and Fifty Thousand Dollars (\$150,000.00)) in attorneys’ fees and up to Eighteen Thousand Dollars and Zero Cents (\$18,000.00) in out-of-pocket litigation costs, Seven Thousand Dollars and Zero Cents (\$7,000.00) for Settlement Administration Costs for the third-party Settlement Administrator, and up to Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) for the Service Award for the Class and PAGA Representative in recognition of his time and service to the Class in pursuing the Action and in fulfilling his obligations as the Class and PAGA Representative. Additionally, the Settlement provides for a payment of Forty Thousand Dollars and Zero Cents (\$40,000.00) (the “LWDA Payment”) to resolve claims under PAGA, of which Ten Thousand Dollars and Zero Cents (\$10,000.00) will be distributed to the PAGA Group Members and Thirty Thousand Dollars and Zero Cents (\$30,000.00) will be paid to the California Labor and Workforce Development Agency (“LWDA”). This allocation of the LWDA Payment is required by California law. The final amounts of these various payments are all subject to Court approval.

After deductions of the preceding Court-approved payments, the remaining amount—the “Net Settlement Amount”—will be distributed to those Class Members who have not opted out of the Settlement (the “Participating Class Members”). No portion of the Maximum Settlement Amount will be returned to Defendant.

5. How much can I expect to receive?

Each Participating Class Member will receive a proportionate share of the Net Settlement Amount based on the number of workweeks the person worked for KIP Incorporated as an Eligible Employee during the Class Period, defined as the period of time from August 24, 2017, to August 15, 2022. Any workweek in which a Class Member worked at least one day shall be counted as a workweek.

To calculate a Class Member’s Individual Settlement Payment, the Net Settlement Amount will be divided by the aggregate total number of workweeks of all Participating Class Members, resulting in the “Workweek Value.” Each Participating Class Member’s Individual Settlement Payment will be calculated by multiplying each individual Participating Class Member’s total number of workweeks by the Workweek Value.

Your Compensable Workweeks are: <<Workweeks>>

Your Estimated Individual Settlement Payment is: \$<<Est.SettlementAmt>>

All settlement payments are subject to taxation. Each Individual Settlement Payment will be allocated as follows:

(a) 10% as wages that will be subject to deductions and withholdings for the employee's share of state and federal payroll taxes; and (b) 90% as penalties and interest that will not be subject to deductions and withholdings. Each Participating Class Member will receive an IRS Form W-2 with respect to the portion of the Settlement Payment allocated to wages and an IRS Form-1099 with respect to the portion of the Settlement Payment allocated to penalties and interest, unless said payment is less than or equal to \$600.00. Prior to mailing Settlement checks, the Settlement Administrator will calculate and deduct the employee's required withholdings and payroll taxes from the "wage" portion of the Settlement payment. Defendant will separately pay the employer's share of payroll taxes with respect to the "wage" portion of each Settlement payment.

Please note that each Participating Class Member will be responsible for his/her share of taxes attributable to the receipt of an Individual Settlement Payment. The Parties and their attorneys cannot provide and will not provide any advice regarding tax obligations. Class Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

Each PAGA Group Member will receive a proportionate share of the PAGA Payment based on the number of pay periods the person was an Eligible Employee during the PAGA Period, defined as the period of time from August 24, 2020, to August 15, 2022. Any pay period in which a PAGA Group Member worked at least one day shall be counted as a pay period.

To calculate a PAGA Group Member's Individual PAGA Payment, the PAGA Payment will be divided by the aggregate total number of pay periods of all PAGA Group Members, resulting in the "Pay Period Value." Each PAGA Group Member's Individual Settlement Payment will be calculated by multiplying each individual PAGA Group Member's total number of pay periods by the Pay Period Value.

Your Compensable Pay Periods are: <<PayPeriods>>

Your Estimated Individual PAGA Payment is: \$<<Est.PAGAPaymentAmt>>

All settlement payments are subject to taxation. Each Individual PAGA Payment will be allocated as follows: 100% as penalties that will not be subject to deductions and withholdings. Each PAGA Group Member will receive an IRS Form-1099 for his or her Individual PAGA Payment, unless said payment is less than or equal to \$600.00.

Please note that each PAGA Group Member will be responsible for his/her taxes attributable to the receipt of an Individual PAGA Payment. The Parties and their attorneys cannot provide and will not provide any advice regarding tax obligations. PAGA Group Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

6. What if I disagree with the number of workweeks and/or pay periods credited to me in this Notice?

The information concerning the number of workweeks and/or pay periods you worked as an Eligible Employee during the Class Period and/or PAGA Period is based on Defendant's records. To dispute this number of workweeks and/or pay periods credited to you, you must send written notice to the Settlement Administrator. To be valid, your written dispute of weeks worked must: (1) include your full name, address, telephone number, and last four digits of the Social Security number; and (2) be accompanied by satisfactory evidence of the actual weeks worked as an Eligible Employee during the Class Period and/or PAGA Period, including any supporting documentation (e.g., copies of your pay stubs). To be timely, your written dispute of workweeks and/or pay periods worked must be mailed by first-class U.S. Mail, or the equivalent, to the Settlement Administrator *at the*

address provided below, and be postmarked on or before [REDACTED], 2023.

The Parties and the Settlement Administrator will promptly evaluate the evidence submitted and discuss in good faith how many workweeks and/or pay periods should be credited to the Class Member and/or PAGA Group Member. The Settlement Administrator will make the final decision as to how many workweeks and/or pay periods should be credited to the Class Member and/or PAGA Group Member and report the outcome to the Class Member and/or PAGA Group Member.

7. How and when will I get a payment? How do I update my address?

How do I receive money from the Settlement? You do not need to do anything to receive your Individual Settlement Payment and/or Individual PAGA Payment. Just watch your mail for a check and cash it when you get it. If you do not exclude yourself from the Settlement, you will automatically receive money from the Settlement. You do not need to make a claim or take any other action to receive your share of the Settlement.

When will I receive my Settlement payment? Class Members who do not opt out of the Settlement will receive their payments only after the Court grants final approval to the Settlement and after any appeals are resolved. PAGA Group Members will receive their payments only after the Court grants final approval to the Settlement and after any appeals are resolved. If there are appeals, resolving them can take time. Please be patient.

Settlement payment checks must be cashed soon after receipt. The Settlement checks will be able to be cashed for 180 days after they are issued. After 180 days, the Settlement checks will no longer be able to be cashed. Any funds represented by Settlement checks remaining uncashed for more than 180 days after issuance shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Code of Civil Procedure Sections 1500 - 1582, in the names of those Participating Class Members and/or PAGA Group Members who did not cash their checks until such time they claim their property. However, a PAGA Group Member who fails to negotiate or receive their PAGA Payment Share check despite the procedures described above shall nevertheless remain bound by the Settlement, shall forfeit those funds, and those funds shall be sent to the LWDA by the Administrator if the collective amount of those checks do not justify the expense of a second distribution to employees who did cash their checks.

Change of address. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure that you receive your Settlement payment. If you change your address, or if this notice was not mailed to your correct address, you should immediately provide your current address to the Settlement Administrator. The Settlement Administrator can be reached at (xxx) xxx-xxxx, or at the address provided below.

8. What claims are being released by the Settlement?

If the Settlement is approved by the Court, a Judgment will be entered by the Court. Upon the Effective Date of the Judgment, all Participating Class Members shall release the Released Parties from the Class Released Claims for the Class Period, which is defined as the period of time between August 24, 2017, to August 15, 2022.

The Class Released Claims are defined as all causes of action and claims that were stated in the complaint and those based solely upon the facts alleged in the complaint, including all of the following claims for relief from August 24, 2017, to August 15, 2022: (1) Failure to Provide Meal Periods; (2) Failure to Provide Rest Breaks; (3) Failure to Pay Minimum and regular Wages; (4) Failure to Pay Overtime Wages; (5) Failure to Indemnify Necessary Business Expenses; (6) Failure to Timely Pay Wages Pursuant to Labor Code Section 204 and 210; (7) Failure to Timely Pay All Wages Due Upon Separation of Employment; (8) Failure to Provide Accurate and

Itemized Wage Statements; and (9) Violation of Business & Professional Code Section 17200 (the “Class Released Claims”).;. The Class Released Claims only cover the time period of August 24, 2017 to August 15, 2022.

Other than for Plaintiff, claims of Participating Class Members, if any, for vested benefits, wrongful termination, unemployment insurance, disability benefits, social security, workers’ compensation, claims while not an Eligible Employee, and claims outside of the Class Period are not encompassed within the definition of “Class Released Claims.”

Any Class Member who does not request exclusion by the applicable deadline will be considered to have accepted the release and to have waived any and all of the Released Claims against the Released Parties.

If the Settlement is approved by the Court, a Judgment will be entered by the Court. Upon the Effective Date of the Judgment, Plaintiff and the LWDA shall release the Released Parties from the PAGA Released Claims for the PAGA Period, which is defined as the period of time between August 24, 2020, to August 15, 2022.

The PAGA Released Claims are defined as all claims for civil penalties under the California Labor Code Private Attorney’s General Act of 2004 that were alleged in Plaintiff’s LWDA Exhaustion Letter and/or in the Action, including claims for relief for: (1) Failure to Provide Meal Periods; (2) Failure to Provide Rest Breaks; (3) Failure to Pay Minimum and regular Wages; (4) Failure to Pay Overtime Wages; (5) Failure to Indemnify Necessary Business Expenses; (6) Failure to Timely Pay Wages Pursuant to Labor Code Section 204 and 210; (7) Failure to Timely Pay All Wages Due Upon Separation of Employment; and (8) Failure to Provide Accurate and Itemized Wage Statements (“PAGA Released Claims”). The PAGA Released Claims only cover the time period of August 24, 2020, through August 15, 2022.

PAGA Group Members cannot opt out of or object to the foregoing PAGA Released Claims.

Released Parties for both the Class and PAGA Released Claims include Defendant KIP Incorporated and its past and present officers, directors, and employees.

9. What are my options?

a. **Participate in the Settlement and Receive a Settlement Payment.** If you want to participate in the Settlement, you do not have to do anything. You will receive your Individual Settlement Payment automatically if the Settlement is finally approved by the Court. If applicable, you will receive your Individual PAGA Payment automatically if the Settlement is finally approved by the Court.

b. **Exclude yourself from the Settlement.** If you do not want to be part of the Settlement, you can request to be excluded from the Settlement by completing the enclosed Request for Exclusion Form and either mailing it, faxing it, or e-mailing it to the Settlement Administrator. If you exclude yourself, you will not receive your Individual Settlement Payment, you will not be subject to the terms of the Settlement, and you will retain whatever rights you may currently have. To be valid, your Request for Exclusion Form must include your signature and must be timely. You may use the Request for Exclusion Form, which is attached hereto as Exhibit A, to exclude yourself. If you elect to exclude yourself, but do not use the included form, your request for exclusion must : (1) include your full name, address, and last four digits of the Social Security number; (2) your approximate dates of employment with Defendant; and (3) a clear statement that you wish to be excluded from the Settlement in *Hilario Reyes Preciado v. KIP Incorporated*, Case No. CVR12103836. To be timely, a Request for Exclusion must be mailed by first-class U.S. Mail (or the equivalent), faxed, or e-mailed to the Settlement Administrator at the

address, fax number, or e-mail provided below and be postmarked or have a transmission date on or before [REDACTED], 2023.

If applicable, you may not exclude yourself from the PAGA Group and you will receive your PAGA Payment even if you request exclusion.

c. **Object to the Settlement.** If you're a Class Member, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views. If the Court rejects your objection and finally approves the Settlement, you will still be bound by the terms of the Settlement, but you will also receive a monetary award.

To object, you may submit a written objection stating why you object to the Settlement using the included Objection Form, or you may simply appear at the Final Approval Hearing set for [REDACTED], 2023 at [REDACTED] a.m. in the Riverside County Superior Court and discuss your objection with the Court and the Parties at your own expense. Written objections must include: (i) your full name, current address, and last four digits of the Social Security number; (ii) the approximate dates of your employment at Defendants; (iii) the case name and number (*Hilario Reyes Preciado v. KIP Incorporated*, Riverside County Superior Court Case No. CVR12103836); (iii) a written statement of all grounds for the objection accompanied by any legal support for such objection; and (iv) copies of any papers, briefs, or other documents on which the objection is based, if any; (v) your signature. You may use the Objection Form, which is attached hereto as Exhibit B, to object. To be timely, a written objection must be mailed by first-class U.S. Mail, faxed, or e-mailed to the Settlement Administrator at the address, fax number, or e-mail provided below and be postmarked or have a transmission date on or before [REDACTED], 2023.

Please note that you cannot both exclude yourself and object to the Settlement. In order for you to object to this Settlement, or any term of it, you may not submit a Request for Exclusion.

10. Who are the attorneys representing the Plaintiff and the Settlement Class?

The Court has appointed the following lawyers as "Class Counsel" to represent all Class Members:

MOON & YANG PC
Kane Moon
Allen Feghali
Edwin Kamarzarian
1055 W. 7th Street, Suite 1880
Los Angeles, California 90017
Telephone: 213.232.3128

You will not be charged for these lawyers.

11. How will the attorneys for the Settlement Class be paid?

All payments for Class Counsel's attorneys' fees and costs will be made from the Maximum Settlement Amount. Class Counsel intends to request an award of attorneys' fees up to one-third (1/3) of the Maximum Settlement Amount (currently estimated to be One Hundred and Fifty Thousand Dollars and Zero Cents (\$150,000.00)), plus reimbursement of reasonable, actual out-of-pocket costs incurred in the litigation, up to Eighteen Thousand Dollars and Zero Cents (\$18,000.00). Class Counsel has been prosecuting this Action on behalf of Plaintiff and

the Settlement Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs. The Court will decide the amount of fees and expenses to award at the Final Approval Hearing.

12. When and where will the Court decide to approve the Settlement?

The Court has preliminarily approved the settlement and will hold a hearing, called a Final Approval Hearing, to decide whether to give final approval to the Settlement. The Court will hold the Final Approval Hearing on _____, 2023, at _____ a.m., in Department 1 of the Riverside County Superior Court located at 4050 Main Street, Riverside, CA 92501, before the Honorable Craig G. Riemer. At the Final Approval Hearing, the Court will rule on Class Counsel’s request for attorneys’ fees and litigation costs, the Class Representative Service Award, and the Settlement Administration Costs.

You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing. If you did not submit a Request for Exclusion, you or your attorney may appear at the hearing at your own expense and request to be heard. The Final Approval Hearing may be postponed without further notice, except that notice will be provided to any objector.

13. Will I be subject to discipline if I participate in the Settlement?

No. Defendant approves the Settlement and will not retaliate in any way against any Class Member for participating in the Settlement. Your decision to participate, not participate, or object to this Settlement will not affect your employment with KIP Incorporated or its treatment of you as a former employee.

14. What is the Settlement Administrator’s address?

Any Request for Exclusion, Notice of Objection, address change request, and all other correspondence intended for the Settlement Administrator must be mailed to the Settlement Administrator at the following address:

Preciado v. KIP Incorporated
c/o Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Tel: (800) 523-5773
Fax: (949) 209-2503
Email: info@phoenixclassaction.com

15. How Can I Get Additional Information?

If you have questions, you can call the Settlement Administrator at **(800) 523-5773** and/or Class Counsel at **(213) 232-3128**. For the precise terms and conditions of the settlement, you may review the detailed “Joint Stipulation of Class Settlement and Release of Claims” which is available for viewing online, free of charge, at the Settlement Administrator’s website: [\[WEBSITE URL\]](#). The pleadings and other court records in the lawsuit are available online, free of charge, at [\[Settlement Administrator WEBSITE URL\]](#). The records may also can be examined, free of charge, in person at any time during regular business hours at the at the Clerk’s Office of the Superior Court of California, County of Riverside, 4050 Main Street, Riverside, California 92101, or online at <https://www.riverside.courts.ca.gov/OnlineServices/SearchCourtRecords/public-access.php>; or you may contact the Settlement Administrator at Tel: **(XXX) XXX-XXX**. To view the “Joint Stipulation of Class Settlement and

Release of Claims” from the Court’s website, it must be purchased and is available for purchase as part of the declaration of Kane Moon, Exhibit 1, filed on [filing date]. Additionally, if you would like copies of the Settlement documents, you can contact Class Counsel, whose contact information is above, and they will provide you with a copy via e-mail free of charge.

PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT’S MANAGERS, SUPERVISORS,
OR ATTORNEYS ABOUT THIS SETTLEMENT

They will not be able to assist you.