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Attorneys for Plaintiff, DANTE HENDERSON,
on behalf of himself and all others similarly situated
and aggrieved

Other Attorneys on Next Page

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

DANTE HENDERSON, an individual, on
behalf of himself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

BIZON GROUP, INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: HG21115170

[Assigned for all purposes to the Hon.
Evelio Grillo in Dept. 21]

**AMENDED JOINT STIPULATION
RE: CLASS ACTION AND
REPRESENTATIVE ACTION
SETTLEMENT**

ACTION FILED: October 7, 2021

TRIAL DATE: None set

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Counsel for Defendant, BIZON GROUP, INC.

This Amended Joint Stipulation Re: Class Action and Representative Action Settlement (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between plaintiff DANTE HENDERSON (“Plaintiff”), on behalf of himself and all others similarly situated and aggrieved, on one hand; and defendant BIZON GROUP, INC. (“Defendant”), on the other hand, in the lawsuit entitled *Henderson v. Bizon Group, Inc.*, filed in Alameda County Superior Court, Case No. HG21115170 (the “Action”). Plaintiff and Defendant shall be, at times, collectively referred to as the “Parties.” This Agreement is intended by the Parties to fully, finally and forever resolve the claims as set forth herein, based upon and subject to the terms and conditions of this Agreement.

1. DEFINITIONS

A. “**Action**” means the action entitled *Henderson v. Bizon Group, Inc.*, filed in Alameda County Superior Court, Case No. HG21115170.

B. “**Aggrieved Employees**” means Class Members working for Defendant, as non-exempt, hourly-paid employees during the PAGA Period in the State of California.

C. “**Class Counsel**” means David D. Bibiyan and Jeffrey D. Klein of Bibiyan Law Group, P.C; Shani O. Zakay of Zakay Law Group, APLC; and Jean-Claude Lapuyade of JCL Law Firm, APC. The term “Class Counsel” shall be used synonymously with the term “Plaintiff’s Counsel.”

D. “**Class Members,**” “**Settlement Class,**” or “**Settlement Class Members**” means all persons currently or formerly employed by Defendant, either directly or through any subsidiary, staffing agency or professional employer organization, as non-exempt, hourly-paid employees, at any time during the Class Period in the State of California.

E. “**Class Period**” means the period from October 7, 2017 through October 7, 2023.

F. “**Class Notice**” means and refers to the notice sent to Class Members after preliminary approval of the Settlement in the manner described in Paragraph 9(A) of this Agreement.

G. “**Court**” means the Superior Court of the State of California for the County of Alameda.

H. “**Final Approval Date**” means the later of: (1) the date the Court signs an Order granting final approval of this Settlement (“Final Approval”) and Judgment and, whether or not there are any objectors or intervenors, the time for any appeal from the Court’s granting of Final Approval has expired without an appeal; (2) to the extent any appeals have been filed, the date on which they have been finally resolved or exhausted and the settlement remains intact following the appeal. “**Defendant**” means Bizon Group, Inc.

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

J. “**General Release**” means the broader release of claims by Plaintiff, which is in addition to Plaintiff’s limited release of claims as a Participating Class Member.

K. “**Gross Settlement Amount**” means a non-reversionary fund in the sum of Three Hundred Eighty-Five Thousand Dollars and Zero Cents (\$385,000.00),¹ which shall be paid by Defendant on September 30, 2024, from which all payments for the Individual Settlement Payments to Participating Class Members, the Court-approved amounts for attorneys’ fees and reimbursement of litigation costs and expenses to Class Counsel, Settlement Administration Costs, the Service Award, the individual PAGA Payments and the LWDA Payment shall be paid. The Gross Settlement Amount is the maximum Defendant shall pay to resolve this matter, except as provided for in Paragraph 17 of this Agreement. The Gross Settlement Fund expressly excludes Employer Taxes, which shall be paid by Defendant separate, apart and in addition to the Gross Settlement Amount.

¹ As the same may be increased in accordance with Paragraph 17 below.

L. “Individual PAGA Payment” means a payment made to an Aggrieved Employee for his or her share of the PAGA Payment, which may be in addition to his or her Individual Settlement Share if he or she is also a Participating Class Member.

M. “Individual Settlement Payment” means a payment to a Participating Class Member of his or her net share of the Net Settlement Amount.

N. “Individual Settlement Share” means the gross amount of the Net Settlement Amount that a Participating Class Member is projected to receive based on the number of Workweeks that he or she worked as a Settlement Class Member during the Class Period, which shall be reflected in his or her Class Notice.

O. “LWDA Payment” means the payment to the State of California Labor and Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the total amount allocated toward penalties under the PAGA, all of which is to be paid from the Gross Settlement Amount. The Parties have agreed that Forty Thousand Dollars and Zero Cents (\$40,000.00) shall be allocated toward PAGA penalties, of which Thirty Thousand Dollars and Zero Cents (\$30,000.00) will be paid to the LWDA (*i.e.*, the LWDA Payment) and Ten Thousand Dollars and Zero Cents (\$10,000.00) will be paid to Aggrieved Employees on a *pro rata* basis based on the Workweeks worked for Defendant as a non-exempt, hourly-paid employee in California in the PAGA Period (*i.e.* the PAGA Payment).

P. “Net Settlement Amount” means the portion of the Gross Settlement Amount that is available for distribution to the Participating Class Members after deductions for the Court-approved allocations for Settlement Administration Costs, a Service Award to Plaintiff, an award of attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel, the LWDA Payment and the PAGA Payment.

Q. “Operative Complaint” or “Complaint” means the First Amended Complaint to be filed in the Action.

R. “PAGA Payment” is the 25% portion of the Forty Thousand Dollars and Zero Cents (\$40,000.00) that is allocated toward PAGA penalties (Ten Thousand Dollars and Zero Cents

(\$10,000.00)) that will be paid to Aggrieved Employees on a *pro rata* basis based on the Workweeks worked as non-exempt, hourly-paid employees in California in the PAGA Period, which would be in addition to their Individual Settlement Payment if they are Participating Class Members, as well.

S. “**PAGA Period**” means the period from July 29, 2020 through October 7, 2023.

T. “**Participating Class Members**” means all Settlement Class Members who do not submit a timely and valid Request for Exclusion.

U. “**Participating Individual Settlement Share**” means the gross amount of the Net Settlement Amount that a Participating Class Member is eligible to receive based on the number of Workweeks that he or she worked as a Settlement Class Member during the Class Period once all opt-outs have been factored in, excluding any Individual PAGA Payment to which he or she may be entitled if he or she is also an Aggrieved Employee.

V. “**Plaintiff**,” “**Named Plaintiff**” or “**Class Representative**” shall refer to Plaintiff Dante Henderson.

W. “**Preliminary Approval Date**” means the date on which the Court enters an Order granting preliminary approval of the Settlement.

X. “**Released Parties**” shall mean Defendant and its parent, subsidiary and related entities, and their past and present owners, officers, directors, shareholders, partners, managers, employees, agents, representatives, assigns, and subsidiaries.

Y. “**Response Deadline**” means the deadline for Settlement Class Members to mail any Requests for Exclusion, Objections or Workweek Disputes to the Settlement Administrator, which is forty-five (45) calendar days from the date that the Class Notice is first mailed in English and Spanish by the Settlement Administrator, unless a Class Member’s notice is re-mailed. In such an instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing or forty-five (45) calendar days from the date of the initial mailing, whichever is later, in which to postmark a Request for Exclusion, Workweek Dispute or Objection. The date of the postmark shall be the exclusive means for determining whether a Request for Exclusion, Objection or Workweek Dispute was submitted by the Response Deadline.

Z. “**Request for Exclusion**” means a written request to be excluded from the Settlement Class pursuant to Paragraph 9(C) below.

AA. “**Service Award**” means monetary amounts to be paid to Plaintiff of up to Ten Thousand Dollars and Zero Cents (\$10,000.00), which, subject to Court approval, will be paid out of the Gross Settlement Amount.

BB. “**Settlement Administration Costs**” means all costs incurred by the Settlement Administrator in administration of the Settlement, including, but not limited to, translating the Class Notice to Spanish, distribution of the Class Notice to the Settlement Class in English and Spanish, calculating Individual Settlement Shares, Individual Settlement Payments, Individual PAGA Payments and Participating Individual Settlement Shares, as well as associated taxes and withholdings, providing declarations, generating Individual Settlement Payment checks and related tax reporting forms, doing administrative work related to unclaimed checks, transmitting payment to Class Counsel for the Court-approved amounts for attorneys’ fees and reimbursement of litigation costs and expenses, to Plaintiff for his Service Award and to the LWDA for the LWDA Payment, providing weekly reports of opt-outs, objections and related information, and any other actions of the Settlement Administrator as set forth in this Agreement, all pursuant to the terms of this Agreement. The Settlement Administration Costs are estimated not to exceed \$,6000. If the actual amount of the Settlement Administration Costs is less than \$6,000, the difference between \$6,000 and the actual Settlement Administration Costs shall be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed \$6,000, then such excess will be paid solely from the Gross Settlement Amount and Defendant will not be responsible for paying any additional funds in order to pay these additional costs.

CC. “**Settlement Administrator**” means the Third-Party Administrator selected by the Plaintiff that will be responsible for the administration of the Settlement including, without limitation, translating the Class Notice in Spanish, distribution of the Individual Settlement Payments to be made by Defendant from the Gross Settlement Amount and related matters under this Agreement.

DD. “**Workweeks**” means the number of weeks that a Settlement Class Member actually worked for Defendant in a non-exempt, hourly-paid position during the Class Period in California, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

EE. “**Payment Due Date**” means the date settlement funds must be deposited with the administrator, which is September 30, 2024, or the Final Approval Date, whichever occurs later.

2. BACKGROUND

A. On July 29, 2021, Plaintiff filed a Notice of Violation with the Labor and Workforce Development Agency (LWDA) and served the same on Defendant.

B. On October 7, 2021, Plaintiff filed the Action, alleging claims for:

(1) Unfair Competition in Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*;

(2) Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, *et seq.*;

(3) Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1;

(4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order;

(5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order;

(6) Failure to Reimburse Plaintiff for Required Expenses in Violation of Cal. Lab. Code § 2802;

(7) Failure to Provide Accurate Itemized Statements in Violation of Cal. Lab. Code § 226;

(8) Failure to Pay Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 & 203;

(9) Failure to Provide Reporting Time Pay in violation of Wage Order No. 5;

(10) Violation of the Private Attorneys General act [Labor Code §§ 2698, *et seq.*].

C. The Class Representative believes he has claims based on alleged violations of the California Labor Code, and the Industrial Welfare Commission Wage Orders, and that class certification is appropriate because the prerequisites for class certification can be satisfied in the Action, and this action is manageable as a PAGA representative action.

D. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, disputes any wages, damages, and penalties claimed by the Class Representative are owed, and further contends that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment, and that this Action is not manageable as a class action or PAGA representative action. Defendant contends, among other things, that at all times it complied with the California Labor Code and the Industrial Welfare Commission Wage Orders.

E. The Class Representative is represented by Class Counsel. Class Counsel have conducted significant investigation of the law and facts relating to the claims asserted in the Action and in the PAGA Notice, and have concluded that the Settlement set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement Class, taking into account the sharply contested issues involved, the expense and time necessary to litigate the Action through trial and any appeals, the risks and costs of further litigation of the Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information learned through informal discovery regarding Plaintiff's allegations, and the substantial benefits to be received by Settlement Class Members.

F. Defendant has concluded that, because of the substantial expense of defending against the Action, the length of time necessary to resolve the issues presented herein, the inconvenience involved and the concomitant disruption to its business operations, it is in its best interest to accept the terms of this Agreement. Defendant denies each of the allegations and claims asserted against them in the Action and in the PAGA Notice. However, Defendant nevertheless desires to settle the Action for the purpose of avoiding the burden, expense and uncertainty of

continuing litigation, and for the purpose of putting to rest the controversies engendered by the Action.

G. On June 5, 2023, the Parties participated in mediation with Michale Loeb, an experienced mediator of wage and hour class and PAGA actions. The mediation concluded with a settlement, which was subsequently memorialized in the form of a Memorandum of Understanding.

H. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class Members have any merit or that Defendant bears any liability to Plaintiff or the Class Members on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit.

I. The Parties believe that the Settlement is fair, reasonable, and adequate. The Settlement was arrived at through arm's-length negotiations, taking into account all relevant factors. The Parties recognize the uncertainty, risk, expense and delay attendant to continuing the Action through trial and any appeal. Accordingly, the Parties desire to settle, compromise and discharge all disputes and claims arising from or relating to the Action fully, finally, and forever.

J. This Agreement is intended to and does effectuate the full, final and complete resolution of all Class Released Claims (as defined in Section 7. A.) of Plaintiff and Participating Class Members, and all PAGA Released Claims (as defined in Section 7. B.) of Plaintiff and, to the extent permitted by law, of the State of California.

3. JURISDICTION

The Court has jurisdiction over the Parties and the subject matter of the Action. The Action includes claims that, if proven, would authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted Final Approval of the Settlement and entered judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment pursuant to California Rules of Court, rule 3.769, subdivision (h).

4. STIPULATION OF CLASS CERTIFICATION

The Parties stipulate to the certification of the Settlement Class under this Agreement for purposes of settlement only. To the extent that Final Approval of the Settlement is not granted, the class will not be deemed certified, and the Parties will return to the same position they were in prior to entering this Settlement Agreement.

5. MOTIONS FOR APPROVAL OF SETTLEMENT

Within thirty (30) days from the full execution of this Agreement, Plaintiff will move for an order granting preliminary approval of the Settlement, approving and directing the mailing of the proposed Notice of Class Action Settlement (“Class Notice”) attached hereto as **Exhibit “A,”** conditionally certifying the Settlement Class for settlement purposes only, and approving the deadlines proposed by the Parties for the submission of Requests for Exclusion, Workweek Disputes and Objections. If and when the Court preliminarily approves the Settlement, and after administration of the Class Notice in a manner consistent with the Court’s Preliminary Approval Order, Plaintiff will move for an order finally approving the Settlement and seek entry of a Judgment in line with this Settlement. The Parties may both respond to any Objections lodged to final approval of the Settlement up to five (5) court days before the Final Approval Hearing.

6. STATEMENT OF NO ADMISSION

Defendant denies any wrongdoing of any sort and further denies any liability to Plaintiff and the Settlement Class with respect to any claims or allegations asserted in the Action and the PAGA Notice. This Agreement shall not be deemed an admission by Defendant of any claims or allegations asserted in the Action or in the PAGA Notice. Except as set forth elsewhere herein, in the event that this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to have waived, limited or affected in any way any claims, rights or remedies, or defenses in the Action or in the PAGA Notice, and Defendants will not be deemed to have waived, limited or affected in any way any of their objections or defenses in the Action and in the PAGA Notice. The Parties shall not stipulate to class certification and shall be restored to their respective positions in the Action prior to the entry of this Settlement. Payment of

wages under this Settlement neither extend nor alter the Class Members' period of employment with Defendant for any purpose.

7. RELEASE OF CLAIMS

A. Release by All Participating Class Members

Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employers Taxes necessary to effectuate the Settlement, Plaintiff and all Participating Class Members release all claims, rights, demands, damages, liabilities, and causes of action, in law or in equity, arising at any time during the Class Period, for the claims brought in the Action, or that could have been brought against Defendant in the Action, based on the facts alleged therein, including, without limitation, any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, actions or causes of action which are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Class Action, and any claim for penalties associated therewith, except for claims for PAGA penalties, which are separately released hereinbelow, including without limitation to, claims for restitution and other equitable relief; claims for unpaid minimum wages, wages, and overtime wages; failure to properly calculate the regular rate; failure to properly calculate overtime; failure to provide rest periods or meal periods or to provide compensation in lieu thereof; meal period penalties; rest period penalties; waiting time penalties; penalties for unpaid minimum wages, wages, or overtime wages; penalties for incomplete payroll records and wage statements; failure to timely pay final wages; failure to pay split shift premiums, failure to reimburse for business expenses; wage statement violations; failure to provide accurate wage statements; failure to comply with California's Paid Sick Leave laws, including the notice requirements thereof; failure to maintain required records; claims relating to the failure to provide personnel files and wage statements; interest on any claim and claims for unfair competition arising from the Labor Code violations alleged in the Operative Complaint (the "Class Released Claims").

B. Release by LWDA On behalf of the LWDA and the State of California, the release includes a release of all claims asserted in the PAGA Notice (the “PAGA Released Claims”). The Class Released Claims and PAGA Released Claims shall be referred to herein as the “Released Claims”.

The Scope of Settlement and the release of Class Released Claims herein is intentionally intended by the Parties to be as broad as possible and include “all claims,” which is expressly intended by the Parties to “includ[e] ‘claims that are not expressly enumerated in the release’” as recognized by the Court of Appeal in *Villacres v. ABM Industries, Inc.* ((2010) 189 Cal.App.4th 562, 587 [acknowledging broad waiver of potential claims, including PAGA-based claims].) As to the PAGA Released Claims, the Parties intend this release to cover all claims for PAGA penalties based on the allegations raised by Plaintiffs in the PAGA Notice, and all transactions and occurrences upon which those claims were based, including all civil penalties sought on behalf of the LWDA under PAGA (including, but expressly not limited to, relief demanded for alleged violations of Labor Code sections 201, 202, 203, 203.1, 204, 204a, 210, 223, 226, 226.7, 246, 432, 432.5, 432.6, 510, 512, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2800 and 2802, as well as alleged violations of IWC Wage Orders), and all costs and attorneys’ fees related thereto.

C. Claims Not Released

The releases above expressly exclude all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and any other claims outside of the Class Released Claims of Participating Class Members arising during the Class Period and the PAGA Released Claims of Aggrieved Employees (and, to the extent permitted by law, the State of California) arising outside of the PAGA Period.

D. General Release

Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment and payment by Defendant to the Settlement Administrator selected of the full Gross Settlement Amount and Employer’s Taxes necessary to effectuate the Settlement, in addition to the

Released Claims, Plaintiff makes the additional following General Release: Plaintiff releases the Released Parties from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule, law or regulation arising out of, relating to, or in connection with any act or omission of the Released Parties through the date of full execution of this Agreement in connection with Plaintiff's employment with Defendant or termination thereof, except for any and all other claims that may not be released as a matter of law through this Agreement. To the extent of the General Release provided herein, Plaintiff stipulates and agrees that, upon entry of an Order granting Final Approval of the Settlement, entry of Judgment and payment by Defendant to the Settlement Administrator selected of the full Gross Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, Plaintiff expressly waives and relinquishes, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

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.

8. SETTLEMENT ADMINISTRATOR

A. Plaintiff, through Class Counsel, have selected Apex Class Action LLC to administer the Settlement, which includes, but is not limited to, translating the Class Notice to Spanish, distributing and responding to inquiries about the Class Notice, and calculating all amounts to be paid from the Gross Settlement Amount. Charges and expenses of the Settlement Administrator, currently estimated to be \$6,000, will be paid from the Gross Settlement Amount. If the actual amount of the Settlement Administration Costs is less than \$6,000, the difference between \$6,000 and the actual Settlement Administration Costs shall be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed \$6,000, then such excess will be paid solely from the Gross

Settlement Amount and Defendant will not be responsible for paying any additional funds in order to pay these additional costs.

9. NOTICE, WORKWEEK DISPUTE, OBJECTION AND EXCLUSION PROCESS

A. Notice to the Settlement Class Members

(1) Within ten (10) calendar days after the Preliminary Approval Date, Defendant's Counsel shall provide the Settlement Administrator with information with respect to each Settlement Class Member, including his or her: (1) name; (2) last known address(es) currently in Defendant's possession, custody or control; (3) last known telephone number(s) currently in Defendant's possession, custody or control; (4) last known Social Security Number(s) in Defendant's possession, custody or control; and (5) the dates of employment (*i.e.*, hire dates and, if applicable, re-hire date(s) and/or separation date(s)) for each Settlement Class Member ("Class List"). The Settlement Administrator shall perform an address search using the United States Postal Service National Change of Address ("NCOA") database and update the addresses contained on the Class List with the newly found addresses, if any. Within seven (7) calendar days or soon thereafter of receiving the Class List from Defendant, the Settlement Administrator shall mail the Class Notice in English and Spanish to the Settlement Class Members via first-class regular U.S. Mail using the most current mailing address information available. The Settlement Administrator shall maintain the Class List and digital copies of all the Settlement Administrator's records evidencing the giving of notice to any Settlement Class Member for at least four (4) years from the Final Approval Date.

(2) The Class Notice will set forth:

- (a) the Settlement Class Member's estimated Individual Settlement Payment and Individual PAGA Payment, and the basis for each;
- (b) the information required by California Rules of Court, rule 3.766, subdivision (d);
- (c) the material terms of the Settlement;

- (d) the proposed Settlement Administration Costs;
- (e) the definition of the Settlement Class;
- (f) a statement that the Court has preliminarily approved the Settlement;
- (g) how the Settlement Class Member can obtain additional information, including contact information for Class Counsel;
- (h) information regarding opt-out and objection procedures;
- (i) the date and location of the Final Approval Hearing; and
- (j) that the Settlement Class Member must notify the Settlement Administrator no later than the Response Deadline if the Settlement Class Member disputes the accuracy of the number of Workweeks worked as set forth on his or her Class Notice (“Workweek Dispute”). If a Settlement Class Member fails to timely dispute the number of Workweeks attributed to him or her in conformity with the instructions in the Class Notice, then he or she shall be deemed to have waived any objection to its accuracy and any claim to any additional settlement payment based on different data.

(3) If a Class Notice from the initial notice mailing is returned as undeliverable, the Settlement Administrator will attempt to obtain a current address for the Settlement Class Member to whom the returned Class Notice had been mailed, within five (5) calendar days of receipt of the returned Class Notice, by: (1) contacting the Settlement Class Member by phone, if possible, and (2) undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new address, it will re-mail the Class Notice to the Settlement Class Member within three (3) business days. Further, any Class Notices that are returned to the Settlement Administrator with a forwarding

address before the Response Deadline shall be promptly re-mailed to the forwarding address affixed thereto.

(4) No later than seven (7) calendar days from the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the completion of the notice process, including the number of attempts to obtain valid mailing addresses for and re-sending of any returned Class Notices, as well as the identities, number of, and copies of all Requests for Exclusion and Objections received by the Settlement Administrator.

B. Objections

Only Participating Class Members may object to the Settlement. In order for any Settlement Class Member to object to this Settlement in writing, or any term of it, he or she must do so by mailing a written objection to the Settlement Administrator at the address or phone number provided on the Class Notice no later than the Response Deadline. The Settlement Administrator shall email a copy of the Objection forthwith to Class Counsel and Defendant's counsel and attach copies of all Objections to the Declaration it provides Class Counsel, which Class Counsel shall file in support of Plaintiff's Motion for Final Approval. The Objection should set forth in writing: (1) the Objector's name; (2) the Objector's address; (3) the last four digits of the Objector's Social Security Number; (4) the Objector's signature; (5) a statement of whether the Objector plans to appear at the Final Approval Hearing; and (6) the reason(s) for the Objection, along with whatever legal authority, if any, the Objector asserts in support of the Objection. If a Settlement Class Member objects to the Settlement, the Settlement Class Member will remain a member of the Settlement Class and if the Court approves this Agreement, the Settlement Class Member will be bound by the terms of the Settlement in the same way and to the same extent as a Settlement Class Member who does not object. The date of mailing of the Class Notice to the objecting Settlement Class Member shall be conclusively determined according to the records of the Settlement Administrator. Settlement Class Members need not object in writing to be heard at the Final Approval Hearing; they may object or comment in person at the hearing at their own expense. Class Counsel and Defendant's Counsel

may respond to any objection lodged with the Court up to five (5) court days before the Final Approval Hearing.

C. Requesting Exclusion

Any Settlement Class Member may request exclusion from (*i.e.*, “opt out” of) the Settlement by mailing a written request to be excluded from the Settlement (“Request for Exclusion”) to the Settlement Administrator, postmarked on or before the Response Deadline. To be valid, a Request for Exclusion must include: (1) the Class Member’s name; (2) the last four (4) digits of the Class Member’s Social Security Number; (3) the Class Member’s signature; and (4) the following statement: “Please exclude me from the Settlement Class in the *Henderson v. Bizon Group, Inc.* matter,” or any statement of similar meaning standing for the proposition that the Class Member does not wish to participate in the Settlement. The Settlement Administrator shall immediately provide copies of all Requests for Exclusion to Class Counsel and Defendant’s Counsel and shall report the Requests for Exclusions that it receives, to the Court, in its declaration to be provided in advance of the Final Approval Hearing. Any Settlement Class Member who requests exclusion using this procedure will not be entitled to receive any payment from the Settlement and will not be bound by the Settlement Agreement or have any right to object to, appeal, or comment on the Settlement. Any Settlement Class Member who does not opt out of the Settlement by submitting a timely and valid Request for Exclusion will be bound by all terms of the Settlement, including those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if Final Approval of the Settlement is granted. A Settlement Class Member cannot submit both a Request for Exclusion and an objection. If a Settlement Class Member submits an Objection and a Request for Exclusion, the Request for Exclusion will control and the Objection will be overruled. Settlement Class Members who worked during the PAGA Period as Aggrieved Employees that submit a valid Request for Exclusion will still be deemed Aggrieved Employees, will still receive their Individual PAGA Payments, and will be bound by the release of the PAGA Released Claims.

D. Disputes Regarding Settlement Class Members’ Workweek Data

Each Settlement Class Member may dispute the number of Workweeks attributed to him or her on his or her Class Notice (“Workweek Dispute”). Any such disputes must be mailed to the Settlement Administrator by the Settlement Class Member, postmarked on or before the Response Deadline. The Settlement Administrator shall immediately provide copies of all disputes to Class Counsel and counsel for Defendant and shall immediately attempt to resolve all such disputes directly with relevant Settlement Class Member(s) with the assistance of Defendant and Class Counsel. If the dispute cannot be resolved in this manner, the Court shall adjudicate the dispute.

10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA PAYMENTS

Individual Settlement Payments will be calculated and distributed to Participating Class Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class Members’ respective number of Workweeks worked during the Class Period. Individual PAGA Payments to Aggrieved Employees will be calculated and distributed to Aggrieved Employees from the PAGA Payment on a *pro rata* basis based on Aggrieved Employees’ respective number of Workweeks worked during the PAGA Period. Specific calculations of the Individual Settlement Shares and Individual PAGA Payments to Aggrieved Employees will be made as follows:

A. The Settlement Administrator will determine the total number of Workweeks worked by each Settlement Class Member during the Class Period (“Class Member’s Workweeks”), as well as the aggregate number of Workweeks worked by all Settlement Class Members during the Class Period (“Class Workweeks”). Additionally, the Settlement Administrator will determine the total number of Workweeks worked by each Aggrieved Employee during the PAGA Period (“Aggrieved Employee’s Workweeks”), as well as the aggregate number of Workweeks worked by all Aggrieved Employees during the PAGA Period (“PAGA Workweeks”).

B. To determine each Settlement Class Member’s Individual Settlement Share, the Settlement Administrator will use the following formula: Individual Settlement Share = (Settlement Class Member’s Workweeks worked ÷ Class Workweeks) × Net Settlement Amount.

C. To determine each Participating Class Member's Participating Individual Settlement Share, the Settlement Administrator will determine the aggregate number of Workweeks worked by all Participating Class Members during the Class Period ("Participating Class Workweeks") and use the following formula: Individual Settlement Share = (Participating Class Member's Workweeks worked ÷ Participating Class Workweeks) × Net Settlement Amount.

D. The net amount of the Participating Individual Settlement Share is to be paid out to Participating Class Members by way of check and is referred to as "Individual Settlement Payment(s)".

E. To determine each Aggrieved Employee's Individual PAGA Payment, the Settlement Administrator will use the following formula: Aggrieved Employee's Individual PAGA Payment = (Aggrieved Employee's Workweeks worked ÷ PAGA Workweeks) x \$10,000.00 (the PAGA Payment).

F. Individual Settlement Payments and Individual PAGA Payments shall be paid to Participating Class Members and/or Aggrieved Employees by way of check. When a Participating Class Member is also an Aggrieved Employee, one check may be issued that aggregates both the Individual Settlement Payment and the Individual PAGA Payment.

11. DISTRIBUTION OF PAYMENTS

A. Distribution of Individual Settlement Payments

Participating Class Members will receive an Individual Settlement Payment and Aggrieved Employees will receive an Individual PAGA Payment. Individual Settlement Payment and Individual PAGA Payment checks shall remain valid and negotiable for one hundred and eighty (180) calendar days after the date of their issuance. Within seven (7) calendar days after expiration of the 180-day period, checks for such payments shall be canceled and funds associated with such checks shall be considered unpaid, unclaimed, or abandoned cash residue pursuant to Code of Civil Procedure section 384 ("Unpaid Residue"). The Unpaid Residue plus accrued interest, if any, as provided in Code of Civil Procedure section 384, shall be transmitted to Legal Aid at Work, 180 Montgomery Street, Suite 600, San Francisco, California 94104, the *cy pres* recipient,

for use in Alameda County. The Settlement Administrator shall prepare a report regarding the distribution plan pursuant to Code of Civil Procedure section 384 and the report shall be presented to the Court by Class Counsel along with a proposed amended judgment that is consistent with the provisions of Code of Civil Procedure section 384.

B. Funding of Settlement

Defendant shall fund the settlement on September 30, 2024, or within (7) calendar days of the Final Approval Date, whichever occurs later by making payment of the Gross Settlement Amount (as the same may be escalated pursuant to Paragraph 17 of this Agreement) and Employer Taxes to the Settlement Administrator pursuant to Internal Revenue Code section 1.468B-1 for deposit in an interest-bearing qualified settlement account (“QSA”) with an FDIC insured banking institution, for distribution in accordance with this Agreement and the Court’s Orders, and subject to the conditions described herein. Provided the Administrator has calculated the Employer Taxes by this date. If not, Defendant shall make the Employer taxes within ten (10) business days following notice from the administrator of the Employer side taxes. In accordance with Section 16 of this Settlement Agreement, Final Approval of this Settlement is a condition precedent to Defendant’s payment of the Gross Settlement Amount.

C. Time for Distribution

Within seven (7) calendar days after payment of the full Gross Settlement Amount and Employer Taxes by Defendant, or as soon thereafter as practicable, the Settlement Administrator shall distribute all payments due from the QSA for: (1) the Service Award to Plaintiff, as specified in this Agreement and approved by the Court; (2) the Attorneys’ Fees and Costs Award to be paid to Class Counsel, as specified in this Agreement and approved by the Court; (3) the Settlement Administrator Costs, as specified in this Agreement and approved the Court; (4) the LWDA Payment, as specified in this Agreement and approved by the Court; (5) Individual PAGA Payments to Aggrieved Employees, as specified in this Agreement and approved by the Court; d (6) Individual Settlement Payments to Participating Class Members, less applicable taxes and withholdings, as specified in this Agreement and approved by the Court; and (7) payment to the LWDA. All interest

accrued shall be for the benefit of the Class Members and distributed on a *pro rata* basis to Participating Class Members based on the number of Workweeks worked by them in the Class Period.

12. ATTORNEYS' FEES AND LITIGATION COSTS

Class Counsel shall apply for, and Defendant shall not oppose, an award of attorneys' fees of up to thirty five percent (35%) of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph 17 of this Agreement, amounts to One Hundred Thirty-Four Thousand Seven Hundred Fifty Dollars and Zero Cents (\$134,750.00). Class Counsel shall further apply for, and Defendant shall not oppose, an application or motion by Class Counsel for reimbursement of actual costs associated with Class Counsel's prosecution of this matter as set forth by declaration testimony in an amount up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Awards of attorneys' fees and costs shall be paid out of the Gross Settlement Amount, for all past and future attorneys' fees and costs necessary to prosecute, settle and obtain Final Approval of the settlement in Action. The "future" aspect of the amounts stated herein includes, without limitation, all time and expenses expended by Class Counsel (including any appeals therein). There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from Defendant for such work unless Defendant materially breaches this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

13. SERVICE AWARD TO PLAINTIFF

Named Plaintiff shall seek, and Defendant shall not oppose, a Service Award in an amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff, for participation in and assistance with the Action. Any Service Award and additional consideration awarded and/or paid to Plaintiff shall be paid from the Gross Settlement Amount and shall be reported on an IRS

Form 1099. If the Court approves the Service Award in less than the amounts sought herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

14. TAXATION AND ALLOCATION

a. Each Individual Settlement Share shall be allocated as follows: 20% as wages (to be reported on an IRS Form W2); and 80% as interest and penalties (to be reported on an IRS Form 1099). Each Individual PAGA Payment shall be allocated entirely as penalties. The Parties agree that the employees' share of taxes and withholdings with respect to the wage portion of the Individual Settlement Share will be withheld from the Individual Settlement Share in order to yield the Individual Settlement Payment. The amount of federal income tax withholding will be based upon a flat withholding rate for supplemental wage payments in accordance with Treasury Regulation § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made pursuant to applicable state and/or local withholding codes or regulations.

b. Forms W-2 and/or Forms 1099 will be distributed by the Settlement Administrator at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

c. All Employer Taxes shall be paid by Defendant separate, apart, and in addition to the Gross Settlement Amount. Defendant shall remain liable to pay the employer's share of payroll taxes as described above.

d. Neither Counsel for Plaintiff nor Defendant intend anything contained in this Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Agreement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

15. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION

The Parties agree to allocate Forty Thousand Dollars and Zero Cents (\$40,000.00) of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five percent

(75%) of the amount allocated toward PAGA (\$30,000.00) will be paid to the LWDA and twenty-five percent (25%) or \$10,000.00 will be distributed to Aggrieved Employees on a *pro rata* basis based upon their respective Workweeks worked as Aggrieved Employees during the PAGA Period.

16. COURT APPROVAL

This Agreement is contingent upon an order by the Court granting Final Approval of the Settlement, and that the LWDA does not intervene and object to the Settlement. In the event it becomes impossible to secure approval of the Settlement by the Court and the LWDA, the Parties shall be restored to their respective positions in the Action prior to entry of this Settlement. If this Settlement Agreement is voided, not approved by the Court or approval is reversed on appeal, it shall have no force or effect and no Party shall be bound by its terms except to the extent: (a) the Court reserves any authority to issue any appropriate orders when denying approval; and/or (b) there are any terms and conditions in this Settlement Agreement specifically stated to survive the Settlement Agreement being voided or not approved, and which control in such an event.

Final Order and Judgment.

a. Upon final approval of the Settlement, a Final Order and Judgment shall be entered by the Court, which shall, among other things:

1. Grant final approval to the Settlement as fair, reasonable, adequate, in good faith and in the best interests of the Class as a whole, and to order the Parties to carry out the provisions of this Agreement.

2. Adjudge that the Settlement Class Members and the LWDA are conclusively deemed to have released the Defendant and the Released Parties of and from any and all rights, claims, demands, liabilities, causes of action, liens, and judgments arising out of or in any way related to the matters within the scope of the Litigation, consistent with the release provisions herein.

3. Bar and permanently enjoin each Settlement Class Member from prosecuting against the Defendant and Released Parties any and all of the Released Claims which the Settlement Class Members have arising out of, based upon, or otherwise related to the Litigation.

4. Confirm that the Parties' resolution of claims for civil penalties brought under the PAGA on behalf of the LWDA meet all required standards and procedural safeguards and that the release of such claims as set forth in this Settlement precludes the LWDA, the State of California or any other representative thereof (including any other aggrieved employee) from pursuing claims released herein on behalf of itself or any aggrieved employee affected by this Settlement and its release terms.

5. Except for the PAGA claims, dismiss this action without prejudice as to all putative Class Members who are not Settlement Class Members.

17. INCREASE IN WORKWEEKS

Defendant represents, to the best of its knowledge, that there are no more than 13,375 Workweeks worked by Class Members during the period from October 7, 2017 through June 5, 2023. In the event the number of Workweeks worked by Class Members during the Class Period increases by more than 10% or 1,337 Workweeks, then the Gross Settlement Amount shall be increased proportionally by the Workweeks worked by Class Members during the Class Period in excess of 14,712 Workweeks multiplied by the Workweek Value. The Workweek Value shall be calculated by dividing the originally agreed-upon Gross Settlement Amount (\$385,000.00) by 13,375 Workweeks. The Parties agree that the Workweek Value amounts to \$28.79 per Workweek ($\$385,000.00 / 13,375$ Workweeks). Thus, for example, should there be 16,000 Workweeks worked by Class Members during the Class Period, then the Gross Settlement Amount shall be increased by \$37,081.52 ($(16,000 \text{ Workweeks} - 14,712 \text{ Workweeks}) \times \28.79 per Workweek).

18. NOTICE OF JUDGMENT

In addition to any duties set out herein, the Settlement Administrator shall provide notice of the Final Judgment entered in the Action by posting the same on its website for a period of no less than four (4) years.

19. MISCELLANEOUS PROVISIONS

A. Interpretation of the Agreement

This Agreement constitutes the entire agreement between the Parties with respect to its subject matter. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary, or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State of California, both in its procedural and substantive aspects, without regard to its conflict of law provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California for the County of Alameda, and Plaintiff and Defendant hereby consent to the personal jurisdiction of the Court in the Action over it solely in connection therewith. The foregoing is only limited to disputes concerning this Agreement. The Parties, and each of them, participated in the negotiation and drafting of this Agreement and had available to them the advice and assistance of independent counsel. As such, neither Plaintiff nor Defendant may claim that any ambiguity in this Agreement should be construed against the other. The Agreement may be modified only by a writing signed by counsel for the Parties and approved by the Court.

B. Further Cooperation

The Parties and their respective attorneys shall proceed diligently to prepare and execute all documents, to seek the necessary approvals from the Court, and to do all things reasonably necessary to consummate the Settlement as expeditiously as possible. The Parties agree that they will not take any action inconsistent with this Agreement, including, without limitation, encouraging Class Members to opt out of the Settlement. In the event the Court finds that any Party has taken actions

inconsistent with the Settlement, including, without limitation, encouraging Class Members to opt out of the Settlement, the Court may take any corrective actions, including enjoining any Party from communicating regarding the Settlement on an *ex parte* basis, issuing (a) corrective notice(s), awarding monetary, issue, evidentiary and/or terminating sanctions against that Party, and/or enforcing this Agreement despite the presence of opt-outs and/or objections.

C. Counterparts

The Agreement may be executed in one or more actual or non-original counterparts, all of which will be considered one and the same instrument and all of which will be considered duplicate originals.

D. Authority

Each individual signing below warrants that he or she has the authority to execute this Agreement on behalf of the Party for whom or which that individual signs.

E. No Third-Party Beneficiaries

Plaintiff, Participating Class Members, Aggrieved Employees, the State of California, Class Counsel, and Defendant are direct beneficiaries of this Agreement, but there are no third-party beneficiaries.

F. Deadlines Falling on Weekends or Holidays

To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

G. Jurisdiction of the Court

Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Settlement Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Settlement Agreement and all orders and judgments entered in connection therewith.

H. Signatures Are On Behalf of the LWDA.


By signing this Agreement, Henderson understands and agrees that he is signing in his individual capacity and as a representative of the LWDA.

I. Severability

In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Dated: 01/22/2024, 2023



[Dante Henderson \(Jan 22, 2024 21:39 PST\)](#)
DANTE HENDERSON
Plaintiff and Class Representative

Dated: _____, 2023

BIZON GROUP, INC.
Defendant
By: _____
Its: _____

AGREED AS TO FORM:

Dated: January 23, 2023

/s/ David Bibiyan

DAVID D. BIBIYAN
VEDANG J. PATEL
Co-Counsel for Plaintiff DANTE HENDERSON

Dated: January 23, 2024



SHANI O. ZAKAY
JACKLAND K. HOM
Co-Counsel for Plaintiff DANTE HENDERSON

By signing this Agreement, Henderson understands and agrees that he is signing in his individual capacity and as a representative of the LWDA.

I. Severability


In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant’s Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Dated: _____, 2024

DANTE HENDERSON
Plaintiff and Class Representative

Dated: January 22nd, 2024


Vitali Barkouski (Jan 22, 2024 13:32 PST)

BIZON GROUP, INC.
Defendant
By: Vitali Barkouski
Its: President

AGREED AS TO FORM:

Dated: _____, 2024

DAVID D. BIBIYAN
VEDANG J. PATEL
Co-Counsel for Plaintiff DANTE HENDERSON

Dated: _____, 2024

SHANI O. ZAKAY
JACKLAND K. HOM
Co-Counsel for Plaintiff DANTE HENDERSON

Dated: January 23, 2024



JEAN-CLAUDE LAPUYADE
Co-Counsel for Plaintiff DANTE HENDERSON

Dated: _____, 2023

DAVID ONGARO
MARTIN GATTAS
Co-Counsel for Defendant BIZON GROUP,
INC.

Dated: _____, 2023

PAMELA ROSS
Co-Counsel for Defendant BIZON GROUP,
INC.

Dated: _____, 2024

JEAN-CLAUDE LAPUYADE
Co-Counsel for Plaintiff DANTE HENDERSON

Dated: January 22, 2024



DAVID ONGARO
MARTIN GATTAS
Co-Counsel for Defendant BIZON GROUP,
INC.

Dated: January 22, 2024



Pamela Ross (Jan 22, 2024 12:27 PST)

PAMELA ROSS
Co-Counsel for Defendant BIZON GROUP,
INC.