

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)

Perssia Razma (State Bar #351398)

5440 Morehouse Drive, Suite 3600

San Diego, CA 92121

Telephone: (619) 599-8292

jlapuyade@jcl-lawfirm.com

prazma@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)

Eden Zakay (State Bar #339536)

5440 Morehouse Drive, Suite 3600

San Diego, CA 92121

Telephone: (619) 255-9047

Facsimile: (858) 404-9203

shani@zakaylaw.com

eden@zakaylaw.com

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

KEVIN DION COCROFT and EFRAIM
ALVARADO, individuals, on behalf of
themselves, and on behalf of all persons
similarly situated,

Plaintiffs,

v.

EQUIPMENTSHARE.COM INC., and DOES
1-50, Inclusive,

Defendants.

Case No. 37-2024-00021084-CU-OE-CTL

[Complaint Filed: May 6, 2024]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

1 This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is
2 entered into by and between Plaintiffs Kevin Cocroft (“Plaintiff Cocroft”) and Efraim Alvarado
3 (“Plaintiff Alvarado”) (collectively, “Plaintiffs”), individuals, on behalf of themselves, and on behalf
4 of all persons similarly situated, and in their representative capacity on behalf of the State of
5 California, the Labor and Workforce Development Agency (“LWDA”) and the Aggrieved
6 Employees, and Defendant EquipmentShare.com Inc (“Defendant”):

7 **I. DEFINITIONS**

- 8 A. “Action” shall mean the putative class and representative action lawsuit designated
9 *Kevin Dion Cocroft v. EquipmentShare.com Inc*, San Diego County Superior Court,
10 Case No. 37-2024-00021084-CU-OE-CTL, filed May 6, 2024.
- 11 B. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
12 Class and PAGA Action Claims and Release of Claims.
- 13 C. “Aggrieved Employees” means all current and former non-exempt employees who
14 worked for Defendant in California at any time during the PAGA Period.
- 15 D. “Aggrieved Employee Payment” shall mean the twenty-five percent (25%) of the
16 PAGA Payment (\$2,500.00) that will be distributed to the Aggrieved Employees as
17 described in this Agreement.
- 18 E. “Class” or the “Class Members” means all persons who are or previously were
19 employed by Defendant in California and classified as non-exempt employees at any
20 time during the Class Period.
- 21 F. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and
22 Shani O. Zakay, Esq. of Zakay Law Group, APLC.
- 23 G. “Class Counsel Award” means the award of fees and expenses that the Court
24 authorizes to be paid to Class Counsel for the services they have rendered to
25 Plaintiffs, the Class Members and the Aggrieved Employees in the Action, consisting
26 of attorneys’ fees not to exceed one-third of the Gross Settlement Amount currently
27 estimated to be \$185,000.00 out of \$555,000.00 plus costs of up to \$15,000.00.
28

Attorneys' fees will be divided equally between Class Counsel percentages (50% to JCL Law Firm, APC, and 50% to Zakay Law Group, APLC).

H. "Class Data" means information regarding Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class Member's full name; last known address; Social Security Number; start dates and end dates of employment; and any other information the Settlement Administrator deems necessary to accurately calculate the number of Workweeks and Pay Periods worked by each Class Member and Aggrieved Employee during the Class and PAGA Periods.

I. "Class Period" means the period beginning February 29, 2020, through December 16, 2024.

J. "Class Representatives" means Plaintiffs Kevin Cocroft and Efraim Alvarado.

K. "Court" means the Superior Court for the State of California, County of San Diego currently presiding over the Action.

L. "Defendant" means EquipmentShare.com Inc.

M. "Effective Date" means the first date upon which all of the following events have occurred:

1. this Agreement has been executed by all Parties and by Class Counsel and Defense Counsel;
2. the Court has preliminarily approved the Settlement;
3. notice has been properly given to Class Members, providing them an opportunity to opt out of the Class and Settlement as described in this Agreement;
4. the Court has held a Final Fairness and Approval Hearing and entered the Final Order and Judgment approving the Settlement; and,
5. the later of: (a) the date sixty (60) days after the entry of the Final Order and Judgment, if no motions for reconsideration and no appeals or other efforts to obtain review have been filed; or (b) in the event that a motion for

1 reconsideration, an appeal or other effort to obtain review of the Final Order
2 and Judgment, the date sixty (60) days after such reconsideration, appeal or
3 review has been finally concluded. In this regard, it is the intention of the
4 Parties that the Effective Date of Settlement shall not be a date before the
5 Court's order approving the Settlement has become completely final, and
6 there is no timely recourse by any person who seeks to object to or otherwise
7 contest the Settlement.

8 N. "Funding Date" means the date by which Defendant has paid the entire Gross
9 Settlement Amount to the Settlement Administrator in accordance with the terms of
10 this Agreement. Defendant will pay the Gross Settlement Amount, including payment
11 for all claims, payment of Settlement Administration Costs, Class Counsel Award,
12 Service Award, and PAGA Payment to the Settlement Administrator within sixty (60)
13 days of notice of entry of the Court's order granting final approval.

14 O. "Gross Settlement Amount" means Five Hundred Fifty-Five Thousand Dollars and
15 Zero Cents (\$555,000.00) that Defendant must pay into the QSF in connection with
16 this Settlement, inclusive of the sum of Individual Settlement Payments, Settlement
17 Administration Costs, Class Counsel Award, Service Award, and the PAGA
18 Payment. The Gross Settlement Amount is all-in with no reversion and *exclusive* of
19 the employer's share of payroll tax, if any, triggered by any payment under this
20 Settlement.

21 P. "Individual Settlement Payments" means the amount payable from the Net Settlement
22 Amount to each Settlement Class Member and excludes any amounts distributed to
23 Aggrieved Employees pursuant to PAGA.

24 Q. "LWDA" means the Labor and Workforce Development Agency.

25 R. "LWDA Payment" means the seventy-five percent (75%) of the PAGA Payment
26 (\$7,500.00) payable to the LWDA.

- 1 S. “Net Settlement Amount” or “NSA” means the Gross Settlement Amount, less Class
2 Counsel Award, Service Awards, PAGA Payment, and Settlement Administration
3 Costs.
- 4 T. “Notice Packet” means the Class Notice to be provided to the Class Members by the
5 Settlement Administrator in the form set forth as **Exhibit A** to this Agreement (other
6 than formatting changes to facilitate printing by the Settlement Administrator).
- 7 U. “Operative Complaint” means the First Amended Complaint submitted for filing by
8 Plaintiffs on or around December 6, 2024, in the San Diego Superior Court.
- 9 V. “PAGA” means the California Labor Code Private Attorneys General Act of 2004,
10 Labor Code § 2698 *et seq.*
- 11 W. “PAGA Payment Ratio” means the respective Pay Periods during the PAGA Period
12 for each Aggrieved Employee divided by the total Pay Periods for all Aggrieved
13 Employees during the PAGA Period.
- 14 X. “PAGA Pay Periods,” for purposes of calculating the distribution of the Aggrieved
15 Employee Payment, as defined herein, means the number of pay periods of
16 employment during the PAGA Period that each Aggrieved Employee worked in
17 California.
- 18 Y. “PAGA Period” means the period beginning February 28, 2023, through December
19 16, 2024.
- 20 Z. “PAGA Payment” means Ten Thousand Dollars and Zero Cents (\$10,000.00) to be
21 allocated from the Gross Settlement Amount for settlement of PAGA Claims asserted
22 in the Action.
- 23 AA. “Parties” means Plaintiffs and Defendant, collectively, and “Party” shall mean either
24 Plaintiffs or Defendant, individually.
- 25 BB. “Payment Ratio” means the respective Workweeks for each Class Member divided
26 by the total Workweeks for all Class Members.
- 27 CC. “Plaintiffs” means Kevin Cocroft and Efraim Alvarado.
- 28

- 1 DD. "QSF" means the Qualified Settlement Fund established, designated, and maintained
2 by the Settlement Administrator to fund the Gross Settlement Amount.
- 3 EE. "Released Class Claims" means all class claims alleged, or reasonably could have
4 been alleged based on the facts alleged, in the operative complaint in the Action which
5 occurred during the Class Period, and expressly excluding all other claims, including
6 claims for vested benefits, wrongful termination, unemployment insurance, disability,
7 social security, workers' compensation, and class claims outside of the Class Period.
- 8 FF. "Released PAGA Claims" means all PAGA claims alleged in the Operative
9 Complaint in the Action and Plaintiffs' PAGA notice to the LWDA which occurred
10 during the PAGA Period, and expressly excluding all other claims, including claims
11 for vested benefits, wrongful termination, unemployment insurance, disability, social
12 security, workers' compensation, and PAGA claims outside of the PAGA Period.
- 13 GG. "Released Parties" means Defendant and its officers, directors, members, managers,
14 agents, representatives, attorneys, insurers, partners, investors, shareholders,
15 administrators, predecessors, successors, assigns, and joint venturers.
- 16 HH. "Response Deadline" means the date forty-five (45) calendar days after the Settlement
17 Administrator mails Notice Packets to Class Members and the last date on which
18 Class Members may submit requests for exclusion or objections to the Settlement.
19 Neither side shall encourage any Class Member to opt out.
- 20 II. "Service Awards" means an award in the amount of \$10,000 to each Plaintiff or in an
21 amount that the Court authorizes to be paid to the Class Representatives, in addition
22 to their Individual Settlement Payments and their individual Aggrieved Employee
23 Payments, in recognition of their efforts and risks in assisting with the prosecution of
24 the Action.
- 25 JJ. "Settlement" means the disposition of the Action pursuant to this Agreement.
- 26 KK. "Settlement Administration Costs" shall mean the amount paid to the Settlement
27 Administrator from the Gross Settlement Amount for administering the Settlement
28 pursuant to this Agreement currently estimated not to exceed \$7,990.00.

1 LL. "Settlement Administrator" means Apex Class Action LLC, located at 18 Technology
2 Drive, Suite 154, Irvine, CA 92618; Tel: (800) 355-0700. The Settlement
3 Administrator establishes, designates, and maintains, as a QSF under Internal
4 Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which
5 the amount of the Gross Settlement Amount is deposited for the purpose of resolving
6 the claims of Settlement Class Members. The Settlement Administrator shall maintain
7 the funds until distribution in an account(s) segregated from the assets of Defendant
8 and any person related to Defendant. *All accrued interest shall be paid and*
9 *distributed to the Settlement Class Members as part of their respective Individual*
10 *Settlement Payment.*

11 MM. "Settlement Class Members" or "Settlement Class" means all Class Members who
12 have not submitted a timely and valid request for exclusion as provided in this
13 Agreement.

14 NN. "Workweeks," for purposes of calculating the distribution of the Net Settlement
15 Amount, means the number of weeks of employment during the Class Period that
16 each Class Member was employed by Defendant in California.

17 **II. RECITALS**

18 A. On February 29, 2024, Plaintiff Cocroft filed a Class Action complaint in the San
19 Diego Superior Court, Case No. 37-2024-00009472 ("Class Action"), alleging claims
20 for:

- 21 1. Unfair Competition In Violation Of Cal. Bus. & Prof. Code §17200 *et seq*;
- 22 2. Failure To Pay Minimum Wages In Violation Of Cal. Lab. Code §§ 1194,
23 1197 & 1197.1;
- 24 3. Failure To Pay Overtime Wages In Violation Of Cal. Lab. Code §§ 510, *et*
25 *seq*;
- 26 4. Failure To Provide Required Meal Periods In Violation Of Cal. Lab. Code §§
27 226.7 & 512 and the Applicable IWC Wage Order;
- 28

1 5. Failure To Provide Required Rest Periods In Violation Of Cal. Lab. Code §§
2 226.7 & 512 and the Applicable IWC Wage Order;

3 6. Failure To Reimburse Employees For Required Expenses In Violation Of Cal.
4 Lab. Code § 2802;

5 7. Failure To Provide Accurate Itemized Statements In Violation Of Cal. Lab.
6 Code § 226; and

7 8. Failure To Provide Wages When Due In Violation Of Cal. Lab. Code §§ 201,
8 202 And 203.

9 B. On February 29, 2024, Plaintiff Cocroft filed a Notice of Violations with the LWDA
10 and served the same on Defendant.

11 C. On April 4, 2024, Defendant removed the Class Action from the San Diego Superior
12 Court to the United States District Court, Southern District of California.

13 D. On May 6, 2024, Plaintiff Cocroft filed a Representative Action Complaint in the San
14 Diego Superior Court, Case No. 37-2024-00021084-CU-OE-CTL, for Violations of
15 the Private Attorneys General Act (Labor Code sections 2698 et. seq.) (the “Action”)

16 E. On June 10, 2024, Plaintiff Alvarado filed a Notice of Violations with the LWDA and
17 served the same on Defendant.

18 F. On October 30, 2024, the Parties attended an Early Neutral Evaluation in the removed
19 Class Action with the Honorable Judge Allison H. Goddard and reached a settlement
20 of both the Class Action and the PAGA Action, which was subsequently
21 memorialized in the form of a Memorandum of Understanding.

22 G. The Class Representatives believe they have claims based on alleged violations of the
23 California Labor Code, and the Industrial Welfare Commission Wage Orders, and
24 that class certification is appropriate because the prerequisites for class certification
25 can be satisfied in the Action, and this action is manageable as a PAGA representative
26 action.

27 H. Defendant denies any liability or wrongdoing of any kind associated with the claims
28 alleged in the Action, disputes any wages, damages and penalties claimed by the Class

Representatives, alleged in the Operative Complaint, and/or alleged in the Class Representatives' PAGA notices to the LWDA are owed, and further contends that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendant contends, among other things, that at all times it complied with the California Labor Code and the Industrial Welfare Commission Wage Orders.

I. The Class Representatives are represented by Class Counsel. Class Counsel investigated the facts relevant to the Action, including conducting an independent investigation as to the allegations, reviewing documents and information exchanged through informal discovery, and reviewing documents and information provided by Defendant pursuant to informal requests for information to prepare for mediation. Defendant produced for the purpose of settlement negotiations certain employment data concerning the Class, which Class Counsel reviewed and analyzed with the assistance of an expert. Based on their own independent investigation and evaluation, Class Counsel are of the opinion that the Settlement with Defendant is fair, reasonable, and adequate, and is in the best interest of the Class considering all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding class certification, and numerous potential appellate issues. Although it denies any liability, Defendant agrees to this Settlement solely to avoid the inconveniences and cost of further litigation. The Parties and their counsel have agreed to settle the claims on the terms set forth in this Agreement.

J. On December 6, 2024, pursuant to the terms of the Memorandum of Understanding, the Parties filed a Stipulation and Proposed Order for Leave to File First Amended Complaint in the Action that consolidates the class and PAGA claims in the same action for settlement approval purposes, and adds Plaintiff Alvarado as a new class representative and Plaintiff to the Action. Upon entry of the First Amended Complaint, the Parties will submit a Joint Motion requesting to dismiss, without prejudice, the Class Action currently pending in the Southern District of California.

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

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

15 M. The Parties agree to certification of the Class for purposes of this Settlement only. If
16 for any reason the settlement does not become effective, Defendant reserves the right
17 to contest certification of any class for any reason and reserve all available defenses
18 to the claims in the Action. The Settlement, this Agreement, and the Parties'
19 willingness to settle the Action will have no bearing on and will not be admissible in
20 connection with any litigation.

21 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

22 **III. TERMS OF AGREEMENT**

23 A. Settlement Consideration and Settlement Payments by Defendant.

- 24 1. Settlement Consideration. In full and complete settlement of the Action, and
25 in exchange for the releases set forth below, Defendant will pay the sum of
26 the Individual Settlement Payments, the Service Awards, the Class Counsel
27 Award, PAGA Payment, and the Settlement Administration Costs, as
28 specified in this Agreement, equal to the Gross Settlement Amount of Five

1 Hundred Fifty-Five Thousand Dollars and Zero Cents (\$555,000.00). The
2 Parties agree that this is a non-reversionary Settlement and that no portion of
3 the Gross Settlement Amount shall revert to Defendant. Other than
4 Defendant's share of employer payroll taxes and as provided in Section III.A.2
5 below, Defendant shall not be required to pay more than the Gross Settlement
6 Amount.

7 2. Class Size. At the time of mediation, Defendant estimated that there are
8 approximately 347 Class Members who worked approximately 26,867
9 Workweeks during the Class Period. The Parties acknowledge and agree that
10 this data (and other information provided by Defendant for purposes of
11 mediation) was relied on to engage in an arms-length negotiation of Plaintiffs'
12 claims in the Action through the Class Period. If the actual number of
13 Workweeks worked during the Class Period for the Settlement Class Members
14 exceeds the above number by more than 10% (i.e. more than 29,554
15 workweeks), the settlement amount will be increased proportionally by the
16 workweeks worked between February 29, 2020, through December 16, 2024
17 in excess of 29,554 workweeks multiplied by the per workweek value.
18 Defendant will provide a declaration under penalty of perjury confirming the
19 number of applicable Class Members and workweeks they worked during the
20 applicable Class Period one week prior to Plaintiffs' deadline to file their
21 motion for preliminary approval of the settlement.

22 3. Settlement Payment. Defendant shall deposit the Gross Settlement Amount
23 into the QSF, through the Settlement Administrator on or before the Funding
24 Date. Any interest accrued will be added to the NSA and distributed to the
25 Settlement Class Members except that if final approval is reversed on appeal,
26 then Defendant is entitled to prompt return of the principal and all interest
27 accrued.
28

- 1 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
2 payroll taxes is in addition to the Gross Settlement Amount and shall be paid
3 together with the Gross Settlement Amount on the Funding Date.
- 4 B. Release by Settlement Class Members. Upon entry of final judgment and funding of
5 the Gross Settlement Amount, in exchange for the consideration set forth in this
6 Agreement, Plaintiffs and the Settlement Class Members release the Released Parties
7 from the Released Class Claims for the Class Period.
- 8 C. Release by Plaintiffs and the State of California. Upon entry of final judgment and
9 funding of the Gross Settlement Amount, in exchange for the consideration set forth
10 in this Agreement, Plaintiffs and the State of California release the Released Parties
11 from the Released PAGA Claims for the PAGA Period.
- 12 D. Conditions Precedent: This Settlement will become final and effective only upon the
13 occurrence of all of the following events:
- 14 1. The Court enters an order granting preliminary approval of the Settlement;
15 2. The Court enters an order granting final approval of the Settlement and a Final
16 Judgment;
17 3. If an objector appears at the final approval hearing, the time for appeal of the
18 Final Judgment and Order Granting Final Approval of Class Action
19 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
20 any appeal from the Judgment and Order Granting Final Approval of Class
21 Action Settlement; and
22 4. Defendant fully funds the Gross Settlement Amount.
- 23 E. Nullification of Settlement Agreement. If the Court does not preliminarily or finally
24 approve this Settlement Agreement, if the Settlement fails to become effective, or is
25 reversed, withdrawn, or modified by the Court, or if the Court in any way prevents or
26 prohibits Defendant from obtaining a complete resolution of the Released Class
27 Claims and Released PAGA Claims, or if Defendant fails to fully fund the Gross
28 Settlement Amount:

- 1 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
2 and shall not be admissible in any judicial, administrative, or arbitral
3 proceeding for any purpose or with respect to any issue, substantive or
4 procedural;
- 5 2. The conditional class certification (obtained for any purpose) shall be void *ab*
6 *initio* and of no force or effect, and shall not be admissible in any judicial,
7 administrative, or arbitral proceeding for any purpose or with respect to any
8 issue, substantive or procedural; and
- 9 3. None of the Parties to this Settlement will be deemed to have waived any
10 claims, objections, defenses, or arguments in the Action, including with
11 respect to the issue of class certification.

12 F. In the event that Defendant fails to fund the Gross Settlement Amount, Defendant shall
13 bear the sole responsibility for any cost to issue or reissue any curative notice to the
14 Settlement Class Members and all Settlement Administration Costs incurred to the
15 date of nullification.

16 G. Certification of the Class. The Parties stipulate to conditional class certification of the
17 Class for the Class Period for purposes of settlement only. In the event that this
18 Settlement is not approved by the Court, fails to become effective, or is reversed,
19 withdrawn or modified by the Court, or in any way prevents or prohibits Defendant
20 from obtaining a complete resolution of the Released Class Claims and Released
21 PAGA Claims, the conditional class certification (obtained for any purpose) shall be
22 void *ab initio* and of no force or effect, and shall not be admissible in any judicial,
23 administrative or arbitral proceeding for any purpose or with respect to any issue,
24 substantive or procedural.

25 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
26 effect of the payments called for, and Class Members and/or Aggrieved Employees are
27 not relying on any statement or representation by the Parties in this regard. Class
28 Members and/or Aggrieved Employees understand and agree that they will be

1 responsible for the payment of any taxes and penalties assessed on the Individual
2 Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved
3 Employee Payment described and will be solely responsible for any penalties or other
4 obligations resulting from their personal tax reporting of Individual Settlement
5 Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee
6 Payment.

7 I. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
8 the "acknowledging party" and each Party to this Agreement other than the
9 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
10 of this Agreement, and no written communication or disclosure between or among the
11 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
12 such communication or disclosure constitute or be construed or be relied upon as, tax
13 advice within the meaning of United States Treasury Department circular 230 (31 CFR
14 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
15 her or its own, independent legal and tax counsel for advice (including tax advice) in
16 connection with this Agreement, (b) has not entered into this Agreement based upon
17 the recommendation of any other Party or any attorney or advisor to any other Party,
18 and (c) is not entitled to rely upon any communication or disclosure by any attorney
19 or adviser to any other party to avoid any tax penalty that may be imposed on the
20 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
21 any limitation that protects the confidentiality of any such attorney's or adviser's tax
22 strategies (regardless of whether such limitation is legally binding) upon disclosure by
23 the acknowledging party of the tax treatment or tax structure of any transaction,
24 including any transaction contemplated by this Agreement.

25 J. Preliminary Approval Motion. Class Counsel shall draft and file the motion for
26 preliminary approval within a reasonable time of execution of this Agreement, or
27 within the statutory timeframe as determined by the Court's setting of the preliminary
28 approval hearing. Plaintiffs will provide Defendant with a draft of the Motion at least

3 business days prior to the filing of the Motion to give Defendant an opportunity to propose changes or additions to the Motion.

K. Settlement Administrator. The Settlement Administrator shall be responsible for: establishing and administering the QSF; calculating, processing and mailing payments to the Class Representatives, Class Counsel, LWDA and Class Members; printing and mailing the Notice Packets to the Class Members as directed by the Court; receiving and reporting the objections and requests for exclusion; calculating, deducting and remitting all legally required taxes from Individual Settlement Payments and distributing tax forms for the Wage Portion, the Penalties Portion and the Interest Portion of the Individual Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment; processing and mailing tax payments to the appropriate state and federal taxing authorities; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities by among other things, sending a weekly status report to the Parties' counsel stating the date of the mailing, the of number of opt outs from the Settlement it receives (including the numbers of valid and deficient), and number of objections received.

L. Notice Procedure.

1. Class Data. No later than ten (10) days after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with the Class Data for purposes of preparing and mailing Notice Packets to the Class Members.

2. Notice Packets.

a) The Notice Packet shall contain the Notice of Class Action Settlement in a form substantially similar to the form attached as **Exhibit A**, including Spanish translation. The Notice of Class Action Settlement

1 shall inform Class Members and Aggrieved Employees that they need
2 not do anything in order to receive an Individual Settlement Payment
3 and/or Aggrieved Employees' individual shares of the Aggrieved
4 Employee Payment and to keep the Settlement Administrator apprised
5 of their current mailing address, to which the Individual Settlement
6 Payments and/or Aggrieved Employees' individual shares of the
7 Aggrieved Employee Payment will be mailed following the Funding
8 Date. The Notice of Class Action Settlement shall set forth the release
9 to be given by all members of the Class who do not request to be
10 excluded from the Settlement Class and/or Aggrieved Employees in
11 exchange for an Individual Settlement Payment and/or Aggrieved
12 Employees' individual shares of the Aggrieved Employee Payment,
13 the number of Workweeks worked by each Class Member during the
14 Class Period, and number of PAGA Periods worked by each
15 Aggrieved Employee during the PAGA Period, if any, and the
16 estimated amount of their Individual Settlement Payment if they do
17 not request to be excluded from the Settlement and each Aggrieved
18 Employees' share of the Aggrieved Employee Payment, if any. The
19 Settlement Administrator shall use the Class Data to determine Class
20 Members' Workweeks and PAGA Pay Periods. The Notice will also
21 advise the Aggrieved Employees that they will receive their share of
22 the Aggrieved Employee Payment regardless of whether they request
23 to be excluded from the Settlement.

- 24 b) The Notice Packet's mailing envelope shall include the following
25 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
26 ENTITLED TO PARTICIPATE IN A CLASS ACTION
27 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
28

ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
NOTICE.”

3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. No later than twenty-one (21) calendar days after preliminary approval of the Settlement, the Settlement Administrator shall mail copies of the Notice Packet to all Class Members via regular First-Class U.S. Mail and electronic mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member.
4. Undeliverable Notices. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to any forwarding address provided within seven (7) days of receiving the returned notice. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by lawful use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member involved, and shall then perform a re-mailing, if another mailing address is identified by the Settlement Administrator. In addition, if any Class Member who is currently employed by Defendant, is returned to the Settlement Administrator, as non-delivered and no forwarding address is provided, the Settlement Administrator shall notify Defendant. Defendant will request that the currently employed Class Member provide a corrected address and transmit to the Settlement Administrator any corrected address provided by the Class Member. Class Members who received a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.

- 1 5. Disputes Regarding Individual Settlement Payments. Class Members will
2 have the opportunity, should they disagree with Defendant's records regarding
3 the start and end dates of employment, to provide documentation and/or an
4 explanation to show contrary dates. If there is a dispute, the Settlement
5 Administrator will consult with the Parties to determine whether an
6 adjustment is warranted. The Settlement Administrator shall determine the
7 eligibility for, and the amounts of, any Individual Settlement Payments under
8 the terms of this Agreement. The Settlement Administrator's determination of
9 the eligibility for and amount of any Individual Settlement Payment shall be
10 binding upon the Class Member and the Parties.
- 11 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
12 by the Settlement Administrator concerning the administration of the
13 Settlement will be resolved by the Court under the laws of the State of
14 California. Before any such involvement of the Court, counsel for the Parties
15 will confer in good faith to resolve the disputes without the necessity of
16 involving the Court.
- 17 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
18 Packet shall state that Class Members who wish to exclude themselves from
19 the Settlement must submit a written request for exclusion to the Settlement
20 Administrator by the Response Deadline. The written request for exclusion
21 must state that the Class Member wishes to exclude himself or herself from
22 the Settlement and (1) must contain the name, address, and the last four digits
23 of the Social Security number of the person requesting exclusion; (2) must be
24 signed by the Class Member; (3) must be postmarked or fax stamped by the
25 Response Deadline and returned to the Settlement Administrator at the
26 specified address or fax telephone number; and (4) contain a typewritten or
27 handwritten notice stating in substance that he or she wishes to be excluded
28 from the settlement of the class action lawsuit entitled *Kevin Cocroft v.*

1 *EquipmentShare.com Inc*, currently pending in Superior Court of San Diego,
2 Case No. 34-2024-00021084-CU-OE-CTL. The request for exclusion will not
3 be valid if it is not timely submitted, if it is not signed by the Class Member,
4 or if it does not contain the name and address and last four digits of the Social
5 Security number of the Class Member. The date of the postmark on the
6 mailing envelope or fax stamp on the request for exclusion shall be the
7 exclusive means used to determine whether the request for exclusion was
8 timely submitted. Any Class Member who submits a timely request for
9 exclusion shall be excluded from the Settlement Class, will not be entitled to
10 an Individual Settlement Payment, and will not be otherwise bound by the
11 terms of the Settlement or have any right to object, appeal or comment
12 thereon. However, any Class Member that submits a timely request for
13 exclusion that is also a member of the Aggrieved Employees will still receive
14 his/her pro rata share of the PAGA Payment, as specified below. Settlement
15 Class Members who fail to submit a valid and timely request for exclusion on
16 or before the Response Deadline shall be bound by all terms of the Settlement
17 and any final judgment entered in this Action if the Settlement is approved by
18 the Court. No later than seven (7) calendar days after the Response Deadline,
19 the Settlement Administrator shall provide counsel for the Parties with a final
20 list of the Class Members who have timely submitted requests for exclusion.
21 At no time shall any of the Parties or their counsel seek to solicit or otherwise
22 encourage members of the Class to submit requests for exclusion from the
23 Settlement.

- 24 8. Objections. The Notice of Class Action Settlement contained in the Notice
25 Packet shall state that Class Members who wish to object to the Settlement
26 may submit to the Settlement Administrator a written statement of objection
27 (“Notice of Objection”) by the Response Deadline. The postmark date of
28 mailing shall be deemed the exclusive means for determining that a Notice of

1 Objection was served timely. The Notice of Objection, if in writing, must be
2 signed by the Settlement Class Member and state: (1) the case name and
3 number; (2) the name of the Settlement Class Member; (3) the address of the
4 Settlement Class Member; (4) the last four digits of the Settlement Class
5 Member's Social Security number; (5) the basis for the objection; and (6) if
6 the Settlement Class Member intends to appear at the Final
7 Approval/Settlement Fairness Hearing. Settlement Class Members who fail
8 to make objections in writing in the manner specified above may still make
9 their objections orally at the Final Approval/Settlement Fairness Hearing with
10 the Court's permission. Settlement Class Members will have a right to appear
11 at the Final Approval/Settlement Fairness Hearing to have their objections
12 heard by the Court regardless of whether they submitted a written objection.
13 At no time shall any of the Parties or their counsel seek to solicit or otherwise
14 encourage Class Members to file or serve written objections to the Settlement
15 or appeal from the Order and Final Judgment. Class Members who submit a
16 written request for exclusion may not object to the Settlement. Class Members
17 may not object to the PAGA Payment.

18 M. Allocation of the Gross Settlement Amount.

- 19 1. Calculation of Individual Settlement Payments. Individual Settlement
20 Payments shall be paid from the Net Settlement Amount and shall be paid
21 pursuant to the formula set forth herein. Using the Class Data, the Settlement
22 Administrator shall add up the total number of Workweeks for all Class
23 Members. The respective Workweeks for each Class Member will be divided
24 by the total Workweeks for all Class Members, resulting in the Payment Ratio
25 for each Class Member. Each Class Member's Payment Ratio will then be
26 multiplied by the Net Settlement Amount to calculate each Class Member's
27 estimated Individual Settlement Payments. Each Individual Settlement
28 Payment will be reduced by any legally mandated employee tax withholdings

(e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class Members who submit valid and timely requests for exclusion will be redistributed to Settlement Class Members who do not submit valid and timely requests for exclusion on a pro rata basis based on their respective Payment Ratios.

2. Calculation of Individual Payments to the Aggrieved Employees. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA Pay Periods for all Aggrieved Employees during the PAGA Period. The respective PAGA Pay Periods for each Aggrieved Employee will be divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting in the “PAGA Payment Ratio” for each Aggrieved Employee. Each Aggrieved Employee’s PAGA Payment Ratio will then be multiplied by the Aggrieved Employee Payment to calculate each Aggrieved Employee’s estimated share of the Aggrieved Employee Payment.

3. Allocation of Individual Settlement Payments. For tax purposes, Individual Settlement Payments shall be allocated and treated as 20% wages (“Wage Portion”) and 40% penalties (“Penalties Portion”), and 40% pre-judgment interest (“Interest Portion”). The Wage Portion of the Individual Settlement Payments shall be reported on IRS Form W-2 and the Penalty Portion and Interest Portion of the Individual Settlement Payments shall be reported on IRS Form 1099 issued by the Settlement Agreement.

4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved Employee Settlement Payments shall be allocated and treated as 100% penalties and shall be reported on IRS Form 1099.

5. No Credit Toward Benefit Plans. The Individual Settlement Payments and individual shares of the PAGA Payment made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be

utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

6. All monies received by Settlement Class Members under the Settlement which are attributable to wages shall constitute income to such Settlement Class Members solely in the year in which such monies are received by the Settlement Class Members. It is the intent of the Parties that Individual Settlement Payments and individual shares of the PAGA Payment provided for in this Settlement agreement are the sole payments to be made by Defendant to Settlement Class Members and/or Aggrieved Employees in connection with this Settlement Agreement, with the exception of Plaintiffs, and that the Settlement Class Members and/or Aggrieved Employees are not entitled to any new or additional compensation or benefits as a result of having received the Individual Settlement Payments and/or their shares of the Aggrieved Employee Payment.

7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments shall be mailed by regular First-Class U.S. Mail to Settlement Class Members' and/or Aggrieved Employees' last known mailing address no later than fifteen (15) days after the Funding Date.

8. Expiration. Any checks issued to Settlement Class Members and Aggrieved Employees shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. If a Settlement Class Member and/or Aggrieved Employees does not cash his or her settlement check within ninety (90) days, the Settlement Administrator will send a letter to such persons, advising that the check will expire after the 180th day, and invite that

1 Settlement Class Member and/or Aggrieved Employees to request reissuance
2 in the event the check was destroyed, lost, or misplaced. In the event an
3 Individual Settlement Payment and/or Aggrieved Employees' individual
4 share of the PAGA Payment check has not been cashed within one hundred
5 and eighty (180) days, all funds represented by such uncashed checks, plus
6 any interest accrued thereon, shall be transmitted to the Community Law
7 Project in accordance with California Code of Civil Procedure Section 384.

8 9. Service Awards. In addition to the Individual Settlement Payments as
9 Settlement Class Members and their individual shares of the Aggrieved
10 Employee Payment, Plaintiffs will apply to the Court for an award of not more
11 than \$10,000.00 each as their Service Awards. Defendant will not oppose a
12 Service Award of not more than \$10,000 for each Plaintiff. The Settlement
13 Administrator shall pay the Service Awards, either in the amount stated herein
14 if approved by the Court or some other amount as approved by the Court, to
15 Plaintiffs from the Gross Settlement Amount no later than fifteen (15)
16 calendar days after the Funding Date. Any portion of the requested Service
17 Awards that are not awarded to the Class Representatives shall be part of the
18 Net Settlement Amount and shall be distributed to Settlement Class Members
19 as provided in this Agreement. The Settlement Administrator shall issue an
20 IRS Form 1099 — MISC to Plaintiffs for their Service Awards. Plaintiffs
21 shall be solely and legally responsible to pay any and all applicable taxes on
22 their Service Awards and shall hold harmless the Released Parties from any
23 claim or liability for taxes, penalties, or interest arising as a result of the
24 Service Awards. Approval of this Settlement shall not be conditioned on
25 Court approval of the requested amount of the Service Awards. If the Court
26 reduces or does not approve the requested Service Awards, Plaintiffs shall not
27 have the right to revoke the Settlement, and it will remain binding.

10. Class Counsel Award. Defendant understands, and will not oppose, a motion for Attorneys' Fees seeking fees not to exceed one-third of the Gross Settlement Amount currently estimated to be One Hundred Eighty-Five Thousand Dollars and Zero Cents (\$185,000.00) **and** Attorneys' Expenses supported by declaration not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00). Any awarded Class Counsel Award shall be paid from the Gross Settlement Amount. Any portion of the requested Attorneys' Fees and/or Attorneys' Expenses that are not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall allocate and pay the Attorneys' Fees to Class Counsel from the Gross Settlement Amount no later than fifteen (15) calendar days after the Funding Date. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. If the Court reduces or does not approve the requested Attorneys' Fees, Plaintiffs and Class Counsel shall not have the right to revoke the Settlement, or to appeal such order, and the Settlement will remain binding.

11. PAGA Payment. Ten Thousand Dollars and Zero Cents (\$10,000.00) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004 ("PAGA Payment"). The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Payment (\$7,500) to the California Labor and Workforce Development Agency no later than fifteen (15) calendar days after the Effective Date (hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA Payment (\$2,500) will be distributed to the Aggrieved Employees as described in this Agreement (hereinafter "Aggrieved Employee

Payment”). For purposes of distributing the PAGA Payment to the Aggrieved Employees, each Aggrieved Employee shall receive their pro-rata share of the Aggrieved Employee Payment using the PAGA Payment Ratio as defined above.

12. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Settlement Administration Costs is \$7,990.00. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fifteen (15) calendar days after the Effective Date.

N. Final Approval Motion. Class Counsel and Plaintiffs shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Service Awards, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Costs. Plaintiffs will provide Defendant with a draft of the Motion at least three (3) business days prior to the filing of the Motion to give Defendant an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than seven (7) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiffs’ motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the full names of any Class Members who opt out of the Settlement, the number of objections received, the amount of the average, lowest, and highest Individual Settlement Payments, the amount of the average, lowest, and highest Aggrieved Employee Payments, the

Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval.

N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide an opportunity for Counsel for Defendant to review the Motions for Preliminary and Final Approval, including the Order Granting Final Approval of Class Action Settlement, and Judgment at least three (3) business days in advance of filing with the Court. The Parties and their counsel will cooperate with each other and use their best efforts to affect the Court's approval of the Motions for Preliminary and Final Approval of the Settlement, and entry of Judgment.

O. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Settlement.

P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

Q. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

R. Plaintiff Alvarado's Individual Claims. In addition to this Agreement and the claims he is releasing hereby, Plaintiff Alvarado is entering into a separate individual settlement agreement, which shall provide for a separate individual payment, and which shall provide for an additional broad release, including a waiver of Civil Code Section 1542. That release, waiver and discharge of all claims shall include, but will not be limited to, any and all claims arising out of the Action, as well as additional claims described in the individual settlement agreement, which are separate and different from the claims alleged in the Action. The Parties acknowledge such approval

1 of this Agreement may require disclosure of the Individual Settlement, and consent to
2 same for that limited purpose.

3 S. Entire Agreement. Except with respect to Plaintiff Alvarado's individual settlement
4 agreement, described in paragraph "R" immediately above, this Agreement and any
5 attached Exhibit constitute the entire Agreement among these Parties, and no oral or
6 written representations, warranties or inducements have been made to any Party
7 concerning this Agreement or its Exhibit other than the representations, warranties and
8 covenants contained and memorialized in this Agreement and its Exhibit.

9 T. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
10 represent they are expressly authorized by the Parties whom they represent to negotiate
11 this Agreement and to take all appropriate Action required or permitted to be taken by
12 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
13 documents required to effectuate the terms of this Agreement. The persons signing
14 this Agreement on behalf of Defendant represents and warrants that he/she is
15 authorized to sign this Agreement on behalf of Defendant. Plaintiffs represent and
16 warrant that they are authorized to sign this Agreement and that they have not assigned
17 any claim, or part of a claim, covered by this Settlement to a third-party.

18 U. No Public Comment: The Parties and their counsel agree that they will not issue any
19 press releases, initiate any contact with the press, respond to any press inquiry, or have
20 any communication with the press about the fact, amount, or terms of the Settlement
21 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
22 of its terms for any marketing or promotional purposes. Nothing herein will restrict
23 Class Counsel from including publicly available information regarding this settlement
24 in future judicial submissions regarding Class Counsel's qualifications and experience.
25 Further, Class Counsel will not include, reference, or use the Settlement Agreement
26 for any marketing or promotional purposes, either before or after the Motion for
27 Preliminary Approval is filed.

- 1 V. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
2 to the benefit of, the successors or assigns of the Parties, as previously defined.
- 3 W. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
4 shall be governed by and interpreted according to the laws of the State of California.
- 5 X. Counterparts. This Agreement may be executed in one or more counterparts. All
6 executed counterparts and each of them shall be deemed to be one and the same
7 instrument provided that counsel for the Parties to this Agreement shall exchange
8 among themselves copies or originals of the signed counterparts.
- 9 Y. This Settlement Is Fair, Adequate, and Reasonable. The Parties believe this Settlement
10 is a fair, adequate, and reasonable settlement of this Action and have arrived at this
11 Settlement after extensive arms-length negotiations, taking into account all relevant
12 factors, present and potential.
- 13 Z. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
14 respect to the interpretation, implementation, and enforcement of the terms of this
15 Agreement and all orders and judgments entered in connection therewith, and the
16 Parties and their counsel submit to the jurisdiction of the Court for purposes of
17 interpreting, implementing and enforcing the settlement and all orders and judgments
18 entered in connection with this Agreement.
- 19 AA. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
20 the Court shall first attempt to construe the provisions valid to the fullest extent
21 possible consistent with applicable precedents so as to define all provisions of this
22 Agreement valid and enforceable.
- 23 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
24 certification for purposes of this settlement only.
- 25 CC. No Admissions by the Parties. Plaintiffs have claimed and continue to claim that the
26 Released Class Claims and Released PAGA Claims have merit and give rise to liability
27 on the part of Defendant. Defendant claims that the Released Class Claims and
28 Released PAGA Claims have no merit and do not give rise to liability. This Agreement

1 is a compromise of disputed claims. Nothing contained in this Agreement and no
2 documents referred to and no action taken to carry out this Agreement may be
3 construed or used as an admission by or against the Defendant or Plaintiffs or Class
4 Counsel as to the merits or lack thereof of the claims asserted. Other than as may be
5 specifically set forth herein, each Party shall be responsible for and shall bear its/his
6 own attorney's fees and costs.


1 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFFS:

2 DATED: 03/03/25


Kevin Dion Cocroft (Mar 3, 2025 15:44 PST)

3 KEVIN COCROFT

4 DATED: 03/03/2025


Efraim Alvarado (Mar 3, 2025 15:13 PST)

5 EFRAIM ALVARADO

6
7
8 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

9 DATED: 3/10/2025


EQUIPMENTSHARE.COM INC

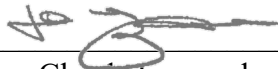
11 Melissa R. Null
12 Printed Name

13 Assoc. General Counsel
14 Title

1 IT IS SO AGREED AS TO FORM BY COUNSEL:
2


3 DATED: 03/04/2025

JCL LAW FIRM, APC

4 
5 Jean-Claude Lapuyade, Esq.
6 Attorneys for Plaintiffs and the Settlement Class
7 Members
8

9 DATED: 03/04/2025

ZAKAY LAW GROUP, APLC

10 By: 
11 Shani O. Zakay, Esq.
12 Attorneys for Plaintiffs and the Settlement Class
13 Members

14 DATED: 03/10/2025

BAKER & MCKENZIE LLP


15 By: 
16 Michael Brewer, Esq.
17 Janice W. Lin, Esq.
18 Attorneys for Defendant
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT
AND FINAL HEARING DATE**

**(Kevin Cocroft v. EquipmentShare.com Inc, San Diego County Superior Court Case No. 37-2024-
00021084-CU-OE-CTL)**

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Settlement Payment is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendant as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement . Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiffs Kevin Cocroft (“Plaintiff Cocroft”) and Efraim Alvarado (“Plaintiff Alvarado”) (collectively, “Plaintiffs”) and Defendant EquipmentShare.com Inc (“Defendant”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All persons who are or previously were employed by Defendant in California and classified as non-exempt employees at any time during the period from February 29, 2020, through December 16, 2024 (“Class Period”).

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On February 29, 2024, Plaintiff Cocroft filed a Complaint against Defendant in the Superior Court of the State of California, County of San Diego. Plaintiffs asserted claims that Defendant: (1) Unfair Competition In Violation Of Cal. Bus. & Prof. Code §17200 *et seq*; (2) Failure To Pay Minimum Wages In Violation Of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure To Pay Overtime Wages In Violation Of Cal. Lab. Code §§ 510,

et seq; (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 Employees For Required Expenses In Violation Of Cal. Lab. Code § 2802; (7) Failure To Provide Accurate Itemized Statements In Violation Of Cal. Lab. Code § 226; and (8) Failure To Provide Wages When Due In Violation Of Cal. Lab. Code §§ 201, 202 And 203. On February 29, 2024, Plaintiff Cocroft filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendant. On April 4, 2024, Defendant removed the Class Action from the San Diego Superior Court to the United States District Court, Southern District of California. On May 6, 2024, Plaintiff Cocroft filed a representative action in San Diego Superior Court, Case No. 37-2022-00021084-CU-OE-CTL, for a single cause of action for violations of PAGA (the “Action”). On June 10, 2024, Plaintiff Alvarado filed a Notice of Violations with the Labor and Workforce Development Agency (“LWDA”) and served the same on Defendant.

Defendant expressly 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 Representatives are owed, and further contends that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendant contends, among other things, that at all times it complied with the California Labor Code and the Industrial Welfare Commission Wage Orders.

On October 30, 2024, the Parties attended an Early Neutral Evaluation in the removed Class Action with the Honorable Judge Allison H. Goddard and reached a settlement of both the Class Action and the PAGA Action. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved Plaintiffs to serve as the Class Representatives, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Five Hundred Fifty-Five Thousand Dollars and Zero Cents (\$555,000.00) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments, Settlement Administration Costs, Class Counsel Award, Service Awards, and the PAGA Payment.

After the Judgment becomes Final, Defendant will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed, and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$7,990.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Class Counsel Award. Payment to Class Counsel of an award of attorneys’ fees of no more than 1/3 of the Gross Settlement Amount (currently \$185,000.00) and actually incurred litigation expenses of not more than \$15,000.00 for all expenses incurred as documented in Class Counsel’s billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.

- Service Awards. A Service Award of up to Ten Thousand Dollars and Zero Cents (\$10,00.00) to each Plaintiff, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook.
- PAGA Payment. A payment of \$10,000.00 relating to Plaintiffs' claims under the Private Attorneys General Act ("PAGA"), \$7,500.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$2,500.00 will be distributed to Aggrieved Employees as part of the PAGA Payment.
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Award, the Service Awards, the PAGA Payment, and the Settlement Administration Costs are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Individual Settlement Payment for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant's records, a member of the class worked at least one-day during any such workweek.
- Calculation of Aggrieved Employees Payments to Aggrieved Employees. The PAGA Payment shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The PAGA Payment will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employee" means all current and former non-exempt employees who worked for Defendant in California at any time during the period beginning February 28, 2023, through December 16, 2024 ("PAGA Period").

If the Settlement is approved by the Court, you will automatically be mailed a check for your Individual Settlement Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty percent (20%) of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Forty percent (40%) of each Individual Settlement Payment is allocated to penalties ("Penalty Portion"). Forty percent (40%) of each Individual Settlement Payment is allocated to pre-judgment interest ("Interest Portion"). Each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for Penalty Portion and Interest Portion of the Individual Settlement Payments. In addition, no taxes will be withheld from the PAGA Payment paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

No Credit Toward Benefit Plans. The Individual Settlement Payments and Aggrieved Employee Payments made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendant, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means all class claims alleged, or reasonably could have been alleged based on the facts alleged, in the operative complaint in the Action which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. Upon entry of final judgment and funding of the Gross Settlement Amount, Defendant shall be entitled to a release from Plaintiffs and the State of California for all Released PAGA Claims. Released PAGA Claims means all PAGA claims alleged in the operative complaint in the Action and Plaintiffs' PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendant's records reflect that you have <<____>> Workweeks worked during the Class Period February 29, 2020, through December 16, 2024).

Based on this information, your estimated Individual Settlement Payment is <<____>>.

Defendant's records reflect that you have <<____>> pay periods worked during the PAGA Period (February 28, 2023, through December 16, 2024).

Based on this information, your estimated Aggrieved Employee Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or fifteen (15) days after the re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Apex Class Action LLC.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www._____.com.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will receive a share of the PAGA Payment.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is 18 Technology Drive, Suite 154, Irvine, CA 92618; Tel: (800) 355-0700. The request for exclusion must state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement of the class action lawsuit entitled *Kevin Cocroft v. EquipmentShare.com Inc*, currently pending in Superior Court of San Diego, Case No. 37-2024-000021084-CU-OE-CTL. The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is *Kevin Cocroft v. EquipmentShare.com Inc*, currently pending in Superior Court of San Diego, Case No. 37-2024-00021084-CU-OE-CTL. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is 18 Technology Drive, Suite 154, Irvine, CA 92618; Tel: (800) 355-0700.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Email: shani@zakaylaw.com

Counsel for Defendant:

Michael E. Brewer, Esq.
Baker & McKenzie LLP
Two Embarcadero Center, 11th Floor
San Francisco, CA 94111-3802
T: (415) 576-3000
michael.brewer@bakermckenzie.com

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

The Court will hold a Final Approval Hearing at **00:00 AM/PM on** _____, at the San Diego County Superior Court, Department C-74, located at 330 West Broadway, San Diego, CA 92101 before Judge Loren Freestone. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 1-800-355-0700 or write to **Kevin Cocroft v. EquipmentShare.com Inc, currently pending in Superior Court of San Diego, Case No. 37-2024-00021084-CU-OE-CTL**, Settlement Administrator, 18 Technology Drive, Suite 154, Irvine, CA 92618, c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121 or by visiting the administrator's website at www._____.com.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to the Community Law Project in accordance with California Code of Civil Procedure Section 384. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.