

## SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is made by and among the following parties: (i) Francisco Flores, an individual (“FLORES”); (ii) Briant Zamora, an individual (“ZAMORA”); (iii) Alexander Williams, an individual (“WILLIAMS”); (iv) all parties similarly situated as FLORES, ZAMORA, and WILLIAMS, who are part of the certified class represented by them, and who have not opted out of such certified class; (v) Allie’s Party Equipment Rental, Inc., a California corporation (“APER”); (vi) Barrett Business Services, Inc., a Maryland corporation (“BBSI”); and (vii) Michael B. Nicholson, an individual (“NICHOLSON”). As used in this Agreement, “PLAINTIFFS” refers collectively to FLORES, ZAMORA, and WILLIAMS; and “CLASS” means “all persons employed in a non-exempt capacity with Defendant Allie’s Party Equipment Rental, Inc., in the state of California (the ‘CLASS’) at any time from January 31, 2013, through September 1, 2017 (the ‘Class Period’),” as certified by order of the San Diego County Superior Court (the “Superior Court”) signed on February 15, 2019, in the case entitled Francisco Flores et al. v. Allie's Party Equipment Rental, Inc., et al., case no. 37-2017-00003817-CU-OE-NC (the “State Action”), who thereafter did not request exclusion from the CLASS after the mailing of the Notice approved by order of the Superior Court signed on April 19, 2019, in the State Action.<sup>1</sup> “DEFENDANTS” refers collectively to APER, BBSI, and NICHOLSON; “Party” refers to any one of the PLAINTIFFS or DEFENDANTS; and “Parties” refers collectively to PLAINTIFFS and DEFENDANTS.

### ARTICLE 1 BACKGROUND RECITALS

1.01. APER has been engaged in the business of renting party- and event-related equipment since 1998; and has its principal office in San Marcos, California. NICHOLSON is APER’s sole shareholder, president, and chief executive officer. For more than five years, BBSI has provided payroll services to APER.

1.02. PLAINTIFFS and the CLASS are former employees of APER. On January 31, 2017, PLAINTIFFS commenced the State Action, alleging certain violations of the California Labor Code and other employment-related laws (the “Lawsuit”). On January 31, 2019, PLAINTIFFS filed a first amended complaint adding claims under the Private Attorney General Act (“PAGA Claims”). On February 8, 2019, the Superior Court entered an order certifying the class in the Lawsuit.

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<sup>1</sup> On May 13, 2019, ILYM Group, Inc. (the “Administrator”), was provided with the name, last known address, and telephone number of 106 CLASS members in an Excel spreadsheet from APER. On May 20, 2019, the Administrator mailed out, by U.S. first-class mail, the Notice to all 106 members of the Class. The Administrator received a written statement requesting exclusion from 31 individual CLASS members.

1.03. Trial of the Lawsuit had been scheduled to begin in June 2021. However, on April 30, 2021, APER commenced the Chapter 11 (Subchapter V) bankruptcy proceeding known as *In re Allie's Party Equipment Rental, Inc.*, U.S. Bankruptcy Court Case No. 21-01804-CL11 (S.D. Cal.) (the "Bankruptcy Proceeding"). Thereafter, the Superior Court re-scheduled the trial of the Lawsuit to begin on September 20, 2021.

1.04. PLAINTIFFS filed a motion for relief from the automatic stay in the Bankruptcy Proceeding on June 22, 2021, which motion APER opposed. The hearing on that motion has been continued to December 6, 2021.

1.05. On August 9, 2021, PLAINTIFFS and DEFENDANTS and their respective attorneys, along with Jeanne Goddard, the Subchapter V trustee in the Bankruptcy Proceeding, participated in all-day settlement negotiations with the assistance of attorney Harvey C. Berger as neutral mediator. By the end of the negotiations, all participants had reached an agreement in principal and informally memorialized their assent the following day via e-mail, subject to subsequent formal memorialization in this Agreement.

1.06. The Parties desire to settle the Lawsuit and PLAINTIFFS' claims in the Bankruptcy Proceeding once and for all in order to avoid the expense and delay of litigation and without admission of liability.

1.07. The specific terms and conditions of this Agreement, as set forth in detail below, are intended to satisfy the Parties' respective desires.

1.08. Before executing this Agreement, the Parties consulted with separate, independent attorneys of their own respective choosing in order to review the terms and provisions of this Agreement and to satisfy themselves that executing it is in their respective best interests.

*Against this background and for a valuable consideration*, the receipt and sufficiency of which is now acknowledged, the Parties agree as follows:

## ARTICLE 2 SETTLEMENT AND IMPLEMENTATION

2.01. **"Settlement" Defined:** As used in this Article, "Settlement" means the payment of at least \$340,000.00 (the "Minimum Payment") and not more than \$400,000.00 (the "Maximum Payment"), which is the amount that DEFENDANTS will pay to settle the Lawsuit in accordance with this Agreement but excludes APER's obligation to pay the employer-side payroll taxes on any portion that constitutes wages of any payment to the PLAINTIFFS and the CLASS pursuant to this Agreement (the "Settlement Amount"). The Settlement Amount shall consist of (i) an initial amount of \$120,000.00 to be paid to

PLAINTIFFS by or on behalf of NICHOLSON (the “Initial Payment”); and (ii) an additional amount between \$220,000.00 and \$280,000.00 (the Settlement Balance”), to be paid by APER over a period of five years through and in accordance with APER’s Chapter 11 Plan to be approved by the Bankruptcy Court (the “Payment Plan”) or, in the event of APER’s voluntary dismissal of its Bankruptcy Proceeding prior to the Bankruptcy Court’s approval of APER’s Chapter 11 Plan, within 10 days of APER’s voluntary dismissal of its Bankruptcy Proceeding. Subject to all other terms and conditions of this Agreement, PLAINTIFFS shall cause the Lawsuit to be dismissed in exchange for payment of the Settlement Amount. The Settlement Amount, less deductions for (i) the Administrator’s fees, (ii) the Superior Court-approved attorneys’ fees and costs to PLAINTIFFS’ attorneys; (iii) the Superior Court-approved Service Awards to PLAINTIFFS in return for a general release, and (iv) the Labor & Workforce Development Agency (“LWDA”) payment, if any, shall be distributed in accordance with the “Pro-Rata Formula” as defined in the Notice of Settlement to CLASS members who do not timely request exclusion after mailing of the Notice of Settlement. In addition to ensuring full payment of the Settlement Amount in accordance with this Agreement, APER shall pay any employer-side payroll taxes on the wage portion of the payments to be made to CLASS members up to but not more than \$10,000.00. The Settlement Amount and APER’s share of employer payroll taxes on the wage portion of payments made to CLASS members shall be the sole financial obligation of DEFENDANTS under this Agreement.

2.02. Contingency of Agreement; Cooperation and Best Efforts: The Parties’ respective rights and obligations as set forth in this Agreement are contingent upon the Agreement’s approval by the Superior Court and by the Bankruptcy Court (which shall include, absent dismissal of the Bankruptcy Proceeding, confirmation of APER’s plan of reorganization that provides for the payments required of APER under this Agreement); if this Agreement is not so approved, it shall automatically become null and void and have no further force or effect. To this end, the Parties’ shall cooperate, take all reasonable steps, and use their best efforts in requesting the Agreement’s approval by the Superior Court and the Bankruptcy Court.

(a) This Agreement, including any associated exhibits and attachments, is made for the sole purpose of settling the Lawsuit and all Released Claims (as defined below) on a class-wide basis. This Agreement is made in compromise of disputed claims. Because the Lawsuit was pleaded as a class action and is being settled on a class basis, this Agreement must receive Superior Court approval. Accordingly, the Parties enter into this Agreement on a conditional basis.

(b) The Parties will file motions for approval of this Agreement with the Superior Court and with the Bankruptcy Court. If the Superior Court and the Bankruptcy Court do not both approve the Settlement in accordance with this

Agreement, or if for any reason the associated judgment does not become a Final Judgment, then this Agreement, except for those provisions relating to the interpretation of the Agreement and the conditional nature of the Agreement (including without limitation Paragraph 4.17) shall be deemed null and void *ab initio*, shall be of no force or effect whatsoever, shall not be referred to or utilized for any purpose whatsoever, and the negotiation of the Agreement shall be subject to the rules of evidence barring admission of settlement materials.

2.03. Superior Court's Approval: Promptly after the execution of this Agreement, PLAINTIFFS shall prepare a Motion for an Order Preliminarily Approving the Class-Action Settlement ("Motion for Preliminary Approval") to be heard on January 28, 2022, or as soon thereafter as the matter may be heard. PLAINTIFFS' attorneys will be solely responsible for the filing of the Motion for Preliminary Approval. In addition:

(a) The Motion for Preliminary Approval will include a proposed "Notice of Class-Action Settlement and Final Approval Hearing" (the "Notice of Settlement") and a proposed Order Preliminarily Approving the Class-Action Settlement." The Motion for Preliminary Approval will, *inter alia*, seek (i) preliminary approval of the Settlement, this Agreement, and the Notice of the Settlement to be mailed to the CLASS members, (ii) an order setting the dates by which CLASS members may exclude themselves or assert objections to the Settlement; and (iii) an order setting a date for a hearing for the final approval of the Settlement (the "Final Approval Hearing"). No later than ten (10) calendar days after entry of the Preliminary Approval Order, DEFENDANTS will pay to the Administrator the estimated cost of preparing and mailing the Notice of Settlement to CLASS members, up to but not more than \$10,000.00, which shall be credited toward the \$120,000 Initial Payment.

(b) In accordance with Labor Code Section 2699(l)(2), the Administrator or PLAINTIFFS' attorneys shall provide notice of this Agreement to the LWDA at the time the Motion for Judgment and Final Approval is filed with the Superior Court and shall provide a copy of such notice to DEFENDANTS' attorneys. Within 10 calendar days after the entry of the Final Approval Order, the Administrator shall submit a copy of the Final Approval Order to the LWDA. The Superior Court-approved LWDA payment, if any, shall be paid by the Administrator to the LWDA within 20 calendar days after the Effective Date.

(c) Unless otherwise ordered by the Superior Court, not later than 14 days before the Final Approval Hearing, PLAINTIFFS shall prepare a Motion for Judgment and Final Approval of the Settlement and this Agreement (the "Motion for Judgment and Final Approval") requesting that the Superior

Court, among other things, (i) approve the Settlement as fair, adequate, reasonable, and binding on all CLASS members who have not timely opted-out in accordance with the Notice of Settlement, (ii) approve and incorporate the terms of the release for all CLASS members; (iii) enter an order permanently enjoining all CLASS members who have not timely excluded themselves from pursuing and or seeking to reopen claims that have been released by this Agreement; and (iv) enter final judgment in accordance with this Agreement and dismiss the Lawsuit with prejudice, retaining jurisdiction over the Settlement's enforcement and construction. PLAINTIFFS' attorneys will be solely responsible for the filing of the Motion for Judgment and Final Approval.

(d) At the Final Approval Hearing, the Parties will ask the Superior Court (i) to issue all of the relief set forth in the Motion for Judgment and Final Approval and (ii) to approve the proposed Final Order Approving the Class-Action Settlement.

(e) The Parties will request that the Superior Court retain jurisdiction over the Lawsuit under Code of Civil Procedure Section 664.6 to enforce the Agreement, if necessary.

2.04. DEFENDANTS' Joinder in Superior Court's Approval: At their sole cost and expense, DEFENDANTS may join and shall not oppose the Motion for Preliminary Approval or the Motion for Judgment and Final Approval as described in Paragraph 2.03 and its subparagraphs.

2.05. Bankruptcy Court's Approval; Payment Plan: At its sole cost and expense, APER shall apply to the Bankruptcy Court for approval of this Agreement not more than 10 days after it has been approved by the Superior Court. A copy of this Agreement shall be filed with the Bankruptcy Court, and the application shall describe the material terms of the Parties' settlement, including without limitation the following terms to which the Parties agree:

(a) For the benefit of PLAINTIFFS, the Initial Payment will be made to the Administrator by or on behalf of NICHOLSON not more than 30 days after the later of (i) entry of an Order Preliminarily Approving the Class-Action Settlement by the Superior Court or (ii) entry of an order of the Bankruptcy Court approving the settlement.

(b) The Settlement Balance will be paid by or on behalf of APER over a period of five years through and in accordance with APER's Chapter 11 Plan to be approved by the Bankruptcy Court (the "Payment Plan") or in the event of APER's voluntary dismissal of its Bankruptcy Proceeding prior the Bankruptcy

Court's approval of APER's Chapter 11 Plan, within 10 days of APER's voluntary dismissal of the Bankruptcy Proceeding. The payments made to PLAINTIFFS shall be made on account of the Proofs of Claim filed by them in the Bankruptcy Proceeding (*viz.*, claim nos. 8, 9, 10, and 11). In lieu of such claims, PLAINTIFFS shall have an allowed general unsecured claim in the Bankruptcy Proceeding in an amount necessary to entitle them to distributions of at least \$220,000.00 and not more than \$280,000.00 through the Payment Plan. The minimum payment of \$220,000.00 is based on there being allowed unsecured claims in the Bankruptcy Proceeding totaling approximately \$6,000,000.00. The amount paid to PLAINTIFFS will increase depending on the extent to which the unsecured claim of First Citizens Bank & Trust Company ("the Bank"), which consists of PPP loans totaling approximately \$684,000.00 and commercial-guaranty obligations totaling approximately \$1,400,000.00, is reduced. The benefit of any reduction in the allowed amount of the Bank's unsecured claim will inure 100% to the benefit of holders of allowed unsecured claims, including PLAINTIFFS and the CLASS.

(c) APER will use its best efforts to reduce or eliminate the Bank's unsecured claim referenced in sub-paragraph b above. Such efforts shall include without limitation immediately seeking forgiveness of the PPP loans to the extent allowed by law and filing motion(s) to reduce to zero or eliminate the Bank's unsecured claim (referenced in sub-paragraph b above) and filing motion(s) to eliminate or reduce to zero the Bank's unsecured claim in the Bankruptcy Proceeding. DEFENDANTS other than APER and PLAINTIFFS may join at their sole cost and expense and shall not oppose any motion(s) to reduce to zero or eliminate the Bank's unsecured claim. APER's attorneys will be solely responsible for the filing of motion(s) to reduce to zero or eliminate the Bank's unsecured claim. PLAINTIFFS' counsel shall have the right to participate with APER's counsel in such efforts to reduce to zero or eliminate the Bank's unsecured claim, including without limitation by participating in negotiations and/or other proceedings in the Bankruptcy Proceeding to determine and resolve such unsecured claims.

(d) All payments toward the Settlement Amount will be made to the Administrator and otherwise in accordance with any applicable order(s) of the Superior Court.

(e) PLAINTIFFS will withdraw their motion for relief from the automatic stay within five business days after the Bankruptcy Court approves this Agreement.

2.06. Joinder in Bankruptcy Court's Approval: At their sole cost and expense, PLAINTIFFS may join and shall not oppose APER's application for the Bankruptcy Court's approval of this Agreement and the Payment Plan as described in Paragraph 2.05 above.

2.07. Initial Installment toward Settlement Amount: NICHOLSON shall cause the first \$120,000.00 of the Settlement Amount to be paid to the Administrator not more than 30 days after the later of (i) entry of an Order Preliminarily Approving the Class-Action Settlement by the Superior Court or (ii) entry of an order of the Bankruptcy Court approving the Settlement (the "Initial Installment").

2.08. Balance of Settlement Amount: APER shall pay the remaining balance of the Settlement Amount after the Initial Installment to the Administrator in accordance with the Payment Plan (the "Settlement Balance").

2.09. NICHOLSON's Personal Guaranty: Subject to this Agreement's approval by both the Superior Court and the Bankruptcy Court, NICHOLSON shall personally guaranty that the Administrator shall receive the gross sum of \$220,000.00 toward the Settlement Amount; this guaranty shall take effect automatically and immediately upon approval of this Agreement by both the Superior Court and the Bankruptcy Court. If the Bankruptcy Court subsequently determines that APER has defaulted in paying the Settlement Balance, NICHOLSON shall immediately pay to Administrator the Settlement Balance minus any and all payments made toward the Settlement. This personal guaranty is unsecured and shall automatically expire without notice to any of the Parties as soon as the Settlement Balance has been paid in full to the Administrator, regardless of who pays it.

2.10. Dismissal of Lawsuit with Prejudice: At their sole cost and expense, PLAINTIFFS shall file a request for dismissal of the entire Lawsuit with prejudice not more than 10 days after receipt of notice that the Settlement Amount has been paid in full to the Administrator.

2.11. Administrator's Negligence, Malfeasance, and Expenses: DEFENDANTS shall have (i) no obligation whatsoever to verify or otherwise oversee the Administrator's processing, management, distribution, or other handling of any portion of the Settlement Amount paid to the Administrator; (ii) no liability whatsoever for any act or omission of the Administrator (whether or not negligent, reckless, or intentional) in processing, managing, distributing, or otherwise handling any portion of the Settlement Amount; and (iii) no liability whatsoever for the payment of any monies to the Administrator other than the Settlement Amount (as set forth elsewhere in this Agreement), with any and all fees, costs, or other charges of the Administrator being deducted from the Settlement Amount.

2.12. Allocation of Settlement Amount: Allocation of the Settlement Amount (*i.e.*, the Initial Payment and the Settlement Balance) to CLASS members will, to the maximum extent permitted by law, minimize the portion allocated to W-2 wages. Individual CLASS member

payments shall be allocated 33 1/3% to alleged back wages and 66 2/3% to alleged interest and/or statutory penalties. The amounts so allocated to unpaid wages shall be paid by APER and be subject to applicable payroll and withholding taxes (including without limitation federal, state, and local income-tax withholding and each employee's share of FICA taxes). APER shall be responsible for and shall pay any and all applicable employer-tax contributions associated with the 33 1/3% of the individual CLASS member payments allocated to back wages (including the employer's share of FICA taxes) not to exceed \$10,000.00, all of which shall be in addition to and not be paid out of the Settlement Amount. At any time after approval of this Agreement by the Superior Court (and either before or after approval by the Bankruptcy Court), and at their sole cost and expense, PLAINTIFFS may apply to the Superior Court for approval of their proposed plan of allocation of the Settlement Amount (including without limitation any compensation for PLAINTIFFS as class representatives and payment of PLAINTIFFS' attorneys' fees and costs), provided that the allocation is not inconsistent with any of the other terms or conditions of this Agreement. DEFENDANTS and their attorneys shall not oppose any such plan of allocation or application by PLAINTIFFS in the Superior Court; and PLAINTIFFS and their attorneys shall not oppose any request for attorneys' fees submitted by any of DEFENDANTS' attorneys in the Bankruptcy Proceeding.

### ARTICLE 3 RELEASE OF LIABILITY

3.01. Release of DEFENDANTS by PLAINTIFFS and CLASS: PLAINTIFFS and all other CLASS members who do not timely request exclusion after mailing of Notice of Settlement, for themselves, and for each of their respective predecessors, successors, assigns, partners, agents, heirs, executors, administrators and others claiming through or under them, now irrevocably and unconditionally remise, release, acquit, absolve and forever discharge DEFENDANTS and each and all of the DEFENDANTS' predecessors, successors, assigns, affiliates, heirs, executors, administrators, shareholders, directors, officers, associates, agents, attorneys, employees, insurers, partners, associated companies, subsidiary companies, parent companies, and representatives (present and former), and all persons who at any time have acted by, through, under, or in concert with any or all of the DEFENDANTS or any of the other foregoing persons or entities (collectively, the "Defense-Affiliated Released Persons"), any and all claims or causes of action alleged in the Litigation and/or that could have been alleged in the Litigation, under any state or local wage-and-hour or compensation-related law during the Class Period, including without limitation Business and Professions Code Section 17200 *et seq.* and Labor Code Sections 200, 201, 202, 203, 204, 218, 218.5, 218.6, 226, 226.3, 226.8, 227.3, 247.5, 558, 1175, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198.5, 2604, 2698 *et seq.*, 2808, 2810.5, that sought monetary relief or damages flowing therefrom, including penalties, interest, injunctive relief, restitution, disgorgement, and consequential damages, that reasonably arise out of the same set of operative facts alleged in the Class Action Complaints filed in the State Action. ("Released Claims"). For avoidance of doubt, the scope of the Released Claims is limited to the operative facts set forth in the Class Action

Complaint for Damages and Injunctive Relief, filed on January 31, 2017 in the State Action, and the First Amended Class Action Complaint for Damages and Injunctive Relief, filed on January 31, 2019 in the State Action. This Release does not affect the rights of CLASS members who submit a timely request for exclusion from the CLASS after mailing of Notice of Settlement.

3.02. Release of PLAINTIFFS by DEFENDANTS: Except as indicated in Paragraph 3.05 below, DEFENDANTS, for themselves, and for each of their respective predecessors, successors, assigns, partners, agents, heirs, executors, administrators and others claiming through or under them, now irrevocably and unconditionally remise, release, acquit, absolve and forever discharge PLAINTIFFS and all other CLASS members who do not timely request exclusion after mailing of Notice of Settlement, and each and all of their respective predecessors, successors, assigns, affiliates, heirs, executors, administrators, shareholders, directors, officers, associates, agents, attorneys, employees, insurers, partners, associated companies, subsidiary companies, parent companies, and representatives (present and former), and all persons who at any time have acted by, through, under, or in concert with any or all of the PLAINTIFFS or any of the other foregoing persons or entities (collectively, "Plaintiff-Affiliated Released Persons"), any and all claims or causes of action alleged in the Litigation and/or that could have been alleged in the Litigation, under any state or local wage-and-hour or compensation-related law during the Class Period, including without limitation Business and Professions Code Section 17200 *et seq.* and Labor Code Sections 200, 201, 202, 203, 204, 218, 218.5, 218.6, 226, 226.3, 226.8, 227.3, 247.5, 558, 1175, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198.5, 2604, 2698 *et seq.*, 2808, 2810.5, that sought monetary relief or damages flowing therefrom, including penalties, interest, injunctive relief, restitution, disgorgement, and consequential damages, that reasonably arise out of the same set of operative facts alleged in the Class Action Complaints filed in the State Action. ("Released Claims"). For avoidance of doubt, the scope of the Released Claims is limited to the operative facts set forth in the Class Action Complaint for Damages and Injunctive Relief, filed on January 31, 2017 in the State Action, and the First Amended Class Action Complaint for Damages and Injunctive Relief, filed on January 31, 2019 in the State Action. This Release does not affect DEFENDANTS' rights against CLASS members who submit a timely request for exclusion from the CLASS after mailing of Notice of Settlement.

3.03. Waiver of Unknown Claims: Upon the Effective Date, the PLAINTIFFS waive in connection with the releases in Paragraphs 3.01 and 3.02 above all rights and benefits afforded by California Civil Code Section 1542, which provides:

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.

In this connection, the PLAINTIFFS now acknowledge (i) that they are aware that they may subsequently discover facts in addition to or different from those that they now know or believe to exist with respect to the matters covered by this Agreement; and (ii) that such different or additional facts, if they exist, may have given or may subsequently give rise to causes of action, claims, demands, controversies, damages, losses, costs, and expenses that are presently unknown, unanticipated, and unsuspected. The PLAINTIFFS members who do not timely request exclusion after mailing of Notice of Settlement therefore affirm that the releases contained in this Agreement have been negotiated and agreed upon in light of that acknowledgment, and they intend, through this Agreement and with the advice of their respective attorneys, fully, finally, and forever to settle and release to the fullest extent permitted by law any and all possible claims, causes of action, disputes, and differences, whether known or unknown, suspected or unsuspected, arising out of all facts or occurrences from the beginning of time through this Agreement's Effective Date. In furtherance of such intention, the PLAINTIFFS also affirm that the releases contained in this Agreement shall remain in effect and shall be fully binding notwithstanding the discovery or existence of any additional or different facts.

3.04. Suspension of Releases and Waivers: Paragraph 3.01 and Paragraph 3.03 as applied to Paragraph 3.01 shall have no force or effect against any Released Claims of PLAINTIFFS or of any of the other CLASS members (*i.e.*, those who do not timely request exclusion after mailing of Notice of Settlement) unless and until the Settlement Amount has been paid in full to the Administrator. Paragraph 3.01 and Paragraph 3.03 as applied to Paragraph 3.01 shall automatically and immediately go into full force and effect as soon as the Settlement Amount has been paid in full to the Administrator, at which time PLAINTIFFS and all other CLASS members (*i.e.*, those who do not timely request exclusion after mailing of Notice of Settlement) shall be permanently barred from initiating, asserting, or prosecuting any and all Released Claims. At all times that Paragraphs 3.01 and 3.03 have no force or effect, neither PLAINTIFFS nor any of the other CLASS members shall in any way assert any claim that would be covered by Paragraph 3.01 or by Paragraph 3.03 as applied to Paragraph 3.01 or otherwise encourage any other individual or entity to assert any such claim.

3.05. Reservation of Rights against APER Employees: The other terms and conditions of this Agreement notwithstanding, nothing in this Agreement constitutes a waiver, abandonment, withdrawal, or other release of any right, claim, or defense that any of the DEFENDANTS may have against any of the CLASS members who continue to be employed by APER on or after this Agreement's Effective Date.

3.06. Withdrawal of Indemnity/Contribution Claims: NICHOLSON and BBSI each now forever withdraws, waives, and abandons whatever claim for express or implied indemnity and/or contribution that he or it may have (if any) against APER in connection with the Lawsuit, regardless of whether a claim for indemnity was filed in the Bankruptcy Proceeding.

**ARTICLE 4  
GENERAL PROVISIONS**

4.01. Reliance on Representations/Warranties: Each representation and warranty made in this Agreement by any of the Parties has substantially induced the other Parties to enter into this Agreement. Each Party acknowledges and affirms that the other Parties are entitled to rely on that Party's representations and warranties without independent verification and that such reliance is reasonable under the circumstances of this Agreement.

4.02. Integration: This Agreement constitutes and contains the entire agreement and understanding between the Parties concerning the subject matter addressed herein. Unless otherwise expressly stated herein, this Agreement supersedes and replaces all prior negotiations and all agreements, proposed or otherwise, whether written or oral, concerning its subject matter.

4.03. Cooperation: The Parties shall cooperate in performing their obligations under this Agreement, execute all supplementary documents that may be required or convenient to the fulfillment of their obligations, and take all additional actions that may be necessary or appropriate to give full force and effect to the terms and conditions of this Agreement and that are not inconsistent with such terms and conditions.

4.04. Notices: Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any of the Parties shall, unless otherwise required by law, be in writing and be deemed duly served and given (i) on date when personally delivered to the Party to whom it is directed; (ii) on date when served by email; or (iii) 10 days after mailing with the United States Postal Service sent via certified mail (return receipt requested), first-class postage prepaid. The following addresses shall be used for any and all notices:

For PLAINTIFFS

Francisco Flores

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Briant Zamora

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\_\_\_\_\_

Alexander Williams

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\_\_\_\_\_  
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*with a copy to*

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San Diego, CA 92121  
[pnellies@advantagelawgroup.com](mailto:pnellies@advantagelawgroup.com)

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San Diego, CA 92008  
[pkeegan@keeganbaker.com](mailto:pkeegan@keeganbaker.com)

For DEFENDANTS

Michael B. Nicholson  
Allie's Party Equipment Rental, Inc.  
130 Vallecitos De Oro  
San Marcos, CA 92069

TBD  
Barrett Business Services, Inc.

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\_\_\_\_\_

*with a copy to*

Cory J. Briggs  
Briggs Law Corporation  
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Curry Advisors, A Professional Law Corporation  
185 West F Street, Suite 100  
San Diego, CA 92101

tcurry@currylegal.com

However, any Party may change the address to which notices or other communications are to be given under this Agreement by sending a notice of the change to the other Parties at their last address to have been designated under this Agreement.

4.05. Time Calculations: Time is of the essence to this Agreement. Whenever a time for performance of any act is stated in this Agreement, the time shall be calculated by including all days except Saturdays, Sundays, and legal holidays.

4.06. Mutual Drafting, Use of Titles: The Parties participated equally in negotiating and drafting this Agreement, and nothing in it shall be construed against any particular one of the Parties on the basis that this Agreement was drafted by that Party. Headings and titles are used throughout this Agreement solely for the convenience of the Parties and are not an integral part of it.

4.07. Severability: If any term, condition, or application of this Agreement is held to be invalid, such invalidity shall not affect the Agreement's other terms, conditions, or applications that can be given effect without the invalid term, condition, or application. To this end, the Agreement is declared to be severable.

4.08. Waiver/Modification/Remedy Selection: No waiver of any breach of any term or condition of this Agreement shall be, nor shall it be construed to be, a waiver of any other breach of this Agreement, and no waiver shall be binding unless made in writing and signed by the waiving Party. No change in the terms or conditions of this Agreement shall have any force or effect unless expressed in a writing signed by the Parties. A Party's pursuit or enforcement of fewer than all available remedies in the event of any breach or default under this Agreement shall not preclude that Party from pursuing or enforcing other or all available remedies in the event of any other breach or default under this Agreement.

4.09. Persons/Entities Bound: This Agreement shall be binding on and inure to the benefit of the Parties, jointly and severally, in every capacity whatsoever, and to their heirs, legatees, devisees, beneficiaries, administrators, executors, trustees, successors, assigns, managers, members, officers, directors, shareholders, employees, agents, attorneys, servants, and legal representatives.<sup>2</sup> However, nothing in this Agreement shall inure to the benefit of (or be construed as inuring to the benefit of) any individual or entity other than the Parties.

4.10. Dispute Resolution: If any dispute arises out of or in connection with this Agreement, the dispute shall be prosecuted in the Superior Court; however, any dispute

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<sup>2</sup> This includes without limitation APER's bankruptcy estate and APER as a Debtor in Possession and as a Reorganized Debtor.

involving a material issue of bankruptcy law shall be prosecuted in the Bankruptcy Court. The Party who prevails in any such judicial proceeding shall be entitled to recover reasonable attorney fees and other costs of litigation from the non-prevailing Party or Parties, provided that the Party who prevails notified the other Parties at least 30 days prior to initiating the judicial proceeding that the Party was willing to subject the dispute to mediation and attempted in good faith to schedule and participate in mediation within 60 days of giving the notice.

4.11. Efficacy of Copy: This Agreement may be executed in counterparts, and each executed counterpart shall have the efficacy of a signed original. Photographic duplications of executed counterparts may be used, in the absence of any genuine issue as to their authenticity, in lieu of originals for any purpose. Each Party's executing signature may be transmitted to the others via e-mail or facsimile, and such e-mail or facsimile signature shall have the same effect as an original signature.

4.12. Effective Date: "Effective Date" means the later of (i) 30 days after entry of the Final Approval Order (*i.e.*, an order and/or final judgment by the Superior Court granting final approval of the Settlement if no appeal of such final approval is then pending), (ii) 30 days after entry of the Final Bankruptcy Proceeding Approval Order (*i.e.*, an order and/or judgment by the Bankruptcy Court granting final approval of this Settlement, if no appeal of such final approval is then pending, or (iii) if an appeal of any such final approval order or judgment is then pending, the day after any such final approval order or judgment is affirmed on appeal or the day after any appeal has been dismissed or abandoned.

4.13. Governing Law: This Agreement shall be governed by, and all rights and liabilities under it shall be determined in accordance with, the laws of the State of California, except to the extent that federal bankruptcy law applies.

4.14. Legal Expenses: Except as provided in this Agreement, the Parties shall each bear their respective attorneys' fees and other legal expenses incurred in connection with the negotiation, execution, and implementation of this Agreement, with the Lawsuit, with the Bankruptcy Proceeding, or any combination thereof. The Parties understand and agree that PLAINTIFFS' attorneys' fees and litigation costs approved by the Superior Court shall be paid from the Settlement Amount and shall be the full, final, and complete payment of all attorneys' fees and other legal expenses associated with PLAINTIFFS' attorneys' representation of PLAINTIFFS in the Lawsuit, except for any fees and other legal expenses incurred in connection with any efforts that PLAINTIFFS' attorneys incur if DEFENDANTS breach this Agreement and/or PLAINTIFFS' attorneys must take action to enforce this Agreement.

4.15 Binding Agreement: This is a binding agreement, subject to approval by the Superior Court and the Bankruptcy Court, and shall not be modified except by a writing executed by all of the Parties hereto or as otherwise provided herein. No waiver,

modification, or amendment of the terms of this Agreement, whether purportedly made before or after the Superior Court's and the Bankruptcy Court's approval of this Agreement, shall be valid or binding unless in writing and signed by or on behalf of all Parties, and then only to the extent set forth 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.

4.16. Authority to Bind: Each person signing this Agreement represents that he or she has full legal authority to bind the Party on whose behalf the person signs.

4.17. Effect of Non-Approval: If the Superior Court and the Bankruptcy Court do not both enter orders granting final approval of the Settlement, or such orders do not become final, the Parties shall return to their positions prior to the filing of the motion for preliminary approval unless the Parties jointly agree to (1) seek reconsideration or appellate review of the decision denying entry of the order or (2) attempt to renegotiate the Settlement and seek court approval of the renegotiated settlement. In the event any reconsideration and/or appellate review is denied, or a mutually agreed-upon settlement is not reached or not approved:

(a) The Lawsuit will proceed as if no settlement had been attempted. In that event, the Lawsuit shall proceed to trial, and DEFENDANTS may assert all potentially applicable defenses in connection with the Lawsuit at trial (*e.g.*, contest the merits of the claims being asserted in the Lawsuit, assert affirmative defenses, etc.). In such event, the Parties will negotiate and submit for the Superior Court's approval a new trial date and revised pre-trial conference case management schedule. DEFENDANTS expressly waive any defense to the Lawsuit on the grounds that a trial of the Lawsuit has not commenced within five (5) years of the date when the Lawsuit was filed and under California Code of Civil Procedure Section 583.340.

(b) The Administrator will provide notice to Class Members that the Agreement did not receive final approval and that, as a result, no payments will be made to Class Members under the Agreement. Such notice shall be emailed and mailed by the Administrator via first-class mail, postage prepaid, to the addresses used by the Administrator in mailing the Notice of Settlement. DEFENDANTS agree to pay the Administrator's full costs related to providing the notice prescribed by this sub-paragraph.

4.18. Effect of Exclusion; Non-Waivable claims: The Released Claims shall not apply to CLASS members who timely request exclusion after receiving notice of the settlement. The Released Claims and the releases in Paragraph 3.01 and Paragraph 3.03 as applied to

Paragraph 3.01 shall also not compromise any right to workers' compensation benefits, unemployment benefits, or disability benefits.

WE HAVE READ AND AGREE TO THE FOREGOING IN ITS ENTIRETY.

Date: 2/2/2022, 20\_\_\_\_\_.  
DocuSigned by:  
Francisco Flores  
A4A7079CAB6740B  
Francisco Flores

Date: 2/3/2022, 20\_\_\_\_\_.  
DocuSigned by:  
Briant Zamora  
FB70FB33BB3234BB  
Briant Zamora

Date: 2/2/2022, 20\_\_\_\_\_.  
DocuSigned by:  
Alexander Williams  
288023DAA02B493  
Alexander Williams

Date: \_\_\_\_\_, 20\_\_\_\_\_.  
Michael B. Nicholson

Date: \_\_\_\_\_, 20\_\_\_\_\_.  
Allie's Party Equipment Rentals, Inc.  
By: Michael B. Nicholson  
Its: President/CEO

Date: \_\_\_\_\_, 20\_\_\_\_\_.  
Barrett Business Services, Inc.  
By: TBD  
Its: TBD

APPROVED AS TO FORM AND CONTENT:

Date: 2/3/2022, 20\_\_\_\_\_.  
DocuSigned by:  
Patrick J.S. Nellies  
81F04C806DAEE4ED  
Patrick J.S. Nellies  
Attorney for PLAINTIFFS

Date: 2/8/2022, 20\_\_\_\_\_.  
DocuSigned by:  
Patrick N. Keegan  
8625EB7BB8A8437  
Patrick N. Keegan  
Attorney for PLAINTIFFS

Paragraph 3.01 shall also not compromise any right to workers' compensation benefits, unemployment benefits, or disability benefits.

WE HAVE READ AND AGREE TO THE FOREGOING IN ITS ENTIRETY.

Date: \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_  
Francisco Flores

Date: \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_  
Briant Zamora

Date: \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_  
Alexander Williams

Date: 2-10, 2022, Michael B. Nicholson  
Michael B. Nicholson

Date: 2-10, 2022, Michael B. Nicholson  
Allie's Party Equipment Rentals, Inc.  
By: Michael B. Nicholson  
Its: President/CEO

Date: \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_  
Barrett Business Services, Inc.  
By: TBD  
Its: TBD

APPROVED AS TO FORM AND CONTENT:

Date: \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_  
Patrick J.S. Nellies  
Attorney for PLAINTIFFS

Date: \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_  
Patrick N. Keegan  
Attorney for PLAINTIFFS

Paragraph 3.01 shall also not compromise any right to workers' compensation benefits, unemployment benefits, or disability benefits.

WE HAVE READ AND AGREE TO THE FOREGOING IN ITS ENTIRETY.

Date: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Francisco Flores

Date: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Briant Zamora

Date: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Alexander Williams

Date: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Michael B. Nicholson

Date: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Allie's Party Equipment Rentals, Inc.  
By: Michael B. Nicholson  
Its: President/CEO

Date: Feb 11, 2022. [Signature]  
Barrett Business Services, Inc.  
By: TBD Heather Wiswall  
Its: TBD HR Director

APPROVED AS TO FORM AND CONTENT:

Date: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Patrick J.S. Nellies  
Attorney for PLAINTIFFS

Date: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Patrick N. Keegan  
Attorney for PLAINTIFFS

Date: 2/2/2022, 20  .

DocuSigned by:  
*Robert A. Waller, Jr., Esq.*  
796E47B2136F458...  
Robert A. Waller  
Attorney for PLAINTIFFS

Date: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Cory J. Briggs  
Attorney for DEFENDANTS in Lawsuit

Date: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
David I. Dalby  
Attorney for BBSI in Lawsuit

CURRY ADVISORS  
A Professional Law Corporation

Date: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
K. Todd Curry  
Attorney for APER in Bankruptcy Proceeding

Date: \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_

Robert A. Waller  
Attorney for PLAINTIFFS

Date: February 10, 20<sup>22</sup>, \_\_\_\_\_

*Cory J. Briggs*

Cory J. Briggs  
Attorney for DEFENDANTS in Lawsuit

Date: \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_

David I. Dalby  
Attorney for BBSI in Lawsuit

CURRY ADVISORS  
A Professional Law Corporation

Date: \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_

K. Todd Curry  
Attorney for APER in Bankruptcy Proceeding

Date: \_\_\_\_\_, 20\_\_\_\_.

Robert A. Waller  
Attorney for PLAINTIFFS

Date: \_\_\_\_\_, 20\_\_\_\_.

Cory J. Briggs  
Attorney for DEFENDANTS in Lawsuit

Date: February 11, 2022 David I. Dalby

David I. Dalby  
Attorney for BBSI in Lawsuit

CURRY ADVISORS  
A Professional Law Corporation

Date: \_\_\_\_\_, 20\_\_\_\_.

K. Todd Curry  
Attorney for APER in Bankruptcy Proceeding

Date: \_\_\_\_\_, 20\_\_\_\_.

Robert A. Waller  
Attorney for PLAINTIFFS

Date: \_\_\_\_\_, 20\_\_\_\_.

Cory J. Briggs  
Attorney for DEFENDANTS in Lawsuit

Date: \_\_\_\_\_, 20\_\_\_\_.

David I. Dalby  
Attorney for BBSI in Lawsuit

CURRY ADVISORS  
A Professional Law Corporation

Date: 2/11, 2022. K. Todd Curry

K. Todd Curry  
Attorney for APER in Bankruptcy Proceeding