

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Romualda Razo (“Plaintiff”) and defendant Diverse Facility Solutions, Inc. (“DFS”). The Agreement refers to Plaintiff and DFS collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against DFS captioned Romualda Razo v. Diverse Facility Solutions, Inc., Case No. CIVSB213307 initiated on December 7, 2021, and pending in Superior Court of the State of California, County of San Bernardino.
- 1.2 “Administrator” means Apex Class Action LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4 “Aggrieved Employee” means a person employed by DFS in California and classified as a non-exempt employee who worked for DFS during the PAGA Period.
- 1.5 “Class” means all persons employed by DFS in California during the Class Period and classified as non-exempt.
- 1.6 “Class Counsel” means Zachary Crosner, Jamie Serb, and Chad Saunders of Crosner Legal, PC.
- 1.7 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8 “Class Data” means Class Member identifying information in DFS’s possession, including each Class Member’s name, last-known mailing address, Social Security number, email address (if available), and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of

Address database, skip traces, and direct contact by the Administrator with Class Members.

- 1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a Spanish translation, in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- 1.12 “Class Period” means the period from December 7, 2017, to the date of preliminary approval.
- 1.13 “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15 “Court” means the Superior Court of California, County of San Bernardino.
- 1.16 “DFS” means named Defendant Diverse Facility Solutions, Inc.
- 1.17 “Defense Counsel” means Michael Hughes of Amundsen Davis LLC and Sabrina Shadi of Baker & Hostetler LLP.
- 1.18 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19 “Final Approval” or “Final Approval Order” means the Court’s Order Granting Final Approval of the Settlement.
- 1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “Final Judgment” means the Judgment entered by the Court upon granting Final Approval of the Settlement.
- 1.22 “Gross Settlement Amount” means \$450,000, which is the total amount DFS agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class

Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment.

- 1.23 “Individual Class Payment” means a Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24 “Individual PAGA Payment” means an Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25 “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27 “LWDA PAGA Payment” means 75% of the PAGA Penalties, which are paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29 “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30 “Operative Complaint” means the Complaint filed on December 7, 2021.
- 1.31 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for DFS for at least one day during the PAGA Period.
- 1.32 “PAGA Period” means the period from October 3, 2020 to the date of Preliminary Approval of this Agreement.
- 1.33 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34 “PAGA Notice” means Plaintiff’s September 28, 2021 letter to DFS and the LWDA and Plaintiff’s December 22, 2021 letter to DFS and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35 “PAGA Penalties” means the total amount of PAGA civil penalties (\$45,000) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$11,250) and the 75% to LWDA (\$33,750) in settlement of PAGA claims.

- 1.36 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37 “Plaintiff” means Romualda Razo, the named plaintiff in the Action.
- 1.38 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.39 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval of the Settlement.
- 1.40 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.41 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.42 “Released Parties” means: DFS and each of its former, present and future directors, officers, shareholders, owners, principals, employees, agents, representatives, members, managers, attorneys, insurers, predecessors, successors, assigns, parents, subsidiaries and affiliates.
- 1.43 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.44 “Response Deadline” means 45 days after the Administrator mails the Class Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are re-sent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.45 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46 “Workweek” means any week during which a Class Member worked for DFS for at least one day, during the Class Period.

2. RECITALS.

- 2.1 On December 7, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of action against DFS for Recovery of Unpaid Minimum Wages and Liquidated Damages; Recovery of Unpaid Overtime Wages; Failure to Provide Meal Periods or Compensation in Lieu Thereof; Failure to Provide Rest Periods or Compensation in Lieu Thereof; Failure to Furnish Accurate Itemized Wage Statements; Failure to Timely Pay All Wages Due Upon Separation of Employment; Failure to Reimburse Business Expenses; Unfair Competition; and

Violation of Private Attorneys General Act of 2004. DFS denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to DFS and the LWDA by sending the PAGA Notice.
- 2.3 On April 11, 2023, and June 14, 2023, the Parties participated in mediations presided over by Michael Young, Esq. which led to this Agreement to settle the Action after the Parties accepted a mediator's proposal.
- 2.4 Prior to each mediation, Plaintiff obtained, through informal discovery, a sample of time and payroll data, all relevant policies and procedures, and a list of class members with their dates of employment and hourly rates. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.5 The Court has not granted class certification. No deadline for filing a motion for class certification has been set.
- 2.6 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1 **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8 below, DFS promises to pay \$450,000 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. DFS has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to DFS.
- 3.2 **Payments from the Gross Settlement Amount.** The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval Order:
 - 3.2.1 **To Plaintiff:** Class Representative Service Payment to the Class Representative of not more than \$5,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). DFS will not oppose

Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the Final Approval motion, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for any taxes owed on the Class Representative Service Payment.

3.2.2 **To Class Counsel:** A Class Counsel Fees Payment of not more than one third of the Gross Settlement Amount, which is currently estimated to be \$150,000 and a Class Counsel Litigation Expenses Payment of not more than \$15,000. DFS will not oppose requests for these payments provided that they do not exceed these amounts. As part of the Final Approval motion, Plaintiff and/or Class Counsel will request approval of the Class Counsel Fees Payment and Class Litigation Expenses Payment. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds DFS harmless, and indemnifies DFS, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 **To the Administrator:** An Administrator Expenses Payment not to exceed \$8,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$8,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 **To Each Participating Class Member:** An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1 **Tax Allocation of Individual Class Payments.** 33% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The

Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining 67% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any taxes owed on their Individual Class Payment.

3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5 **To the LWDA and Aggrieved Employees:** PAGA Penalties in the amount of \$45,000 to be paid from the Gross Settlement Amount, with 75% (\$33,750) allocated to the LWDA PAGA Payment and 25% (\$11,250) allocated to the Individual PAGA Payments.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$11,250) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 **Class Workweeks and Aggrieved Employee Pay Periods.** Based on a review of its records to date, DFS estimates there are 334 Class Members who collectively worked a total of 20,000 Workweeks, and 212 Aggrieved Employees who worked a total of 3,330 PAGA Pay Periods.

4.2 **Class Data.** Not later than 15 days after the Court grants Preliminary Approval of the Settlement, DFS will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only

for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. DFS has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which DFS must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3 **Funding of Gross Settlement Amount.** DFS shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay DFS's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

4.4 **Payments from the Gross Settlement Amount.** Within 14 days after DFS funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual Class Payments and Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct a Class Member Address Search for all other Participating Class Members and Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days

of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Participating Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Participating Class Member and/or Aggrieved Employee whose original check was lost or misplaced, requested by the Participating Class Member and/or Aggrieved Employee prior to the void date.

- 4.4.3 For any Participating Class Member and/or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate DFS to confer any additional benefits or make any additional payments to Participating Class Members or Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when DFS fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, and Class Members will release claims against all Released Parties as follows:

- 5.1 **Plaintiff's Release.** Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint or Plaintiff's PAGA Notice. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release

shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 **Plaintiff's Waiver of Rights Under California Civil Code Section 1542.** For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2 **Release by Participating Class Members:** All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, including, (a) any and all claims involving any alleged failure to pay minimum wage; failure to pay overtime; failure to provide meal periods; failure to provide rest periods; failure to provide accurate wage statements; failure to timely pay all wages due at termination; or failure to reimburse all business expenses during the Class Period. Participating Class Members only release these claims for the duration of the Class Period. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 **Release by Aggrieved Employees:** All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice during the PAGA Period. Aggrieved Employees only release these claims for the duration of the PAGA Period.

6. MOTION FOR PRELIMINARY APPROVAL.

6.1 **Plaintiff's Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice and memorandum in support of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for

approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Defendant, Class Counsel or Defense Counsel; and (v) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and all facts relevant to any actual or potential conflict of interest with Class Members, or the Administrator. In their Declaration, Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.2 **Responsibilities of Counsel.** Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.
- 6.3 **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 **Selection of Administrator.** The Parties have jointly selected to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment the Administration Expenses Payment. The Parties and their Counsel represent that they have no interest or

relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 7.2 **Employer Identification Number.** The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 **Qualified Settlement Fund.** The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4 **Notice to Class Members.**
- 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods (as described in Paragraph 7.6 below), and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, DFS or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Release and Aggrieved Employee Release under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.5.5 Before the Effective Date occurs, if five percent (5%) or more of the Class Members submit a valid and timely Request for Exclusion, then Defendant has, at its sole discretion, the right to withdraw from and void this Settlement, and the Parties will revert to their positions prior to provisional class certification under the terms of this Settlement. This option to terminate the Settlement must be exercised in writing, sent by overnight delivery, postmarked within ten (10) business days of Defendant or Defense Counsel receiving notice that the number of Non-Participating Class Members has exceeded five percent (5%) of the Class, to Class Counsel.

7.6 **Challenges to Calculation of Workweeks.** Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination regarding the challenges.

7.7 **Objections to Settlement.**

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class

Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8 **Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 **Website, Email Address and Toll-Free Number.** The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 **Requests for Exclusion (Opt-outs) and Exclusion List.** The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 **Weekly Reports.** The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of

Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- 7.8.4 **Workweek and/or Pay Period Challenges.** The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 **Administrator's Declaration.** Not later than 14 days after the Response Deadline, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of the Class Notice, the total number of Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from the Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.
- 7.8.6 **Final Report by Settlement Administrator.** Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.

- 8.1 Based on its records, DFS estimates that, as of the date of this Settlement Agreement, there are 20,000 Total Workweeks during the Class period.
- 8.2 The Gross Settlement Amount was agreed upon based on DFS's representations of the total number of Workweeks in the Class Period. If the number of Workweeks during the Class Period exceeds 20,000 by more than ten percent (10%), the Gross Settlement Amount shall be increased on a pro rata basis per Pay Period or Workweek exceeding the 10% increase (i.e. if the number increases by 11%, the

Gross Settlement Amount shall be increased by 1%), or Defendant may elect to have the release period end on the date when the 10% is reached.

9. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel as soon as practicable prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 10.1 **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members or Aggrieved Employees), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 **Continuing Jurisdiction of the Court.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4 **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals

the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5 **Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment.** If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Participating Class Members or Aggrieved Employees), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

11. **ADDITIONAL PROVISIONS.**

12.1 **No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes.** This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by DFS that any of the allegations in the Operative Complaint have merit or that DFS has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that DFS's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, DFS reserves the right to contest certification of any class for any reasons, and DFS reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest DFS's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 **Confidentiality Prior to Preliminary Approval.** Plaintiff, Class Counsel, DFS and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate

and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any third-party person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, DFS and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 12.3 **No Solicitation.** The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4 **Integrated Agreement.** Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 **Attorney Authorization.** Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and DFS, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 **Cooperation.** The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

- 12.7 **No Prior Assignments.** The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 **No Tax Advice.** Neither Plaintiff, Class Counsel, DFS nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 **Modification of Agreement.** This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 **Confidentiality.** To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 **Use and Return of Class Data.** Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by DFS in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from DFS unless, prior to the Court's discharge of the Administrator's obligation, DFS makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.
- 12.15 **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.16 **Calendar Days.** Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17 **Notice.** All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Zachary Crosner
zach@crosnerlegal.com
Jamie Serb
jamie@crosnerlegal.com
Chad Saunders
chad@crosnerlegal.com
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210


To DFS:

Michael F. Hughes
mhughes@amundsendavislaw.com
3815 E. Main Street, Suite A1,
St. Charles, Illinois 60174

12.18 **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

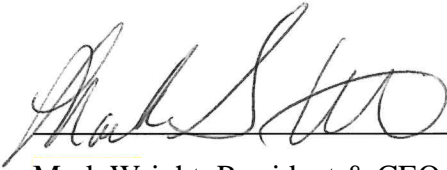
12.19 **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: 09 / 20 / 2023




Plaintiff Romualda Razo

Dated: 9-26-2023



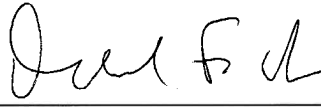
Mark Wright, President & CEO for:
Defendant Diverse Facility Solutions, Inc

Dated: 9/20/23

CROSNER LEGAL, PC


Zachary Crosner, Esq.
Jamie Serb, Esq.
Chad Saunders, Esq.
Attorneys for Plaintiff and the Class

Dated: 9-26-2023

AMUNDSEN DAVIS LLC


Michael F. Hughes, Esq.
Attorneys for Diverse Facility Solutions, Inc

EXHIBIT A

SAN BERNARDINO COUNTY SUPERIOR COURT

NOTICE OF CLASS ACTION SETTLEMENT
ROMUALDA RAZO V. DIVERSE FACILITY SOLUTIONS, INC.

If you are currently or were employed by Diverse Facility Solutions in California at any time between December 7, 2017, and the present, a class action settlement may affect your rights.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. The Superior Court for the County of San Bernardino has authorized this notice in the matter of *Razo v. Diverse Facility Solutions, Inc.*, Case No. CIVSB213307 (the “**Litigation**”). This is not a solicitation from a lawyer.

- Romualda Razo (called the “**Plaintiff**” in this notice), was employed in California by Diverse Facility Solutions, Inc. (called the “**Defendant**”). Plaintiff filed a class action lawsuit (called the “**Complaint**”) against Defendant on December 7, 2021.
- In the Complaint, Plaintiff claims that Defendant failed to pay all minimum wages and overtime wages due to non-exempt employees, failed to provide meal periods and rest periods, failed to provide accurate wage statements, failed to timely pay all wages after the end of employment, failed to reimburse all business expenses, violated California’s Unfair Competition Law, and is liable for civil penalties under the Private Attorneys General Act (“**PAGA**”).
- Defendant disputes Plaintiff’s claims. Defendant expressly and specifically denies violating any laws.
- For settlement purposes only, the Court has conditionally certified the Litigation to be a class action on behalf of all non-exempt employees employed by Defendant in California from December 7, 2017, through [date of preliminary approval] (the “**Class Period**”).
- Your legal rights may be affected by this Settlement whether you act or do not act. Your options are explained in this notice. Thus, please read this notice carefully and in its entirety.

To request to be excluded from, or object to, this Settlement, you must act before [45 calendar days from date of notice].

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

| | |
|-----------------------|---|
| (1) DO NOTHING | (1) Receive part of the Settlement. <i>If you do not do anything upon receipt of this notice, you will receive a sum of money based on your dates of employment with Defendant; you will give up your right to sue for alleged violations and related claims released by the Settlement; you will have no right to appeal; and you will forfeit your right to bring or participate in a similar action against Defendant.</i> |
| (2) OPT-OUT | (2) Opt-out or exclude yourself from the Settlement. <i>If you make a valid and timely written request to be excluded from the Settlement, you will not receive any money from the Class portion of the Settlement, and you will not give up any rights you may have, except as to the PAGA portion of the Settlement.</i> |
| (3) OBJECT | (3) Write to the Court about why you object to the Settlement. <i>If you object to the Settlement, you can write to the Court about why you don’t agree with the Settlement. You may also present oral objections to the Court at the Final Approval Hearing. The Court may or may not agree with your objection. If the Court approves the Settlement, you will still be bound by its terms.</i> |

THIS LEGAL NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT CAREFULLY.

WHAT THIS NOTICE CONTAINS

| | |
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You are receiving this notice because the Superior Court for the County of San Bernardino has granted preliminary approval to a class action settlement for settlement purposes only, and Defendant's records indicate that you may be a member of the settlement Class. As such, you may be eligible for compensation from this Settlement.

As a Class Member, your interests are being represented at no expense to you by Zachary Crosner, Jamie Serb, and Chad Saunders of Crosner Legal, P.C. ("**Class Counsel**"). You may also hire your own lawyer at your own expense.

I. BACKGROUND OF THE CASE

On December 7, 2021, Plaintiff Romualdo Razo filed a complaint in Superior Court for the County of San Bernardino ("**the Court**") on behalf of all current and former non-exempt employees employed by Defendant in the State of California (referred to as "**Class Members**"). The complaint made claims for: 1) Failure to Pay Minimum Wage for All Hours Worked; 2) Failure to Pay Wages for All Hours Worked at Overtime; 3) Failure to Provide Meal Periods; 4) Failure to Authorize or Permit Rest Periods; 5) Failure to Provide Complete and Accurate Wage Statements; 6) Failure to Pay All Wages Timely Upon Separation of Employment; 7) Failure to Reimburse Business Expenses; 8) Unfair Business Practices; and 9) Violation of the Private Attorneys General Act ("**PAGA**").

The Parties thoroughly investigated the case. Plaintiff and Defendant were then able to agree on a Settlement of the case.

Class Counsel believe the Settlement is fair, reasonable, and in the best interests of the Class. Defendant expressly and specifically denies any liability or wrongdoing of any kind associated with the claims alleged in the Litigation. Defendant settled the Litigation to avoid costly, disruptive, and time-consuming litigation.

On [date of preliminary approval], the Court gave preliminary approval to the Settlement and conditionally certified the Settlement Class for settlement purposes only. The Court was not asked to make and did not make any ruling as to whether any violations by Defendant had occurred.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. **What Are the Terms of the Settlement?**

Defendants have agreed to pay \$450,000.00 to settle the Litigation ("**Gross Settlement Amount**"). The Gross Settlement Amount includes attorneys' fees and costs, costs of settlement administration, PAGA penalties, and the Class Representative's Enhancement Award.

The "**Net Settlement Fund**" is the remainder of the Gross Settlement Amount after the deductions have been made for the following items: (1) up to \$150,000 (one-third of the Gross Settlement Amount) for Class Counsel's attorneys' fees; (2) Class Counsel's actual litigation costs, not to exceed \$15,000; (3) the costs of settlement administration, not to exceed \$8,000; (4) \$33,750 to the California Labor and Workforce Development Agency ("**LWDA**") for its share of the PAGA penalties; and (5) up to \$5,000.00 to Plaintiff for serving as a Class Representative.

B. **Who is Included in the Settlement?**

Included in the Settlement are all non-exempt employees employed by Defendant in California from December 7, 2017,

through [date of preliminary approval].

C. How Are Settlement Payments Calculated?

Any Class Member who does not submit a written request to be excluded from the Settlement will have his or her “Settlement Payment” calculated as follows:

a. **All Participating Class Members:** Each Participating Class Member will receive a proportionate share of the Net Settlement Amount (“NSA”) that is equal to (i) the number of weeks he or she worked for Defendant during the Class Period in California based on the Class data provided by Defendant, divided by (ii) the total number of weeks worked by all Participating Class Members during the Class Period based on the same Class data, which is then multiplied by the NSA.

b. **PAGA Penalties Subclass:** This Settlement covers claims brought under the California Labor Code’s Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 et seq.) (“PAGA”). “PAGA Members” are all non-exempt employees of Defendant who were employed in California from October 3, 2020, to [date of preliminary approval] (“PAGA members” or “PAGA Subclass”). The Settlement designates a total of \$45,000.00 as penalties under the PAGA. From this amount, \$11,250 (25%) will be allocated to the PAGA Members. The remainder of the PAGA penalties will be paid to the LWDA, as required by law. Each PAGA Member will receive a proportionate share of the PAGA Payment which equals (i) the number of weeks he or she worked for Defendant during the PAGA Period in California based on the Class data provided by Defendant, divided by (ii) the total number of weeks worked by all PAGA Members during the PAGA Period based on the same Class data, which is then multiplied by \$11,250.

d. **Tax Treatment of Settlement Payments:** Thirty-three percent (33%) of each Settlement Payment will be designated as wages, which shall be reduced by your lawful deductions and withholdings. You will also receive a W-2 form for the wages portion. Sixty-seven percent (67%) of each Settlement Payment will be allocated to penalties and interest for which you will receive a 1099 form.

D. Your Settlement Calculation

Your Settlement Payment is estimated to be \$[amount], based on the following dates of employment as reflected in Defendant’s records, and the calculations described above:

[insert start date(s) and end date(s) of employment and number of work weeks].

If you do not opt-out of the Settlement, then you will receive a check for your Settlement Payments. Your check will be void if you do not cash or deposit your check within 180 days following the issuance of the check. Whether or not you cash or deposit your check, you will be bound by the Settlement and will be deemed to have waived irrevocably any right or claim to your Settlement share and/or to appeal the approval of the Settlement. After the expiration of 180 days, the sum of any uncashed/undeposited checks shall be deposited with the California Controller’s Unclaimed Property division.

E. Release of Claims Against Defendant.

Upon the Final Approval of the Settlement by the Court, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Defendant and each of its former, present and future directors, officers, shareholders, owners, principals, employees, agents, representatives, members, managers, attorneys, insurers, predecessors, successors, assigns, parents, subsidiaries and affiliates from (i) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, including, (a) any and all claims involving any alleged failure to pay minimum wage; failure to pay overtime; failure to provide meal periods; failure to provide rest periods; failure to provide accurate wage statements; failure to timely pay all wages due at termination; or failure to reimburse all business expenses during the Class Period. Participating Class Members only release these claims for the duration of the Class Period.

Only those Class Members who were employed during the PAGA Period, will release their claims for PAGA penalties.

These claims are referred to in this Notice as the “Released Claims.” For more information regarding the scope of the release, please read the Settlement Agreement available at [insert URL].

III. LEGAL RIGHTS AND OPTIONS OF CLASS MEMBERS

A. **Option 1: Do Nothing and Receive a Settlement Payment.**

You do not need to do anything in order to receive a Settlement Payment. If you do nothing, you will automatically be included in the Settlement and will receive a Settlement Payment so long as the Settlement is approved and becomes Final. As set forth above, your Settlement Payment will be based upon whether you worked during the Class Period and, if so, the number of work weeks you worked during the Class Period.

Please keep your address current! To assist the Court and the parties in maintaining accurate lists of Class Members, please mail notice of any change in your address to the Settlement Administrator (address below), or call [Administrator 800 #]. *Please say that you are a part of the Razo v. Diverse Facility Solutions Settlement Class.*

B. **Option 2: Exclude Yourself from the Settlement.**

IMPORTANT: You will be bound by the terms of the Settlement unless you submit a timely and signed written request to be excluded from the Settlement. To exclude yourself from the Settlement, you must mail your request for exclusion, postmarked no later than [45 calendar days after notice date], to:

[SETTLEMENT ADMINISTRATOR]
[ADDRESS]

Your request for exclusion must contain your full name and a statement that you wish to be excluded. Your request for exclusion must be returned by mail to the Settlement Administrator at the address above and must be postmarked on or before [45 calendar days after notice date]. If you request exclusion, you will not be excluded from the PAGA Subclass. If you request exclusion, you will still be entitled to receive your share of the PAGA portion of the Settlement, if any, and will still be bound by the PAGA portion of the Settlement if you are a member of the PAGA Subclass.

C. **Option 3: Object to the Settlement.**

Any Settlement Class Member who has not submitted a request for exclusion may object to the terms of the Settlement. You may object to the proposed settlement in writing and/or orally at the Final Approval Hearing. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing should: (1) clearly identify the case name and number (*Razo v. Diverse Facility Solutions, Inc.*, Case No. CIVSB213307); and (2) be mailed to the Settlement Administrator postmarked on or before [45 calendar days after notice date]. A Settlement Class Member may appear personally or through an attorney, at his or her own expense, at the Final Approval Hearing to present his or her objection directly to the Court.

COUNSEL FOR THE PARTIES

CLASS COUNSEL

Zachary M. Crosner
Jamie Serb
Chad Saunders
CROSNER LEGAL, P.C.
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Tel: (866) 276-7637

COUNSEL FOR DEFENDANT

Michael F. Hughes
Amundsen Davis LLC
3815 E. Main Street, Suite A1,
St. Charles, Illinois 60174

YOU MAY OBJECT TO THE SETTLEMENT AND STILL RECEIVE YOUR SHARE OF THE NET SETTLEMENT AMOUNT. IF THE COURT APPROVES THE SETTLEMENT DESPITE YOUR OBJECTIONS, YOU WILL RECEIVE YOUR SHARE OF SETTLEMENT PROCEEDS.

NO MATTER WHICH OPTION YOU CHOOSE, DEFENDANT WILL NOT RETALIATE AGAINST YOU.

IV. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing on [DATE], at [TIME], in Courtroom [xx] at 247 West Third Street, San Bernardino, CA 92415-0210, [judge] presiding, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The hearing may be continued or rescheduled without further notice to Class Members. You can check whether

the Final Approval Hearing has been continued or rescheduled by visiting [\[insert Administrator URL\]](#) or through the Court's website: <https://cap.sb-court.org/search>, and then entering the case number for this action, CIVSB213307.

You may attend the Final Approval Hearing but are not required to do so. Written objections will be considered at the Final Approval Hearing whether or not the person objecting appears at the hearing. If you object and wish to appear at the Final Approval Hearing, you may appear personally or through counsel hired at your own expense, as long as you provide the Court with timely notice of your intent to appear.

At no expense to you, Class Counsel will represent your interests as a Class Member. Or, you may hire your own lawyer at your own expense.

V. ADDITIONAL INFORMATION

This Notice is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you may read the detailed Settlement Agreement, which is available at [\[insert Administrator URL\]](#). You may also access Plaintiff's Motion for Preliminary Approval, Plaintiff's Motions for Final Approval and Attorneys' Fees (when available), and other important documents related to this case, at the above website. If you have any questions regarding this Notice, the Settlement, or the Litigation, you may contact Class Counsel.

DO NOT TELEPHONE THE COURT OR DEFENSE COUNSEL