

Exhibit 1

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

HALBERT JAMES, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

UNIVERSAL PROTECTION SERVICE, LLC,
d/b/a ALLIED UNIVERSAL SECURITY
SERVICES,

Defendant.

No. 3:22-cv-01668-SMY

Hon. Judge Staci M. Yandle

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is entered into by and between Halbert James (“Plaintiff”), individually and on behalf of all others similarly situated, and Universal Protection Service, LLC d/b/a Allied Universal Security Services (“Defendant”) (collectively the “Parties”).

1. RECITALS AND BACKGROUND

WHEREAS, Plaintiff filed a Lawsuit against Defendant entitled *Halbert James v. Universal Protection Service, LLC* in the United States District Court for the Southern District of Illinois (Civil Action No. 3:22-cv-01668-SMY) on July 26, 2022 (the “Lawsuit” or the “Litigation”) alleging that Defendant failed to pay Plaintiff and other similarly situated employees for all hours worked and stating a collective claim under the Fair Labor Standards Act (“FLSA”) on behalf of hourly-paid security guards employed by Defendant in the United States as well as class claims under Illinois state law on behalf of hourly-paid security guards employed by Defendant in Illinois;

WHEREAS, Plaintiff filed a First Amended Complaint on May 9, 2023, narrowing the putative FLSA collective to hourly-paid security guards employed by Defendant in the state of Illinois;

WHEREAS, Defendant thereafter produced information to Plaintiff indicating that a significant number of the putative class and collective members have arbitration agreements that Defendant maintains bars their participation in the action;

WHEREAS, on October 10, 2023, Plaintiff filed a Second Amended Complaint narrowing the putative class and collective to hourly-paid security guards employed by Defendant in the state of Illinois who did not sign arbitration agreements.

WHEREAS, Defendant provided informal discovery to Plaintiff in anticipation of mediation, including relevant wage and hour policies and timekeeping and pay data for a random sample of 3,000 security guards employed by Defendant in Illinois;

WHEREAS, on September 21, 2023, the Parties participated in a formal, full day mediation with an experienced wage and hour class action mediator, Steven Rottman, and thereafter arrived at the settlement described here;

WHEREAS, Defendant denies all of the allegations made by Plaintiff in the Litigation and denies that it is liable or owes damages to anyone with respect to the alleged facts or causes of action asserted in the Litigation. Nonetheless, solely for the purpose of settling this Litigation, and without admitting any wrongdoing or liability, Defendant has agreed to settle the Litigation on the terms and conditions described in this Agreement, to avoid the burden, expense, and uncertainty of continuing the Litigation;

WHEREAS, Plaintiff through Class Counsel, who are experienced class and collective wage and hour litigators, analyzed and evaluated the merits of the claims made against Defendant and the impact of this Agreement on Plaintiff and Settlement Class/Collective Members and based upon their analysis and evaluation of a number of factors, and recognizing the substantial risks of continued litigation, including the possibility that the Litigation, if not settled now, might not result in any recovery whatsoever, or might result in a recovery that is less favorable and that would not occur for several years, are satisfied that the terms and conditions of this Agreement are fair, reasonable and adequate and that this Agreement is in the best interest of Plaintiff and the Class/Collective;

NOW THEREFORE, in consideration of the mutual covenants and promises in this Agreement, as well as the good and valuable consideration provided for, the Parties agree to a full and complete settlement of the Litigation on the following terms and conditions:

2. DEFINITIONS

This Agreement utilizes the following defined terms:

- 2.1 “Action” or “Litigation.”** The Action or Litigation shall mean the case entitled *Halbert James v. Universal Protection Service, LLC* filed in the United States District Court for the Southern District of Illinois (Civil Action No. 3:22-cv-01668-SMY) on July 26, 2022.
- 2.2 “Agreement.”** Agreement means this Settlement Agreement and Release.
- 2.3 “Claimant.”** Claimant shall mean those Settlement Class Members who are eligible to receive a Settlement Check because they chose not to request exclusion from the settlement.
- 2.4 “Settlement Class.”** The Settlement Class shall be defined as: all non-exempt employees

without arbitration agreements who worked for Defendant as security professionals in the state of Illinois from July 26, 2019, through the date of preliminary approval.

- 2.5 “FLSA Settlement Collective.”** The FLSA Settlement Collective shall be defined as: all non-exempt employees without arbitration agreements who worked for Defendant as security professionals in the state of Illinois from July 26, 2019, through the date of preliminary approval.
- 2.6 “Class Counsel” or “Plaintiffs’ Counsel.”** Class Counsel or Plaintiffs’ Counsel shall mean James X. Bormes and Catherine P. Sons, Law Office of James X. Bormes, P.C., 8 South Michigan Avenue, Suite 2600, Chicago, Illinois 60603, Thomas Ryan, Law Office of Thomas M. Ryan, P.C., 35 E. Wacker Drive, Suite 650, Chicago, Illinois 60601, and David T. Butsch and Christopher E. Roberts of Butsch Roberts & Associates LLC, 231 South Bemiston Ave., Suite 260, Clayton, Missouri 63105.
- 2.7 “Class List.”** The Class List shall mean a listing of Settlement Class and FLSA Settlement Collective members by (i) name; (ii) last known home address; (iii) Social Security number; (iv) email address (if known); (v) last known telephone number; and (vi) workweek data needed to calculate settlement shares. The Class List will be contained in a confidential document that the Defendant shall provide to the Settlement Administrator to effectuate settlement, and may not be copied, disseminated or used for any other purpose.
- 2.8 “Class Period.”** The Class Period shall mean July 26, 2019 through the date of the Preliminary Approval Order by the Court.
- 2.9 “Court.”** The Court shall mean the United States District Court for the Southern District of Illinois, and specifically Judge Staci M. Yandle.
- 2.10 “Days.”** Days shall mean calendar days.
- 2.11 “Workweek.”** When calculating the individual settlement payments for Claimants according to their number of weeks worked, workweek shall mean weeks worked of 39.5 hours or more.
- 2.12 “Defendant.”** The Defendant, for the purposes of the settlement, is Universal Protection Service, LLC d/b/a Allied Universal Security Services.
- 2.13 “Defense Counsel.”** Defense Counsel are Robin E. Largent, Martenson, Hasbrouck & Simon LLP, 455 Capitol Mall, Suite 400, Sacramento, CA 95814; and Kelly Eisenlohr-Moul, Martenson Hasbrouck & Simon LLP, 500 Davis Street, Suite 1003 Evanston, IL 60201.
- 2.14 “Exclusion Statement.”** An Exclusion Statement is a written signed statement that a Settlement Class member has decided to exclude themselves (or “opt out”) and not be included in the Settlement Class. Any Settlement Class member who does not submit an Exclusion Statement waives and releases all Released Claims, as defined herein. A

Settlement Class member who submits an Exclusion Statement, in accordance with Section 3.6 of this Agreement, will not participate in the settlement described in this Agreement or release claims covered by this Agreement.

- 2.15 “Fairness Hearing.”** The Fairness Hearing shall mean the hearing before the Court relating to final approval of this Agreement and entry of the Final Approval Order.
- 2.16 “Final Effective Date.”** The “Final Effective Date” shall mean the date by which this Agreement is approved as provided herein and the Court enters the Final Approval Order. In the event that any objections are made to this Agreement by any person, the Final Effective Date shall be thirty (30) days after the Court has entered a Final Approval Order approving this Settlement, and the time to appeal from the Final Approval Order has expired and no notice of appeal has been filed or, if a notice of appeal is filed, the latest of the following, if applicable, has occurred: (1) any appeal from the Final Approval Order has been finally dismissed; (2) the Final Approval Order has been affirmed on appeal in a form substantially identical to the form of the Final Approval Order entered by the Court; (3) the time to petition for review with respect to any appellate decision affirming the Final Approval Order has expired; and (4) if a petition for review of an appellate decision is filed, the petition has been denied or dismissed, or, if granted, has resulted in affirmance of the Final Approval Order in a form substantially identical to the form of the Final Approval Order entered by the Court. Notwithstanding the foregoing, Plaintiff and Defendant agree to waive all rights to appeal entry of the Final Approval Order. Accordingly, where the Final Approval Order entered by the Court grants the relief sought by the Parties as set forth in this Agreement, and in the absence of any objection by a Settlement Class member, the Final Effective Date shall be the date of entry of the Final Approval Order.
- 2.17 “Final Approval Order.”** The Final Approval Order shall mean the order entered by the Court after the Fairness Hearing finally approving the terms and conditions of this Agreement, distribution of the settlement payments from the Settlement Fund, and dismissal of this action.
- 2.18 “Released Claims.”** The Released Claims shall mean all wage and hour claims that are set forth in Section 5.1 of this Agreement.
- 2.19 “Plaintiff.”** Plaintiff shall mean Halbert James.
- 2.20 “Notice” or “Notices.”** Notice or Notices shall mean the Court–approved Notice of Proposed Settlement including notice of an opportunity to opt out of and/or object to the proposed settlement.
- 2.21 “Objector.”** An Objector shall mean any Settlement Class member or FLSA Settlement Collective member who properly files an objection to this Agreement.
- 2.22 “Parties.”** The Parties shall refer to Plaintiff and Defendant.
- 2.23 “Preliminary Approval Order.”** “Preliminary Approval Order” means the Order entered

by the Court” (i) preliminarily approving the terms and conditions of this Agreement (“Preliminary Approval”), and (ii) directing the manner and timing of providing Notices to the Settlement Class and FLSA Settlement Collective.

- 2.24 “Settlement Checks.”** The Settlement Checks shall mean the checks issued to Claimants from the Settlement Fund in accordance with this Agreement.
- 2.25 “Total Settlement Amount.”** The Total Settlement Amount is nine hundred and fifty thousand dollars and zero cents (\$950,000.00) and includes all Settlement Class and FLSA Settlement Collective payments, the class representative’s incentive award, payroll taxes (excepting employer-side payroll taxes), settlement administration costs, and attorneys’ fees and costs. No amount of the Total Settlement shall revert to Defendant. All uncashed checks made to Claimants shall escheat to the state of Illinois. The Total Settlement Amount plus Defendant’s employer-side payroll taxes shall be all that Defendant shall pay to settle the action; provided, however, that in the event there are more than 3,109 putative Settlement Class and FLSA Settlement Collective members, then the gross Total Settlement Amount shall increase by \$150.00 for each additional putative Settlement Class and FLSA Settlement Collective member.
- 2.26 “Net Settlement Amount.”** The Net Settlement Amount consists of the Total Settlement Amount less all payments except the payments to Claimants.

3. INITIAL PROCEDURAL ISSUES

- 3.1 Binding Agreement.** This Agreement is a binding agreement and contains all material, agreed-upon terms.
- 3.2 Responsibilities of Class Counsel.** Class Counsel shall be responsible for:
- A.** preparing the draft of the motions for Preliminary and Final Approval, as well as the Class Notice, which will be provided to Defense Counsel reasonably in advance of filing to provide comments and revisions in good faith;
 - B.** in the event that a Settlement Class or FLSA Settlement Collective member sends an Exclusion Statement or objection to the settlement to Class Counsel, which were not also sent to the Settlement Administrator, Class Counsel will promptly furnish such to Defendant’s Counsel and the Settlement Administrator;
 - C.** responding to any inquiries directed to them from Settlement Class and FLSA Settlement Collective members regarding procedures for filing objections, and Exclusion Statements;
 - D.** submitting, with the motion for Final Approval, any Exclusion Statements received during the Exclusion Period (as defined below); and

- E. responding to inquiries from Defense Counsel consistent with the duties specified in this Agreement.

3.3 Responsibilities of Settlement Administrator. The Parties will jointly select a suitable, experienced claims administrator, soliciting bids from administration firms. The Parties will evaluate the administrators based on quality of services and managing costs. The selected Settlement Administrator shall be responsible for: mailing the Class Notice; calculating the individual Settlement Class/FLSA Settlement Collective member settlement payments according to their number of weeks worked of 39.5 hours or more during the Class Period (subject to a minimum payment per Claimant of \$50.00); researching and updating addresses through skip-traces and similar means; reporting on the status of the administration of the settlement to the Parties; resolving any settlement payment dispute, in concert with counsel for the Parties; setting up and maintaining a website which will include relevant case documents, including the Settlement Agreement and Class Notice; receiving and processing all objections and opt out requests submitted by class members; preparing a declaration regarding its due diligence in the settlement administration process; providing the Parties with all necessary data; setting up, administering and making payments from the settlement fund; distributing settlement payments and withholding any required payroll taxes and remitting such funds to the appropriate taxing authorities, along with any associated tax reporting, return and filing requirements; and performing such additional duties as the Parties may mutually direct. The administration costs will be paid from the Total Settlement Amount and shall include all costs necessary to administer the settlement. The actions of the settlement administrator shall be governed by the terms of this Settlement Agreement. Within 14 days of preliminary approval, Defendant will provide the settlement administrator, for each Settlement Class and FLSA Settlement Collective member: their name, last known home address, Social Security number, email address (if known), and last known telephone number, along with workweek data needed to calculate settlement shares.

3.4 Notice. The Notice will inform Class Members about this Settlement and will also advise on the opportunity to object, to appear at the Fairness Hearing, and of the process to opt out, as well as the process for opting in to the FLSA Settlement Collective. Within fourteen (14) days after receipt of the Class List, the Settlement Administrator will mail all class members the Class Notice and a return envelope (collectively, a “Notice Packet”) to their last known home address. 60 days will be provided to opt out or object. The Class Administrator shall promptly perform a 5-day skip on any mail returned as undeliverable. The Class Administrator shall send a second mailing to all Class Members for whom the mail was returned undeliverable or for whom an updated address was located. These individuals will have 60 days to opt out or object. Any money that would have been owed to eligible Settlement Class members who opt out of the Settlement Class shall remain part of the Net Settlement Fund to be distributed to participating Claimants.

3.5 Preliminary Approval Motion and Proposed Order.

- A. Within fourteen (14) days of the date this Agreement is executed, or as otherwise

provided for by the Court, the Parties will submit this executed Agreement to the Court and shall move for Preliminary Approval of this Agreement for purposes of resolving this matter according to the terms of the Agreement. Class Counsel will provide a draft of the Preliminary Approval Motion and Proposed Class Notice to Defense Counsel at least five (5) days prior to filing.

- B.** The Preliminary Approval Motion also will seek approval of a proposed Notice to the Settlement Class and FLSA Settlement Collective members, the setting of a date for individuals to opt out of the settlement, provide objections to this Agreement, and for a Fairness Hearing for final approval of the settlement before the Court at the earliest practicable date.
- C.** The proposed Preliminary Approval Order will seek the setting of the deadlines as described in Sections 3.6-3.9 below.
- D.** Plaintiffs' Counsel will inform the Court of the intended process to obtain a "Final Order" and a "Judgment of Dismissal" that will, among other things: (1) approve the settlement as fair, adequate, and reasonable; (2) incorporate the terms of the Release, as described in this Agreement; (3) dismiss the Litigation; and (4) award Class Counsel's fees, expenses and costs.
- E.** The Parties will work together, diligently and in good faith, to expeditiously obtain a Preliminary Approval Order, Final Order, and Final Judgment and Dismissal with prejudice. Any disputes which arise between the Parties related to the Parties' efforts to obtain a Final Order or Final Judgment and Dismissal with prejudice shall be referred first to mediator Steven Rottman, for consultation and, if still unresolved, submitted to the Court.

3.6 Exclusions from Settlement.

- A.** Settlement Class members who choose to opt out of the settlement as set forth in this Agreement must mail via First Class United States Mail, overnight mail, or email, a written, signed statement to the Settlement Administrator that requests exclusion from the settlement with an Exclusion Statement containing the following information: (1) their full name, address, email address, and telephone number; (2) the approximate dates of their employment with Defendant; (3) a statement that they request to be excluded from the settlement and understand that they will not be eligible to recover any monies as part of the settlement; and (4) their signature. To be effective, an Exclusion Statement must be received by the Settlement Administrator and/or Class Counsel within sixty (60) days after the Notices are mailed.
- B.** The end of the time period to seek exclusion from the settlement ("Exclusion Period") shall be sixty (60) days after the date the Notices are mailed. Re-mailed notices will also have a sixty (60) day response period, so long as the total response period does not exceed ninety (90) days.

- C. Any Settlement Class member who does not submit an Exclusion Statement under this Agreement will be deemed to have accepted the settlement and the terms of this Agreement, will be bound by the Judgment in this case, and will have any Released Claims released and dismissed in accordance with Section 5.1.

3.7 Opt-In Procedure for Participating FLSA Settlement Collective Members.

FLSA Settlement Collective members may opt into the FLSA Collective Settlement by signing and/or cashing the back of the settlement check, which will include the following consent to join language: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I also consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

3.8 Objections to Settlement.

Objectors who wish to present objections to the proposed settlement at the Fairness Hearing must file their Objections with the Clerk of the United States District Court for the Southern District of Illinois and serve their objection in writing to the Settlement Administrator. Objections must also be sent to Class Counsel via First-Class United States Mail, overnight mail, or email, and post-marked before the end of the Exclusion Period. The Objection must include the following: (a) their full name, address, email address, and telephone number, (b) the approximate dates of their employment with Defendant, (c) a written statement of all grounds for the objection, (d) copies of any papers, briefs, or other documents upon which the objection is based (if applicable), (e) a statement of whether they intend to appear at the Fairness Hearing, and (f) their signature, even if represented by counsel. If the Objector intends to appear at the Fairness Hearing through counsel, the objection must also state the identity of all attorneys representing them who will appear at the Fairness Hearing. Class Counsel will retain the original and send copies of each objection and supporting documents to Defendant’s Counsel by email delivery no later than five (5) days after receipt of the objection.

An Objector also has the right to appear at the Fairness Hearing either in person or through counsel hired by the Objector. An Objector who wishes to appear at the Fairness Hearing must state his or her intention to do so in writing.

3.9 Fairness Hearing and Motion for Final Approval and Dismissal. The Proposed Preliminary Approval Order shall seek to set a date for the Fairness Hearing which shall be no earlier than one hundred and twenty (120) days following the date that the Court enters the proposed Preliminary Approval Order. Class Counsel will timely file a Motion for Final Approval and Dismissal in advance of the Fairness Hearing. Class Counsel shall provide a draft of the Motion for Final Approval and Dismissal to Defense Counsel for review and approval at least five (5) days prior to filing.

3.10 Effect of Failure to Grant Final Approval. In the event the Court fails to enter Judgment in accordance with this Agreement, or such Judgment does not become Final as defined in

this Agreement, the Litigation will proceed as if no settlement had been attempted. However, the Parties agree to confer and to work cooperatively to take all reasonable steps to determine the best path to final approval of the settlement and attempt to address any concerns that the Court may have with the proposed settlement.

4. SETTLEMENT TERMS

- 4.1 Settlement Amount.** Defendant agrees to pay the Total Settlement Amount of nine hundred and fifty thousand dollars and zero cents (\$950,000.00), which shall fully resolve and satisfy any claim for (i) attorneys' fees and costs approved by the Court; (ii) fees to the Settlement Administrator; (iii) all amounts to be paid to Settlement Class and FLSA Settlement Collective members as set forth in this Agreement; (iv) payroll taxes (excepting employer-side payroll taxes), and (v) any Court-approved Incentive Award to Plaintiff. Defendant shall pay the Total Settlement Amount to the Settlement Administrator, within thirty (30) days after the Final Effective Date. The Total Settlement Amount plus Defendant's employer-side payroll taxes shall be all that Defendant shall pay to settle the action; provided, however, that in the event there are more than 3,109 putative Settlement Class and FLSA Settlement Collective members, then the gross Total Settlement Amount shall increase by \$150.00 for each additional putative Settlement Class and FLSA Settlement Collective member.
- 4.2 Attorneys' Fees and Costs.** Plaintiff will apply for an award of (1) attorneys' fees to Class Counsel in an amount up to \$316,667.00 (33.33% of the Total Settlement Amount), and (2) costs/expenses to Plaintiffs' Counsel in an amount up to \$15,000.00 paid from the Total Settlement Amount. If the Court refuses to award the full amount requested by Plaintiffs' Counsel, this shall not affect this Agreement. Any amount not awarded by the Court shall become part of the Net Settlement Amount available for payments to Settlement Class and FLSA Settlement Collective members and shall not revert to Defendant.
- 4.3 Settlement Administration Costs.** The settlement administration costs shall be paid out of the Total Settlement Amount.
- 4.4 Incentive Award for Named Plaintiff.** Class Counsel shall seek Court Approval of the payment of an Incentive Award to Named Plaintiff Halbert James of up to \$7,500.00 in consideration for work performed on behalf of the Settlement Class and FLSA Settlement Collective and in exchange for his general release of claims described below. This amount shall be in addition to any amount the Named Plaintiff is eligible to receive under the settlement. Any Incentive Award approved by the Court shall be paid out of the Total Settlement Amount. The outcome of the Court's ruling on the application for an Incentive Award shall not affect this Agreement. In the event the Court denies the requested Incentive Award or awards less than the amount requested, any amounts not awarded by the Court shall become part of the Net Settlement Amount available for payments to Settlement Class and FLSA Settlement Collective members and shall not revert to Defendant.
- 4.5 Settlement Allocation.** The Net Settlement Amount will be allocated according to the following formula:

A reserve fund of \$1,000 shall be set aside to resolve disputes and reasonable late claims. The Settlement Administrator shall make determinations about who is to be paid out of the reserve fund and the amounts (with approval of the Parties' counsel, which approval shall not be unreasonably withheld). The remainder of the Net Settlement Amount shall be distributed to Claimants based on number of workweeks worked of 39.5 hours or more during the Class Period (subject to a minimum payment of \$50.00 per Claimant) on a *pro rata* basis.

The settlement allocation formula among Class Members has been agreed upon by the Parties, and subject to Court approval. Upon request by either Party, the Settlement Administrator will provide the calculated settlement allocation for any individual Settlement Class/FLSA Settlement Collective member.

4.6 Distribution to the Settlement Fund. Allied Universal shall pay the Total Settlement Amount to a fund established by the Settlement Administrator within thirty (30) calendar days following the Final Effective Date.

4.7 Mailing of Settlement Checks. The Settlement Administrator will mail the Settlement Checks to Plaintiff and Claimants within fourteen (14) days after Funding of the Settlement by Defendant. The Settlement Administrator will wire the approved attorneys' fees and expenses to Class Counsel within fourteen (14) days after Funding of the Settlement by Defendant. The Settlement Administrator will mail the check for any approved Incentive Award to Plaintiff within fourteen (14) days after Funding of the Settlement by Defendant. Settlement Class and FLSA Settlement Collective members will have one hundred and twenty (120) days to cash their Settlement Checks. At least forty-five (45) days before the distribution of residual funds, the Settlement Administrator will contact Claimants who have not yet cashed settlement checks after the 120-day period and provide an opportunity to request reissued checks. After this 120-day period, all uncashed checks made to Claimants shall escheat to the state.

4.8 Tax Characterization.

A. Except as stated below, settlement payments to the Claimants will be allocated as follows: twenty-five percent (25%) of each individual settlement payment shall be allocated as wages; these payments shall be subject to all applicable employment taxes, including, without limitation, federal, state and local income tax withholding and the employee share of the FICA tax, and shall be reported to the Internal Revenue Service ("IRS") on an IRS Form W-2. The remaining seventy-five percent (75%) of all payments to Claimants shall be treated as 1099 "other income" (Box 3), constituting both interest and liquidated/treble damages. All payroll taxes, excepting Allied Universal's portion of payroll taxes, shall be paid from the Total Settlement Amount.

B. Payments of attorneys' fees and costs shall be made without any withholdings. Class Counsel must provide a Form W-9 to the Settlement Administrator. Class

Counsel will receive a Form 1099 reflecting the amount of the payment to their respective law firms.

- C. Incentive Awards will be considered 1099 “other income” (Box 3). Named Plaintiff James must provide a Form W-9 to the Settlement Administrator.
- D. Other than the withholding and reporting requirements here, Plaintiff and the Claimants shall be solely responsible for the reporting and payment of their share of any federal, state, and/or local income or other taxes on payments received under the settlement.

4.9 Participation. The Parties expressly agree that, in the event: (1) the number of Settlement Class members opting out equals or exceeds ten percent (10%) of the total number of Settlement Class members; or (2) the potential individual settlement checks of the Settlement Class members opting out equals or exceeds ten percent (10%) of the Net Total Settlement, then Defendant in its sole discretion may choose to nullify the settlement. If the settlement is nullified for any reason, then Defendant has no obligation to pay any settlement funds and all settlement funds already paid will be returned to Defendant, except that any fees already incurred in the administration of the settlement by the Settlement Administrator shall be the sole responsibility of Defendant and shall not be reimbursed by the Named Plaintiff, the Settlement Class members, or Class Counsel.

4.10 Hold Harmless. Plaintiff and Settlement Class/FLSA Settlement Collective members shall be responsible for the payment of any and all local, state, and/or federal taxes which may be attributable to the payment(s) described in this Agreement and indemnify and hold Defendant harmless from any and all tax consequences, including interest and/or penalties, arising out of payment(s) made out of the Settlement Fund. The Parties acknowledge that no representations have been or are made in this Agreement by or to any signatory to this Agreement regarding the tax consequences of this Agreement.

5. RELEASE

5.1 Release by Claimants. Upon entry of the Final Approval Order, and except as to such rights or claims as may be specifically created by this Agreement, FLSA Settlement Collective Members who endorse or deposit their settlement payment checks will release all FLSA claims contained in the operative Complaint in the Action, and any additional FLSA wage and hour claims that could have been brought based on the facts or legal theories alleged in the operative Complaint, through the date of preliminary approval, including all claims related to performing work off-the-clock whether such work was overtime or non-overtime work. Settlement Class Members who do not opt out will release all Illinois state law claims contained in the operative Complaint in the Action, and any additional Illinois state law wage and hour claims that could have been brought based on the facts or legal theories alleged in the operative Complaint, through the date of preliminary approval, including all claims related to performing work off-the-clock whether such work was overtime or non-overtime work. This release does not include any

claims for unpaid sick time, vacation time, or paid time off.

- 5.2 Release by Plaintiff.** Upon entry of the Final Approval Order, and in consideration for his Incentive Award, Plaintiff on his own behalf and on behalf of his heirs, successors, and assigns generally releases and discharges all known and unknown claims that he has or may have against Defendant and/or its affiliated entities as of the date of entry of the Final Approval Order. This release includes but is not limited to any and all claims asserted or which could have been asserted in the Action related to alleged failure to pay all wages owed for work performed as well as all claims arising out of or related to Plaintiff's employment relationship with Defendant or the termination of that relationship, whether known or unknown, and whether based on statute, contract, tort or common law.
- 5.3** By operation of the entry of the Judgment and Final Order, and except as to such rights or claims as may be created by this Agreement, each Claimant and Plaintiff forever and fully release Defendant from all released claims as detailed herein as of the date of entry of the Preliminary Approval Order.
- 5.4 No Assignment.** Class Counsel and Plaintiff, on behalf of the Settlement Class and FLSA Settlement Collective members, represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion of or interest in any claim, including, but not limited to, any interest in the Litigation.
- 5.5 Non-Admission of Liability.** By entering into this Agreement, Defendant in no way admits any violation of law or any liability whatsoever to Plaintiff and/or the Settlement Class and/or the FLSA Settlement Collective members, individually or collectively, all such liability being expressly denied. Likewise, by entering into this Agreement, Defendant in no way admits to the suitability of this case for class or collective treatment other than for purposes of settlement. Rather, Defendant enters into this Agreement to avoid further protracted litigation and to resolve and settle all disputes with Plaintiff and the Settlement Class and/or the FLSA Settlement Collective. Settlement of the Litigation, negotiation and execution of this Agreement, and all acts performed or documents executed consistent with this Agreement or the settlement: (a) are not, shall not be deemed to be, and may not be used as an admission or evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the factual allegations in the Lawsuit; and (b) are not, shall not be deemed to be, and may not be used as an admission or evidence of fault or omission on the part of Defendant in any civil, criminal, administrative or arbitral proceeding. The Parties understand and agree that this Agreement is a settlement document and shall be inadmissible in evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce the terms of the Agreement.

6. INTERPRETATION AND ENFORCEMENT

- 6.1 Cooperation Between the Parties; Further Acts.** The Parties shall reasonably cooperate with each other and shall use their reasonable best efforts to obtain the Court's approval of this Agreement and all of its terms. Each party, upon the request of any other party, agrees

to perform such further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this Agreement.

- 6.2 Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained in this Agreement, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Agreement.
- 6.3 Confidentiality.** The Parties will maintain the confidentiality (including pursuant to the Mediation Confidentiality Agreement executed by the parties) of the details of this resolution until the preliminary settlement approval motion is filed. Plaintiff and Class Counsel agree that they will not issue, send or post, or cause to be issued, sent or posted, any press release, posting, e-mail, or other verbal or written communication to any electronic, print, or digital media, blogs, or social networking sites, including but not limited to Facebook, LinkedIn, SnapChat, Instagram, and Twitter (collectively, the “Media”), regarding this litigation, the parties’ settlement discussions, the existence and/or terms of the settlement, and/or the facts and events leading up to same.
- 6.4 Arms’ Length Transaction; Materiality of Terms.** The Parties have negotiated all the terms and conditions of this Agreement at arms’ length. All terms and conditions of this Agreement in the exact form in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement, unless otherwise expressly stated.
- 6.5 Captions.** The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.
- 6.6 Construction.** The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this Agreement, and therefore the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any party by virtue of draftsmanship.
- 6.7 Severability.** If any provision of this Agreement, other than the release of claims in Section 5 or the payment terms in Section 4, is held by a court of competent jurisdiction to be void, voidable, unlawful, or unenforceable, the remaining portions of this Agreement will remain in full force and effect. If the release of claims in Section 5 is found to be void, voidable, unlawful, or unenforceable, Defendant’s obligations in this Agreement, including but not limited to their obligation to fund the settlement as set forth in Section 4.1, shall be entirely null, void and of no effect.
- 6.8 Governing Law.** This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of Illinois, without regard to choice of law principles, except to the extent that the law of the United States governs any matter in this Agreement, in which case such federal law shall govern.

- 6.9 Continuing Jurisdiction.** The Parties shall request the Court to retain jurisdiction over the interpretation and implementation of this Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Agreement and of the settlement it contemplates.
- 6.10 Waivers, etc. to be in Writing.** No waiver, modification, or amendment of the terms of this Agreement, whether purportedly made before or after the Court's approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties and then only to the extent contained in such written waiver, modification, or amendment, subject to any required Court approval. Any failure by any party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.
- 6.11 When Agreement Becomes Effective; Counterparts.** This Agreement shall become effective upon its full execution and final approval by the Court. The Parties may execute this Agreement in counterparts and/or through electronic signature, and execution in counterparts shall have the same force and effect as if all Parties had signed the same instrument.
- 6.12 Binding Authority of Plaintiffs' Counsel.** Plaintiffs' Counsel represents that they are fully authorized to bind the Plaintiff to the terms and conditions set forth in this Agreement.
- 6.13 Signatures.** This Agreement is valid and binding upon signature by the Parties and their authorized representatives.
- 6.14 Electronic and Email Signatures.** Any party may execute this Agreement electronically or by signature. Any signature made and transmitted electronically or by email for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding.

[Signatures on Following Page.]

WE AGREE TO THESE TERMS:

Dated: December ____, 2023

By: _____
James X. Bormes
Law Office of James X. Bormes, P.C.
Counsel for Plaintiff

Dated: December ____, 2023

By: _____
Robin E. Largent
Martenson, Hasbrouck & Simon LLP
455 Capitol Mall, Suite 400
Sacramento, CA 95814
Counsel for Defendant

Plaintiff Halbert James

Deborah Pecci
Executive Vice President, Global Employment
and Litigation Counsel
Allied Universal
For and on behalf of Defendant