

1 JAMES HAWKINS APLC  
James R. Hawkins, Esq. (#192925)  
2 Gregory Mauro, Esq. (#222239)  
Michael Calvo, Esq. (#314986)  
3 Lauren Falk, Esq. (#316893)  
Ava Issary, Esq. (#342252)  
4 9880 Research Drive, Suite 200  
Irvine, CA 92618  
5 Tel.: (949) 387-7200  
Fax: (949) 387-6676  
6 Email: James@jameshawkinsaplc.com  
Email: Greg@jameshawkinsaplc.com  
7 Email: Michael@jameshawkinsaplc.com  
Email: Lauren@jameshawkinsaplc.com  
8 Email: Ava@jameshawkinsaplc.com

9 Attorneys for Plaintiff DAVID R. SIERRA,  
Individually and on behalf of all others similarly situated,

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO**

DAVID R. SIERRA, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

NATIONAL RETAIL TRANSPORTATION,  
INC., a Pennsylvania Corporation and  
DOES 1 - 50, inclusive,

Defendants.

Case No.: CIVSB2222831

Related Case No. CIVSB2227785

**SETTLEMENT AGREEMENT AND  
STIPULATION TO RESOLVE CLASS  
ACTION AND PAGA CLAIMS**

AND RELATED ACTION.

1 This Settlement Agreement and Stipulation to Resolve Class Action and PAGA Claims (the  
2 “**Settlement Agreement**,” “**Agreement**,” or “**Settlement**”) is entered into to resolve the claims in  
3 the following actions: (1) *David R. Sierra v. National Retail Transportation, Inc.*, San Bernardino  
4 Superior Court Case No. CIVSB2222831 (the “Class Action”); and (2) *David R. Sierra v. National*  
5 *Retail Transportation, Inc.*, San Bernardino Superior Court Case No CIVSB2227785 (the “PAGA  
6 Action”); (3) *Keith Haller v. National Retail Transportation, Inc.*, San Bernardino Superior Court  
7 Case No. CIVSB2326201 (the “Haller Class Action”); and (4) *Keith Haller v. National Retail*  
8 *Transportation, Inc.*, Los Angeles Superior Court Case No 24CMCV00085 (the “Haller PAGA  
9 Action”) (collectively, the “Actions”). This Agreement is entered into between Plaintiff David R.  
10 Sierra and Plaintiff Keith Haller (“Plaintiffs”) and Defendant National Retail Transportation, Inc.  
11 (“Defendant”) (Plaintiffs and Defendant are collectively referred to as the “Parties”).

#### 12 DEFINITIONS

13 1. Actions. “**Actions**” mean the Sierra Class Action, the Sierra PAGA Action, the Haller class  
14 Action, and the Haller PAGA Action.

15 2. Aggrieved Employees. “**Aggrieved Employees**” means all individuals who are or previously  
16 were employed by Defendant as non-exempt California employees during the PAGA Period  
17 (October 7, 2021, through April 30, 2024 or preliminary approval of the settlement, whichever is  
18 earlier). Defendant represents there are approximately 738 PAGA Members during the PAGA Period  
19 who worked approximately 47,439 Pay Periods during the PAGA Period.

20 3. Agreement or Settlement or Settlement Agreement. “**Agreement**” or “**Settlement**” or  
21 “**Settlement Agreement**” means this Settlement Agreement and Stipulation to Resolve Class Action  
22 and PAGA Claims, entered into by the Parties to resolve the Actions.

23 4. Attorneys’ Fees and Costs. “**Attorneys’ Fees and Costs**” means the amount authorized by  
24 the Court for: (i) an award of attorneys’ fees to Class Counsel for litigation and resolution of the  
25 matter, in the amount that does not exceed 35% percent of the Gross Settlement Amount; and (ii)  
26 reimbursement of actual costs incurred by Class Counsel in connection with the Actions, in an  
27 amount to not to exceed \$367,500.00.

28 5. Class Counsel. “**Class Counsel**” means James R. Hawkins, Gregory Mauro, Michael Calvo,

1 Lauren Falk, and Ava-Issary of JAMES HAWKINS APLC; and Jeffrey S. Herman, Nicholas J. De  
2 Blouw, Norman B. Blumenthal of BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW  
3 LLP. Attorney’s fees not to exceed 35% of the Gross Settlement Amount shall be split accordingly:  
4 85% to JAMES HAWKINS APLC and 15% to BLUMENTHAL NORDREHAUG BHOWMIK DE  
5 BLOUW.

6 6. Class or Class Members. “**Class**” or “**Class Members**” means all persons who have been  
7 employed by Defendant as Non-Exempt Employees or equivalent positions, however titled, in the  
8 state of California during within four years from the filing of the Complaint in this action until its  
9 resolution. Defendant represents there are approximately 1,070 Class Members (522 current and 548  
10 former) who worked any time during the period January 5, 2019, through April 30, 2024, or  
11 preliminary approval of the settlement, whichever is earlier (“Class Period”).

12 7. Class Notice. “**Class Notice**” means the Notice of Class Action Settlement, attached as  
13 **Exhibit A** to this Agreement, or a substantially similar notice approved by the Court.

14 8. Class Period. “**Class Period**” means the period from January 5, 2019, through April 30,  
15 2024.

16 9. Court. “**Court**” means the San Bernardino Superior Court, where the Actions are currently  
17 pending.

18 10. Defendant. “**Defendant**” means National Retail Transportation, Inc.

19 11. Effective Date. The “**Effective Date**” of this Agreement will be the later of (i) the 61<sup>st</sup> day  
20 after service of notice of entry of the Final Order and Final Judgment, if no appeal, review, or writ  
21 has been filed; or (ii) if an appeal, review, or writ is sought from the Final Order or Final Judgment,  
22 the day after the Final Order and Final Judgment are affirmed or the appeal, review, or writ is  
23 dismissed or denied, and the Final Order and Final Judgment are no longer subject to further judicial  
24 review. The Effective Date is conditioned upon the Court’s having entered a Final Order and  
25 Judgment as set forth in this Agreement.

26 12. Employer’s Taxes. “**Employer’s Taxes**” means Defendant’s share of the payroll taxes  
27 associated with the wage portion of the Individual Settlement Payments, which Defendant will pay  
28 separately from the Gross Settlement Amount.

1 13. Enhancement Award. “**Enhancement Award**” means the amount the Court authorizes to be  
2 paid to each Named Plaintiff in addition to their Individual Settlement Payments, in recognition of  
3 their effort and work in prosecution of the Actions, up to \$10,000.00.

4 14. Final Hearing Date. “**Final Hearing Date**” means the date set by the Court for the hearing  
5 on final approval of the Settlement.

6 15. Final Order and Judgment. “**Final Order and Judgment**” means the proposed order  
7 granting final approval of the Settlement and the separate proposed judgment, which Plaintiff will  
8 submit to the Court with the motion for final approval of the Settlement.

9 16. General Release Named Plaintiffs Only. “**General Release**” means the general release of all  
10 claims as set forth in Paragraph 49.

11 17. Gross Settlement Amount. “**Gross Settlement Amount**” means the total settlement payment  
12 Defendant has agreed to make under this Agreement. The Gross Settlement Amount is  
13 \$1,050,000.00.

14 18. Individual PAGA Payment. “**Individual PAGA Payment**” means a payment to an  
15 Aggrieved Employee of the employee’s share of the PAGA Payment as set forth in this Agreement.

16 19. Individual Settlement Payment. “**Individual Settlement Payment**” means the individual  
17 settlement payment allocated to each Participating Class Member and/or Aggrieved Employee as set  
18 forth in this Agreement, and consists of the Participating Class Member Payment and the Individual  
19 PAGA Payment to the extent an employee is eligible.

20 20. Named Plaintiff. “**Named Plaintiffs**” means David R. Sierra and Keith Haller.

21 21. Notice Period. “**Notice Period**” means the time period commencing on the date the Class  
22 Notice is mailed to Class Members and ending 60 days thereafter unless a notice is remailed to a  
23 Class Member, in which case, the Notice Period shall end either 60 days after mailing or 45 days  
24 after remailing, whichever is later.

25 22. Net Class Settlement Amount. “**Net Class Settlement Amount**” means the settlement  
26 amount to be distributed to Participating Class Members, which is the Gross Settlement Amount less  
27 Attorneys’ Fees and Costs, the Enhancement Award, the General Release Payment, the PAGA  
28 Amount, and Settlement Administration Costs.

1       23. PAGA Claims. “**PAGA Claims**” means, for the PAGA Period, claims for penalties under  
2 the California Private Attorneys’ General Act (California Labor Code § 2698, *et seq.*) that (a) arise  
3 from the facts, matters, transactions or occurrences alleged in the Actions or that could have been  
4 alleged in the Actions based on such facts; and/or (b) arise from the facts, matters, transactions or  
5 occurrences alleged, or that could have been alleged, in the PAGA Notice Letters sent by Plaintiffs  
6 Sierra and Haller to the Labor and Workforce Development Agency (“**LWDA**”) pursuant to Labor  
7 Code section 2699.3, including the letter sent by Plaintiff Sierra on or about October 7, 2022, and  
8 the letter sent by Plaintiff Haller on October 19, 2023, asserting that Defendant violated various  
9 provisions of the Labor Code. Without limiting the foregoing, and in addition to the foregoing, the  
10 PAGA Claims include claims premised on the failure to pay all minimum wages and overtime  
11 compensation including, but not limited to, time spent working off-the-clock; failure to provide meal  
12 periods and rest breaks or premium payments; failure to provide and maintain complete and accurate  
13 itemized wage statements; failure to keep complete and accurate payroll records; untimely payment  
14 of wages during employment and at the time of termination; failure to pay reporting time pay; failure  
15 to provide suitable seating; unlawful deductions; failure to provide sick pay; and violations of  
16 California Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5,  
17 1175, 1194, 1194.2, 1197, 1197.1, 1198; in connection with the allegations in the LWDA Notices  
18 and Operative Complaint; and related violations of the applicable California Wage Orders and  
19 California Code of Regulations, Title 8, section 11000 *et seq.* The PAGA Claims excludes claims  
20 for vested benefits, wrongful termination, unemployment insurance, disability, social security,  
21 workers’ compensation claims, FEHA-related claims for retaliation, discrimination or harassment,  
22 and any claims outside of the PAGA Period.

23       24. PAGA Amount. “**PAGA Amount**” means the amount of \$75,000.00, which represents the  
24 portion of the Gross Settlement Amount allocated to the settlement of the PAGA Claims. The PAGA  
25 Amount is paid from the Gross Settlement Amount, and will be allocated as set forth in this  
26 Agreement. The Parties agree that 75% of the PAGA Amount (\$56,250) will be paid to the LWDA  
27 as the “**LWDA Payment**,” and the remaining 25% (\$18,750.00) will be allocated to the Aggrieved  
28 Employees as the “PAGA Payment.”

1 25. PAGA Period. “**PAGA Period**” means the period from October 7, 2021, through April 30,  
2 2024, or preliminary approval of the settlement, whichever is earlier.

3 26. Parties. “**Parties**” means the Defendant and the Named Plaintiffs, individually and on behalf  
4 of all Class Members and Aggrieved Employees. Each of the Parties may be referred to in the  
5 singular as a “**Party**.”

6 27. Participating Class Member. “**Participating Class Member**” means each Class Member  
7 who has not timely opted out of the Settlement pursuant to this Agreement;

8 28. Settlement Class. “**Settlement Class**” means a class of all Participating Class Members.

9 29. Participating Class Member Payment. “**Participating Class Member Payment**” means the  
10 *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under  
11 the Class Settlement, to be calculated in accordance with Paragraph 51.f., which is inclusive of the  
12 employee’s share of taxes and withholdings with respect to the wages portion of the Participating  
13 Class Member Payment.

14 30. Preliminary Approval Order. “**Preliminary Approval Order**” means an order from the  
15 Court preliminarily approving this Settlement.

16 31. Released Parties. “**Released Parties**” means and includes National Retail Transportation,  
17 Inc. and National Retail Systems, Inc., and their respective current and former parents, predecessors  
18 or successors, holding companies, owners, subsidiaries, divisions, and affiliated or related persons  
19 or entities, and each of their respective officers, directors, managers, employees, insurers, partners,  
20 shareholders, members, attorneys, agents, executors, and assigns.

21 32. Released Claims. “**Released Claims**” means, for the duration of the Class Period, any and  
22 all claims, actions, or causes of action against Defendant and the other Released Parties (a) that are  
23 alleged in the operative complaints in the Actions; and/or (b) that could have been alleged in the  
24 operative complaints based upon or arising out of the facts alleged therein, except those arising under  
25 PAGA. Without limiting the foregoing, and in addition to the foregoing, the Released Claims include  
26 claims premised on the failure to pay all minimum wages and overtime compensation including, but  
27 not limited to, time spent working off-the-clock; failure to provide meal periods and rest breaks or  
28 premium payments; failure to provide and maintain complete and accurate itemized wage statements;

1 failure to keep complete and accurate payroll records; untimely payment of wages during  
2 employment and at the time of termination; failure to pay sick pay wages; unfair business practices;  
3 violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 233, 246, 510, 512,  
4 558, 558.1, 1194, 1194.2, 1197, 1197.1, 1198; 2802; related violations of the applicable California  
5 Wage Orders; violations of all related or corresponding federal laws; and violations of California  
6 Business and Professions Code section 17200, *et seq* in connection with the alleged Labor Code  
7 violations alleged (or that could be alleged based on the facts pled) in the Actions. The Released  
8 Claims excludes claims for vested benefits, wrongful termination, unemployment insurance,  
9 disability, social security, workers' compensation claims, FEHA-related claims for retaliation,  
10 discrimination or harassment, and any claims outside of the Class Period.

11 33. Settlement Administration Costs. “**Settlement Administration Costs**” means the costs of  
12 settlement administration, including costs of notice to Class Members, distributing settlement  
13 payments, and any other fees and costs incurred or charged by the Settlement Administrator in  
14 connection with the execution of its duties under this Settlement.

15 34. Settlement Administrator. “**Settlement Administrator**” means Apex Class Action, LLC, or  
16 such other third-party administrator chosen by the Parties and approved by the Court.

17 35. Settlement Hearing. “**Settlement Hearing**” means the hearing on the Final Hearing Date at  
18 which the Court will determine whether to fully and finally approve the fairness and reasonableness  
19 of this Agreement.

## 20 RECITALS

21 36. On October 7, 2022, Plaintiff Sierra submitted a PAGA Notice to the LWDA.

22 37. On October 7, 2022, Plaintiff Sierra filed a putative Class Action against Defendant entitled  
23 *David R. Sierra v. National Retail Transportation, Inc.*, San Bernardino Superior Court Case No.  
24 CIVSB2222831 (the “Class Action”).

25 38. On December 13, 2022, Plaintiff Sierra filed the PAGA Action against Defendant in a case  
26 entitled *David R. Sierra v. National Retail Transportation, Inc.*, San Bernardino Superior Court Case  
27 No CIVSB2227785 (the “PAGA Action”).

28 39. The Class Action and PAGA Action allege that Defendant violated various wage-and-hour

1 laws, including but not limited to: (1) Failure to Pay Wages Including Overtime as Required by Labor  
2 Code §§ 510 and 1194; (2) Failure to Pay Timely Wages Required by Labor Code § 203; (3) Failure  
3 to Timely Pay Wages During Employment Required by Labor Code § 204; (4) Failure to Provide  
4 Accurate Wage Statements Required by Labor Code §§ 226, 226.3, 558.1; (5) Failure to Reimburse  
5 Business Expenses, (6) for Unlawful Deductions Pursuant to Labor Code 221; and (7) Violation of  
6 Business & Professions Code § 17200, et seq. and (9) penalties pursuant to the California Private  
7 Attorneys General Act.

8 40. On October 20, 2023, Plaintiff Haller filed a putative Class Action against Defendant  
9 entitled *Keith Haller v. National Retail Transportation, Inc.*, San Bernardino Superior Court Case  
10 No. CIVSB2326201 (the “Haller Class Action”).

11 41. On January 22, 2024, Plaintiff Haller filed a PAGA Action against Defendant in a  
12 case entitled *Keith Haller v. National Retail Transportation, Inc.*, Los Angeles Superior Court Case  
13 No 24CMCV00085 (the “Haller PAGA Action”).

14 42. The Haller Class Action and Haller PAGA Action allege that Defendant violated  
15 various wage-and-hour laws, including but not limited to: (1) Failure to Pay Minimum Wages as  
16 Required by Labor Code §§ 1194, 1197, and 1197.1; (2) Failure to Pay Overtime as Required by  
17 Labor Code § 510; (2) Failure to Pay Timely Wages as Required by Labor Code § 203; (3) Failure  
18 to Provide Required Meal Periods as Required by Labor Code §§ 226.7 and 512, and the applicable  
19 Wage Order; (4) Failure to Provide Required Rest Periods as Required by Labor Code §§ 226.7 and  
20 512, and the applicable Wage Order; (5) Violation of Accurate Wage Statements as Required by  
21 Labor Code § 226; (5) Failure to Reimburse Business Expenses as Required by Labor Code § 2802;  
22 (7) Failure to Pay Sick Pay Wages as Required by Labor Code §§ 201-203, 233, and 246; and (8)  
23 penalties pursuant to the California Private Attorneys General Act.

24 43. During formal and informal discovery, and in preparation for the mediation,  
25 Defendant provided Class Counsel with the workweek count, current versus former class member  
26 count, a 30% sample of time and payroll records for Class Members and relevant policies for Class  
27 Members during the Class Period.

28 44. On January 31, 2024, the Parties participated in mediation with Jeffrey P. Fuchsman



1 (the “**Mediator**”), a respected mediator of complex wage-and-hour actions. Although the mediation  
2 did to resolve that day, the parties continued settlement discussions. On or about April 3, 2024, with  
3 the assistance of the Mediator’s evaluations, the mediator made a mediator proposal which was  
4 accepted by both sides, and the Parties reached the settlement that is memorialized in this Agreement.

5 45. Defendant denies that Defendant engaged in any misconduct in connection with the wage-  
6 and-hour practices associated with the Class Members (inclusive of the Aggrieved Employees).  
7 Defendant further denies that Defendant has any liability of any kind associated with the claims  
8 alleged in the Actions. Defendant contends that Defendant has complied with both federal and state  
9 wage-and-hour laws, and all other laws regulating its relationship with the Class Members and the  
10 Aggrieved Employees, including the Named Plaintiffs.

11 46. Class Counsel has investigated the facts relating to the Actions. Settlement discussions were  
12 conducted at arm’s length during a full-day mediation with a neutral third-party mediator, and the  
13 Settlement is the result of an informed and detailed analysis of Defendant’s potential liability and  
14 exposure in relation to the costs and risks associated with continued litigation. Based on the  
15 documents and data produced, as well as Class Counsel’s own independent investigation and  
16 evaluation, Class Counsel believes that the Settlement documented by this Settlement Agreement is  
17 fair, reasonable, and adequate, and in the best interest of the Class in light of all known facts and  
18 circumstances, including the risk of significant delay and defenses asserted to the merits of the  
19 Actions. While Defendant specifically denies any liability in the Actions, Defendant has agreed to  
20 enter into this Settlement to avoid the costs associated with defending the Actions.

21 47. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any  
22 other pending matter or action asserting claims that will be extinguished or affected by the Settlement  
23 Agreement, other than the above-referenced Haller Action.

24 **TERMS AND CONDITIONS**

25 NOW, THEREFORE, in consideration of the recitals listed above and the promises and  
26 warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of  
27 the consideration and undertakings set forth below, Named Plaintiff, individually and on behalf of  
28 the Class Members, Aggrieved Employees, and, to the extent permitted by law, the State of

1 California, and Defendant agrees that the Actions shall be and are finally and fully compromised and  
2 settled on the following terms and conditions:

3 48. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute that  
4 has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering  
5 into this Agreement, Defendant and the other Released Parties do not admit, and specifically deny,  
6 that they have violated any federal, state, or local law; violated any regulations or guidelines  
7 promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements;  
8 breached any contract; violated or breached any duty; engaged in any misrepresentation or deception;  
9 or engaged in any other unlawful conduct with respect to the Class or the Aggrieved Employees.  
10 Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected  
11 with it, shall be construed as an admission or concession by Defendant or any of the other Released  
12 Parties of any such violations or failures to comply with any applicable law. Except as necessary in  
13 a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions  
14 shall not be offered or received as evidence in any action or proceeding to establish any liability or  
15 admission on the part of Defendant or to establish the existence of any condition constituting a  
16 violation of, or a non-compliance with, federal, state, local or other applicable law.

17 49. Conditional Nature Of Settlement. For settlement purposes *only*, the Parties agree that (a) a  
18 class may be certified in the Actions pursuant to California Code of Civil Procedure Section 382, and  
19 (b) the Actions may proceed as a PAGA representative action.

- 20 a. The Parties intend their settlement to be contingent upon the preliminary and final  
21 approval of each and every term of this Agreement, without material modification.  
22 The Parties and their respective counsel shall use their respective best efforts to obtain  
23 Court approval and implement this Agreement in accordance with its terms. If the  
24 Court does not approve this Agreement, the Parties agree to meet and confer to  
25 address the Court's concerns. If the Parties are unable to agree upon a resolution, the  
26 Parties agree to refer their dispute to the Mediator for informal assistance in seeking  
27 a resolution. If thereafter the Parties are unable to resolve the dispute, the Parties  
28 intend this Agreement to become null and void, and unenforceable, in which event

1 the settlement terms set forth in this Agreement, including any modifications made  
2 with the consent of the Parties, and any action taken or to be taken in connection with  
3 this Agreement shall be terminated and shall become null and void and have no further  
4 force or effect, and the class certified for settlement purposes pursuant to this  
5 Agreement will be decertified for all purposes.

6 b. In the event the Court does not grant preliminary or final approval of the Parties'  
7 settlement, or in the event that this Agreement shall terminate or the settlement  
8 embodied in this Agreement does not become effective for any reason, the Agreement  
9 and all negotiations, court orders and proceedings relating to the Agreement shall be  
10 without prejudice to the rights of the Named Plaintiffs, Class Members, Aggrieved  
11 Employees, and Defendant, each of whom shall be restored to their respective  
12 positions existing prior to the execution of this Agreement, and evidence relating to  
13 the Agreement and all negotiations shall not be discoverable or admissible in the  
14 Actions or any other litigation. Defendant does not waive, and instead expressly  
15 reserves, its rights to challenge the propriety of class certification and/or the Actions  
16 proceeding on a representative basis for any purpose should the Court not grant  
17 preliminary or final approval of the Parties' settlement.

18 50. Participating Class Members' Release Of Claims. Upon the funding of the Gross Settlement  
19 Amount and the Employer's Taxes necessary to effectuate the Settlement to the Settlement  
20 Administrator, the Named Plaintiffs and all Participating Class Members shall be deemed to have  
21 fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of  
22 the Released Parties from the Released Claims that arose during the Class Period.

23 a. This release by the Named Plaintiffs and each Participating Class Member is intended  
24 to settle any and all of the Released Claims that any of them may have against  
25 Defendant or any of the Released Parties during the Class Period.

26 b. Because it is impossible or impracticable to have each Class Member execute this  
27 Agreement, the Class Notice will advise all Class Members of the binding nature of  
28 the release and such notice will have the same force and effect as if the Agreement

1                   were executed by each Class Member.

2           51. Aggrieved Employees' Release of PAGA Claim. In exchange for the PAGA Amount recited  
3 in this Agreement, the Named Plaintiffs, as the representatives for the State of California and all  
4 Aggrieved Employees (to the extent permitted by law), and on behalf of their current, former, and  
5 future heirs, executors, administrators, attorneys, agents, and assigns will, upon payment of the Gross  
6 Settlement Amount forever completely release and discharge Defendant and each of the Released  
7 Parties from the PAGA Claims that arose during the PAGA Period.

8           52. Full Release By The Named Plaintiffs. Upon payment of the Gross Settlement Amount and  
9 the Employer's Taxes necessary to effectuate the settlement to the Settlement Administrator, the  
10 Named Plaintiffs fully release and discharge Defendant and the other Released Parties from the  
11 Released Claims and any other claims that the Named Plaintiffs now have or claim to have, or has  
12 ever had or claimed to have, against Defendant and the Released Parties. Without limiting the  
13 generality of the foregoing, the Named Plaintiffs specifically and expressly release to the maximum  
14 extent permitted by law any claims against Defendant and the Released Parties, arising out of or  
15 relating to the Named Plaintiffs' employment or the termination of their employment with Defendant  
16 and any other Released Party. This general release by the Named Plaintiffs includes a waiver of  
17 Named Plaintiffs' rights under Civil Code Section 1542, which provides: "A general release does not  
18 extend to claims that the creditor or releasing party does not know or suspect to exist in his or her  
19 favor at the time of executing the release and that, if known by him or her, would have materially  
20 affected his or her settlement with the debtor or released party."

21           53. No Prior Assignments. The Named Plaintiffs represent and warrant that they have not  
22 directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber  
23 to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights  
24 released and discharged by this Agreement.

25           54. Settlement Payments And Calculation Of Claims. Subject to final Court approval and the  
26 conditions specified in this Agreement, and in consideration of the mutual covenants and promises  
27 set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount of \$1,050,000.00.  
28 The Gross Settlement Amount includes, but is not limited to, payments to be made to Participating

1 Class Members, Class Counsel's Attorneys' Fees and Costs, Enhancement Award to the Named  
2 Plaintiffs, General Release Payment to the Named Plaintiffs, the PAGA Amount, and Settlement  
3 Administration Fees and Costs. For the avoidance of doubt, subject to the conditions set forth in this  
4 Agreement, Defendant shall not be required to pay any amount over \$1,050,000.00 for this  
5 Settlement, apart from the employer's share of applicable taxes which will be paid in addition to the  
6 Gross Settlement Amount, and as set forth in Paragraph 50. The following table summarizes the  
7 allocation of the Gross Settlement Amount:

8 **Gross Settlement Amount of \$1,050,000.00, Allocated as Follows:**

- 9 • **\$75,000.00** for the PAGA Payment
  - 10 ○ **\$56,250.00** for the LWDA Payment
  - 11 ○ **\$18,750.00** for payments to Aggrieved Employees on a *pro rata*  
12 basis (i.e., Individual PAGA Payment)
- 13 • Class Counsel Attorneys' Fees not to exceed **\$367,500.00**
  - 14 • Attorneys' Fees are to be split between James Hawkins APLC (85%)  
15 and Blumenthal Nordrehaug Bhowmik De Blouw LLP (15%)
- 16 • Class Counsel Costs not to exceed **\$25,000.00**
- 17 • Up to **\$10,000** for an Enhancement Award for each of the Named  
18 Plaintiffs
- 19 • Settlement Administration Costs, not to exceed **\$12,500.00**
- 20 • Approximately **\$550,000.00** paid to Class Members on a *pro rata* basis  
21 (i.e., Participating Class Member Payment)

22 55. Settlement Escalator. The Settlement is based on the representation that there were no more  
23 than 108,033 non-exempt workweeks worked by the Class Members as of December 31, 2023. If  
24 that number is incorrect by more than 10%, Defendant shall increase the Gross Settlement Amount  
25 proportionally. For example, if the number is 12% higher, the Gross Settlement Amount will be  
26 increased by 2%.

27 56. Apportionment of Gross Settlement Amount. The Parties agree, subject to Court approval  
28 and the conditions specified in this Agreement, that the Gross Settlement Amount shall be  
apportioned as follows:

- a. Class Counsel Attorneys' Fees and Costs: At the final approval hearing, Class

1 Counsel will apply to the Court for an award of Attorneys' Fees of no more than  
2 thirty-five percent of the Gross Settlement Amount, which, unless escalated  
3 pursuant to Paragraph 50 of this Agreement, equals \$367,500.00. JAMES  
4 HAWKINS APLC is to receive 85% of the Attorneys' Fees awarded and  
5 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP is to receive  
6 15% of the Attorneys' Fees awarded. Class Counsel will also apply to the Court for  
7 an award of actual costs incurred by Class Counsel not to exceed the amount of  
8 \$367,500.00. These fees and costs are included in, and shall come from, the Gross  
9 Settlement Amount. Class Counsel will be issued an IRS Form 1099 for any fees  
10 and costs awarded by the Court pursuant to this Paragraph 51.a. Except as provided  
11 in this Paragraph 51.a, each party will bear its own attorneys' fees, costs, and  
12 expenses incurred in the prosecution, defense, or settlement of the Actions. If the  
13 Court awards a lower amount of Attorneys' Fees and Costs than the amount  
14 requested, any amount not awarded will be part of the distribution to the  
15 Participating Class Members as set forth in this Agreement and shall not be a reason  
16 to invalidate/terminate this Agreement.

- 17 b. Settlement Administrator Costs: At the final approval hearing, Class Counsel will  
18 apply to the Court for approval of Settlement Administration costs, currently  
19 estimated at \$12,500.00. These costs are included in, and shall come from, the Gross  
20 Settlement Amount. If the actual amount of the Settlement Administration Costs is  
21 less than \$12,500.00 the difference shall be added to the Net Class Settlement  
22 Amount. If the Settlement Administration Costs exceed \$12,500.00 then such excess  
23 will be paid solely from the Gross Settlement Amount and Defendant will not be  
24 responsible for paying any additional funds in order to pay these additional costs.
- 25 c. Named Plaintiffs Enhancement Awards: At the final approval hearing, Class Counsel  
26 will apply to the Court for awards of up to \$10,000.00 to Named Plaintiffs as an  
27 Enhancement Award for their services and for assuming the risks associated with this  
28 litigation, for the time spent in assisting Class Counsel to litigate this Action.

1 Defendant will not oppose such application. The Enhancement Award is included in,  
2 and shall come from, the Gross Settlement Amount. Named Plaintiff will be issued  
3 an IRS Form 1099 for the Enhancement Award approved by the Court pursuant to  
4 this Paragraph. The Enhancement Award payable to Named Plaintiff shall be in  
5 addition to any payment they may receive pursuant to Paragraph 51.f, below. If the  
6 Court awards less than the amount requested, any amount not awarded will be part of  
7 the distribution to the Participating Class Members as set forth in this Agreement and  
8 shall not be a reason to invalidate/terminate this Agreement.

9 d. PAGA Amount: At the final approval hearing, Class Counsel will apply to the Court  
10 for approval of the PAGA Amount of \$75,000.00 for claims for civil penalties  
11 asserted under PAGA. Class Counsel will submit notice of this Settlement to the  
12 LWDA, as required by Labor Code § 2699(l)(2). The Parties agree that 75% of the  
13 PAGA Amount (\$56,250.00) will be paid to the LWDA as the “**LWDA Payment**,”  
14 and the remaining 25% (\$18,750.00) will be allocated to the Aggrieved Employees as  
15 the “PAGA Payment.” The portion of the PAGA Payment allocated to each of the  
16 Aggrieved Employees will be calculated using the same formula as set forth in  
17 Paragraph 52.f, but will be limited to Pay Periods worked during the PAGA Period.  
18 Any Class Members who worked during the PAGA Period and who opt out of the  
19 Settlement will still be considered Aggrieved Employees for purposes of this  
20 Paragraph 52.e and, therefore, will (i) receive their portion of the PAGA Payment (the  
21 Individual PAGA Payment); and (ii) release all PAGA Claims against the Released  
22 Parties.

23 e. Individual Settlement Payments. The Individual Settlement Payments shall consist  
24 of: (i) each Participating Class Member’s *pro rata* portion of the Net Class Settlement  
25 Amount (the “**Participating Class Member Payment**”); and (ii) if applicable, each  
26 Aggrieved Employee’s *pro rata* portion of the PAGA Payment (the Individual PAGA  
27 Payment).

28 i. Participating Class Member Payment: After deducting the approved amounts

1 specified in Paragraphs 51.a-e above, each Participating Class Member will  
2 be entitled to a *pro rata* portion of the remaining amount. Participating Class  
3 Member Payments will be calculated from the Net Class Settlement Amount  
4 based on the respective number of weeks worked by each Participating Class  
5 Member in a non-exempt position during the Class Period, rounded up to the  
6 nearest whole week. All Class Members will be deemed to have worked  
7 during at least one week during the Class Period. Each Participating Class  
8 Member's share of the Net Class Settlement Amount will be calculated by  
9 dividing the Participating Class Member's weeks worked in a non-exempt  
10 position by the total number of weeks worked by all Class Members in a non-  
11 exempt position during the Class Period and multiplying this figure by the Net  
12 Class Settlement Amount. The Class Notice will include the number of weeks  
13 that the Class Member worked during the Class Period and the amount the  
14 Class Member is estimated to receive under the terms of the Settlement.

15 ii. Individual PAGA Payment: For each Aggrieved Employee, the Individual  
16 Settlement Payment will also include the Class Member's *pro rata* share of  
17 the PAGA Payment, as set forth in Paragraph 52.e (the Individual PAGA  
18 Payment).

19 f. Participating Class Member Payments shall be distributed only to Participating Class  
20 Members. The portion of the Net Class Settlement Amount allocated to Class Members who opt out  
21 of the Settlement will be distributed to Participating Class Members on a *pro rata* basis based on the  
22 formula set forth in Paragraph 52.f. Individual PAGA Payments will be distributed to all Aggrieved  
23 Employees.

24 g. The Parties agree that, under no circumstances shall Defendant be obligated to pay  
25 any amount under this Agreement to any Class Member other than Participating Class Members,  
26 with the exception of the Individual PAGA Payments which are not affected by a Class Member  
27 opting-out of the Settlement. In addition, the Parties agree that, except as provided in Paragraph 50,  
28 under no circumstances shall Defendant be obligated to pay more than the Gross Settlement Amount



1 in full settlement of the Actions.

2 57. No Credit Toward Benefit Plans. The Individual Settlement Payments made to Participating  
3 Class Members under this Agreement, including the Individual PAGA Payments made to Aggrieved  
4 Employees, will not be utilized to calculate any additional benefits under any benefit plans to which  
5 any Participating Class Member or Aggrieved Employees may be eligible including, but not limited  
6 to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave  
7 plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Agreement  
8 will not affect any rights, contributions, or amounts which any Participating Class Member or  
9 Aggrieved Employee may be entitled to under any benefit plans.

10 58. Taxation Of Settlement Proceeds. All settlement payments paid to Participating Class  
11 Members, Aggrieved Employees, and the Named Plaintiffs, will be paid in a net amount after  
12 applicable state and federal tax withholdings, including payroll taxes, have been deducted.

13 a. The Participating Class Member Payments shall be reported as follows: 10% of the  
14 amount distributed to each Participating Class Member will be considered wages, and  
15 will be reported as such to each Participating Class Member on a W-2 Form; (ii) 10%  
16 of the amount distributed to each Participating Class Member will be considered  
17 interest on the unpaid wages, and (iii) approximately 80% to statutory penalties, and  
18 will be reported as such to each Participating Class Member on an IRS Form 1099.  
19 The PAGA Payments distributed to each Aggrieved Employee will be considered  
20 penalties and will be reported on an IRS Form 1099.

21 b. Prior to mailing the Individual Settlement Payments, the Settlement Administrator  
22 will calculate, withhold from the Individual Settlement Payment, and remit to  
23 applicable governmental agencies sufficient amounts as may be owed by Participating  
24 Class Members for required withholdings and taxes, including all payroll taxes. The  
25 Settlement Administrator will issue appropriate tax forms to each Participating Class  
26 Member and Aggrieved Employee consistent with the foregoing breakdown. The  
27 Parties understand that the Named Plaintiffs, Participating Class Members, and  
28 Aggrieved Employees who receive an Individual Settlement Payment, including an

1 Individual PAGA Payment, pursuant to this Agreement shall be solely responsible for  
2 any and all tax obligations associated with such receipt.

3 c. The Parties stipulate that the Settlement Fund (as defined at Paragraph 59) will qualify  
4 as a settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal  
5 Revenue Code of 1986, as amended, and Section 1.468B-1 *et seq.* of the federal  
6 income tax regulations. Furthermore, the Settlement Administrator is designated as  
7 the “**Administrator**” of the qualified settlement funds for purposes of Section  
8 1.468B-2(k) of the income tax regulations. Accordingly, all taxes imposed on the  
9 gross income of the Settlement Fund and any tax-related expenses arising from any  
10 income tax return or other reporting document that may be required by the Internal  
11 Revenue Service or any state or local taxing body will be paid from the Settlement  
12 Fund.

13 d. All Parties represent and acknowledge that nothing in this Agreement constitutes tax  
14 advice regarding the tax treatment of payments under federal, state, or local law. The  
15 Named Plaintiffs, Participating Class Members, and Aggrieved Employees will  
16 assume any such tax obligations or consequences that may arise from this Agreement  
17 and Class Members shall not seek any indemnification from the Parties or any of the  
18 Released Parties in this regard. In the event that any taxing body determines that  
19 additional taxes are due from any Class Member or Aggrieved Employee, including  
20 Named Plaintiffs, such Class Member or Aggrieved Employee assumes all  
21 responsibility for the payment of such taxes.

22 59. Notice Procedure. Within 15 business days after entry of the Preliminary Approval Order,  
23 Defendant will provide to the Settlement Administrator a list of Class Members that identifies each  
24 Class Member by name, Social Security Number, and last-known address; and specifies the number  
25 of weeks worked by each Class Member in a non-exempt position during the Class Period and the  
26 PAGA Period (the “**Class List**”). Defendant will provide the Class List in an Excel file or other  
27 format reasonably acceptable to the Settlement Administrator. The Settlement Administrator will  
28 keep the list confidential, except it shall be provided to Class Counsel upon request with Social

1 Security Numbers and address information redacted, and Class Counsel agrees to use such  
2 information only for the purposes described in this Agreement.

- 3 a. Upon receipt of the Class List, the Settlement Administrator shall perform a search  
4 based upon the National Change of Address Database to update and correct any  
5 known or identifiable address changes. The Settlement Administrator shall exercise  
6 its best judgment to determine the current mailing address for each Class Member.  
7 Within 14 calendar days after receipt of the Class List from Defendant, the Settlement  
8 Administrator will send the Class Notice to each Class Member via First Class U.S.  
9 Mail. Receipt of the Class Notice shall be presumed as to each and every Class  
10 Member whose Class Notice is not returned to the Settlement Administrator as  
11 undeliverable within 14 calendar days after mailing.
- 12 b. The Settlement Administrator will re-mail any notice packet returned by the United  
13 States Postal Service with a forwarding address on or before the expiration of the  
14 Notice Period. It shall be conclusively presumed that those Class Members whose re-  
15 mailed Class Notice is not returned to the Settlement Administrator as undeliverable  
16 within 14 calendar days after re-mailing, received the Class Notice. Class Members  
17 who receive a re-mailed Class Notice shall have 45 days from the date of the re-  
18 mailing to object, opt out, or dispute the workweeks attributed to him or her.
- 19 c. The Settlement Administrator will use the appropriate skip tracing and National  
20 Change of Address searches to increase the likelihood of delivery of the Class Notice  
21 to Class Members, and to re-mail the notice packets returned by the Postal Service  
22 without a forwarding address upon locating new or alternate addresses after a  
23 reasonable search.
- 24 d. Class Counsel will provide to the Court, in connection with seeking final approval of  
25 the Settlement, a declaration from the Settlement Administrator confirming that the  
26 Class Notice was mailed to all Class Members as required by this Agreement, as well  
27 as any additional information Class Counsel deems appropriate to provide to the  
28 Court.

1       60. Dispute Procedure. The Class Notice will include a procedure by which a Class Member  
2 may dispute the number of workweeks allocated to the Class Member by submitting a written dispute  
3 sent via U.S. Mail to the Settlement Administrator postmarked no later than the expiration of the  
4 Notice Period (“**Workweek Dispute**”). To be valid, a Workweek Dispute must contain the  
5 following: (i) the Class Member’s full name and current address; (ii) the Action name and/or case  
6 number; (iii) the number of workweeks the Class Member maintains is correct; and (iv) documentary  
7 evidence sufficient to prove that Defendant’s calculation of the workweeks for the Class Member is  
8 incorrect, if any. Upon receipt of notice of a Workweek Dispute, the Settlement Administrator shall  
9 promptly serve Defendant’s counsel with a copy of the Workweek Dispute and any accompanying  
10 papers. No Workweek Dispute shall be effective or considered for any purpose unless it is timely  
11 mailed by U.S. mail to and received by the Settlement Administrator as provided above. Defendant  
12 shall have the right to respond to the Workweek Dispute by any Class Member. The Settlement  
13 Administrator will also attempt to resolve the Workweek Dispute.

- 14           a. Within 14 calendar days after the close of the Notice Period, the Settlement  
15 Administrator will provide Class Counsel and Defendant’s counsel with a report  
16 listing the amount of all Individual Settlement Payments, including Individual PAGA  
17 Payments, to be made to Participating Class Members and Aggrieved Employees.  
18 The report to Class Counsel will not include the names or contact information of  
19 Participating Class Members and Aggrieved Employees.

20       61. Opt-Out Procedure. Unless a Class Member opts out of the settlement described in this  
21 Agreement, the Class Member will be bound by the terms and conditions of this Agreement,  
22 including the release of the Released Claims that arose during the Class Period. A Class Member  
23 will not be entitled to opt out of the settlement established by this Agreement unless the Class  
24 Member submits a valid opt-out request (“**Opt-Out Request**”). A valid Opt-Out Request must:  
25 (i) contain the Class Member’s full name and current address; (ii) the Action name and/or case  
26 number; (iii) a statement clearly expressing the Class Member’s desire to be excluded from (or opt  
27 out of) the Settlement; and (iv) be returned so that it is postmarked on or before the expiration of the  
28 Notice Period. Alternatively, a Class Member may fill out the Opt-Out Request Form attached to

1 the Class Notice and return it so that it is postmarked on or before the expiration of the Notice Period.  
2 Any Class Members who worked during the PAGA Period and who opt out of the Settlement will  
3 still be considered Aggrieved Employees for purposes of this Agreement.

4 a. Upon receipt of any Opt-Out Request within the Notice Period, the Settlement  
5 Administrator shall review the Opt-Out Request to confirm that it complies with the  
6 opt-out requirements of this Agreement.

7 b. Any Class Member who fails to submit a timely, complete, and valid Opt-Out Request  
8 will be barred from opting out of this Agreement or the settlement, unless otherwise  
9 ordered by the Court. If the Settlement Administrator receives a timely Opt-Out  
10 Request that is incomplete, it will make reasonable attempts to contact the class  
11 member to cure the defect. The Settlement Administrator will not consider any Opt-  
12 Out Request postmarked after the end of the Notice Period, but will report its receipt  
13 of any such requests to Class Counsel and counsel for Defendant. It shall be presumed  
14 that if an Opt-Out Request is not postmarked on or before the end of the Notice Period,  
15 the Class Member did not make the request in a timely manner. Absent good cause  
16 found by the Court, a declaration submitted by any Class Member attesting to the  
17 mailing of an Opt-Out Request on or before the expiration of the Notice Period shall  
18 be insufficient to overcome the conclusive presumption that the Opt-Out Request was  
19 untimely. Under no circumstances shall the Settlement Administrator have the  
20 authority to extend the deadline for Class Members to submit a request to opt out of  
21 the settlement without the Parties' joint written consent.

22 c. At the close of the Notice Period, the Settlement Administrator shall report the names  
23 of all individuals who opted out of the Agreement to the parties and include this  
24 information in a Declaration regarding the distribution of the notice that will be  
25 provided in support of Plaintiff's Motion for Final Approval.

26 d. If 5% or more Class Members timely opt out of the settlement, Defendant will have  
27 the sole and absolute discretion to withdraw from this Agreement within fourteen (14)  
28 calendar days after Defendant receives notice of the number of opt outs. Defendant

1 will provide written notice to Class Counsel if it intends to withdraw from this  
2 Agreement. In the event that Defendant elects to so withdraw, the withdrawal shall  
3 have the same effect as a termination of this Agreement for failure to satisfy a  
4 condition of settlement, and the Agreement shall become null and void and have no  
5 further force or effect, and the class certified pursuant to this Agreement will be  
6 decertified for all purposes. If Defendant chooses to terminate this Settlement  
7 Agreement under this provision, it shall be responsible to pay the Settlement  
8 Administrator's fees and costs. If the Settlement Agreement is terminated for any  
9 other reason, including the Court's failure to grant final approval of the Parties'  
10 settlement, then Class Counsel and Defendant will be jointly responsible for the  
11 Settlement Administrator's fees and costs.

12 **62. Objections To Settlement.** Any Class Member may object to the Settlement. Any written  
13 objection must be mailed to the Settlement Administrator (who shall promptly provide a copy to  
14 Class Counsel and counsel for Defendant) by the close of the Notice Period. Class Counsel will  
15 ensure that any written objections get filed with the Court concurrently with the final approval  
16 documents by having it attached to the Settlement Administrator's Declaration. Class Members who  
17 have not objected in writing may still appear and be heard at the Settlement Hearing.

- 18 a. Written objections to the Settlement must contain at least the following: (i) the  
19 objecting Class Member's full name and current address; (ii) a clear reference to the  
20 Action by name and/or case number; and (iii) a statement of the specific reasons why  
21 the objector believes the Settlement is unfair or objects to the Settlement.  
22 Alternatively, a Class Member may fill out the Notice of Objection to Class and  
23 PAGA Action Settlement Form attached to the Class Notice. In addition, though not  
24 required, the Parties ask that any objecting Class Member also include a statement of  
25 whether the objector intends to appear at the final approval hearing, either in person  
26 or through counsel and, if through counsel, a statement identifying that counsel by  
27 name, bar number, address, and telephone number. In addition,. Class Members may  
28 appear at the final approval hearing to state their objection even if they do not submit

- 1 a written objection during the Notice Period.
- 2 b. Class Counsel or Defendant’s counsel may, up to five court days before the Final
- 3 Hearing Date, file responses to any written objections submitted to the Court.
- 4 c. Unless they opt out of the Settlement as specified in Paragraph 56, Class Members
- 5 who object to the proposed settlement or the Agreement will remain Participating
- 6 Class Members, and shall be deemed to have voluntarily waived their right to pursue
- 7 an independent remedy against Defendant and the other Released Parties. To the
- 8 extent any Participating Class Member objects to the proposed settlement or
- 9 Agreement and such objection is overruled in whole or in part, such individuals will
- 10 be bound by the Court’s Final Approval Order.
- 11 d. In the event that any person objects to or opposes this proposed settlement or the
- 12 Agreement, or attempts to intervene in or otherwise enter the Actions, the Parties and
- 13 Class Counsel will use their best efforts to defend the Settlement.
- 14 e. A Class Member cannot both opt out and object to the Settlement. If a Class Member
- 15 both objects and opts out of the Settlement, the opt-out will control and the objection
- 16 will be deemed invalid.

17 **63. Funding And Distribution Of Settlement.**

- 18 a. Within ten calendar days of the close of the Notice Period, the Settlement
- 19 Administrator will provide a draft declaration to Class Counsel and Defendant’s
- 20 counsel setting forth the number of Participating Class Members and Aggrieved
- 21 Employees; the identity of those individuals who opted out of the Settlement; the total
- 22 amount payable to all Participating Class Members and Aggrieved Employees; and
- 23 the total PAGA Amount, Attorneys’ Fees and Costs, Enhancement Award, General
- 24 Release Payment, Settlement Administration Costs, Net Class Settlement Amount,
- 25 and the appropriate applicable employer’s taxes for any portion of the Individual
- 26 Settlement Payments designated as wages.
- 27 b. On the later of fifteen calendar days of the Settlement Administrator providing all the
- 28 information necessary for Defendant to remit payment or fifteen calendar days after

1 the Effective Date, Defendant shall remit to the Settlement Administrator: (i) the  
2 Gross Settlement Amount of \$1,050,000.00 and (ii) the employer's taxes for any  
3 portion of the Individual Settlement Payments designated as wages (the collectively,  
4 "**Settlement Fund**"). The delivery by Defendant of the Settlement Fund to the  
5 Settlement Administrator will constitute the full and complete discharge of the entire  
6 obligation of Defendant under this Agreement, unless anything further is requested  
7 by the Settlement Administrator to ensure timely and proper disbursement. No  
8 Released Party will have any further obligation or liability to the Named Plaintiffs,  
9 Participating Class Members, Aggrieved Employees, or Class Counsel under this  
10 Agreement, in connection with the claims released herein, regardless of whether the  
11 Named Plaintiffs, Participating Class Members, Aggrieved Employees, or Class  
12 Counsel receive the payments from the Settlement Administrator set forth in this  
13 Agreement.

14 c. The distribution of Individual Settlement Payments to Participating Class Members  
15 and Aggrieved Employees will occur no later than ten calendar days after receipt of  
16 the Settlement Fund from Defendant ("**Settlement Proceeds Distribution  
17 Deadline**"). The Settlement Administrator shall be deemed to have timely distributed  
18 Individual Settlement Payments, including Individual PAGA Payments, if it places in  
19 the mail the Individual Settlement Payments for all Participating Class Members and  
20 the Individual PAGA Payments for all Aggrieved Employees by the Settlement  
21 Proceeds Distribution Deadline. No person will have any claim against the Settlement  
22 Administrator, Defendant, Class Counsel, Defendant's counsel, or any other agent  
23 designated by the Named Plaintiffs or Class Counsel based upon the distribution of  
24 Individual Settlement Payments made substantially in accordance with this  
25 Agreement or further orders of the Court.

26 d. The distribution of the LWDA Payment, Attorneys' Fees and Costs, the Enhancement  
27 Award, and the General Release Payment shall occur no later than ten calendar days  
28 after the Settlement Administrator receives the Settlement Fund from Defendant.



- 1 e. If a Participating Class Member's or Aggrieved Employee's check is returned to the  
2 Settlement Administrator, the Settlement Administrator will make reasonable efforts  
3 to re-mail it to the Participating Class Member or Aggrieved Employee at the correct  
4 address. It is expressly understood and agreed that the checks for the Individual  
5 Settlement Payments, including the Individual PAGA Payments, will become void  
6 and no longer available if not cashed within 180 calendar days after mailing. The  
7 funds from uncashed and voided checks will be transferred to the State of California's  
8 Unclaimed Property Fund in the name of the Participating Class Member/Aggrieved  
9 Employee.
- 10 f. Defendant will not be obligated to make any payments contemplated by this  
11 Agreement unless and until the Court enters the Final Order and Judgment, and after  
12 the Effective Date of the Agreement.
- 13 g. Within sixty calendar days of the Settlement Proceeds Distribution Deadline, the  
14 Settlement Administrator will provide written certification of completion of  
15 settlement administration to Class Counsel and to Defendant's Counsel.

16 64. Binding Effect Of Agreement On Class Members. Subject to final Court approval and the  
17 occurrence of the Effective Date, and unless otherwise provided in this Agreement, all Participating  
18 Class Members will be bound by this Agreement.

19 65. Binding Effect Of Agreement On Aggrieved Employees and State of California. The  
20 Aggrieved Employees and the State of California, to the extent permitted by law, shall be deemed by  
21 operation of the Final Order and Judgment to have agreed not to sue or otherwise make a claim  
22 against Defendant or any of the Released Parties for any of the PAGA Claims and to be bound by  
23 the release of the PAGA Released Claims during the PAGA Period as set forth in this Agreement.

24 66. Provisional Approval Of Settlement. Named Plaintiffs will file a motion in the Actions  
25 requesting that the Court enter the Preliminary Approval Order shortly after complete execution of  
26 this Agreement. Defendant will not oppose Class Counsel's motion for preliminary approval of the  
27 settlement so long as the motion and supporting papers are consistent with the terms of this  
28 Agreement. Class Counsel will provide Defendant's counsel at least 3 business days to review, and

1 provide comments to, the draft motion for preliminary approval of the settlement before the motion  
2 and supporting papers are filed with the Court. Notwithstanding the foregoing, Defendant may,  
3 without opposing the preliminary approval motion, advise the Court if Defendant dispute any of the  
4 factual statements concerning the claims at issue included by the Named Plaintiffs in the motion and  
5 supporting papers. Defendant's counsel will meet and confer with Class Counsel regarding any  
6 disputed factual statements before notifying the Court of any disputes.

7 67. Non-Interference With Claims Procedure. The Parties and their counsel agree that they will  
8 not advise, solicit, or otherwise encourage any Class Members to submit requests for exclusion or  
9 objections to the settlement or to appeal from the Final Order or Final Judgment. Nothing in this  
10 paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members  
11 in accordance with Class Counsel's ethical obligations owed to Class Members.

12 68. Final Order and Judgment. The Named Plaintiffs will request that the Court enter, after the  
13 Settlement Hearing finally approving this Agreement, a Final Order and Judgment. Named Plaintiffs  
14 will request that the Final Order and Judgment certify the Participating Class; find that this  
15 Agreement is fair, just, equitable, reasonable, adequate and in the best interests of the Class and the  
16 Aggrieved Employees; list the employees (if any) who opted-out of the settlement; order that the  
17 Participating Class Members release the Released Parties from the Released Claims; order that the  
18 Aggrieved Employees and the State of California release the Released Parties from the PAGA Claims  
19 as set forth in this Agreement (to the extent permitted by law); and require the Parties to carry out  
20 the provisions of this Agreement.

21 69. Automatic Voiding Of Agreement If Settlement Not Finalized. If for any reason the  
22 settlement set forth in this Agreement does not become final, the settlement will be null and void and  
23 the orders, judgment, and dismissal to be entered pursuant to this Agreement shall be vacated, and  
24 the Parties will be returned to the status quo prior to entering this Agreement with respect to the  
25 Actions, as if the Parties had never entered into this Agreement, and the class certified pursuant to  
26 this Agreement will be decertified for all purposes. In addition, in such event, the Agreement and all  
27 negotiations, court orders, and proceedings relating to this Agreement shall be without prejudice to  
28 the rights of any and all parties to this Agreement, and evidence relating to the Agreement and all

1 negotiations shall not be admissible or discoverable in the Actions or otherwise.

2 70. No Double Recovery. No Class Member who has already released, assigned, or otherwise  
3 forfeited the claims asserted in the Action will be considered a Class Member or be entitled to recover  
4 under this Agreement. Such persons will be excluded from the Class List.

5 71. No Publicity. The Named Plaintiffs and Class Counsel agree that they shall not publicize the  
6 filing of the Actions, the Parties' settlement, this Agreement and its terms, or the negotiations leading  
7 to this Agreement with anyone other than the Court, Class Members, or those individuals necessary  
8 to effectuate the terms of the Agreement. The prohibition set forth in this Paragraph 66 includes, but  
9 is not limited to: (i) publication by Named Plaintiffs or Class Counsel on any website (including,  
10 without limitation, publishing on any Twitter account, Facebook, other social media, or blog, or  
11 business website) of the amount or terms of the settlement, with or without identifying information;  
12 and (ii) the submission of information to Verdicts & Settlements, Jury Verdicts, or any other  
13 publication that summarizes the results of jury verdicts and settlements.

14 a. Notwithstanding the foregoing, Class Counsel may respond to questions received  
15 from, and discuss any aspect of this Agreement with the Class Members or their legal  
16 representatives, the Settlement Administrator, the Court, and representatives of the  
17 California Labor and Workforce Development Agency.

18 b. Notwithstanding the foregoing, nothing in this Paragraph shall prohibit the filing of  
19 information with the Court or the LWDA relating to the Settlement that is necessary  
20 to effectuate this Agreement, or the online posting of documents relating to the  
21 Actions by the Settlement Administrator as permitted by this Agreement, including  
22 the Judgment entered by the Court.

23 c. The Named Plaintiffs and Class Counsel agree that all data and information  
24 informally produced by Defendant in connection with the settlement of these Actions  
25 will be maintained in confidence, and will not be shared with any other persons or  
26 entities.

27 72. Invalidation Of Agreement For Failure To Satisfy Conditions. If the Court makes material  
28 changes to the material terms or conditions of Paragraphs 1 through 66 of this Agreement that are

1 not agreed to by the Parties, either Party shall have the right to terminate this Agreement, in which  
2 case Defendant would not be obligated to make any payments to any Class Member, to Class  
3 Counsel, or to the Named Plaintiffs. The Parties shall meet and confer in good faith and involve  
4 mediator Jeffrey P. Fuchsman as necessary before exercising such right.

5 73. Modification In Writing. This Agreement may be altered, amended, modified or waived, in  
6 whole or in part, only in a writing signed by all signatories to this Agreement and approved by the  
7 Court. This Agreement may not be amended, altered, modified or waived, in whole or in part, orally.

8 74. Ongoing Cooperation. The Named Plaintiffs and Defendant will execute all documents and  
9 perform all acts necessary and proper to effectuate the terms of this Agreement. In the event the  
10 Parties are unable to reach an agreement on the form or content of any document needed to implement  
11 the Settlement, or any supplemental provisions that may become necessary to effectuate the terms of  
12 the Settlement, the Parties agree to seek the assistance of the Mediator (Jeffrey Fuchsman) and, if  
13 still unable to resolve their dispute, the Court.

14 75. Notices. All notices, requests, demands, and other communications required or permitted to  
15 be given pursuant to this Agreement shall be in writing, and shall be delivered personally or by first  
16 class mail to the Settlement Administrator approved by the Court and the undersigned persons at  
17 their respective addresses as set forth below:

18 **CLASS COUNSEL**

19 **JAMES HAWKINS APLC**

20 James R. Hawkins, Esq.

21 Gregory Mauro, Esq.

22 Michael Calvo, Esq.

23 Lauren Falk, Esq.

24 Ava-Issary, Esq.

25 9880 Research Drive Suite 200

26 Irvine CA 92618

27 Tel.: (949) 387-7200

28 **Blumenthal Nordrehaug Bhowmik De Blouw LLP**

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

Jeffrey S. Herman (State Bar #280058)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223



1 intent of the provisions of this Agreement.

2 77. Governing Law. This Agreement shall be interpreted, construed, enforced, and  
3 administered in accordance with the laws of the State of California, without regard to conflict of law  
4 rules.

5 78. Reservation Of Jurisdiction. Notwithstanding the dismissal of the Actions and entry of  
6 the Final Order and Judgment, the Court shall retain jurisdiction for purposes of interpreting and  
7 enforcing the terms of this Agreement pursuant to California Code of Civil Procedure section 664.6  
8 and California Rules of Court, Rule 3.769(h).

9 79. Mutual Preparation. The Parties have had the full opportunity to negotiate the terms and  
10 conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly  
11 against one Party than another merely by virtue of the fact that it may have been prepared by counsel  
12 for one of the Parties, it being recognized that, because of the arms-length negotiations between the  
13 Parties, all Parties have contributed to the preparation of this Agreement.

14 80. Representation and Warranties. Class Counsel and the Named Plaintiffs represent and  
15 warrant to Defendant that they are not aware of any attorneys beyond those named as Class Counsel  
16 who have claims for fees arising out of the Actions or the Settlement contemplated by this  
17 Agreement.

18 81. Authorization to Act. Each Party to this Agreement covenants and warrants that (a) such  
19 Party has full power and authority to enter into and consummate all transactions contemplated by  
20 this Agreement and have duly authorized the execution, delivery, and performance of this  
21 Agreement; and (b) the person executing this Agreement for such Party has the full right, power, and  
22 authority to enter into this Agreement on behalf of such Party, and the full right, power, and authority  
23 to execute any and all necessary instruments in connection with the Settlement, and to fully bind  
24 such Party to the terms and obligations of this Agreement.

25 82. Representation By Counsel. The Parties acknowledge that each of them has been  
26 represented by their respective counsel throughout all negotiations that preceded the execution of  
27 this Agreement, and that this Agreement has been executed with the consent and advice of their  
28 respective counsel. Further, the Named Plaintiffs and Class Counsel warrant and represent that there

1 are no liens on the Settlement Agreement, and that after entry by the Court of the Final Order and  
2 Judgment, the Settlement Administrator may distribute funds to Participating Class Members,  
3 Aggrieved Employees, Class Counsel, the LWDA, the Settlement Administrator, and the Named  
4 Plaintiffs as provided by this Agreement.

5 83. Representation By The Named Plaintiffs. The Named Plaintiffs agree not to request to  
6 be excluded from the Class and not to object to any terms of this Agreement. Any such request by  
7 the Named Plaintiffs for exclusion or objection shall be void and of no force or effect.

8 84. Additional Attorneys' Fees and Costs. No Participating Class Member, Aggrieved  
9 Employee, or Class Counsel, or any other attorney acting for any Participating Class Member or  
10 Aggrieved Employee may recover or seek to recover any amounts for fees, costs, or disbursements  
11 arising from the Actions or the Gross Settlement Amount from the Released Parties except as  
12 expressly provided for in this Agreement.

13 85. No Reliance on Representations. The Parties have made such investigations of the facts  
14 and the law pertaining to the matters described in this Agreement as they deem necessary, and have  
15 not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any  
16 other Party, or any of their agents, employees, attorneys, or representatives, with regard to any of  
17 their rights or asserted rights, or with regard to the advisability of making and executing this  
18 Agreement, or with respect to any such matters. No representations, warranties, or inducements have  
19 been made to any Party concerning this Agreement.

20 86. No Collateral Attack. This Agreement will not be subject to collateral attack by any Class  
21 Member or any recipient of the Class Notice after the Final Order and Dismissal. Such prohibited  
22 collateral attacks shall include but not be limited to claims that the Class Member failed for any  
23 reason to receive timely notice of the procedure for disputing the calculation of their Individual  
24 Settlement Payment, or for opting out of the Settlement.

25 87. Within 30 days of the Effective Date, the Named Plaintiffs will request dismissal of the  
26 PAGA Action, the Haller Action, and the Haller PAGA Action, with prejudice as to individual  
27 claims. The representative claims in these matters will be dismissed without prejudice since such  
28 claims must be approved by a Court prior to dismissal with prejudice, and thus the representative

1 claims in these matters are being released and dismissed with prejudice as part of this Settlement in  
2 San Bernardino Case Number CIVSB2222831.

3  
4 IT IS SO AGREED:

5  
6  
7 Dated: 10/23/2024 \_\_\_\_\_

DocuSigned By: PLAINTEE DAVID R. SIERRA

8 By:  \_\_\_\_\_  
9 David R. Sierra  
10 Named Plaintiff

11  
12  
13 Dated: \_\_\_\_\_

PLAINTEFF KEITH HALLER

14 By: \_\_\_\_\_  
15 Keith Haller  
16 Named Plaintiff

17 Dated: \_\_\_\_\_

DEFENDANT NATIONAL RETAIL  
TRANSPORTATION, INC.

18  
19 By: \_\_\_\_\_

20  
21 Title: \_\_\_\_\_

22  
23  
24  
25  
26  
27  
28



1 claims in these matters are being released and dismissed with prejudice as part of this Settlement in  
2 San Bernardino Case Number CIVSB2222831.

3  
4 IT IS SO AGREED:

5  
6 PLAINTIFF DAVID R. SIERRA

7 Dated: \_\_\_\_\_

8 By: \_\_\_\_\_

9 David R. Sierra  
10 Named Plaintiff

11  
12 PLAINTIFF KEITH HALLER

13 Dated: Oct 22, 2024

14 By:  \_\_\_\_\_  
Keith Haller (Oct 22, 2024 12:43 PDT)

15 Keith Haller  
16 Named Plaintiff

17  
18 DEFENDANT NATIONAL RETAIL  
TRANSPORTATION, INC.

19 Dated: \_\_\_\_\_

20 By: \_\_\_\_\_

21 Title: \_\_\_\_\_

1 claims in these matters are being released and dismissed with prejudice as part of this Settlement in  
2 San Bernardino Case Number CIVSB2222831.

3  
4 IT IS SO AGREED:

5  
6 PLAINTIFF DAVID R. SIERRA

7 Dated: \_\_\_\_\_

8 By: \_\_\_\_\_  
9 David R. Sierra  
10 Named Plaintiff


11 PLAINTIFF KEITH HALLER

12  
13 Dated: \_\_\_\_\_

14 By: \_\_\_\_\_  
15 Keith Haller  
16 Named Plaintiff

17 Dated: 10/28/2024

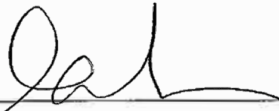
18 DEFENDANT NATIONAL RETAIL  
19 TRANSPORTATION, INC.

20 By:   
21 Title: GENERAL COUNSEL

1 APPROVED AS TO FORM ONLY AND AGREE TO BE  
2 BOUND BY PARAGRAPH 71:

3 Dated: 10/23/2024

**JAMES HAWKINS APLC**

4  
5 By:   
6 Gregory Mauro  
7 Lauren Falk  
8 Attorneys for Plaintiff Sierra

9 Dated: \_\_\_\_\_

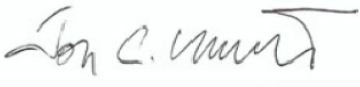
**BLUMENTHAL NORDREHAUG  
BHOWMIK DE BLOUW LLP**

10  
11 By: \_\_\_\_\_  
12 Norman B. Blumenthal  
13 Attorney for Plaintiff Haller

14 APPROVED AS TO FORM ONLY:

15  
16 Dated: October 28, 2024

**HUSCH BLACKWELL**

17  
18 By:   
19 Jon McNutt  
20 Attorney for Defendant

21 HB: 4883-4690-0453.1

22  
23  
24  
25  
26  
27  
28

1 APPROVED AS TO FORM ONLY AND AGREE TO BE  
2 BOUND BY PARAGRAPH 71:

3 Dated: \_\_\_\_\_  
4


**JAMES HAWKINS APLC**

5 By: \_\_\_\_\_

6 Gregory Mauro  
7 Lauren Falk  
8 Attorneys for Plaintiff Sierra

9 Dated: 10/22/24

**BLUMENTHAL NORDREHAUG  
BHOWMIK DE BLOUW LLP**

10  
11 By:  \_\_\_\_\_

12 Norman B. Blumenthal  
13 Attorney for Plaintiff Haller

14 APPROVED AS TO FORM ONLY:

15  
16 Dated: \_\_\_\_\_

**HUSCH BLACKWELL**

17  
18  
19 By: \_\_\_\_\_

20 Jon McNutt  
21 Attorney for Defendant

22 HB: 4883-4690-0453.1  
23  
24  
25  
26  
27  
28