

Juan Flores-Paulet v. Western Precooling Systems
Ventura County Superior Court Case No. 2024CUOE025787
Class Action and PAGA Settlement and Release Agreement

This Class Action and PAGA Settlement and Release Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”) is made and entered into by and between Plaintiff Juan Flores-Paulet (“Plaintiff”) and Defendant Western Precooling Systems (“WPS” or “Defendant”). The Agreement refers to Plaintiff and WPS collectively as the “Parties.”

1. DEFINITION

- 1.1. “Action” means Plaintiff’s class and representative action lawsuit alleging wage and hour violations against WPS, captioned *Juan Flores-Paulet v. Western Precooling Systems*, initiated on June 11, 2024, and pending in the Superior Court of the State of California, County of Ventura, Case No. 2024CUOE025787.
- 1.2. “Administrator” means Apex Class Action LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Costs” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and costs incurred in the execution of its duties under this Settlement, in accordance with the Administrator’s “not to exceed” bid submitted to the Parties and approval by the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all current and former non-exempt, hourly employees of WPS who worked in California during the PAGA Period.
- 1.5. “Class Counsel” means Paul K. Haines, Sean M. Blakely, and Joel M. Gordon of Haines Law Group, APC.
- 1.6. “Class Counsel Fees Payment” means the amount allocated to Class Counsel for reasonable attorneys’ fees in connection with Class Counsel’s litigation and resolution of the Action.
- 1.7. “Class Counsel Litigation Costs Payment” means the amount allocated to Class Counsel for reimbursement of all actual costs incurred and to be incurred by Class Counsel in this Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Workweeks and PAGA Pay Periods.
- 1.9. “Class Member(s)” or “Class” means all current and former non-exempt, hourly employees of WPS who worked in California during the Class Period.
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for Class Members’ most current mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address (“NCOA”) database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, informing Class Members of the following: the nature of the Action; a summary of the terms of the Settlement; the definition of the Class; a statement that the Court has preliminarily approved the Settlement; the nature and scope of the claims

being released; the procedure and time period for objecting to the Settlement, the date and location of the Final Approval Hearing; information regarding the procedure for opting out of the Settlement; the number of Workweeks credited to each Class Member and the procedure for disputing the number of Workweeks credited; and the estimated Individual Settlement Share for the Class Member. The Class Notice will be mailed to Class Members with Spanish translation in the form, without material variation, attached hereto as **Exhibit A** and incorporated by reference into this Agreement.

- 1.12. "Class Period" means the period from June 11, 2020, through the date of Preliminary Approval.
- 1.13. "Class Representative" means Plaintiff Juan Flores-Paulet.
- 1.14. "Class Representative Service Payment" means the payment to the Class Representative in the amount of up to Five Thousand Dollars (\$5,000.00), subject to Court approval, for initiating the Action and providing services in support of the Action.
- 1.15. "Court" means the Superior Court of California, County of Ventura.
- 1.16. "Defendant" or "WPS" means Western Precooling Systems, a California corporation.
- 1.17. "Defense Counsel" means Rafael Gonzalez and Christina Behrman of Mullen & Henzell LLP.
- 1.18. "Effective Date" means the date by when all of the following have occurred: (a) the Settlement Agreement has been executed by all Parties, Class Counsel, and Defense Counsel; (b) the Court has granted Preliminary Approval of the Settlement; (c) the Class Notice has been mailed to the Class Members, providing them with an opportunity to object to the terms of the Settlement or opt out of the Settlement; (d) the Court has held a Final Approval Hearing and entered a Final Approval Order and Judgment; and (e) the later of the following events: five (5) business days after the period for filing any appeal, writ, or other appellate proceeding opposing the Court's Final Approval Order and Judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed; or, if any appeal, writ, or other appellate proceeding opposing the Court's Final Approval Order and Judgment has been filed, five (5) business days after any appeal, writ, or other appellate proceedings opposing the Settlement has been finally and conclusively resolved (or withdrawn) in a way that does not alter the terms of the Settlement.
- 1.19. "Final Approval" means the Court's order granting final approval of the Settlement.
- 1.20. "Final Approval Hearing" means the Court's hearing at which the Court will consider and determine whether the Settlement should be granted Final Approval.
- 1.21. "Gross Settlement Amount" means Three Hundred Seventy-Five Thousand Dollars and Zero Cents (\$375,000.00), which is the total amount WPS agrees to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Costs Payment, Class Representative Service Payment, Administration Costs, and employment and payroll taxes (but excluding employer's share of payroll taxes for the Wage Portion of the Net Settlement Amount as described Paragraph 4.2.4.3, which will be paid by WPS separately).
- 1.22. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.

- 1.23. "Individual Class Payment" means the net payment of each Participating Class Member's Individual Settlement Share, after reduction for the employee's share of taxes and withholdings with respect to the Wages Portion of the Individual Settlement Share, as provided in Paragraph 4.2.4.3 herein.
- 1.24. "Individual Class Share" means the *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive for the Settlement, to be calculated in accordance with Paragraph 4.2.4 herein, which is inclusive of employee's share of taxes and withholdings with respect to the Wages Portion of the Settlement.
- 1.25. "Judgment" means the judgment entered by the Court based upon the Order Granting Final Approval.
- 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Costs Payment, and Administration Costs. The remainder is to be distributed to Participating Class Members as Individual Class Payments.
- 1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. "Notice of Objection" means a Class Member's written objection to the Settlement, which should include: (a) the case name and number of the Action; (b) the objector's full name, signature, address, telephone number, and the last four digits of his or her Social Security number; (c) a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) the full name, address, and telephone number of any attorney representing the Class Member with respect to his or her objection; and (e) copies of any papers, briefs, or other documents upon which the objection is based. Notices of Objection must be timely and properly submitted to the Administrator as detailed below.
- 1.31. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for WPS for at least one day during the PAGA Period, excluding any pay periods the Aggrieved Employee was out of work on a leave of absence or other pay periods constituting time off work.
- 1.32. "PAGA Period" means the period from June 11, 2023 through the date of Preliminary Approval.
- 1.33. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34. "PAGA Notice" means Plaintiff's June 11, 2024 letter to California Labor & Workforce Development Agency providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, in the total amount of \$15,000, allocated 25% to the Aggrieved Employees (\$3,750) and 75% to LWDA (\$11,250) in settlement of PAGA claims.

- 1.36. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. "Plaintiff" means Juan Flores-Paulet.
- 1.38. "Preliminary Approval" means entry of the Court's Preliminary Approval Order.
- 1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of Settlement.
- 1.40. "Released Class Claims" means the claims being released as described in Paragraph 6.2 below.
- 1.41. "Released PAGA Claims" means the claims being released as described in Paragraph 6.3 below.
- 1.42. "Released Parties" means Western Precooling Systems and any and all of its former and present directors, officers, shareholders, partners, principals, consultants, related entities, parents, subsidiaries, managers, owners, members, employees, contractors, fiduciaries, beneficiaries, agents, affiliates, representatives, heirs, executors, attorneys, accountants, payroll companies, insurers, predecessors, successors, and assigns.
- 1.43. "Request for Exclusion" means a Class Member's timely and valid submission of a written request to be excluded from the Settlement. The Request for Exclusion must: (a) contain the case name and number of the Action; (b) be signed by the Class Member or his or her authorized representative; (c) contain the full name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion; (d) clearly state that the Class Member does not wish to be included in the Settlement. Requests for Exclusion must be timely and properly submitted to the Administrator as detailed below.
- 1.44. "Response Deadline" means forty-five (45) calendar days after the Administrator's initial mailing of the Class Notice to Class Members, and shall be the last date on which Class Members may submit a Request for Exclusion, Notice of Objection, and/or dispute of the Workweeks credited to him or her. Class Members to whom Class Notices are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the original Response Deadline.
- 1.45. "Workweek" means any week in which a Class Member worked at least one day for WPS as a non-exempt, hourly employee in California during the Class Period, excluding weeks the Class Member was out of work on a leave of absence or other payroll weeks constituting time off work.

2. RECITALS

- 2.1 On June 11, 2024, Plaintiff commenced the Action by filing a Class Action Complaint, Case No. 2024CUOE025787 in Ventura County Superior Court, alleging causes of action against WPS for alleged violations of the California Labor Code, IWC Wage Orders, and violations of California Business & Professions Code § 17200, et seq. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint") and asserts claims for minimum wage violations, failure to pay overtime wages, meal period violations, rest period violations, failure to reimburse necessary business expenditures, wage statement violations, waiting time penalties, unfair competition, and civil penalties under PAGA.
- 2.2 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff provided written notice to WPS and the LWDA by sending the PAGA Notice.

- 2.3 WPS denies the allegations in the Operative Complaint and PAGA Notice, denies any failure to comply with the laws identified in the Operative Complaint and PAGA Notice and denies any and all liability for the causes of action alleged.
- 2.4 On February 17, 2025, the Parties participated in an all-day mediation presided over by Henry Bongiovi, Esq. (“Mediator”), a respected mediator of complex wage and hour actions, whose assistance with settlement negotiations led to this Agreement to settle the Action. The settlement discussions were conducted at arm’s-length, and the Settlement is the result of an informed and detailed analysis of WPS’s potential liability and exposure in relation to the costs and risks associated with continued litigation.
- 2.5 Prior to mediation, Class Counsel obtained, through informal discovery, time and payroll records and pertinent written policies. Class Counsel has conducted a thorough investigation into the facts of the Action, including an extensive review of the documents and data, and has diligently pursued an investigation of the class claims against WPS. Based on the documents produced, as well as Class Counsel’s own independent investigation and evaluation, Class Counsel believes that the Settlement with WPS for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of significant delay, the class not being certified, uncertainty associated with continued litigation, and the various defenses asserted by WPS. Class Counsel’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”). Any disputes that may arise between the Parties in connection with effectuating the Settlement will be mediated through the Mediator.
- 2.6 The Court has not granted class certification.
- 2.7 The Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by WPS. If for any reason the Settlement Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to their original respective positions in the Action, as of the date on which the Settlement was reached. Plaintiff will not be deemed to have waived, limited, or affected in any way any claims, rights, or remedies in the Action, and WPS will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Action.
- 2.8 The Parties stipulate to the certification of the Class for purposes of settlement only.
- 2.9 The Parties agree that certification for the purpose of settlement is not an admission that certification is proper under Section 382 of the California Code of Civil Procedure. Should, for whatever reason, the Court not grant Final Approval, or if judgment thereon not become final, the Parties’ stipulation to class certification as part of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not certification would be appropriate or inappropriate in a non-settlement context in this or any other proceeding.

3. **JURISDICTION**

The Court has jurisdiction over the Parties and the subject matter of the Action. The Action includes claims that, while WPS denies them in their entirety, would, if proven, authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted Final Approval and after the Court has ordered the entry of judgment, the Court will have continuing

jurisdiction pursuant to Rule 3.769 of the California Rules of Court and Section 664.6 of the California Code of Civil Procedure, for purposes of addressing: (a) the interpretation and enforcement of the terms of the settlement and this Agreement, (b) settlement administration matters, and (c) such post-judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

4. MONETARY TERMS.

4.1 Gross Settlement Amount. WPS promises to pay Three Hundred Seventy-Five Thousand Dollars and Zero Cents (\$375,000.00), and no more, as the Gross Settlement Amount in consideration for the releases as described herein, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. WPS has no obligation to pay the Gross Settlement Amount or any employer payroll taxes prior to the deadline stated in Paragraph 5.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to WPS.

4.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

4.2.1 To Plaintiff: Class Representative Service Payment to Plaintiff of not more than Five Thousand dollars and zero cents (\$5,000.00) to be paid from the Gross Settlement Amount in addition to any Individual Class Payment and any Individual PAGA Payment that he is entitled to receive as a Participating Class Member. WPS will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. Plaintiff will seek Court approval for any Class Representative Service Payment with the filing of Plaintiff's Motion for Final Approval of Class Action Settlement. If the Court approves a Class Representative Service Payment less than the amount requested, the remainder shall be a part of the Net Settlement Amount for the benefit of Participating Class Members. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

4.2.2 To Class Counsel: Class Counsel shall seek, and WPS will not oppose attorneys' fees of not more than One Hundred Twenty-Five Thousand Dollars (\$125,000.00), plus actual and reasonable costs and expenses of not more than Twenty Thousand Dollars and Zero Cents (\$20,000.00), to be paid from the Gross Settlement Amount, subject to approval by the Court. This amount set forth above will cover all fees and costs incurred to date in the Action, and all work to be performed and all fees and costs to be incurred in connection with obtaining the Court's approval of this Settlement. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Costs Payment less than the amounts requested, the remainder shall be a part of the Net Settlement Amount for the benefit of Participating Class Members. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Costs Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Costs Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Costs Payment and holds the Released Parties harmless, and indemnifies

the Released Parties, from any dispute or controversy regarding any division or sharing of any of these Payments.

4.2.3 To the Administrator: The Administrator shall be Apex Class Action LLC. The Administrator shall administer the Settlement, which includes but is not limited to, distributing and responding to inquiries about the Class Notice, determining the timeliness, validity, and/or completion of any Notices of Objection, Requests for Exclusion, and/or Workweeks Disputes, and calculating all amounts to be paid from the Net Settlement Amount. Charges and expenses of the Administrator, estimated to be no more than \$6,500.00, will be paid from the Gross Settlement Amount, subject to Court approval. To the extent actual Administration Costs are greater than the estimated amount stated herein, such excess amount will be paid from the Gross Settlement Amount, subject to approval by the Court. Any portion of the estimated, designated, and/or awarded Administration Costs which are not in fact required to fulfill payment to the Administrator to undertake the required settlement administration duties will be part of the Net Settlement Amount for the benefit of Participating Class Members.

4.2.4 Calculation of Individual Settlement Shares to Each Participating Class Member:

4.2.4.1 After Preliminary Approval of the Settlement, the Administrator will divide the Net Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek Value," and multiply each Class Member's individual Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Settlement.

4.2.4.2 After Final Approval of the Settlement, the Administrator will divide the final Net Settlement Amount by the Workweeks of all Participating Class Members to yield the "Final Workweek Value," and multiply each Participating Class Member's individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.

4.2.4.3 Tax Allocation of Individual Settlement Shares. Ten percent (10%) of each Participating Class Member's Individual Settlement Share will be allocated to settlement of disputed wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining Ninety percent (90%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for disputed non-wage damages, reimbursements, and interest (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. The Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Participating Class Members for their Individual Class Payments (i.e., payment of their Individual Settlement Share net of these taxes and withholdings). The employer's share of taxes and contributions on the Wage Portion of Individual Settlement Shares will be paid separately by WPS and in addition to the Gross Settlement Amount. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment. Neither Plaintiff, Class Counsel, WPS, nor Defense Counsel are providing any advice regarding taxes or taxability.

4.2.4.4 Effect of Non-Participating Class Members on Calculation of Individual Settlement Shares. Non-Participating Class Members will not receive any

Individual Class Payments. The Administrator will retain amounts equal to their Individual Settlement Shares in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

4.2.4.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$15,000 to be paid from the Gross Settlement Amount, with 75% (\$11,250) allocated to the LWDA PAGA Payment and 25% (\$3,750) allocated to the Individual PAGA Payments.

4.2.4.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$3,750) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

5. SETTLEMENT FUNDING AND PAYMENTS.

- 5.1 Class Workweeks. Based on a review of its records to date, Defendant estimates there are approximately 20,000 Class Workweeks. If the number of workweeks worked during the Class Period exceeds this figure by more than 15% (i.e., if there are 23,001 or more total workweeks), WPS shall have the option to (i) end the PAGA Period as of the first date that the pay period count exceeds 23,001 pay periods, or (ii) increase the Gross Settlement Amount on a proportional basis above the 15% threshold (e.g., if there was a 18% increase in the number of total workweeks, WPS shall increase the Gross Settlement Amount by 3%).
- 5.2 Class Data. Not later than twenty (20) calendar days after the Court grants Preliminary Approval of the Settlement, WPS will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. WPS has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which WPS must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 5.3 Funding of Gross Settlement Amount. WPS shall fully fund the Gross Settlement Amount and also fund the amounts necessary to fully pay WPS's share of payroll taxes, by transmitting the funds to the Administrator no later than fifteen (15) calendar days after the Effective Date.
- 5.4 Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after WPS funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Costs, the Class Counsel Fees Payment, the Class Counsel Litigation

Costs Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Costs Payment, and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 5.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed within one hundred and eighty (180) calendar days. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 5.4.2 The Administrator must conduct a Class Member Address Search for all other Participating Class Members whose checks are returned as undelivered, without a forwarding address. Within seven (7) calendar days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Participating Class Member whose original check was lost or misplaced, as requested by the Participating Class Member prior to the void date.
- 5.4.3 For any Participating Class Member whose Individual Class Payment check or Individual PAGA Payment check remains uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 5.4.4 The Administrator shall undertake amended and/or supplemental tax filings and reporting, required under applicable local, state, and federal tax laws, that are necessitated due to the cancellation of any Individual Class Payment checks. Participating Class Members whose Individual Class Payment checks are cancelled shall, nevertheless, be bound by this Settlement Agreement.
- 5.4.5 The payment of Individual Class Payments shall not obligate WPS to confer any additional benefits or make any additional payments to Participating Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

6. RELEASES OF CLAIMS.

Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, the State of California, and Class Counsel will be deemed to have

fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties (as defined above) as follows:

6.1 Plaintiff's Released Claims. Plaintiff and his former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally and fully release and forever discharge WPS and the Released Parties from all claims, complaints, costs, damages, demands, expenses, and liabilities of any nature and under any legal theory of liability whatsoever, arising from or relating to any transaction or occurrence that occurred during the Class Period, including, but not limited to all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint or Plaintiff's PAGA Notice (collectively "Plaintiff's Released Claims") Plaintiff's Released Claims do not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agree, nonetheless, that Plaintiff's Released Claims shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. Included in Plaintiff's Released Claims, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

6.2 Release by Participating Class Members: Plaintiff and all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, generally and fully release and forever discharge Defendant and the Released Parties from all claims, causes of action, rights, demands, penalties, costs, and attorneys' fees arising during the Class Period under state, federal, or local law that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and/or ascertained in the course of the Action ("the Class Released Claims"). The Class Released Claims include any and all statutory, constitutional, contractual, and/or common law claims for wages, reimbursements, damages, penalties, restitution, liquidated damages, interest, attorneys' fees, or litigation costs, including but not limited to claims arising under California Labor Code sections 201, 202, 203, 204, 210, 216, 218.6, 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2804, California Business and Professions Code section 17200, *et seq.*, and any IWC Wage Orders (as codified in the California Code of Regulations). The Class Released Claims include but are not limited to any and all claims involving any alleged claims for minimum wage violations, failure to pay overtime wages, meal period violations, rest period violations, failure to reimburse necessary business expenditures, wage statement violations, waiting time penalties, and violation of California's unfair competition law based on the aforementioned claims. Except as set forth above with respect to Plaintiff, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair

Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

- 6.3 Release by Aggrieved Employees and the State of California: All Class Members who are Aggrieved Employees, regardless of whether they are Participating Class Members or Non-Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, along with the State of California, fully release and forever discharge the Released Parties from all claims for civil penalties under PAGA arising during the PAGA Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, the PAGA Notice, and/or ascertained in the course of the Action ("the PAGA Released Claims"). The PAGA Released Claims include but are not limited to claims for PAGA penalties arising out of alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 216, 218.6, 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2804 and any IWC Wage Orders (as codified in the California Code of Regulations), any and all claims involving any alleged minimum wage violations, failure to pay overtime wages, meal period violations, rest period violations, failure to reimburse necessary business expenditures, wage statement violations, and waiting time penalties. Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff, all Aggrieved Employees, and the State of California will be forever barred from pursuing against WPS and the Released Parties any and all claims for PAGA civil penalties arising during the PAGA Period under the Labor Code or IWC Wage Orders that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint, or in the PAGA Notice, and/or ascertained in the course of the Action.
- 6.4 Preclusive Effect of Settlement Agreement: Upon the Effective Date and full funding of the Gross Settlement Amount, the terms of this Settlement Agreement and the Judgment are and shall be binding on Plaintiff, Participating Class Members, and Aggrieved Employees, as well as their heirs, executors and administrators, successors and assigns, and on the State of California, and the terms of this Settlement Agreement and the Judgment shall have res judicata, collateral estoppel and other preclusive effect in all pending and future claims, lawsuits or other proceedings maintained by or on behalf of any such persons, to the extent those claims, lawsuits or other proceedings constitute Class Released Claims or PAGA Released Claims as set forth in this Agreement. Notwithstanding any other provision in this Agreement, this Agreement and the Judgment in the Action may be filed in any action against or by WPS or the Released Parties to support a defense of res judicata, collateral estoppel, release, waiver, good-faith settlement, judgment bar or reduction, full faith and credit, or any other theory of claim preclusion, issue preclusion or similar defense or counterclaim.

7. MOTION FOR PRELIMINARY APPROVAL.

Class Counsel agrees to prepare and file a motion for preliminary approval ("Motion for Preliminary Approval"), subject to the review and comment of Defense Counsel, which shall not be unreasonably withheld.

- 7.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel for review and comment all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval; and (ii) draft proposed Order Granting Preliminary Approval of Class Action and PAGA Settlement.
- 7.2 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval promptly after the full execution of this

Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; timely transmission to the LWDA of all necessary PAGA documents, and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Administrator. Class Counsel agrees not to finalize or file any Motion for Preliminary Approval papers until Defense Counsel has reviewed those papers.

- 7.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION.

- 8.1 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 8.2 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 8.3 Notice to Class Members.
- 8.3.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.
- 8.3.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit "A". The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 8.3.3 No later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

- 8.3.4 The Response Deadlines for Class Members' written Notices of Objection, disputes to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) calendar days beyond the initial forty-five (45) calendar days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 8.3.5 If the Administrator, WPS, Defense Counsel, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.4 Requests for Exclusion (Opt-Outs).

- 8.4.1 Class Members who wish to exclude themselves (opt-out of) the Settlement must send the Administrator, by email or mail, a signed written Request for Exclusion no later than the Response Deadline. A Request for Exclusion is a letter from a Class Member or his/her representative that clearly communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's full name, address and telephone number, and the last four digits of his or her Social Security number. To be valid, a Request for Exclusion must be timely emailed or postmarked by the Response Deadline.
- 8.4.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 8.4.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Release under Paragraph 6.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 8.4.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment.

- 8.5 Disputes Regarding Workweeks. Each Class Member shall have forty-five (45) calendar days after the Administrator's initial mailing of the Class Notice (plus an additional fourteen (14) calendar days for Class Members whose Class Notice is re-mailed) to dispute the number of Workweeks and/or PAGA Pay Periods (if any) allocated to the Class Member, as reflected in their respective Class Notices. The Class Member may challenge the allocation by submitting a written dispute ("Workweeks Dispute") that: (a) contains the case name and number of the Action; (b) contains the Class Member's full name, address, telephone number, signature, and last four digits of his or her Social Security number; (c) contains a statement setting forth the number of Workweeks and/or PAGA Pay Periods that he or she contends is correct and attaches any relevant documentation in support thereof; and (d) is submitted to the Administrator by email or mail, postmarked no later than the Response Deadline. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly, and no later than ten (10) calendar days of receipt of the Workweeks Dispute, provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination regarding the challenges.
- 8.6 Objections to Settlement.
- 8.6.1 Only Participating Class Members may object to the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Costs Payment and/or Class Representative Service Payment.
- 7.7.1 Participating Class Members may submit a Notice of Objection to the Administrator, by email or mail. In the alternative or in addition to a written Notice of Objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court at his or her own expense) to present verbal objections at the Final Approval Hearing. However, any attorney who will represent an objector must file a notice of appearance with the Court and serve Class Counsel and Defendant's counsel. A Participating Class Member who elects to send a written Notice of Objection to the Administrator must do so not later than the Response Deadline.
- 8.6.2 Non-Participating Class Members have no right to object to any of the components of the Settlement.
- 8.7 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.
- 8.7.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval Order, the Class Notice, the Motion for Final Approval, Class Counsel Litigation Costs Payment and Class Representative Service Payment, and the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.

- 8.7.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) calendar days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 8.7.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, Notices of Objection received, disputes to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion, Notices of Objection, and disputes to Workweeks and/or PAGA Pay Periods received.
- 8.7.4 Workweeks and/or PAGA Pay Periods Disputes. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 8.7.5 Administrator’s Declaration. No later than seven (7) calendar days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written Notices of Objection, the number of Workweeks Disputes, and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 8.7.6 Final Report by Administrator. Within ten (10) calendar days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) calendar days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

9. NULLIFICATION OF THE SETTLEMENT

- 9.1 If (a) the Court should for any reason fail to approve this Settlement Agreement in the form agreed to by the Parties, or (b) the Court should for any reason fail to enter Judgment of the Action, or (c) the approval of the Settlement Agreement and Judgment is reversed, modified or declared or rendered void, or (d) WPS nullifies the Stipulation pursuant to section 9.2, below, then the Settlement Agreement and conditional class certification shall be considered null and void, and neither the Settlement Agreement, conditional class certification, nor any of the related negotiations or proceedings, shall be of any force or effect whatsoever, and all parties to the Settlement Agreement shall stand in the same position, without prejudice, as if the Settlement Agreement had been neither entered into nor filed with the Court. Notwithstanding the foregoing, the Parties may and will attempt in good faith to cure any perceived defects in the Settlement Agreement to facilitate approval.
- 9.2 **WPS'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds ten percent (10%) of the total of all Class Members, WPS may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if WPS withdraws, the Settlement shall be void *ab initio*, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, WPS will remain responsible for paying all Administration Costs incurred to that point. WPS must notify Class Counsel and the Court in writing of its election to withdraw not later than seven (7) calendar days after the Administrator sends the final Exclusion List to Defense Counsel; late elections deemed void will have no effect.

10. MOTION FOR FINAL APPROVAL.

Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), and a [Proposed] Final Approval Order and Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than three days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in good faith, to resolve any disagreements concerning the Motion for Final Approval. The Parties shall agree on the [Proposed] Final Approval Order and Judgment before submission to the Court.

- 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Costs Payment and/or Administration Costs shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law. In the

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

- 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Costs Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If any reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null, void, and of no force or effect. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT.

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

12. ADDITIONAL PROVISIONS.

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

- 12.2 No Publicity. Class Counsel shall not issue any press release related to this Settlement and shall not advertise this settlement on their respective websites in any manner that identifies any of the parties by name, the case number, or geographic location of the WPS's place of business. Class Counsel shall not otherwise advertise or have any other public communication about this settlement. Nothing herein will restrict Class Counsel from including publicly available information regarding this Settlement in future judicial submissions regarding Class Counsel's qualifications and experience.
- 12.3 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, WPS and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, WPS and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.5 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.6 Cooperation. The Parties and their counsel will reasonably cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a Mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, WPS nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 Cooperation in Negotiation and Drafting. The Parties have cooperated in the negotiation, drafting, and preparation of this Agreement. This Agreement, including any provision therein deemed to be ambiguous, will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by WPS in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court.
- 12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Paul K. Haines
Sean M. Blakely
Joel M. Gordon
Haines Law Group, APC
2155 Campus Drive, Suite 180
El Segundo, California 90245

phaines@haineslawgroup.com
sblakely@haineslawgroup.com
jgordon@haineslawgroup.com

To WPS:

Rafael Gonzalez
Christina Behrman
Mullen & Henzell, L.L.P.
112 E. Victoria Street
Santa Barbara, California 93101
rgonzalez@mullenlaw.com
cbehrman@mullenlaw.com

- 12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

PLAINTIFF JUAN FLORES-PAULET

06-05
DATED: _____, 2025



Juan Alonso Flores Paulet (Jun 5, 2025 11:53 PDT)
Juan Flores-Paulet, Plaintiff

DATED: _____, 2025

**DEFENDANT WESTERN PRECOOLING
SYSTEMS**

By: _____

Its Chief Executive Officer
On behalf of Western Precooling Systems

phaines@haineslawgroup.com
sblakely@haineslawgroup.com
jgordon@haineslawgroup.com

To WPS:

Rafael Gonzalez
Christina Behrman
Mullen & Henzell, L.L.P.
112 E. Victoria Street
Santa Barbara, California 93101
rgonzalez@mullenlaw.com
cbehrman@mullenlaw.com

- 12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

PLAINTIFF JUAN FLORES-PAULET

DATED: _____, 2025

Juan Flores-Paulet, Plaintiff

DATED: June 6, 2025

**DEFENDANT WESTERN PRECOOLING
SYSTEMS**

By: _____



Its Chief Executive Officer
On behalf of Western Precooling Systems

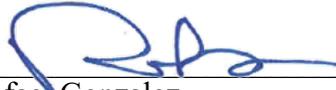
Dated: July 7, 2025



Paul K. Haines
Sean M. Blakely
Joel M. Gordon
*Attorneys for Plaintiff and
Proposed Class Counsel*

MULLEN & HENZELL, L.L.P.

Dated: June 6, 2025



Rafael Gonzalez
Christina Behrman
Attorneys for Defendant Western Precooling Systems