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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

FERNANDO JACQUES, as an aggrieved employee, ABDON ELIZONDO III, as an aggrieved employee, and on behalf of all other aggrieved employees under the Labor Code Private Attorneys General Act of 2004, Plaintiffs, v. MAXCO SUPPLY, INC., a California Corporation;, an individual; and DOES 1 through 100, inclusive, Defendants.	CASE NO.: 24CECG01797 [Assigned for all purposes to the Hon. Kristi Culver Kapetan in Dept CX502] **REPRESENTATIVE ACTION** **JOINT STIPULATION RE: PAGA SETTLEMENT** Action Filed: April 25, 2024 Trial Date: None Set

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Attorney for Defendant, MAXCO SUPPLY, INC.

This Joint Stipulation re: PAGA Settlement ("Settlement," "Agreement" or "Settlement Agreement") is made by and between plaintiffs Abdon Elizondo III ("Elizondo"), Robert Solorio ("Solorio"), and Fernando Jacques ("Jacques") (collectively "Plaintiffs"), individually, and on behalf of the Aggrieved Employees, on one hand; and defendant Maxco Supply, Inc ("Defendant"), on the other hand, in the lawsuit entitled *Fernando Jacques, et al. v. Maxco Supply, Inc., et al.*, filed in Fresno County Superior Court, Case No. 24CECG01797. Plaintiffs and Defendant shall be, at times, collectively referred to as the "Parties." This Agreement is intended by the Parties to fully, finally and forever resolve the claims as set forth herein, based upon and subject to the terms and conditions of this Agreement.

1. <u>DEFINITIONS</u>

1.1. "**Action**" means Plaintiffs' PAGA lawsuit, alleging wage and hour violations against Defendant, captioned *Fernando Jacques, et al. v. Maxco Supply, Inc.,* Case No. 24CECG01797, initiated on April 25, 2024, and pending in the Superior Court of the State of California, County of Fresno.

1.2. "**Administrator**" means ILYM Group, Inc. the neutral entity Plaintiffs have selected 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 approval of this Settlement.

1.4. "**Aggrieved Employees**" means all persons currently or formerly employed by Defendant, either directly or through any subsidiary, staffing agency, or professional employer organization, as non-exempt, hourly-paid employees, during the PAGA Period in the State of California.

1.5. "**Aggrieved Employee Data**" means Aggrieved Employee identifying information in Defendant's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods worked during the PAGA Period

1.6. "**Aggrieved Employee Address Search**" means the Administrator's investigation and search for current Aggrieved Employee 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 Aggrieved Employees.

1.7. "**Court**" means the Superior Court of California, County of Fresno.

1.8. "**Defense Counsel**" means Mark Kruthers of Fennemore LLP.

1.9. "**Effective Date**" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement, and (b) the Judgment is final.

1.10. "**Gross Settlement Amount**" means $800,000.00, which is the total amount Defendant agrees to pay under the Settlement except as, provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Plaintiffs' Service Award, Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.

1.11. "**Individual PAGA Payment**" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.12. "**Judgment**" means the judgment entered by the Court based upon the Final Approval.

1.13. "**LWDA**" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.14. "**LWDA PAGA Payment**" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.15. "**Net Settlement Amount**" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Plaintiffs' Service Award, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.

1.16. "**PAGA Counsel**" means David D. Bibiyan, and Vedang J. Patel of Bibiyan Law Group, P.C., and Aaron Colby of Colby Law Firm, the attorneys representing the Plaintiffs in the Action.

1.17. "**PAGA Counsel Fees Payment**" and "**PAGA Counsel Litigation Expenses Payment**" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action, as described in paragraph 3.2.1 below.

1.18. "**PAGA Pay Period**" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.19. "**PAGA Period**" means the period from February 11, 2023 through July 7, 2025.

1.20. "**PAGA**" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.21. "**PAGA Notices**" means the February 11, 2024 ("Jacques PAGA Notice"), June 6, 2024, July 2, 2024, and August 29, 2024 ("Elizondo PAGA Notices") and August 8, 2024 ("Solorio PAGA Notice") letters that Plaintiffs collectively sent to Defendant and the LWDA, providing notice pursuant to the Labor Code section 2699.3, subd. (a).

1.22. "**PAGA Penalties**" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and 75% to the LWDA in settlement of PAGA claims.

1.23. "**Plaintiffs**" means Abdon Elizondo III, Fernando Jacques, and Robert Solorio, the named plaintiffs in the Action.

1.24. "**Approval Order**" means the proposed Court Order Granting Approval of PAGA Settlement.

1.25. "**Released PAGA Claims**" means the claims being released by the Plaintiffs and PAGA Counsel and as described in Paragraph 5 below.

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1.26. "**Released Parties**" means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

1.27. "**Settlement**" means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS

2.1. On February 11, 2024, Plaintiff Jacques submitted to the LWDA and served on Defendant a notice under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations ("Jacques PAGA Notice").

2.2. On April 25, 2024, after sixty-five (65) days had passed without any communication or action by the LWDA with respect to the Labor Code violations alleged in the PAGA Notice, Plaintiff Jacques commenced this Action by filing a complaint in the Superior Court of California, County of Fresno, Case No. 24CECG01797, alleging causes of action against Defendant for civil penalties under PAGA for the Labor Code violations alleged in the Jacques PAGA Notice ("Jacques Action" or "Action").

2.3. On June 6, 2024, Plaintiff Elizondo submitted to the LWDA and served on Defendant a notice under Labor Code section 2699.3 stating he intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations. Plaintiff Elizondo submitted an amended PAGA Notice on July 2, 2024 and August 29, 2024 (collectively "Elizondo PAGA Notices").

2.4. On June 14, 2024 and July 1, 2024, Plaintiff Elizondo filed two wage and hour class action complaints against Defendant in the Superior Court of California, County of Fresno, Case Nos. 24CECG02567 and 24CECG02817, alleging: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to pay all wages upon separation; (6) wage statement violations; (7) failure to timely pay wages; (8) failure to indemnify for business expenses; and (9) unfair competition ("Elizondo Class Actions"). The Elizondo Class Actions have since been dismissed.

2.5. On August 8, 2024, Plaintiff Solorio submitted to the LWDA and served on Defendant a notice under Labor Code section 2699.3 stating he intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations ("Solorio PAGA Notice").

2.6. On January 3, 2025, Plaintiff Jacques filed a First Amended Complaint ("FAC") in the Action, adding Elizondo's representative claims for the Labor Code violations outlined in the Elizondo PAGA Notices to the Jacques Action.

2.7. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notices identified in 1.21.

2.8. On May 5, 2025, the parties participated in an all-day mediation presided over by Monique Ngo-Bonnici, Esquire, which led to this Agreement to settle the Action. As part and parcel of the Agreement, the Parties agreed to stipulate to Plaintiffs' filing of a Second Amended Complaint ("SAC") in the Action, adding Robert Solorio as an additional named plaintiff, and all allegations contained within the Solorio PAGA Notice to the FAC, thereby effectively consolidating the allegations in the FAC and the Solorio PAGA Notice for purposes of settlement. The SAC will be the Operative Complaint ("Operative Complaint"). Defendant denies the 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.

2.9. Prior to mediation, Plaintiffs obtained, through informal discovery: (1) time and payroll records for approximately 20% of the estimated 787 aggrieved employees during the PAGA Period; (2) data points, including the number of Aggrieved Employees, the number of pay periods, and the number of Aggrieved Employees who were separated from employment with Defendant during the PAGA Period; (3) Defendant's applicable wage and hour policy documents; and (4) all documents concerning Plaintiffs available to Defendant.

2.10. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS**

3.1. **Gross Settlement Amount**. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay $800,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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. **Service Awards**. Plaintiffs will apply to the Court for an award of up to $10,000.00, each, as the Service Award, and in exchange for their individual releases of claims against Defendant and the dismissal of all pending claims against Defendant. Defendant will not oppose a Service Award of up to $10,000.00 to each Plaintiff. The Settlement Administrator shall pay the Service Awards, either in the amount stated herein if approved by the Court or some other amount as approved by the Court, to Plaintiffs from the Gross Settlement Amount no later than fourteen (14) days after Defendant funds the Gross Settlement Amount as provided below in paragraph 4. Any portion of the requested Service Awards that are not awarded to the Plaintiffs shall be part of the PAGA Settlement Amount and shall be distributed to the Aggrieved Employees as provided in this Agreement. The Settlement Administrator shall issue an IRS Form 1099 - MISC to Plaintiffs for their Service Award. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on their Service Award and shall hold harmless the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the Service Award. Approval of this Settlement shall not be conditioned on Court approval of the requested amount of the Service Award. If the Court reduces or does not approve the requested Service Awards, Plaintiffs shall not have the right to revoke the Settlement, and it will remain binding.

3.2.2 **To PAGA Counsel**: A PAGA Counsel Fees Payment of not more than thirty-five percent (35%) of the Gross Settlement Amount, subject to escalation pursuant to section 8.1 of this Agreement and approval by the Court, which is currently estimated to be $280,000.00 and PAGA Counsel Litigation Expenses Payment of not more than $40,000,00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiffs and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assume full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and hold Defendant harmless, and indemnify Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to Aggrieved Employees or request for additional consideration from Defendant for such work unless, Defendant materially breaches this Agreement, including any term regarding funding, and further efforts are necessary from PAGA Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement.

3.2.3. **To the Administrator**: An Administrator Expenses Payment not to exceed $8,450.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than $8,450.00 the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. **To the LWDA and Aggrieved Employees**: PAGA Penalties in the amount of no less than $451,550.00 to be paid from the Gross Settlement Amount, with 75% (no less than $338,662.50) allocated to the LWDA PAGA Payment and 25% (no less than $112,887.50) allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (no less than $20,000.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING PAYMENTS

4.1. **Aggrieved Employee Pay Periods**. Based on a review of Defendant's records as of mediation, the Parties understand there are 787 Aggrieved Employees who worked a total of 23,000 PAGA Pay Periods in the proposed PAGA group.

4.2. **Aggrieved Employee Data**. Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet no later than twenty-one (21) days before the deadline for PAGA Counsel to file the required settlement approval motion with the Court. To protect Aggrieved Employee's privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. The identities and contact information for the Aggrieved Employees shall not be disclosed to PAGA Counsel. However, information regarding the total number of PAGA Pay Periods worked can be disclosed to PAGA Counsel for the purposes of determining if the Escalator Clause in Section 8.1, below, has been triggered. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. **Funding of Gross Settlement Amount**. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than seven (7) calendar days after the Effective Date.

4.4. **Payments from the Gross Settlement Amount**. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, Administration Expenses Payment, PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 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 Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the *cy pres* recipient, Legal Aid at Work, for use in Fresno County.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. <u>RELEASES OF CLAIMS</u>

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiffs and PAGA Counsel will release claims against all Released Parties as follows:

5.1. **Plaintiffs' Release**. In exchange for payment of the Service Awards, Plaintiffs and their respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action of any kind or nature whatsoever, known or unknown, suspected or unsuspected, asserted or unasserted, arising out of, relating to, or resulting from their employment and/or separation of employment with Defendant, which Plaintiffs, at any time up until the execution of this Settlement Agreement, had or claimed to have or may have had. This Paragraph expressly does not include a release of any claims that cannot be released hereunder by law. 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.

5.1.1. **Plaintiffs' Waiver of Rights Under California Civil Code Section 1542**. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2. **Release by Aggrieved Employees**: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, Released Parties from all claims, rights, demands, liabilities and causes of action that arose during the PAGA Period for civil penalties under PAGA that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice for PAGA civil penalties, including, but not limited to, pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1 and 2699, in connection with alleged violations of Labor Code sections 201, 202, 203, 204, 226, 226.3, 226.7, 246, *et seq.*, 432, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198.5, 2699 and 2810.5, among others.

5.3. **Release by PAGA Counsel**: PAGA Counsel release, on behalf of their present and former attorneys, employees, agents, successors and assigns, the Released Parties from all claims for fees/costs incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notices..

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT

The Parties agree to Plaintiffs' filing of a motion for approval of this Settlement.

6.1. **Plaintiffs' Responsibilities**. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) 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 Aggrieved Employee 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 Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiffs, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel attesting to their timely transmission to the LWDA of all necessary PAGA documents (initial notices of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator.

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6.2. **Responsibilities of PAGA Counsel**. PAGA Counsel are responsible for expeditiously finalizing and filing the motion for approval of this Settlement after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel are responsible for delivering the Court's Preliminary Approval to the Administrator.

6.3. **Duty to Cooperate**. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA 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 the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION

7.1. **Selection of Administrator**. Plaintiffs have selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of 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 (if any) 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. **Administrator Duties**. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE

Based on Defendant's records, the Parties understand that, as of mediation, there are 787 Aggrieved Employees who worked 23,000 Pay Periods during the PAGA Period.

8.1. **Escalator Clause.** The Settlement is based on the Parties' understanding that there are approximately 23,000 PAGA Pay Periods worked by Aggrieved Employees during the PAGA Period. In the event the number of pay periods during the PAGA Period increases by more than 10%, or 2,300 pay periods, then the GSA shall be increased proportionally by the PAGA Pay Periods in excess of 25,300 multiplied by the PAGA Pay Periods value. The PAGA Pay Period value shall be calculated by dividing the GSA by 23,000. The Parties agree that the PAGA Pay Period value amounts to $34.78 per pay period ($800,000 / 23,000 PAGA Pay Periods). Thus, for example, should there be 26,000 PAGA Pay Periods worked during the PAGA Period, then the GSA shall be increased by $24,346.00. (26,000 pay periods – 25,300 pay periods x $34.78 /pay period.) Alternatively, Defendant, at its sole option, may elect to shorten the period covered by the Released PAGA Claims by moving the end of the PAGA Period forward to the date as of which 25,300 PAGA Pay Periods had been worked during the PAGA Period. If Defendant elects to shorten the PAGA Period, the GSA will not need to be increased. Any shortening of the PAGA Period shall have no effect on the scope of the general release of claims provided by Plaintiffs to the Released Parties.

9. CONTINUING JURISDICTION OF THE COURT

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1. **Waiver of Right to Appeal**. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS

10.1. **No Admission of Liability 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 Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.2. **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.

10.3. **Attorney Authorization**. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, 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.

10.4. **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 and/or the Court for resolution.

10.5. **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, any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

10.6. **No Tax Advice**. Neither Plaintiffs, PAGA Counsel, Defendant 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.

10.7. **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.

10.8. **Agreement Binding on Successors**. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

10.9. **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.

10.10. **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.

10.11. **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.

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10.12. **Use of Aggrieved Employee Data**. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court.

10.13. **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.

10.14. **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.

10.15. **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:

BIBIYAN LAW GROUP, P.C.
David D. Bibiyan (SBN 287811)
david@tomorrowlaw.com
Vedang J. Patel (SBN 328647)
vedang@tomorrowlaw.com
Megan R. Lazar (SBN 315007)
megan@tomorrowlaw.com
1460 Westwood Boulevard
Los Angeles, California 90024
Tel: (310) 438-5555; Fax: (310) 300-1705

To Defendant:

FENNEMORE LLP
Mark Kruthers
mkruthers@fennemorelaw.com
8080 N. Palm Ave., 3rd Floor
Fresno, California 93711
Tel: (559) 432-4500; Fax: (559) 432-4590

10.16. **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.

10.17. **Stay of Litigation**. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

10.18. **No Public Comment.** The Parties and their counsel agree that they will not post any information on websites (other than postings/communications required to obtain the Court's approval of the settlement) in any other public forum, issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the fact, amount or terms of the settlement.

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

IT IS SO AGREED:

[signature] ______________________	______________________
Plaintiff Abdon Elizondo III	Defendant Maxco Supply, Inc. By: ______________ Its: ______________
Robert Solorio ______________________	
Plaintiff Robert Solorio	

David Bibiyan (agreed as to form only)

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiffs Abdon Elizondo III and Robert Solorio

Mark Kruthers
Attorney for Defendant Maxco Supply, Inc.

Plaintiff Fernando Jacques

Aaron Colby
Counsel for Fernando Jacques

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiffs Abdon Elizondo III and Robert Solorio

Mark Kruthers
Attorney for Defendant Maxco Supply, Inc.

DocuSigned by:
Fernando Jacques 9/10/2025
DF5C31BB26714E5...

Plaintiff Fernando Jacques

9/10/2025

Aaron Colby agreed as to form only
Counsel for Fernando Jacques

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.

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IT IS SO AGREED:

Plaintiff Abdon Elizondo III

Defendant Maxco Supply, Inc.
By: Max Fleming
Its: CEO

Robert Solorio
Plaintiff Robert Solorio

9/8/25

David D. Bibiyan, agreed to as to form only
Vedang J. Patel, agreed to as to form only
Counsel for Plaintiffs Abdon Elizondo III and Robert Solorio

Mark Kruthers, agreed to as to form only
Attorney for Defendant Maxco Supply, Inc.

DocuSigned by:
Fernando 9/10/2025
Plaintiff Fernando Jacques

9/10/2025
Aaron Colby agreed as to form only
Counsel for Fernando Jacques