

***Miguel Rosales et al. v. Harbor Distributing, L.L.C. et al.***  
**Orange County Superior Court Case No. 30-2023-01300842-cu-oe-cxx**

**AMENDED CLASS, FLSA COLLECTIVE, AND PAGA REPRESENTATIVE ACTION  
SETTLEMENT  
AGREEMENT AND CLASS NOTICE**

This Amended Class, FLSA Collective, and PAGA Representative Action Settlement Agreement (“Agreement”) is made by and between the Plaintiffs Miguel Rosales, Johnny Marquez, Leo Patino, and Elio Ruben Alonso (“Plaintiffs”), and the Defendant Harbor Distributing, L.L.C. (“Harbor” or “Defendant”). The Agreement refers to Plaintiffs and Harbor collectively as “Parties,” or to one of them individually as “Party.”

**1. DEFINITIONS.**

- 1.1 “Action” means *Miguel Rosales et al. v. Harbor Distributing, L.L.C. et al.*, initiated on January 9, 2023, and now pending in the Superior Court of the State of California, County of Orange.
- 1.2 “Administrator” means the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4 “Aggrieved Employee” means an individual who was employed by Harbor as a non-exempt warehouse worker or merchandiser in the State of California during the PAGA Period.
- 1.5 “Class” refers to all individuals who were employed by Harbor as non-exempt employees in positions as warehouse workers or merchandisers in California during the Settlement Period. The Class does not include individuals who have previously executed releases that cover the claims covered by this Agreement.
- 1.6 “Class Counsel” means John G. Yslas, Jeffrey C. Bils, Aram Boyadjian and Andrew Sandoval of the Wilshire Law Firm, and Jose Garay.
- 1.7 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for attorneys’ fees and for reimbursement of reasonable litigation expenses.
- 1.8 “Class Data” means personally identifying information in Harbor’s possession, including Class Member names, last-known mailing addresses, Social Security numbers, and the numbers of qualifying days, workweeks, and pay periods worked.

- 1.9 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12 “Class Period” or “Settlement Period” means the period from November 11, 2020 through whichever of these two dates occurs first: (a) the date of Preliminary Approval or (b) May 27, 2024.
- 1.13 “Class Representatives” means the Plaintiffs Miguel Rosales, Johnny Marquez, Leo Patino, and Elio Ruben Alonso.
- 1.14 “Class Representative Service Payments” means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.15 “Collective Members” means all Participating Class Members who have been employed by Defendant anywhere in California during the FLSA Period.
- 1.16 “Court” means the Superior Court of California, County of Orange.
- 1.17 “Harbor” means named the Defendant, Harbor Distributing, L.L.C.
- 1.18 “Defense Counsel” means Seyfarth Shaw LLP, acting through attorneys David Jacobson and Kerry Friedrichs.
- 1.19 “Effective Date” means the later of (a) the Court’s final approval of the Settlement Agreement, if no objections have been filed, (b) the time of appeal has expired if an objection has been filed, (c) or the final resolution of any appeal that has been filed.
- 1.20 “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.21 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.22 “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.23 “FLSA Period” means the period from November 11, 2020, to the date of Preliminary Approval or May 27, 2024, whichever date occurs first.

- 1.24 “FLSA Settlement Fund” means the amount of the Settlement allocated for payment to Settlement Class Members for settlement and release of claims under the FLSA. The FLSA Settlement Fund shall not exceed One Hundred Fifteen Thousand Dollars (\$115,000). The FLSA Settlement Fund shall be paid out of the Gross Settlement Amount.
- 1.25 “Gross Settlement Amount” means \$2,285,000.00, which is the total amount Harbor agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual FLSA Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administrator’s Expenses Payment.
- 1.26 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of days worked by that Participating Class Member during the relevant period.
- 1.27 “Individual FLSA Payment” means the Collective Member’s pro rata share of the FLSA Settlement Fund calculated according to the number of days worked by that Collective Member during the FLSA Period.
- 1.28 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of days worked by that Aggrieved Employee during the relevant period.
- 1.29 “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.30 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i).
- 1.31 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.32 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual FLSA Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is the “Net Settlement Amount” to be paid to Participating Class Members and Aggrieved Employees as Individual Class Payments and Individual PAGA Payments (which may be combined into a single payment).
- 1.33 “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.
- 1.34 “Operative Complaint” means the Second Amended Complaint that Plaintiffs shall, as part of this Settlement, file to include, in addition to the claims set forth in the First

Amended Complaint, a specific claim for unpaid wages, including overtime, under the Fair Labor Standards Act (“FLSA”).

- 1.35 “PAGA Period” means the period from November 4, 2021, to the date of Preliminary Approval or May 27, 2024, whichever date occurs first.
- 1.36 “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Lab. Code, § 2698 et seq.).
- 1.37 “PAGA Notice” means Plaintiffs’ May 4, 2023 letter to Harbor and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).
- 1.38 “PAGA Penalties” means \$100,000, the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to Aggrieved Employees and 75% to the LWDA, in settlement of PAGA claims.
- 1.39 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.40 “Plaintiffs” means Miguel Rosales, Johnny Marquez, Leo Patino and Elio Ruben Alonso.
- 1.41 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.42 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.43 “Released Class Claims” means the claims being released as described in Paragraph 5.1 below.
- 1.44 “Released PAGA Claims” means the claims being released or precluded as described in Paragraph 5.3 below.
- 1.45 “Released Parties” means Harbor and each of its former and present directors, officers, shareholders, owners, members, employees, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.46 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.47 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail Objections to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline.

1.48 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

## **2. RECITALS.**

2.1 On January 9, 2023, Plaintiff Miguel Rosales commenced this Action by filing a PAGA representative action complaint against Harbor and Reyes Holdings, L.L.C.

2.2 On April 11, 2024, Plaintiff Miguel Rosales filed a First Amended Complaint that added class claims and claims alleged by Plaintiff Elio Ruben Alonso in San Bernardino Superior Court Case No. CIVSB2321948 regarding warehouse workers and merchandisers. The First Amended Complaint also added Johnny Marquez, Leo Patino, and Elio Ruben Alonso as named Plaintiffs and proposed Class Representatives and remove Reyes Holdings, L.L.C. as a defendant.

2.3 In connection with this Agreement, Plaintiff shall seek permission to file a Second Amended Complaint, via a Joint Stipulation for Order for Filing Second Amended Complaint, that adds a specific claim for unpaid wages, including overtime, under the Fair Labor Standards Act (“FLSA”).

2.4 The request for permission to file a Second Amended Complaint shall be filed on or before the date of the filing of the motion for preliminary approval. Class Counsel will share the draft Second Amended Complaint for comments by Defense Counsel with reasonable notice before filing the request with the Court to file same. Class Counsel shall seriously consider in good faith Defense Counsel’s comments before filing.

2.5 The Parties will treat the Second Amended Complaint as the operative complaint in the Action (the “Operative Complaint”). Harbor denies all material allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.6 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiffs gave timely written notice to Harbor and the LWDA by sending the PAGA Notice.

2.7 On February 27, 2024, the Parties participated with mediator Tripper Ortman, Esq., in an all-day mediation, which led to this Agreement to settle the Action.

2.8 Prior to mediation, Plaintiffs obtained sample time records and payroll records, plus summary data from Defendant regarding the number of workweeks at issue. Plaintiffs’ investigation satisfies the criteria for court approval set forth in *Dunk v. Ford Motor Company*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-30 (2008) (“*Dunk/Kullar*”).

2.9 The Court has not granted class certification. The initial Complaint was for PAGA claims only. The First Amended Complaint included newly alleged claims in the nature of a class action along with the PAGA claim. The Second Amended Complaint will add a claim under the FLSA for unpaid wages.

### 3. MONETARY TERMS.

#### 3.1 *Gross Settlement Amount.* Except as otherwise provided by Paragraph 8 below,

Harbor promises to pay \$2,285,000.00 and no more as the Gross Settlement Amount and to separately pay any employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Harbor need not pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.2 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without requiring any claim as a condition of payment. None of the Gross Settlement Amount will revert to Harbor.

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

3.2.1 *To Plaintiffs:* Class Representative Service Payments to the Class Representatives of not more than \$15,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive), for a total of \$60,000. Harbor will not oppose Plaintiffs' request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, then the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will issue IRS Form 1099s for the Class Representative Service Payments. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.

3.2.2 *To Class Counsel:* A Class Counsel Fees Payment of not more than 1/3 (\$761,666.67), and a Class Counsel Litigation Expenses Payment of not more than \$39,000.00. Harbor will not oppose requests for these payments, provided that they do not exceed these amounts. Class Counsel will file a motion for Class Counsel Fees Payment and for Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment in less than the amounts requested, then the Administrator will retain the remainder as part of the Net Settlement Amount. The Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion of any Class Counsel Fee Payment or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for any taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Harbor harmless, and indemnifies Harbor, from any dispute or controversy regarding any division or sharing of any of these Payments. Class Counsel shall

inform the Administrator of any split between them regarding the Fees Payment and the Class Counsel Litigation Expenses Payment.

- 3.2.3 *To the Administrator:* An Administrator Expenses Payment not to exceed \$26,000.00, except for a showing of good cause and as approved by the Court. To the extent that the Administration Expenses are less or that the Court approves payment of less than \$26,000.00 then the excess shall become part of the “Net Settlement Amount” to be paid to Class Members and Aggrieved Employees.
- 3.2.4 *To Each Participating Class Member:* The Individual Class Payment shall be calculated as follows: Each Participating Class Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the Net Settlement Amount, calculated by (i) the number of the Participating Class Member’s attributed days worked during the Class Period, divided by (ii) the total days worked of all Participating Class Members during the Class Period. Determination of the number of days that a Participating Class Member worked shall be based on Harbor’s time records. The Parties will consider in good faith any challenge to the days worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.
- 3.2.4.1 *Tax Allocation of Individual Class Payments.* A total of 20% of each Participating Class Member’s Individual Class Payment will be allocated to settlement of wage claims (the “Wage Portion”). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. A total of 70% of each Participating Class Member’s Individual Class Payment will be allocated to settlement of claims for interest and penalties (the “Non-Wage Portion”). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. The remaining 10% of each Participating Class Member’s Individual Class Payment will be allocated to reimbursement of employee business expenses. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
- 3.2.4.2 *Effect of Non-Participating Class Members on Calculation of Individual Class Payments.* Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.
- 3.3 *To Each Participating Collective Member:* The Individual FLSA Payment shall be calculated as follows: Each Collective Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the FLSA Settlement Fund, calculated by (i) the number of the Collective Member’s attributed days worked during the FLSA Period, divided by (ii) the total days worked of all Collective Members during the Class Period.

3.4 *Tax Allocation of Individual FLSA Payments.* A total of 20% of each Participating Collective Member's Individual FLSA Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. A total of 80% of each Participating Collective Member's Individual FLSA Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Collective Members assume full responsibility and liability for any employee taxes owed on their Individual FLSA Payment.

3.4.1 *To the LWDA and Aggrieved Employees:* PAGA Penalties in the amount of \$100,000 to be paid from the Gross Settlement Amount, with 75% (\$75,000) allocated to the LWDA PAGA Payment and 25% (\$25,000) allocated to the Individual PAGA Payments.

3.4.1.1 The Individual PAGA Payments shall be paid to all Aggrieved Employees (regardless of whether they opt out of the Settlement Class) who worked for Harbor at any time during the PAGA Period, based on their proportional number of days worked for Harbor during the PAGA Period. The Administrator will calculate each Individual PAGA Payment as follows: The amount of the payment will be calculated on a pro rata basis by the Settlement Administrator based on an Aggrieved Employee's individual days worked during the PAGA Period in relation to the total days worked by all Aggrieved Employees during the PAGA Period. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.4.1.2 If the Court approves PAGA Penalties of less than the amount requested, then the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

#### **4. SETTLEMENT FUNDING AND PAYMENTS.**

4.1 *Class Data.* Not later than 15 business days after Preliminary Approval, Harbor will deliver the Class Data to the Administrator, in the form of a spreadsheet. 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 perform under this Agreement. Harbor has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data has omitted identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. The Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.2 *Funding of Gross Settlement Amount.* Harbor shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Harbor's share of payroll



taxes, by transmitting the funds to the Administrator no later than 15 business days after the Effective Date.

- 4.3 *Payments from the Gross Settlement Amount.* Within 30 business days of the Effective Date, the Administrator will mail checks for all Individual Class Payments, all Individual FLSA Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

- 4.3.1.1 Opt-in and release language regarding the release of all claims, including the FLSA claim, will be printed on the Individual settlement checks, with instructions that cashing such check constitutes consent under the FLSA to opt into the collective action. The language to be included will be substantially similar to the following:

“My endorsing, cashing, or depositing of this check constitutes my consent to join the lawsuit and settlement in the case entitled *Miguel Rosales et al. v. Harbor Distributing, L.L.C. et al.*, pending in the Superior Court of the State of California for the County of Orange, Case No. 30-2023-01300842-cu-oe-cxx, pursuant to the provisions of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. Section 216(b).”

- 4.3.2 The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without United States Postal Service (“USPS”) forwarding address. Within seven 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 Class Member whose original

check was lost or misplaced, requested by the Class Member prior to the void date.

4.3.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Unclaimed Property Fund in the name of the Participating Settlement Class Member, thereby leaving no “unpaid residue” subject to the requirements of Code of Civil Procedure section 384, subdivision (b).]

4.3.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Harbor to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

**5. RELEASES AND PRECLUSION OF CLAIMS.** Upon final approval of the Settlement Agreement, and except as to the right to enforce the terms and conditions of the Settlement:

5.1 *Release by Participating Class Members:* All Participating Class Members fully release Harbor Distributing, L.L.C., and its parent, Reyes Holdings, L.L.C., and all of their present and former subsidiaries, affiliates, and joint ventures, and all of their shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them (“Releasees”) from all claims that accrued in, or are related to the allegations in the Lawsuits under any laws, including but not limited to any municipal, state, or federal law. This release includes, without limitation, release of all claims for alleged failure to pay wages of any form, including failure to pay minimum wage, overtime, sick pay, or any other wage, claims for failure to provide accurate itemized wage statements, claims for failure to timely pay wages, claims for failure to pay meal or rest period premiums, claims for failure to timely pay wages due at end of employment, failure to provide meal and rest breaks, failure to reimburse expenses, failure to maintain employment records, failure to comply with warehouse quota requirements (Labor Code Section 2100 *et seq.*), claims for unfair competition based upon any of the foregoing, failure to pay wages in form negotiable and payable in cash, and claims under California Business and Professions Code sections 17200 *et seq.* This release includes all claims for failure to pay wages (including overtime) under the FLSA. Excluded from this release are any Workers Compensation claims and claims that cannot be released as a matter of law. This Agreement is conditioned upon the release by all Participating Class Members that are also Aggrieved Employees of any claim under Labor Code section 2699, as to the released claims set forth above.

5.2 *Release by Collective Members:* All Collective Members fully release and discharge the Releasees from any and all wage and hour claims under the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory that was or reasonably could have been

brought based on the facts alleged in any version of the complaints filed in the Action pertaining to Plaintiffs and the Collective Members.

5.3 *Release by Aggrieved Employees:* All Aggrieved Employees fully release and discharge the Releasees from any and all claims under the PAGA premised on the facts and/or allegations in the Second Amended Complaint that arose during the PAGA Period (the “PAGA Release”). It is understood and acknowledged that Aggrieved Employees entitled to a share of the PAGA Penalties will be issued payment for their share of the PAGA Penalties and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph. The PAGA Release is binding upon all Aggrieved Employees upon Court approval and payment of the PAGA Penalties. Further, the Aggrieved Employees are bound by the PAGA Release regardless of whether they cash the check with their PAGA Payment.

5.4 *Plaintiffs’ Release.* Plaintiff and the Plaintiff’s former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge the Releasees from all claims, transactions or occurrences that occurred during the Settlement Period, including, but not limited to, (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint, and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint or Plaintiff’s PAGA Notice (“Plaintiffs’ Release”). Plaintiffs Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences after the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that Plaintiffs’ Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs’ discovery of them.

5.4.1 *Plaintiffs’ Waiver of Rights Under Civil Code Section 1542.* For purposes of Plaintiffs’ General Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of Civil Code section 1542, 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. **MOTION FOR PRELIMINARY APPROVAL.** Upon full execution of the Agreement, Class Counsel will draft and file a Motion for Preliminary Approval of a class action settlement within 90 calendar days, and will share their draft for comments by Defense Counsel with reasonable notice before filing. Class Counsel shall seriously consider in good faith Defense Counsel’s comments on the draft of the motion before filing any motion.

- 6.1 *Plaintiffs' Responsibilities.* Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code section 2699, subdivision (O(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members or the Administrator; (vi) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a))), Operative Complaint (Lab. Code, § 2699, subd. (1)(1)), this Agreement (Lab. Code, § 2699, subd. (1)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members or the Administrator.
- 6.2 *Responsibilities of Counsel.* Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 90 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval Order to the Administrator.
- 6.3 *Duty to Cooperate.* If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval 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 or otherwise satisfy the Court’s concerns.
- 7. SETTLEMENT ADMINISTRATION.**
- 7.1 *Selection of Administrator.* The Parties have jointly selected Atticus Administration, LLC to serve as the Administrator and have verified that, as a condition of appointment, that Atticus Administration, LCC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 7.2 *Employer Identification Number.* The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 *Qualified Settlement Fund.* The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4 *Notice to Class Members.*
- 7.4.1 Using best efforts to perform as soon as possible, and in no event later than 30 days after preliminary approval of the Agreement, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the total dollar amount of any Individual Class Payment, Individual FLSA Payment, and Individual PAGA Payment payable to the Class Member, and the number of workdays used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.2 Not later than five court days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.3 The deadlines for Class Members’ written objections, challenges to workdays, and Requests for Exclusion will be extended an additional 45 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.4 If the Administrator, Harbor, 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 confer, in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, then such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever is later.
- 7.5 *Requests for Exclusion (Opt Outs).*

- 7.5.1 Class Members who wish to exclude themselves (opt out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 45 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or the Class Member's representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified by 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. If the Administrator has reason to question the authenticity of a Request for Exclusion, then the Administrator may demand additional proof of the Class Member's identity. The Court will have the final authority to determine the validity or non-validity of any Request for Exclusion.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Release under Paragraph 5.1 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.2 of this Agreement and are eligible for and will receive an Individual PAGA Payment.
- 7.6 *Challenges to Calculation of Workdays.* Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 45 days for Class Members whose Class Notice is re-mailed) to challenge the number of workdays allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email, or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any convincing contrary documentation, the Administrator is entitled to presume that the number of workdays contained in the Class Notice is correct so long as it is consistent with the Class Data. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of workdays to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 *Objections to Settlement.*

- 7.7.1 Only Participating Class Members may object to the class action components of the Settlement or this Agreement, including contesting the fairness of the Settlement, the amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments.
- 7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present oral objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 45 days for Class Members whose Class Notice was re-mailed).
- 7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

- 7.8.1 *Website, Email Address, and Toll-Free Number.* The Administrator will establish and maintain an internet website to post information of interest to Class Members including the date, time, and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- 7.8.2 *Requests for Exclusion (Opt Outs) and Exclusion List.* The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing: (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 7.8.3 *Weekly Reports.* The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to workdays received or resolved, and checks mailed for Individual Class Payments

and Individual PAGA Payments (“Weekly Report”). The Weekly Reports will provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- 7.8.4 *Workday Challenges.* The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of qualifying workdays. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 *Administrator’s Declaration.* Not later than 14 days before the date by which Plaintiffs 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), and the number of written objections, and will attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6 *Final Report by Settlement Administrator.* Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator’s declaration in Court.
8. **ESCALATOR CLAUSE.** The parties recognize that the Gross Settlement Value is predicated upon the number of workweeks being not greater than ten percent more than 238,114 for the period November 11, 2020 through February 27, 2024. Any additions over 10% during the Class Period shall result in (1) an option for Defendant to cut off the release period end date as of the date where the 10 percent overage is reached, or (2) proceed with the release through the Settlement Period provided herein with a pro rata increase of the Gross Settlement Value. By way of examples, if the overage is reached and Defendant opts to proceed under option (2), then if the excess is 11% then the increase in the Gross Settlement Value will be 1%; if the excess is 12% then the increase will be 2%, etc.
9. **HARBOR’S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 2% of the total of all Class Members, then Harbor may, but need not, elect to withdraw from the Settlement. The Parties agree that if Harbor withdraws, the Settlement shall be void ab initio, having no force or effect



whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Harbor will remain responsible for paying all Settlement Administration Expenses incurred to that point. Harbor must notify Class Counsel and the Court of its election to withdraw not later than 15 days after expiration of the opt-out period; late elections will have no effect on Harbor's right to withdraw.

- 10. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs 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, subdivision (I), a Proposed Final Approval Order, and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously confer, in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 10.1 *Response to Objections.* Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 *Duty to Cooperate.* If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by 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. Any decision by the Court to award less than the amounts requested for the Class Representative Service Payments, for Class Counsel Fees Payment, for Class Counsel Litigation Expenses Payment, or for Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 *Continuing Jurisdiction of the Court.* The Parties agree that, after entry of Judgment, the Court will, pursuant to CCP § 664.6 and CRC 3.769(h), retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-judgment matters as are permitted by law.
- 10.4 *Waiver of Right to Appeal.* Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel and all Participating Class Members who did not object to the Settlement as provided in this Agreement waive all rights to appeal from the Judgment, including all rights to post judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs and appeals. This waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, then the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the

Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

- 10.5 *Appellate Court Orders to Vacate, Reverse or Materially Modify Judgment.* If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be voidable at Harbor's option. If a reviewing Court vacates, reverses or modifies the Judgment in a matter that requires a material modification of this Agreement, the Parties shall 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 Payments 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 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 Harbor that any allegation in the Operative Complaint has merit or that Harbor has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Harbor's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Harbor reserves the right to contest certification of any class for any reasons, and Harbor reserves all available defenses to the claims in the Action, and Plaintiffs reserves the right to move for class certification on any grounds available and to contest Harbor's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 12.2 *Confidentiality Prior to Preliminary Approval.* Plaintiffs, Class Counsel, Harbor 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, 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) 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. Plaintiffs, Class Counsel, Harbor, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

- 12.3 *No Undue Publicity.* Neither Plaintiffs nor Class Counsel shall cause to be publicized, directly or indirectly, any discussion resulting in or the existence of this Agreement or its terms in any type of mass media, including, but not limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts, newspapers, website postings, messages on the Internet, Facebook, Twitter/X or any other social media. After the Effective Date, Class Counsel may state on their website that the case has been settled and provide a short and plain description of the claims that were settled, subject to Harbor’s approval, which shall not be unreasonably withheld. This provision does not apply to any publications ordered by the Court.
- 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 *Attorney Authorization.* Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Harbor, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.7 *Cooperation.* The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator or the Court for resolution.

- 12.8 *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.
- 12.9 *No Tax Advice.* Neither Plaintiffs, Class Counsel, Harbor, 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.
- 12.10 *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.
- 12.11 *Agreement Binding on Successors.* This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.12 *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.
- 12.13 *Cooperation in Drafting.* The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.14 *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.
- 12.15 *Use and Return of Class Data.* Information provided to Class Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Harbor 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, any statute, or any rule of the California Rules of Court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs and Class Counsel shall destroy any paper and electronic versions of Class Data in their possession unless, prior to the Court's discharge of the Administrator's obligation, Harbor makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.
- 12.16 *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.
- 12.17 *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.

- 12.18 *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 Plaintiffs:

WILSHIRE LAW FIRM  
John G. Yslas  
John.yslas@wilshirelawfirm.com  
Samantha A. Smith  
Samantha.smith@wilshirelawfirm.com  
Jeffrey C. Bils  
Jeffrey.bils@wilshirelawfirm.com  
3055 Wilshire Blvd., 12<sup>th</sup> Floor  
Los Angeles, California 90010  
Telephone: (213) 381-9988  
Facsimile: (213) 381-9989  
Attorneys for Plaintiffs  
Miguel Rosales, Johnny Marquez, Leo Patino, and Elio Ruben Alonso

and

Jose Garay, APLC  
jose@garaylaw.com  
249 E. Ocean Blvd. #814  
Long Beach, CA 90802  
Telephone: (949) 208-3400  
Facsimile: (562) 590-8400

To Defendant:

SEYFARTH SHAW LLP  
David D. Jacobson  
djacobson@seyfarth.com  
2029 Century Park East, Suite 3500  
Los Angeles, California 90067-3021  
Telephone: (310) 277-7200  
Facsimile: (310) 201-5219

and

SEYFARTH SHAW LLP  
Kerry Friedrichs  
kfriedrichs@seyfarth.com  
560 Mission Street, 31st Floor  
San Francisco, California 94105  
Telephone: (415) 397-2823

Facsimile: (415) 397-8549

Attorneys for Defendant  
Harbor Distributing, L.L.C.

12.19 *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.

12.20 *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, pursuant to Code of Civil Procedure section 583.330, the Parties agree to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

Agreed to as of March 7, 2025

**FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES**

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Miguel Rosales

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Johnny Marquez

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Leo Patino



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Elio Ruben Alonso

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John G. Yslas, Class Counsel



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Jose Garay, Class Counsel

**FOR DEFENDANT HARBOR DISTRIBUTING, L.L.C.**

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Mike Locascio

Facsimile: (415) 397-8549

Attorneys for Defendant  
Harbor Distributing, L.L.C.

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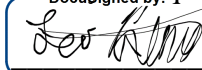
**FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES**

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Miguel Rosales

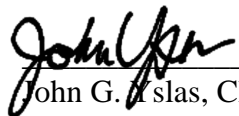
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Johnny Marquez

  
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Leo Patino

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Elio Ruben Alonso

  
John G. Laslas, Class Counsel

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Jose Garay, Class Counsel

**FOR DEFENDANT HARBOR DISTRIBUTING, L.L.C.**

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Mike Locascio

Facsimile: (415) 397-8549

Attorneys for Defendant  
Harbor Distributing, L.L.C.

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Miguel Rosales

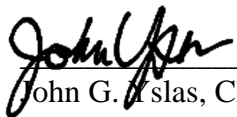
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Johnny Marquez

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Leo Patino

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Elio Ruben Alonso



John G. Alas, Class Counsel

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Jose Garay, Class Counsel

**FOR DEFENDANT HARBOR DISTRIBUTING, L.L.C.**

\_\_\_\_\_  
Mike Locascio



Facsimile: (415) 397-8549


Attorneys for Defendant  
Harbor Distributing, L.L.C.

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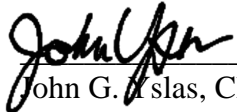
**FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES**

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Miguel Rosales

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Johnny Marquez

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Leo Patino

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Elio Ruben Alonso

  
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John G. Alas, Class Counsel

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Jose Garay, Class Counsel

**FOR DEFENDANT HARBOR DISTRIBUTING, L.L.C.**

\_\_\_\_\_  
Mike Locascio

Facsimile: (415) 397-8549

Attorneys for Defendant  
Harbor Distributing, L.L.C.

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Agreed to as of March 7, 2025

**FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES**

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Miguel Rosales

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Johnny Marquez

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Leo Patino

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Elio Ruben Alonso

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John G. Yslas, Class Counsel

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Jose Garay, Class Counsel

**FOR DEFENDANT HARBOR DISTRIBUTING, L.L.C.**

  
Mike Locascio

Vice President and Chief Financial Officer

# **Exhibit A**

**COURT APPROVED NOTICE OF CLASS ACTION, FLSA COLLECTIVE, AND PAGA REPRESENTATIVE ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL**

*Miguel Rosales, Elio Ruben Alonso, Johnny Marquez, and Leo Patino v. Harbor Distributing, L.L.C.*  
Orange County Superior Court, Case No. 30-2023-01300842-CU-OE-CXC

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***The Superior Court for the State of California authorized this Notice. Read it carefully!  
It's not junk mail, spam, an advertisement or solicitation by a lawyer. You are not being sued.***

**You may be eligible to receive money** from an employee class action lawsuit and employee representative action lawsuit (the “Action”) against Harbor Distributing, L.L.C. (“Harbor” or “Defendant”) for alleged California labor law violations. The Action was filed by former Harbor employees Miguel Rosales, Elio Ruben Alonso, Johnny Marquez, and Leo Patino (“Plaintiffs”) and seeks payment of (1) back wages under California and Federal law, and other relief, for a class of non-exempt hourly employees (“Class Members”) who worked for Defendant during the Class Period from November 11, 2020 through May 27, 2024; (2) back wages and other relief under the Fair Labor Standards Act, 29 U.S.C. sections 201, *et seq.* (“FLSA”) for a class of hourly employees who worked for Harbor during the FLSA Period (November 11, 2020 through May 27, 2024) (“Collective Members”); and (3) penalties under the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698 *et seq.* (“PAGA”) for all hourly-paid non-exempt employees who worked for Defendant during the PAGA Period (November 4, 2021 through May 27, 2024) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class and FLSA Payments and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class and FLSA Payment is estimated to be \$\_\_\_\_\_ (less withholding) and your Individual PAGA Payment is estimated to be \$\_\_\_\_\_.** This is an estimate. The actual amount you receive might be different.

The above estimates are based on Defendant’s records showing that **you worked \_\_\_\_\_ days** during the Class Period (November 11, 2020 through May 27, 2024), **you worked \_\_\_\_\_ days** during the FLSA Period (November 11, 2020 through May 27, 2024), and **you worked \_\_\_\_\_ days** during the PAGA Period (November 4, 2021-May 27, 2024). If you believe that you worked more days during any period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and

Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or and/or the FLSA Period and/or the PAGA Period, you have three basic options under the Settlement:

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.
- (3) **Opt-In to the FLSA Settlement:** You must affirmatively opt-in to the FLSA portion of the proposed Settlement by endorsing, depositing, and/or cashing the Individual FLSA Payment check which will include language substantially similar to the following:

“My endorsing, cashing, or depositing of this check constitutes my consent to join the lawsuit entitled *Miguel Rosales et al. v. Harbor Distributing, L.L.C. et al.*, pending in the Superior Court of the State of California for the County of Orange, Case No. 30-2023-01300842-cu-oe-cxx, pursuant to the provisions of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. Section 216(b).”

**Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.**

## SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<b>You Don’t Have to Do Anything to Participate in the Settlement</b>	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).
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<p><b>You Can Challenge the Calculation of Your Work Days</b></p> <p><b>Written Challenges Must be Submitted by</b></p> <p>_____</p>	<p>The amount of your Individual Class Payment, FLSA Payment (if any), and PAGA Payment (if any) depends on how many days you worked during the Class Period, and/or how many days you worked during the FLSA Period, and how many days you worked during the PAGA Period, respectively. The number of Class Period days, FLSA Period days, and/or PAGA Period days you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice. A challenge to the calculation of the number of Work Days can be submitted to the Administrator via fax, mail or email.</p>
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## 1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant. The Action accuses Harbor of violating California labor laws by failing to pay all wages due, including minimum and overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to provide accurate wage itemized statements, failure to pay waiting time penalties for failure to pay all wages due upon termination, failure to pay reimbursable expenses, violation of California’s Quota laws, and unfair business practices. Based on the same allegations, Plaintiffs have also asserted a claim for wages under the Fair Labor Standards Act, 29 U.S.C. sections 201, *et seq.* (“FLSA”), and a claim for civil penalties under the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698 *et seq.* (“PAGA”). Plaintiffs are represented by attorneys in the Action: John G. Yslas, Jeffrey C. Bils, Aram Boyadjian, and Andrew Sandoval of Wilshire Law Firm, APC; and Jose Garay, APLC (“Class Counsel”).

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

## 2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members, Collective Members, and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and

adequate, authorized this Notice, and scheduled a hearing to determine Final Approval on \_\_\_\_\_.

### **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

1. Defendant Will Pay \$2,285,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement, and additionally pay amounts necessary to fully pay Defendant's share of payroll taxes. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual FLSA Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorneys' fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 15 business days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to \$761,666.67 (which is 1/3 of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$39,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$15,000 each (in addition to any Individual Class Payment, any Individual FLSA Payment, and any Individual PAGA Payment the Class Representatives are entitled to receive), for a total of \$60,000, as Class Representative Awards to the named Plaintiffs for acting as Class Representatives for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payment, any Individual FLSA Payment, and any Individual PAGA Payment.

C. Up to \$26,000 to the Administrator for services administering the Settlement.

D. Up to \$100,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment (the remaining 25% will be distributed to the Aggrieved Employees).

E. Up to \$115,000 for FLSA damages.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based



on their Class Period days worked.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”); and 70% is allocated to civil penalties and interest and 10% to reimbursement of employee expenses. Plaintiffs and Defendant also are asking the Court to approve an allocation of 20% of each Individual FLSA Payment to taxable wages (also part of the Wage Portion); and 80% is allocated to civil penalties. The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay any employer-side payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued to Class Members, Collective Members and Aggrieved Employees will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than \_\_\_\_\_, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the \_\_\_\_\_ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her/their representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant. The Court will be the final decision-maker with respect to the validity or non-validity of any Requests for Exclusion.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and upon final approval of the Settlement will be precluded from asserting PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible

the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, Atticus Administration, LLC (“Atticus” and/or the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over days worked, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members’ Release. After the Judgment is final and Defendant has fully funded the Gross Settlement and separately paid all employer-side payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue or be part of any other lawsuit against Defendant or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members fully release Harbor Distributing, L.L.C., and its parent, Reyes Holdings, L.L.C., and all of their present and former subsidiaries, affiliates, and joint ventures, and all of their shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them (“Releasees”) from all claims that accrued in, or are related to the allegations in the Lawsuits under any laws, including but not limited to any municipal, state, or federal law. This release includes, without limitation, release of all claims for alleged failure to pay wages of any form, including failure to pay minimum wage, overtime, sick pay, or any other wage, claims for failure to provide accurate itemized wage statements, claims for failure to timely pay wages, claims for failure to pay meal or rest period premiums, claims for failure to timely pay wages due at end of employment, failure to provide meal and rest breaks, failure to reimburse expenses, failure to maintain employment records, failure to comply with warehouse quota requirements (Labor Code Section 2100 *et seq.*), claims for unfair competition based upon any of the foregoing, failure to pay wages in form negotiable and payable in cash, and claims under California Business and Professions Code sections 17200 *et seq.* This release includes all claims for failure to pay wages (including overtime) under the FLSA. Excluded from this release are any Workers Compensation claims and claims that cannot be released as a matter of law. This Agreement is conditioned upon the release by all Participating Class Members that are also Aggrieved Employees of any claim under Labor Code section 2699, as to the released claims set forth above.

10. Collective Members' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement and separately paid all employer-side payroll taxes, Collective Members who endorse their settlement checks will be legally barred from asserting any of the FLSA claims released under the Settlement. This means that you cannot sue, continue to sue or be part of any other lawsuit against Defendant or related entities for unpaid wages based on the Class Period or Collective Period facts alleged in the Action and resolved by this Settlement.

The Participating Collective Members will be bound by the following release:

All Collective Members fully release and discharge the Releasees from any and all wage and hour claims under the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory that was or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Action pertaining to Plaintiffs and the Collective Members.

11. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Aggrieved Employees fully release and discharge the Releasees from any and all claims under the PAGA premised on the facts and/or allegations in the Second Amended Complaint that arose during the PAGA Period (the "PAGA Release"). It is understood and acknowledged that Aggrieved Employees entitled to a share of the PAGA Penalties will be issued payment for their share of the PAGA Penalties and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph. The PAGA Release is binding upon all Aggrieved Employees upon Court approval and payment of the PAGA Penalties. Further, the Aggrieved Employees are bound by the PAGA Release regardless of whether they cash the check with their PAGA Payment.

#### **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of days worked by all Participating Class Members, and (b) multiplying the result by the number of days worked by each individual Participating Class Member.

2. Individual FLSA Payments. The Individual FLSA Payment shall be calculated as follows: Each Collective Member will be entitled to receive an amount, subject to any applicable employee payroll

taxes, equal to a proportionate share of the FLSA Settlement Fund, calculated by (i) the number of the Collective Member's attributed days worked during the FLSA Period, divided by (ii) the total days worked of all Collective Members during the Class Period.

3. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$25,000.00 by the total number of PAGA Period days worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period days worked by each individual Aggrieved Employee.

4. Workweek/Pay Period Challenges. The number of Class days you worked during the Class Period, the number of FLSA days you worked during the FLSA Period, and the number of PAGA Period days you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until \_\_\_\_\_ to challenge these number. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculations of days worked based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve any challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision will be final. You can't appeal or otherwise challenge the Administrator's final decision.

## **5. HOW WILL I GET PAID?**

1. Participating Class Members and Collective Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment, the FLSA Payment and the Individual PAGA Payment.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

**Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.**

## **6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?**

Submit a written and signed letter with your name, present address, telephone number and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Rosales, et al. v. Harbor Distributing, LLC* and include your identifying information (full name, address, telephone number, approximate dates of

employment and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by \_\_\_\_\_, or it could be invalid.** Section 9 of the Notice has the Administrator's contact information. The Court will be the final decision-maker regarding the validity or non-validity of any Requests for Exclusion.

## **7. HOW DO I OBJECT TO THE SETTLEMENT?**

Only Participating Class Members have the right to object to the Settlement. A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is \_\_\_\_\_.** Be sure to tell the Administrator what you object to, why you object and any facts that support your objection. Make sure you identify the Action *Rosales, et al. v. Harbor Distributing, LLC* and include your name, current address, telephone number and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

## **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

You can, but don't have to, attend the Final Approval Hearing on \_\_\_\_\_ at \_\_\_\_\_ (time) in Department CX103 of the Orange County Superior Court, located at 751 West Santa Ana Blvd., Santa Ana, CA 92701. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually by following the court's remote appearance guidelines (<https://www.occourts.org/system/files/general/guidelinesforremote proceedings9-7-22.pdf>) Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website \_\_\_\_\_ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## **9. HOW CAN I GET MORE INFORMATION?**

The Settlement Agreement sets forth everything Defendant and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to \_\_\_\_\_ (specify entity) website at \_\_\_\_\_ (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information

listed below, or consult the Superior Court website by going to (<https://www.occourts.org/online-services/case-access>) and entering the Case Number for the Action, Case No. 30-2023-01300842-CU-OE-CXX. You can also make an appointment to personally review court documents in the Clerk's Office at the Civil Complex Center, 7581 West Santa Ana Blvd., Santa Ana, CA 92701 by calling (657) 622-6878.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION  
ABOUT THE SETTLEMENT.**

Class Counsel:  
WILSHIRE LAW FIRM

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Settlement Administrator:  
Atticus Administration, LLC  
[info@atticusadmin.com](mailto:info@atticusadmin.com)  
1295 Northland Drive, Suite 160 St. Paul, MN 55120  
Telephone: 1-844-728-8428  
Fax Number: 1-888-728-8428

**10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

**11. WHAT IF I CHANGE MY ADDRESS?**

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

