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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNADINO**

IGNACIO TAFOYA VARGAS, individually
and on behalf of others similarly situated, and
as an aggrieved employee and Private
Attorney General,

Plaintiff,

vs.

CHEMCOR CHEMICAL CORPORATION, a
California corporation; DAVID D. TARQUIN,
an individual; RONALD H. TARQUIN, an
individual; FRANK K. TARQUIN, an
individual; and DOES 4 through 100,
inclusive,

Defendants.

Case No.: CIVSB2110114

*Assigned for all purposes to: Hon. David
Cohn, Dept. S26*

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT**

Complaint Filed: April 5, 2021
First Am. Complaint Filed: July 16, 2021
Trial Date: None Set

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

2 This Joint Stipulation of Class Action and PAGA Settlement is entered into by and between
3 Plaintiff Ignacio Tafoya Vargas (“Plaintiff”), individually and on behalf of all other similarly
4 situated and alleged aggrieved employees, and as a representative of the State of California on the
5 one hand, and Defendants Chemcor Chemical Corporation (“Chemcor”), Ronald H. Tarquin
6 (“Ronald”), and Frank K. Tarquin (“Frank”) (Chemcor, Ronald and Frank collectively
7 “Defendants”) on the other hand in the lawsuit entitled *Tafoya Vargas v. Chemcor Chemical*
8 *Corporation, et al.*, filed in the San Bernardino County Superior Court, Case No. CIVSB2110114.
9 Plaintiff and Defendants shall be, at times, collectively referred to as the “Parties.” This Agreement
10 is intended by the Parties to fully, finally and forever resolve the claims as set forth herein, based
11 upon and subject to the terms and conditions of this Agreement.

12 **DEFINITIONS**

13 1. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class
14 Action and PAGA Settlement.

15 2. “Action” means the court action entitled “*Ignacio Tafoya Vargas v. Chemcor*
16 *Chemical Corporation, et al.*, San Bernardino County Case No. CIVSB2110114, initiated on or
17 around April 5, 2021, the First Amended Complaint filed on or about July 16, 2021, as well as the
18 claims asserted in Plaintiff’s correspondence of March 17, 2021 to the Labor and Workforce
19 Development Agency seeing penalties against Defendants for violations under the California
20 Labor Code under the Private Attorneys General Act of 2004 (hereinafter the “LWDA Letter.”).

21 3. “Class Counsel” means Heather Davis, Amir Nayebdadash and Carlos Jimenez of
22 Protection Law Group LLP. The term “Class Counsel” shall be used synonymously with the term
23 “Plaintiff’s Counsel.”

24 4. “Class Counsel’s Fees and Costs” means attorneys’ fees for Class Counsel’s
25 litigation and resolution of the Action and their expenses and costs incurred in connection with the
26 Action, which shall be paid from the Gross Settlement Amount. Class Counsel will request
27 attorneys’ fees not to exceed thirty-five (35%) of the Gross Settlement Amount, *i.e.* Two Hundred
28 Ten Thousand Dollars and No Cents (\$210,000.00) and the reimbursement of reasonable costs and

1 expenses associated with the litigation and settlement of the Action, not to exceed Fifteen
2 Thousand Dollars (\$15,000.00), subject to the Court's approval. Defendants have agreed not to
3 oppose Class Counsel's request for fees and reimbursement of reasonable costs and expenses in
4 the amount set forth above.

5 5. "Class List" means a complete list of all Class Members that Defendants will in
6 good faith compile from their records and provide to the Settlement Administrator within Fourteen
7 (14) calendar days after service (via email or otherwise) of the Order granting Preliminary
8 Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel
9 spreadsheet and will include Class Member's: (1) full name; (2) last known home address; (3) last
10 known telephone number; (4) social security number; (5) dates of employment (i.e., hire dates,
11 and, if applicable, re-hire date(s) and/or separation date(s)); (6) total Workweeks during the Class
12 Period; (7) total Workweeks during the PAGA Period; and (8) any other reasonable information
13 required by the Settlement Administrator in order to effectuate the terms of the Settlement.

14 6. "Class" or "Class Members" means all current and former non-exempt employees
15 of Chemcor Chemical Corporation, Ronald H. Tarquin, and Frank K. Tarquin employed in the
16 state of California at any time during the Class Period.

17 7. "Class Period" means the period from April 5, 2017 through and ending on June
18 14, 2022.

19 8. "Class Representative" means Plaintiff Ignacio Tafoya Vargas in his capacity as a
20 representative of the Class Members.

21 9. "Class Representative Enhancement Payment" means the amount that the Court
22 authorizes to be paid to Plaintiff in addition to his Individual Settlement Payment, in recognition
23 of the effort and risk he has taken in assisting with the prosecution of the Action and in exchange
24 for a General Release of his claims as provided herein.

25 10. "Court" means the Superior Court of the State of California for the County of San
26 Bernadino.

27 11. "Defendants" means Chemcor Chemical Corporation, Ronald H. Tarquin, and
28 Frank K. Tarquin.

1 12. “Effective Date” means the later of the following: (a) if no timely objections are
2 filed or if all objections are withdrawn, the date upon which the Court enters Final Approval; (b)
3 if an objection is filed and not withdrawn, the date for filing an appeal and no such appeal being
4 filed; or (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such
5 appeal in a way that does not alter the terms of the settlement, shall be referred to as the “Effective
6 Date.” Defendants and Defendants’ counsel waive all rights to appeal the Final Approval Order.

7 13. “Employer Taxes” means employer-funded taxes and contributions imposed on the
8 wage portions of the Individual Settlement Payments under the Federal Insurance Contributions
9 Act, the Federal Unemployment Tax Act, and any similar state and federal taxes and contributions
10 required of employers, such as for unemployment insurance.

11 14. “Final Approval” means the date of final affirmation of the Court’s signed Order
12 and Judgment granting final approval of this Settlement.

13 15. “General Release” means the broader release of all claims by Plaintiff in the Action,
14 which is in addition to Plaintiff’s release of claims as a Participating Class Member.

15 16. “Gross Settlement Amount” means the sum of Six Hundred Thousand Dollars and
16 Zero Cents (\$600,000.00) which shall be paid by Defendants into a Qualified Settlement Fund
17 (QSF). The Gross Settlement Amount is non-reversionary, no portion of the Gross Settlement
18 Amount will return to Defendants and includes: (1) payments to the Class, (2) Class Counsel’s
19 fees, (3) Class Counsel’s costs, (4) Settlement Administration Costs, (5) Class Representative
20 Enhance Payment to Plaintiff; and (6) the PAGA Payment to the LWDA and PAGA Members.
21 The Gross Settlement Amount is exclusive of employer’s share of any applicable payroll taxes,
22 and any such employer-side payroll taxes shall be paid by Defendants separately and in addition
23 to the Gross Settlement Amount. The Gross Settlement Amount plus any applicable employer-side
24 payroll taxes shall be the maximum amount that Defendants are required to pay under the
25 Settlement. In the event that the consideration due under this Agreement is not paid, then the
26 Settlement is voidable at the option of Plaintiff. Payment shall be made per the terms of this
27 Agreement. If the Agreement is voided, then the time for Plaintiff to bring class and/or aggrieved
28 employee claims, will be tolled from the date that this Agreement is fully executed.

1 17. “Individual Settlement Payment” means the amount payable from the Net
2 Settlement Amount to each Participating Class Member and any payment a PAGA Member is
3 eligible to receive from the employee portion of the PAGA Payment. Individual Settlement
4 Payments shall be paid by a Settlement Check made payable to Participating Class Members and/or
5 PAGA Members.

6 18. “Net Settlement Amount” means the funds available for payments to the Class,
7 which shall be amount remaining after the following amounts are deducted from the Gross
8 Settlement Amount: (1) Class Counsel’s fees, (2) Class Counsel’s costs, (3) Settlement
9 Administration Costs, (4) Class Representative Enhancement Payment to Plaintiff; and (5) the
10 PAGA Payment to the LWDA and PAGA Members.

11 19. “Notice” means the Notice of Class Action Settlement in a form substantially
12 similar to the form attached hereto as **Exhibit A**, in both English and Spanish, that will be mailed
13 to Class Members’ last known addresses, and which will provide Class Members with information
14 regarding the Action and information regarding the settlement of the Action.

15 20. “PAGA” means the California Labor Code Private Attorneys General Act of 2004
16 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”).

17 21. “PAGA Payment” means the payment to the State of California Labor and
18 Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the total
19 amount allocated toward penalties under the PAGA and payments to the PAGA Members of their
20 (25%) share of the total amount allocated toward penalties under the PAGA, all of which are to be
21 paid from the Gross Settlement Amount. The Parties have agreed that Fifty Thousand Dollars and
22 Zero Cents (\$50,000.00) of the Gross Settlement Amount will be allocated toward penalties under
23 the PAGA of which Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00)
24 will be paid to the LWDA and Twelve Thousand Five Hundred Dollars and Zero Cents
25 (\$12,500.00) will be distributed to PAGA Members on a pro rata basis based on Workweeks
26 worked by the PAGA Members within the PAGA Period. PAGA Members will receive payment
27 from the employee portion of the PAGA Payment and will be deemed to have released any claims
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1 arising out of PAGA regardless of their decision to participate in the class action if the PAGA
2 Payment is approved by the Court.

3 22. "PAGA Period" means the period from March 17, 2020, through and ending on
4 June 14, 2022.

5 23. "PAGA Members" means Class Members who were employed by Defendants
6 during the PAGA Period.

7 24. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean
8 either Plaintiff or Defendants, individually.

9 25. "Participating Class Members" means all Class Members who do not submit valid
10 and timely Requests for Exclusion. No claim form is required for a Class Member to become a
11 Participating Class Member.

12 26. "Plaintiff" means Ignacio Tafoya Vargas.

13 27. "Preliminary Approval" means the Court order granting preliminary approval of
14 the Settlement Agreement.

15 28. "Objection" means a Class Member's valid and timely written objection to the
16 Settlement Agreement. For a written Objection to be valid, it must be submitted by the Response
17 Deadline and include: (a) the objector's full name, signature, address, telephone number, the
18 approximate dates of employment at Defendants in California, last four digits of the Class
19 Member's social security number or employee ID number; (b) the case name and number; (c) a
20 written statement of all grounds for the objection accompanied by legal support, if any, for such
21 objection; (d) copies of any papers, briefs, or other documents upon which the objection is based,
22 if any; and (e) a statement describing whether the objector intends to appear at the Final Approval
23 Hearing, either in person or through counsel at the Class Member's expense.

24 29. "Released Class Claims" means all claims, rights, demands, liabilities and causes
25 of actions that are alleged, or reasonably could have been alleged, based on the facts alleged in the
26 operative complaint in the Action, including factual claims regarding Defendants' alleged: (i)
27 failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide
28 meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation

1 in lieu thereof; (iv) failure to reimburse necessary business expenses; (v) failure to provide
2 complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or
3 resignation; (vii) failure to provide timely pay wages during employment; (viii) unfair business
4 practices; (xi) failure to accrued vacation time; and (x) failure to pay reporting time wages. This
5 release shall apply to claims arising during the Class Period.

6 30. "Released PAGA Claims" means all claims for civil penalties under the California
7 Labor Code Private Attorneys General Act of 2004 for civil penalties that could have been
8 premised on the facts alleged both in Plaintiff's March 17, 2021 PAGA Letter to the LWDA and
9 in the operative complaint including but not limited to penalties that could have been awarded
10 pursuant to Labor Code sections 210, 226.3, 1197.1, 558, and 2699.

11 31. "Released Parties" means Defendants Chemcor Chemical Corporation, Ronald H.
12 Tarquin, and Frank K. Tarquin, as named by Plaintiffs in the operative complaint, and their past,
13 present and/or future, direct and/or indirect, officers, directors, members, managers, agents,
14 representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent
15 companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

16 32. "Request for Exclusion" means a valid and timely written statement submitted by
17 a Class Member requesting to be excluded from the Action. To be effective, the Request for
18 Exclusion must be submitted by the Response Deadline and contain (a) the Class Member's name,
19 signature, address, telephone number, dates of employment at Defendants in California, and the
20 last four digits of the Class Member's Social Security number and/or the Employee ID number (b)
21 the case name and number; and (c) a clear statement requesting to be excluded from the settlement
22 of the class claims similar to the following: "I wish to exclude myself from the class settlement
23 reached in the matter of *Ignacio Tafoya Vargas v. Chemcor Chemical Corporation, et al.*", San
24 Bernardino County Case No. CIVSB2110114, I understand that by excluding myself, I will not
25 receive money from the settlement of my individual claims." To be effective, the Request for
26 Exclusion must be post-marked by the Response Deadline and received by the Settlement
27 Administrator. The Request for Exclusion shall not be effective as to the Released PAGA Claims
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1 as Class Members have no right to exclude themselves (opt-out) of the PAGA component of the
2 Settlement.

3 33. "Response Deadline" shall be sixty (60) calendar days after the Settlement
4 Administrator mails Notice to Class Members and the last date on which Class Members may
5 submit Requests for Exclusion, Objections to the Settlement, or Workweek Disputes. In the event
6 the 60th day falls on a Sunday or Federal holiday, the Response Deadline will be extended to the
7 next day on which the U.S. Postal Service is open. The Response Deadline for Requests for
8 Exclusion or Objections will be extended fifteen (15) calendar days for any Class Member who is
9 re-mailed a Notice by the Settlement Administrator, unless the 15th day falls on a Sunday or
10 Federal holiday, in which case the Response Deadline will be extended to the next day on which
11 the U.S. Postal Service is open. The Response Deadline may also be extended by express
12 agreement between Class Counsel and Defendants. Under no circumstances, however, will the
13 Settlement Administrator have the authority to unilaterally extend the deadline for Class Members
14 to submit a Request for Exclusion or Objection to the Settlement.

15 34. "Settlement" means the disposition of the Action pursuant to this Agreement.

16 35. "Settlement Administrator" means APEX Class Action Settlement Administrators.
17 The Parties each represent that they do not have any financial interest in the Settlement
18 Administrator or otherwise have a relationship with the Settlement Administrator that could create
19 a conflict of interest.

20 36. "Settlement Administration Costs" mean the costs payable from the Gross
21 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
22 but not limited to, printing, distributing, and tracking documents for this Settlement,
23 calculating/confirming the class member Workweeks from the information contained in the Class
24 List, calculating each Participating Class Member's Individual Settlement Payment, tax reporting,
25 distributing the Gross Settlement Amount, providing necessary reports and declarations, and other
26 duties and responsibilities set forth herein to process this Settlement, and as requested by the
27 Parties. Settlement Administration Costs shall not exceed Five Thousand Nine Hundred Dollars
28 and Zero Cents (\$5,900.00).

1 41. Funding of the Gross Settlement Amount: Within fourteen (14) calendar days of
2 the Effective Date of the Settlement, as defined in this Agreement, Defendants will deposit the
3 Gross Settlement Amount into a Qualified Settlement Fund (“QSF”) to be established by the
4 Settlement Administrator. Defendants shall provide all information necessary for the Settlement
5 Administrator to calculate necessary payroll taxes including its official name, 8 digit state
6 unemployment insurance tax ID number, and other information requested by the Settlement
7 Administrator, no later than seven (7) calendar days of the Effective Date. This information shall
8 be kept confidential from Plaintiff. Defendants may not vary from the Court approved scheduling
9 for the funding of the Gross Settlement Amount unless the Parties agree otherwise; it is not
10 anticipated there would be a need to alter the funding date. If Defendants have an objection to the
11 Court approved funding timeline, Defendants must seek *ex parte* relief from the Court about its
12 objection, unless Plaintiff agrees with Defendants otherwise.

13 42. Distribution of the Gross Settlement Amount: After Court approval and no later
14 than fourteen (14) calendar days of the funding of the Settlement, the Settlement Administrator
15 will issue payments for: (a) Individual Settlement Payments; (b) the PAGA Payment to the Labor
16 and Workforce Development Agency; (c) the Class Representative Enhancement Payments; (d)
17 Class Counsel’s Fees and Costs and (e) Settlement Administration Costs.

18 43. Attorneys’ Fees and Costs: Defendants agree not to oppose any application or
19 motion by Class Counsel for attorneys’ fees of not more than Two Hundred Ten Thousand Dollars
20 and Zero Cents (\$210,000.00) plus the reimbursement of reasonable costs and expenses associated
21 with the litigation and settlement of the Action, in an amount not to exceed Fifteen Thousand
22 Dollars and Zero Cents (\$15,000.00), both of which will be paid from the gross Settlement
23 Amount. Any portion of the requested fees or costs that is not awarded to the Class Counsel shall
24 be reallocated to the Net Settlement Amount and distributed to Participating Class Members as
25 provided in this Agreement.

26 44. Class Representative Enhancement Payment: Defendants agree not to oppose or
27 object to any application or motion by Plaintiff for Class Representative Enhancement Payment of
28 Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00). The Class Representative

1 Enhancement Payment is in exchange for the General Release of the Plaintiff's individual claims
 2 and for his time, effort and risk in bringing and prosecuting the Action. Any portion of the
 3 requested Class Representative Enhancement Payment that are not awarded to the Class
 4 Representative shall be reallocated to the Net Settlement Amount and distributed to Participating
 5 Class Members as provided in this Agreement.

6 45. Settlement Administration Costs: The Settlement Administrator will be paid for the
 7 reasonable costs of administration of the Settlement and distribution of payments from the Gross
 8 Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall
 9 not exceed Five Thousand Nine Hundred Dollars and Zero Cents (\$5,900.00).

10 46. PAGA Payment: Fifty Thousand Dollars and Zero Cents (\$50,000.00) shall be
 11 allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the
 12 PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Payment,
 13 or Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00), to the California
 14 Labor and Workforce Development Agency ("LWDA"). Twelve Thousand Five Hundred Dollars
 15 and Zero Cents (\$12,500.00) will be distributed to PAGA Members on a pro rata basis based on
 16 the total number of Workweeks worked by each PAGA Member during the PAGA Period. PAGA
 17 Members shall receive their portion of the PAGA Payment and will be deemed to have released
 18 any claims arising out of PAGA regardless of their decision to opt-out of the class settlement.

19 47. Net Settlement Amount for Payment of Class Claims: The Net Settlement Amount
 20 will be used to satisfy the class portion of Participating Class Members Individual Settlement
 21 Payments in accordance with the terms of this Agreement. The estimated Net Settlement Amount
 22 is as follows:

23	Gross Settlement Amount	\$	600,000.00
24	Enhancement Payment:	\$	7,500.00
25	Class Counsel's Fees:	\$	210,000.00
26	Class Counsel's Costs:	\$	15,000.00
27	PAGA Payment	\$	50,000.00
28	Settlement Administration Costs:	\$	<u>5,900.00</u>

1 **Estimated Net Settlement Amount** \$ 311,600.00

2 48. Individual Settlement Payment Calculations: Individual Settlement Payments will
3 be paid from the Net Settlement Amount that includes the 25% portion of the PAGA Payment
4 allocated for PAGA Members and shall be paid pursuant to the formula set forth herein:

5 a) Calculation of Class Portion of Individual Settlement Payments:

6 The Settlement Administrator will calculate the total Workweeks for all Participating Class
7 Members by adding the number of Workweeks worked by each Participating Class Member during
8 the Class Period. The respective Workweeks for each Participating Class Member will be divided
9 by the total Workweeks for all Participating Class Members, resulting in the Payment Ratio for
10 each Participating Class Member. Each Participating Class Member's Payment Ratio will then be
11 multiplied by the Net Settlement Amount to calculate each Settlement Class Member's estimated
12 share of the Net Settlement Amount: (Participating Class Member's Workweeks ÷ total
13 Workweeks during Class Period) × Net Settlement Amount.

14 b) Calculation of PAGA Portion of Individual Settlement Payments:

15 The Settlement Administrator will calculate the total Workweeks for all PAGA Members by
16 adding the number of Workweeks worked by each PAGA Member during the PAGA Period. The
17 respective Workweeks for each PAGA Member will be divided by the total Workweeks for all
18 PAGA Members, resulting in the Payment Ratio for each PAGA Member. Each PAGA Member's
19 Payment Ratio will then be multiplied by the employee portion of the PAGA Payment to calculate
20 each PAGA Member's estimated share of the PAGA Payment: (PAGA Member's Workweeks ÷
21 Workweeks during PAGA Period) x \$50,000.00 (the employee portion of the PAGA Payment).
22 PAGA Members shall receive this portion of their Individual Settlement Payment and will be
23 deemed to have released any claims arising out of PAGA regardless of whether they opt out of the
24 participation regarding the class claims.

25 c) Allocation of Individual Settlement Payments: All Individual

26 Settlement Payments will be allocated as follows: twenty percent (20%) of each Individual
27 Settlement Payment will be allocated as wages, forty percent (40%) shall be allocated as interest,
28 and forty percent (40%) shall be allocated as penalties. The portion of the Individual Settlement

1 Payment allocated to wages will be reported by the Settlement Administrator on an IRS Form W-
2 2. The remaining non-wage payments will be reported on an IRS Form-1099 by the Settlement
3 Administrator. Individual Settlement Payments shall be paid exclusively from the QSF, pursuant
4 to the settlement formula set forth herein. Also for tax purposes, the Parties agree that 100% of
5 each PAGA Members' individual PAGA payment amount shall constitute penalties and each
6 PAGA Member will be issued an IRS Form-1099 for such payment to him or her, if required by
7 law. Neither Counsel for Plaintiff nor Defendants intend anything contained in this Agreement to
8 constitute advice regarding taxes or taxability, nor shall anything in this Agreement be relied upon
9 as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10,
10 as amended) or otherwise.

11 49. No Credit Toward Benefit Plans: The Individual Settlement Payments made to
12 Participating Class Members under this Settlement, as well as any other payments made pursuant
13 to this Settlement, will not modify any previously credited hours or service under any employee
14 benefit plan, policy, or bonus program sponsored by the Released Parties. Such amounts will not
15 form the basis for additional contributions to, benefits under, or any other monetary entitlement
16 under the Released Parties' sponsored benefit plans, policies, or bonus programs. The payments
17 made under the terms of this Stipulation shall not be applied retroactively, currently, or on a going
18 forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of
19 the Released Parties' benefit plans, policies, or bonus programs. The Released Parties retain the
20 right to modify the language of their benefit plans, policies and bonus programs to effectuate this
21 intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours
22 worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable
23 plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other
24 purpose, and that additional contributions or benefits are not required by this Settlement.

25 50. Settlement Administration Process: The Parties agree to cooperate in the
26 administration of the Settlement and to make all reasonable efforts to control and minimize the
27 costs and expenses incurred in administration of the Settlement. The Settlement Administrator will
28 provide the following services:

- 1 a) Establish and maintain a Qualified Settlement Fund.
- 2 b) Calculate the Individual Settlement Payment each Participating Class Member is
- 3 eligible to receive and the portion of the PAGA Payment each PAGA Member shall
- 4 receive.
- 5 c) Print and mail the Notice.
- 6 d) Conduct additional address searches for mailed Notices that are returned as
- 7 undeliverable.
- 8 e) Process Requests for Exclusion, field inquiries from Class Members.
- 9 f) Print and issue and issue Settlement Payment Checks, prepare IRS W2 and 1099
- 10 Tax Forms and any other filings required by any governmental taxing authority.
- 11 g) Provide declarations and/or other information to this Court as requested by the
- 12 Parties and/or the Court regarding the settlement administration process.
- 13 h) Provide weekly status reports to counsel for the Parties.
- 14 i) Posting a notice of final judgment online at Settlement Administrator's website.
- 15 j) Translate the Notice from English to Spanish.

16 51. Delivery of the Class List: Within fourteen (14) calendar days of Preliminary
17 Approval, Defendants will provide the Class List to the Settlement Administrator, which will be
18 kept confidential from Plaintiff and Class Counsel.

19 52. Notice by First-Class U.S. Mail: Within seven (7) calendar days after receiving the
20 Class List from Defendants, the Settlement Administrator will mail the Notice to all Class
21 Members via regular First-Class U.S. Mail, using the most current, known mailing addresses
22 identified in the Class List.

23 53. Confirmation of Contact Information in the Class List: Prior to mailing, the
24 Settlement Administrator will perform a search based on the National Change of Address Database
25 for information to update and correct for any known or identifiable address changes. Any Notice
26 returned to the Settlement Administrator as non-deliverable on or before the Response Deadline
27 will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto
28 and the Settlement Administrator will indicate the date of such re-mailing on the Notice. If no

1 forwarding address is provided, the Settlement Administrator will promptly attempt to determine
2 the correct address using a skip-trace, or other search using the name, address telephone number
3 and/or Social Security number of the Class Member involved and will then perform a single re-
4 mailing. If any notice sent to a Class Member by the Settlement Administrator is returned as
5 undeliverable to a current employee, then Defendants shall make all reasonable efforts to obtain
6 the current address from the Class Member and provide the same within seven (7) calendar days
7 of notice from the Settlement Administrator. Those Class Members who receive a re-mailed
8 Notice, whether by skip-trace or by request, will have between the later of (a) an additional fifteen
9 (15) calendar days or (b) the Response Deadline to postmark a Request for Exclusion, or an
10 Objection to the Settlement.

11 54. Notice: All Class Members will be mailed a Notice. Each Notice will provide: (a)
12 information regarding the nature of the Action; (b) a summary of the Settlement's principal terms;
13 (c) the Class definition; (d) the total number of Workweeks each respective Class Member worked
14 for Defendants during the Settlement Class Period; (e) each Class Member's estimated Individual
15 Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates
16 which comprise the Class Period; (g) the deadlines by which the Class Member must postmark
17 Requests for Exclusion, Objections to the Settlement, or Workweek Disputes; (h) the claims to be
18 released, as set forth herein; and (j) the date for the final approval hearing.

19 55. Disputed Information on Notice: Class Members will have an opportunity to
20 dispute the information provided in their Notice. To the extent Class Members dispute the number
21 of Workweeks with which they have been credited or the amount of their Individual Settlement
22 Payment, Class Members may produce evidence to the Settlement Administrator showing that
23 such information is inaccurate. Absent evidence rebutting Defendants' records, Defendants'
24 records will be presumed determinative. However, if a Class Member produces evidence to the
25 contrary by the Response Deadline, the Parties will evaluate the evidence submitted by the Class
26 Member and the Parties will make the final decision as to the number of eligible Workweeks that
27 should be applied and/or the Individual Settlement Payment to which the Class Member may be
28

1 entitled, in the event that Defendants cannot make this determination themselves. If the Parties do
2 not agree, the dispute will be submitted to the Court.

3 56. Defective Submissions: If a Class Member's Request for Exclusion is defective as
4 to the requirements listed herein, that Class Member will be given an opportunity to cure the
5 defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3)
6 business days of receiving the defective submission to advise the Class Member that his or her
7 submission is defective and that the defect must be cured to render the Request for Exclusion valid.
8 The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15) calendar
9 days from the date of the cure letter, whichever date is later, to postmark a revised Request for
10 Exclusion. If a Class Member responds to a cure letter by filing a defective claim, then the
11 Settlement Administrator will have no further obligation to give notice of a need to cure. If the
12 revised Request for Exclusion is not postmarked within that period, it will be deemed untimely.

13 57. Request for Exclusion Procedures: Any Class Member wishing to opt-out from the
14 Action must sign and postmark a written Request for Exclusion to the Settlement Administrator
15 by the Response Deadline. The Request for Exclusion must include (a) the Class Member's name,
16 signature, address, telephone number, dates of employment at Defendants in California, and the
17 last four digits of the Class Member's Social Security number and/or the Employee ID number;
18 (b) the case name and number; and (c) a clear statement requesting to be excluded from the
19 settlement of the class claims similar to the following: "I wish to exclude myself from the class
20 settlement reached in the matter of "*Ignacio Tafoya Vargas v. Chemcor Chemical Corporation, et*
21 *al.* ", San Bernardino County Case No. CIVSB2110114,, I understand that by excluding myself, I
22 will not receive money from the settlement of my individual claims." The date of the postmark on
23 the return mailing envelope receipt confirmation will be the exclusive means to determine whether
24 a Request for Exclusion has been timely submitted. To be effective, the Request for Exclusion
25 must be post-marked by the Response Deadline and received by the Settlement Administrator. All
26 Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly
27 to Class Counsel and Defendants' Counsel the Requests for Exclusion that were timely submitted.
28 All Class Members who do not request exclusion from the Action will be bound by all terms of

1 the Settlement Agreement if the Settlement is granted final approval by the Court and deemed
2 Effective under this Agreement. The Request for Exclusion shall not be effective as to the release
3 of claims arising under the Private Attorneys General Act.

4 58. Defendants' Right to Rescind: If Class Members representing more than the
5 aggregate total of five percent (5.0%) of the Class Members opt-out of the Settlement, Defendants
6 may, at their election, rescind the Settlement Agreement and all actions taken in furtherance of it
7 will be thereby null and void. Defendants must give written notice to Class Counsel of its intent to
8 rescind the Agreement within fourteen (14) calendar days of the Settlement Administrator
9 notifying the Parties of these opt-outs. If Defendants exercise their right to rescind the Agreement,
10 Defendants shall be responsible for all Settlement Administration Costs incurred to the date of
11 rescission. In such a case, the Parties and any funds to be awarded under this Settlement
12 Agreement shall be returned to their respective statuses as of the date and time immediately prior
13 to the execution of this Agreement, and the Parties shall proceed in all respects as if this Settlement
14 Agreement had not been executed, except that any fees already incurred by the Settlement
15 Administrator shall be paid by Defendants.

16 59. Settlement Terms Bind All Class Members Who Do Not Opt-Out: Upon the
17 complete funding of the Gross Settlement Amount, any Class Member who does not affirmatively
18 opt-out of the Settlement by submitting a timely and valid Request for Exclusion will be bound by
19 all of its terms, including those pertaining to the Released Class Claims, as well as any Judgment
20 that may be entered by the Court if it grants final approval to the Settlement. Class Members who
21 opt-out of the Settlement shall not be bound by such Judgment or release. The names of Class
22 Members who have opted-out of the settlement shall be disclosed to the Counsel for both Plaintiff
23 and Defendants and noted in the proposed Judgment submitted to the Court.

24 60. Objection Procedures: To object to the Settlement, a Participating Class Member
25 must postmark a valid Objection to the Settlement Administrator on or before the Response
26 Deadline. The Objection must be signed by the Participating Class Member and contain all
27 information required by this Settlement Agreement including the employees full name, address,
28 telephone number, the last four digits of their social security number and/or Employee ID number,

1 and the specific reason including any legal grounds for the Participating Class Members objection.
2 The postmark date will be deemed the exclusive means for determining that the Notice of
3 Objection is timely. Participating Class Members who fail to object in the manner specified above
4 will be foreclosed from making a written objection, but shall still have a right to appear at the Final
5 Approval Hearing in order to have their objections heard by the Court. At no time will any of the
6 Parties or their counsel seek to solicit or otherwise encourage Participating Class Members to
7 submit written objections to the Settlement or appeal from the Order and Judgment. Class Counsel
8 will not represent any Class Members with respect to any objections to this Settlement.

9 61. Certification Reports Regarding Individual Settlement Payment Calculations: The
10 Settlement Administrator will provide Defendants' Counsel and Class Counsel a weekly report
11 which certifies: (a) the number of Class Members who have submitted valid Requests for
12 Exclusion; (b) the number of Notices returned and re-mailed and (c) whether any Class Member
13 has submitted a challenge to any information contained in the Notice. Additionally, the Settlement
14 Administrator will provide to counsel for both Parties any updated reports regarding the
15 administration of the Settlement Agreement as needed or requested.

16 62. Uncashed Settlement Checks: Any checks issued by the Settlement Administrator
17 to Participating Class Members and PAGA Members will be negotiable for at least one hundred
18 eighty (180) calendar days. If a Participating Class Member or PAGA Member does not cash his
19 or her Settlement Check or PAGA Payment check within 180 days, the uncashed funds, subject to
20 Court approval, shall be distributed to the Controller of the State of California to be held pursuant
21 to the Unclaimed Property Law, California Civil Code §1500, et. seq. for the benefit of those
22 Participating Class Members and PAGA Members who did not cash their checks until such time
23 that they claim their property. The Parties agree that this disposition results in no "unpaid residue"
24 under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out
25 to Participating Class Members and PAGA Members, whether or not they all cash their Settlement
26 Checks or PAGA payment checks. Therefore, Defendants will not be required to pay any interest
27 on such amounts. The Individual Settlement Payments provided to Participating Class Members
28 and to PAGA Members shall prominently state the expiration date or a statement that the

1 Settlement Check will expire in one hundred eighty (180) days, or alternatively, such a statement
2 may be made in a letter accompanying the Individual Settlement Payment. Expired Individual
3 Settlement Payments will not be reissued, except for good cause and as mutually agreed by the
4 Parties in writing. The parties agree no unclaimed funds will result from the settlement.

5 63. Administration of Taxes by the Settlement Administrator: The Settlement
6 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class
7 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant
8 to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll
9 taxes and penalties to the appropriate government authorities.

10 64. Tax Liability: Defendants make no representation as to the tax treatment or legal
11 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not
12 relying on any statement, representation, or calculation by Defendants or by the Settlement
13 Administrator in this regard. Plaintiff and Participating Class Members understand and agree that
14 they will be solely responsible for the payment of any taxes and penalties assessed on the payments
15 described herein. Defendants' share of any employer payroll taxes and other required employer
16 withholdings due on the Individual Settlement Payments, including, but not limited to, Defendants'
17 FICA and FUTA contributions, shall be paid separate and apart from the Gross Settlement
18 Amount.

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

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

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

11 67. Release by Participating Class Members: Upon the complete funding of the Gross
12 Settlement Amount, Participating Class Members shall fully and finally release and discharge the
13 Released Parties from the Released Class Claims that arose during the Class Period. This release
14 shall be binding on all Participating Class Members.

15 68. Release by Plaintiff, State of California, LWDA and PAGA Members: Upon the
16 complete funding of the Gross Settlement Amount, Plaintiff, the LWDA, the State of California,
17 through Plaintiff as its agent and/or proxy, any another representative, proxy, or agent thereof,
18 including but not limited to any and all PAGA Members, shall fully and finally release and
19 discharge the Released Parties from the Released PAGA Claims that arose during the PAGA
20 Period. The Parties intend for this PAGA settlement to have claim preclusion, issue preclusion, or
21 otherwise bar a representative action to the broadest extent possible by law if an aggrieved
22 employee were to bring a subsequent claim on behalf of the LWDA based on the same factual
23 predicate as the Action and covering the same time.

24 69. Release of Additional Claims & Rights by Plaintiff: Release by Settlement Class
25 Members. Upon the "Effective Date", Plaintiff and every member of the Settlement Class (except
26 those who opt out) shall release and discharge. Defendants, its/their past and present officers,
27 directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors,
28 consultants, and its respective successors and predecessor in interest, subsidiaries, affiliates,

1 parents and attorneys (collectively the "Released Parties"), from all claims, demands, rights,
2 liabilities and causes of action that were pled in any of the Complaints in the Action, or which
3 could have been pled in any of the Complaints in the Action based on the factual allegations or
4 could have arisen in any manner from the factual allegations therein, that arose during the Class
5 Period ("Released Claims") with respect to all alleged claims from the Complaints including the
6 following claims: (a) failure to pay all overtime wages; (b) failure to pay all minimum wages; (c)
7 failure to provide proper meal periods, or premium pay for non-compliant meal periods; (d) failure
8 to authorize and permit rest periods, or premium pay for non-compliant rest periods; (e) failure to
9 provide accurate wage statements; (t) failure to pay all accrued and unused annual vacation pay;
10 (g) claims for PAGA civil penalties based on the foregoing Labor Code violations; and (h) all
11 claims for unfair business practices that could have been premised of the facts, claims, causes of
12 action or legal theories described above. The Release only covers claims arising during the Class
13 Period; however, the Release shall survive and remain effective beyond the end of the Class Period.
14 Such claims include but are not limited to any and all Released Class Claims and Released PAGA
15 Claims and termination thereof, California Civil Code, to include §§3287, 3336 and 3294; 12 CCR
16 §11040; 8 CCR § 11060; California Code of Civil Procedure §1021.5; California common law of
17 contract; 29 CFR §778.223; and 29 CFR §778.315; federal common law and, to the extent
18 permitted by law, the Employee Retirement Income Security Act, 29 U.S.C. §§1001, *et seq.*
19 (ERISA) §778.315; and federal common law. In addition, Plaintiff's General Release includes but
20 is not limited to, all claims for lost wages and benefits, emotional distress, retaliation, restitution,
21 penalties, punitive damages, and attorneys' fees and costs (except those provided by this
22 Settlement Agreement) arising under federal, state, or local laws for discrimination, harassment,
23 retaliation, and wrongful termination, such as, by way of example only, (as amended) 42 U.S.C.
24 §1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the
25 Age Discrimination in Employment Act (ADEA), and the California Fair Employment and
26 Housing Act (FEHA); and the law of contract and tort. This release excludes the release of claims
27 not permitted by law. Plaintiff's General Release include all claims, whether known or unknown.
28 Even if Plaintiff discovers facts in addition to or different from those they now know or believe to

1 be true with respect to the subject matter of Plaintiff's General Release, those claims will remain
2 released and forever barred. The res judicata effect of the judgment will be the same as that of the
3 Release. The "Effective Date" shall be defined as the latter of: (a) the date the Court grants final
4 approval of the Settlement, if no objections have been filed and not withdrawn; (b) the time for
5 appeal has expired if an objection has been filed and no appeal has been filed and not withdrawn;
6 or (c) if an appeal is filed and is not withdrawn, the final resolution of any appeal including the
7 issuance the remittitur thereafter Specifically, Plaintiff waives all rights and benefits afforded by
8 California Civil Code Section 1542, which provides:

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

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

25 70. Nullification of Settlement Agreement: In the event that: (a) the Court does not
26 enter the Preliminary Approval Order and approve the Released Claims specified herein without
27 requiring material changes to the "Basic Settlement Terms" defined as relating to the monetary
28 sums to be paid in the Settlement, the parameters of the Released Claims and the covered Class

1 Period, revisions to the Increase in Workweeks provision contained herein; and revisions to
2 Defendants' Option to Nullify the Settlement Agreement provision contained herein); (b) the Court
3 does not finally approve the Settlement without requiring material changes to the Basic Settlement
4 Terms as provided herein; (c) the Court strikes or does not approve any material term of this
5 Settlement Agreement; (d) Defendants exercise their option to nullify the Settlement Agreement
6 based on an excessive number of opt-outs, as described in the above; or (e) the Settlement does
7 not become final as written and agreed to by the Parties for any other reason, then this Settlement
8 Agreement, and any documents generated to bring it into effect, will be null and void, all amounts
9 deposited into the QSF will be returned to Defendants, and the Parties shall be returned to their
10 original respective positions. Any order or judgment entered by the Court in furtherance of this
11 Settlement Agreement will likewise be treated as void from the beginning and the Stipulations and
12 Recitals contained herein shall be of no force or effect and shall not be treated as an admission by
13 the Parties or their counsel. Should the Court fail to approve this settlement for any reason, the
14 Parties agree that they will return to and attend mediation with a mutually agreed Mediator in an
15 effort to reach a settlement that may be approved by the Court, unless the Parties are able to resolve
16 the issue without resort to a mediator.

17 71. Preliminary Approval Hearing: Plaintiff will obtain a hearing before the Court to
18 request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary
19 Approval Order for: (a) conditional certification of the Settlement Class for settlement purposes
20 only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a
21 Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the
22 Notice to be sent to all class Members as specified herein. In conjunction with the Preliminary
23 Approval hearing, Plaintiff will submit this Agreement, which sets forth the terms of the
24 Settlement, and will include the proposed Notice attached as **Exhibit A**. Defendants agree that
25 they will not oppose Plaintiff's motion for Preliminary Approval. Any failure by the Court to fully
26 and completely approve the Agreement as to the Action will result in this Settlement Agreement
27 and the Memorandum of Understanding entered into by the Parties, and all obligations under this
28 Settlement Agreement and the Memorandum of Understanding being nullified and voided.

1 72. Final Settlement Approval Hearing and Entry of Judgment: Upon expiration of the
2 deadlines to postmark Requests for Exclusion or Objections to the Settlement Agreement, and with
3 the Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to
4 determine the Final Approval of the Settlement Agreement along with the amounts properly
5 payable for: (a) Individual Settlement Payments; (b) Class Counsel's Fees and Costs; (c) the Class
6 Representative Enhancement Payments; and (d) the Settlement Administration Costs. Any failure
7 by the Court to fully and completely approve the Settlement Agreement as to all of the Action, or
8 the entry of any Order by another Court with regard to any of the Action which has the effect of
9 modifying material terms of this Agreement as described above or preventing the full and complete
10 approval of the Settlement Agreement as written and agreed to by the Parties, will result in this
11 Agreement and all obligations under this Agreement being null and void. Defendants agree they
12 shall not oppose the granting of the Motion for Final Approval, provided Defendants have not
13 exercised their right to rescind pursuant to the terms of this Agreement.

14 73. Judgment and Continued Jurisdiction: Upon Final Approval of the Settlement by
15 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
16 Judgment to the Court for its approval. After entry of the Judgment and Effective Date of this
17 Agreement, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the
18 interpretation and enforcement of the terms of the Settlement, (b) Settlement administration
19 matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth
20 in this Settlement.

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

24 75. Entire Agreement: This Settlement Agreement and any attached Exhibits constitute
25 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
26 agreements in relation to settlement terms may be deemed binding on the Parties.
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1 76. Amendment or Modification: This Settlement Agreement may be amended or
2 modified only by a written instrument signed by counsel for all Parties or their successors-in-
3 interest.

4 77. Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant
5 and represent they are expressly authorized by the Parties whom they represent to negotiate this
6 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
7 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
8 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
9 counsel will cooperate with each other and use their best efforts to affect the implementation of
10 the Settlement. If the Parties are unable to reach agreement on the form or content of any document
11 needed to implement the Settlement, or on any supplemental provisions that may become
12 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court
13 or Mediator to resolve such disagreement.

14 78. Binding on Successors and Assigns: This Settlement Agreement will be binding
15 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
16 defined.

17 79. California Law Governs: All terms of this Settlement Agreement and Exhibits
18 hereto will be governed by and interpreted according to the laws of the State of California.

19 80. Execution and Counterparts: This Settlement Agreement is subject only to the
20 execution of all Parties. However, the Settlement Agreement may be executed in one or more
21 counterparts. All executed counterparts and each of them, including facsimile and scanned copies
22 of the signature page, will be deemed to be one and the same instrument provided that counsel for
23 the Parties will exchange among themselves original signed counterparts.

24 81. Acknowledgement that the Settlement is Fair and Reasonable: The Parties believe
25 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have
26 arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation,
27 taking into account all relevant factors, present and potential. The Parties further acknowledge that
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1 they are each represented by competent counsel and that they have had an opportunity to consult
2 with their counsel regarding the fairness and reasonableness of this Settlement.

3 82. Invalidity of Any Provision: Before declaring any provision of this Agreement
4 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible
5 consistent with applicable precedents so as to define all provisions of this Agreement valid and
6 enforceable.

7 83. Waiver of Certain Appeals: The Parties agree to waive appeals and to stipulate to
8 class certification for purposes of this Settlement only; except, however, that either party may
9 appeal any court order that materially alters the Settlement Agreement's terms.

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

18 85. Non-Admission of Liability: The Parties enter into this Agreement to resolve the
19 dispute that has arisen between them and to avoid the burden, expense and risk of continued
20 litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, they
21 have violated any federal, state, or local law; violated any regulations or guidelines promulgated
22 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
23 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
24 engaged in any other unlawful conduct with respect to their employees. Neither this Agreement,
25 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed
26 as an admission or concession by Defendants of any such violations or failures to comply with any
27 applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this
28 Agreement and its terms and provisions shall not be offered or received as evidence in any action

1 or proceeding to establish any liability or admission on the part of Defendants or to establish the
2 existence of any condition constituting a violation of, or a non-compliance with, federal, state,
3 local or other applicable law. Except as set forth elsewhere herein, in the event that this Agreement
4 is not approved by the Court, or any appellate court, is terminated, or otherwise fails to be
5 enforceable, Plaintiff will not be deemed to have waived, limited or affected in any way any claims,
6 rights or remedies, or defenses in the Action, and Defendants will not be deemed to have waived,
7 limited, or affected in any way any of its objections or defenses in the Action. The Parties shall be
8 restored to their respective positions in the Action prior to the entry of this Settlement.

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

12 87. Waiver: No waiver of any condition or covenant contained in this Settlement
13 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered
14 to imply or constitute a further waiver by such party of the same or any other condition, covenant,
15 right or remedy.

16 88. Enforcement Action: In the event that one or more of the Parties institutes any legal
17 action or other proceeding against any other Party or Parties to enforce the provisions of this
18 Settlement or to declare rights and/or obligations under this Settlement, the successful Party or
19 Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees
20 and costs, including expert witness fees incurred in connection with any enforcement actions.

21 89. Neutral Employment Reference: Defendants agree that they will provide a neutral
22 reference regarding any future employment references related to Plaintiff. In the event that any
23 potential or future employers of Plaintiff request a reference regarding Defendants' employment
24 of Plaintiff, Defendants shall only provide Plaintiff's dates of employment, job titles during
25 employment, and final rate of pay (to the extent permitted by law). Defendants shall not refer to
26 the Action or this Settlement.

27 90. Mutual Preparation: The Parties have had a full opportunity to negotiate the terms
28 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly

1 against one Party than another merely by virtue of the fact that it may have been prepared by
2 counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
3 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

4 91. Representation By Counsel: The Parties acknowledge that they have been
5 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
6 and that this Agreement has been executed with the consent and advice of counsel and reviewed
7 in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
8 Agreement.

9 92. All Terms Subject to Final Court Approval: All amounts and procedures described
10 in this Settlement Agreement herein will be subject to final Court approval.

11 93. Cooperation and Execution of Necessary Documents: The Parties agree to
12 cooperate to promote participation in the Settlement, and in seeking court approval of the
13 Settlement. The Parties and their counsel agree not to take any action to encourage any Class
14 Members to opt out of and/or object to the Settlement. Defendants agree not to obtain any
15 settlement agreement waivers, or Pick-Up Stix agreements from any Class Member prior to the
16 funding of the Gross Settlement Amount concerning claims released via this Agreement, or enter
17 into any arbitration agreement with any Class Member that covers the claims released via this
18 Agreement during the Settlement approval process prior to the funding of the Gross Settlement
19 Amount and that the Parties will work in good faith to reach an agreement approved by the Court.


20 94. Confidentiality: The Parties and their counsel agree to keep the terms of the
21 Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Plaintiff,
22 Class Counsel, Defendants and their counsel agree that they will not issue any press releases,
23 initiate any contact with the press, respond to any press inquiry or have any communication with
24 the press about the fact, amount or terms of the Settlement Agreement. Nothing in this Settlement
25 Agreement shall limit Defendants' ability to fulfill disclosure obligations reasonably required by
26 law or in furtherance of business purposes, including the fulfillment of obligations stated in this
27 Settlement Agreement or limit Class Counsel's communications with the Class Members in
28 furtherance of approval of this Settlement.

1 95. Binding Agreement: The Parties warrant that they understand and have full
2 authority to enter into this Settlement, and further intend that this Settlement Agreement will be
3 fully enforceable and binding on all Parties and agree that it will be admissible and subject to
4 disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality
5 provisions that otherwise might apply under federal or state law.

6 96. Submission to the LWDA: The Settlement Agreement shall be submitted by
7 Plaintiff to the LWDA within the time limits and as prescribed by law.

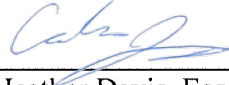
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9 Dated: 6/21/2023

PLAINTIFF
DocuSigned by:

By: 
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Ignacio Tafoya Vargas

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11
12
13 Dated: 7/17/2023

PROTECTION LAW GROUP, LLP

14
15 By: 
16 Heather Davis, Esq.
17 Amir Nayebdadash, Esq.
18 Carlos Jimenez, Esq.
19 Attorneys for Plaintiff
20 Ignacio Tafoya Vargas

21 Dated: _____

DEFENDANT CHEMCOR CHEMICAL CORPORATION

22 By: _____
23 Name: _____
24 Title: _____
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26
27
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1 95. Binding Agreement: The Parties warrant that they understand and have full
2 authority to enter into this Settlement, and further intend that this Settlement Agreement will be
3 fully enforceable and binding on all Parties and agree that it will be admissible and subject to
4 disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality
5 provisions that otherwise might apply under federal or state law.

6 96. Submission to the LWDA: The Settlement Agreement shall be submitted by
7 Plaintiff to the LWDA within the time limits and as prescribed by law.

8
9 Dated: _____

PLAINTIFF

10 By: _____
11 Ignacio Tafoya Vargas

12
13 Dated: _____

PROTECTION LAW GROUP, LLP

14
15 By: _____
16 Heather Davis, Esq.
17 Amir Nayebdadash, Esq.
18 Carlos Jimenez, Esq.
19 Attorneys for Plaintiff
Ignacio Tafoya Vargas

20 Dated: 07/14/23

DEFENDANT CHEMCOR CHEMICAL CORPORATION

21 By: Brett Tarquin
22 Name: Brett Tarquin
23 Title: Senior Vice President
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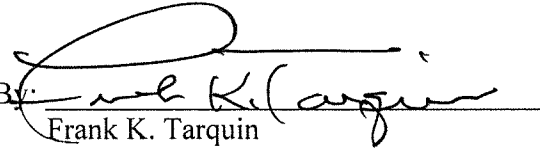
Dated: 5/19/23

DEFENDANT RONALD H. TARQUIN

By: 
Ronald H. Tarquin

Dated: 6/19/23

DEFENDANT FRANK K. TARQUIN

By: 
Frank K. Tarquin

Dated: 6/20/23

HART KIENLE PENTECOST PC


By: 
Robert M. Dickson
Attorneys for Defendants
Chemcor Chemical Corporation, Ronald H.
Tarquin, and Frank K. Tarquin

Exhibit “A”

NOTICE OF PROPOSED CLASS AND PAGA ACTION SETTLEMENT

Vargas v. Chemcor Chemical Corporation, et al.
San Bernardino County Superior Court Case No. CIVSB2110114

**THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A SOLICITATION.
PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.**

To: All current and former non-exempt employees of Defendants Chemcor Chemical Corporation, David D. Tarquin, Ronald H. Tarquin, and Frank K. Tarquin (“Defendants”) in the state California who worked for Defendants in California at any time between April 5, 2017 through June 14, 2022.

BASIC INFORMATION

1. What is this settlement about?

Plaintiff Ignacio Tafoya Vargas (“Plaintiff”) filed a class action and representative lawsuit against Defendants Chemcor Chemical Corporation, David D. Tarquin, Ronald H. Tarquin, and Frank K. Tarquin, entitled *Vargas v. Chemcor Chemical Corporation, et al.*, San Bernardino County Superior Court Case No. CIVSB2110114 on April 5, 2021. The lawsuit claims that Defendants violated sections of the California Labor Code and California Business and Professions Code. Specifically, Plaintiff alleges that Defendants failed to provide compliant meal and rest periods or pay meal and rest break premiums, did not properly pay employees overtime or pay minimum wages for all time worked, did not provide accurate wage statements, did not timely pay all wages during employment and all wages owed at termination of employment, failed to reimburse employees for necessary business expenses, failed to pay all accrued vacation, and maintained unfair business practices. The settlement also seeks to recover penalties pursuant to the California Private Attorneys General Act (“PAGA”). Defendant denies all alleged violations and deny that they owe Class Members any remedies. The Court has not made a ruling on the merits of the case.

2. Why is this a class action?

In a class action, one or more people, called the Class Representatives (in this case Plaintiff), sue on behalf of people who appear to have similar claims. All these people are referred to as Class Members. In a class action, one court resolves the issues for all Class Members in one lawsuit, except for those who exclude themselves from the Class. The San Bernardino County Superior Court (the “Court”) is in charge of this class action.

3. Why is there a settlement?

The Court has not decided in favor of the Plaintiff or Defendants. Instead, both sides agreed to a settlement which is memorialized in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement”). On **[DATE OF PRELIMINARY APPROVAL]** the Court granted preliminary approval of the Settlement, appointed Plaintiff as the Class Representatives, and appointed their attorney at Protection Law Group LLP as counsel for the Class (“Class Counsel”).

The Court has not yet determined whether it will approve the settlement. Instead, the Court has only determined that the settlement is within the range that could be approved and therefore Notice should be provided to the Class Members. The Court will make a final determination whether to approve the settlement at the Final Approval Hearing.

WHO IS IN THE SETTLEMENT?

4. How do I know if I am part of the settlement?

You are part of the Settlement, and a Class Member, if you are a current or former non-exempt employee who worked for Defendants in California at any time between April 5, 2017 through and ending on June 14, 2022.

THE SETTLEMENT BENEFITS—WHAT YOU GET

5. What does the settlement provide?

The Settlement provides that Defendants will pay a maximum of One Hundred Seventy-Five Thousand Dollars and Zero Cents (\$600,000.00) (“Gross Settlement Amount”). This includes all costs and attorneys’ fees for Class Counsel.

The “Net Settlement Amount” is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts (which are subject to Court approval):

- A. **Attorneys’ Fees to Class Counsel** not to exceed 35% of the Gross Settlement Amount or Two Hundred Ten Thousand Dollars and No Cents (\$210,000.00);
- B. **Litigation Costs/Expenses to Class Counsel** not to exceed Fifteen Thousand Dollars (\$15,000.00);
- C. **Enhancement Payment to the Class Representative** in an amount of \$7,500;
- D. **Settlement Administration Costs** which are currently estimated to be Five Thousand Nine Hundred Dollars and Zero Cents (\$5,900.00); and
- E. **PAGA Penalties** in the amount of Fifty Thousand Dollars and Zero Cents (\$50,000.00) for the settlement of claims arising under the Private Attorney’s General Act of 2004 (PAGA). Seventy-Five percent (75%) of this amount, (\$37,500.00) shall be paid to the LWDA. The remaining twenty-five percent (25%) (\$12,500.00) will be distributed to current and former non-exempt employees of Defendant in California who worked for Defendants in California at any time between March 17, 2020 through and ending on June 14, 2022.

The amount you are eligible to receive from the settlement, your “Individual Settlement Payment” will be determined on a *pro rata* basis, based on the number of weeks you worked in California as non-exempt employee of Defendants between April 5, 2017 through and ending on June 14, 2022. (“Workweeks”). Your Individual Settlement Payment includes both your estimated share of the Net Settlement Amount and, if eligible, your share of the PAGA Payment.

Your Individual Class Payment will be apportioned as twenty percent (20%) wages, forty percent (40%) interest and forty percent (40%) penalties. The wage portion of the Individual Class Payment will be subject to withholding for the employee taxes and will be reported on a W-2 Form. Employer-side payroll taxes shall be paid separately from and in addition to the Gross Settlement Amount. The penalties and interest portions of your Individual Class Payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

Your Individual PAGA Payment will be apportioned as one hundred percent (100%) penalties. The penalties portion of your Individual PAGA Payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

You worked XXX workweeks during the class period. Your Individual Settlement Payment is \$XXX.XX ((Settlement Class Member’s Qualifying Workweeks ÷ All Qualifying Workweeks) x Net Settlement Amount). This amount is an estimate and is subject to change.

You worked **XXX** workweeks during the PAGA period. Your Individual PAGA Payment is **\$XXX.XX** ((PAGA Class Member’s Qualifying Workweeks during the PAGA Period ÷ All Qualifying Workweeks during the PAGA Period) x Employee Share of PAGA Penalties). This amount is an estimate and is subject to change.

This amount was determined based on Defendants’ record of your employment between April 5, 2017 through and ending on June 14, 2022, and is presumed correct. If you dispute the accuracy of Defendants’ records as to the number of weeks worked during the Class Period or PAGA Period, you must provide your current address, telephone number, the last four digits of your Social Security Number or complete Employee ID, and any documentation (i.e., payroll or time keeping records, and paycheck stubs) you have supporting such dispute by **[DATE]**. All disputes regarding your workweeks will be resolved and decided by the Settlement Administrator following consultation with the Parties. However, the Court shall review and could reverse the Settlement Administrator’s initial determination. The Settlement Administrator’s contact information is listed below:

[Settlement Administrator]
[Address]
[Telephone No].

HOW TO GET A PAYMENT FROM THE SETTLEMENT

6. How can I get a payment?

You do not have to do anything to qualify for a payment of your portion of the Settlement.

7. What am I giving up if I do not request to be excluded from the Settlement?

Upon the final approval by the Court of this Settlement Agreement and remittance of the Gross Settlement Amount by Defendants to the Settlement Administrator, Participating Class Members shall fully release and discharge the “Released Parties” from any and all “Released Class Claims” and “Released PAGA Claims” that accrued during the “Class Period.”

The “Released Parties” means Defendants and their past, present and/or future, direct and/or indirect, officers, directors, members, managers, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

The “Released Class Claims” means all claims, rights, demands, liabilities and causes of actions that are alleged, or reasonably could have been alleged, based on the facts alleged in the operative complaint in the Action, including factual claims regarding Defendants’ alleged: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to reimburse necessary business expenses; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) failure to provide timely pay wages during employment; (viii) unfair business practices; (xi) failure to accrued vacation time; and (x) failure to pay reporting time wages. This release shall apply to claims arising during the Class Period.

“Released PAGA Claims” means all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 for civil penalties that could have been premised on the facts alleged both in Plaintiff’s March 17, 2021 PAGA Letter to the LWDA and in the operative complaint including but not limited to penalties that could have been awarded pursuant to Labor Code sections 210, 226.3, 1197.1, 558, and 2699.

The “Class Period” during which the release of Released Class Claims pertains is from April 5, 2017 through and ending on June 14, 2022.

The “PAGA Period” during which the release of Released PAGA Claims pertains is from March 17, 2020 through and ending on June 14, 2022.

All PAGA Members shall release the claims arising under PAGA regardless of whether they submit a request for exclusion as the request for exclusion does not apply to this claim.

EXCLUDING YOURSELF FROM THE RELEASE OF NON-PAGA CLAIMS

If you want to keep the right to sue or continue to sue Defendants with respect to the Released Class Claims then you must submit a request for exclusion in conformity with the requirements set forth herein. If you exclude yourself, you will not receive payment from Net Settlement Amount. However, if eligible, you will still receive a payment in an amount equal to your estimated *pro rata* share of the PAGA Payment because the Request for Exclusion does not apply to this claim.

8. How can I not participate in the Settlement?

To exclude yourself from the release of Released Class Claims you must submit a written request for exclusion. This written request must include your name, address, telephone number and the last four digits of your social security number and/or employee ID number. Your request for exclusion must also include a clear statement that you do not wish to be included in this action such the following: “I wish to exclude myself from the class settlement reached in the matter of “*Ignacio Tafoya Vargas v. Chemcor Chemical Corporation, et al.*”, San Bernardino County Case No. CIVSB2110114, I understand that by excluding myself, I will not receive money from the settlement of my individual claims.”

Your Request for Exclusion must be mailed to the Settlement Administrator at the address listed below, post-marked by [DATE]. You cannot exclude yourself by phone or any means other than those described in this Notice.

[Settlement Administrator]
[Address]

If you ask to be excluded, you will not receive payment of any portion of the Net Settlement Amount and you cannot object to the Settlement. You will not be legally bound by the release of Released Class Claims.

9. If I don’t exclude myself, can I sue Defendants for the same thing later?

No. Unless you submit a request for exclusion, you give up the right to sue Defendants and Released Parties for the Released Class Claims. If you have a pending lawsuit involving the Released Class Claims, speak to your lawyer in that lawsuit immediately.

10. If I exclude myself, can I get money from this settlement?

You will not receive money for the class claims. You will still receive your portion of the PAGA Payment if eligible because the request for exclusion does not apply to this claim.

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in this case?

The Court has approved Protection Law Group LLP as Class Counsel. These attorneys contact information is set forth below:

PROTECTION LAW GROUP LLP

Heather Davis, Esq.
Amir Nayebdadash, Esq.
Carlos Jimenez, Esq.
237 California Street
El Segundo, California 90245
Telephone: (424) 290-3095

Class Counsel will ask the Court for attorneys’ fees of up to \$210,000.00 and reimbursement of litigation cost/expenses of up to \$15,000.00. This amount is subject to Court approval and the Court may award less than the requested amount.

OBJECTING TO THE SETTLEMENT

You can object to the Settlement or some part of it.

12. How do I tell the Court I want to object to the settlement?

If you are a Class Member, you can object to the Settlement and you can give reasons for why you think the Court should not approve it. The Court will consider your views. To object, you should mail your objection to the Settlement Administrator no later than [DATE]. Your objection must include your full name, address, telephone number, the last four digits of your social security number or employee ID number, and the specific reason for your objection. Even if you don’t submit a timely objection, you can still make an oral objection in person or through your attorney at the Final Approval Hearing.

13. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you. If you submit a request for exclusion and an objection, the request for exclusion will control and you will lose any right to object to the Settlement, and will not be bound by any terms of the Settlement.

Whether your dispute, written objection, and request for exclusion are timely, will be determined solely based on the postmark date(s). Any untimely dispute, written objection, and request for exclusion may not be considered. However, even if you don’t submit a timely objection, you can still make an oral objection in person or through your attorney at the Final Approval Hearing.

THE COURT’S FAIRNESS HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement (“Final Approval Hearing”). You may attend, but you do not have to attend.

14. When and where will the Court decide whether to approve the settlement?

The Court will hold the Final Approval Hearing at [] a.m./p.m. on [], 2023], at the San Bernardino County Superior Court located at 385 N. Arrowhead Ave., San Bernardino, CA 92415 in Department S26. The Final Approval Hearing date may be continued without further notice to Class Members.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and determine whether to grant final approval of the Settlement. If there are objections, the Court will consider them.

15. Do I have to come to the hearing?

No. If you agree to the Settlement you do not have to come to Court to talk about it. However, you may attend. You may also retain your own lawyer at your expense to attend on your behalf.

16. How will I learn if the settlement was approved

A notice of final judgment will be posted on the Settlement Administrator website located at [www. \[REDACTED\] .com](http://www. [REDACTED] .com)

IF YOU DO NOTHING

17. What happens if I do nothing at all?

If you do nothing, you will receive your share of the Settlement, and you will release the Released Class Claims and Released PAGA Claims. You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants or the Released Parties about the Released Class Claims or Release PAGA Claims, ever again. Your Individual Settlement Payment will be mailed to you and remain valid and negotiable for 180 days. If you do not cash your settlement check within 180 days from the date on the check, these funds will be transferred to the Controller of the State of California's Unclaimed Property Fund. You may then claim these funds from there.

If you lose your check or it is damaged in the mail, contact the Settlement Administrator.

GETTING MORE INFORMATION

18. How do I get more information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement and the Amendment to Settlement Agreement by viewing the settlement located on the Settlement Administrator's website at [REDACTED] or by contacting the Settlement Administrator or Class Counsel.

WHAT IF MY INFORMATION CHANGES?

19. What if my contact information changes?

It is your responsibility to inform the Settlement Administrator of your updated information to ensure receipt of settlement payments or communications regarding this matter. You can change or update your contact information by contacting the Settlement Administrator.

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE