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SYSTEMS, INC.

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 COUNTY OF LOS ANGELES  
16

17 JONATHAN WILSON, individually and on  
18 behalf of all others similarly situated,

19 Plaintiff,

20 vs.

21 HYDRO SYSTEMS, INC., a California  
corporation; and DOES 1 through 50, inclusive,

22 Defendants  
23  
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CASE NO. 19STCV41455

[Assigned for all purposes to Hon. Daniel J.  
Buckley, Dept. SS-1]

**AMENDED STIPULATION OF CLASS  
ACTION SETTLEMENT**

Action Filed: November 19, 2019  
Trial Date: None Set

1 IT IS HEREBY STIPULATED, by and between plaintiff Johnathan Wilson, individually  
2 and on behalf of all others similarly situated, on the one hand, and defendant Hydro Systems, Inc.,  
3 on the other hand, and subject to the approval of the Court, that the claims alleged in the Action  
4 are hereby compromised and settled pursuant to the terms and conditions set forth in this  
5 Amended Stipulation of Class Action Settlement (“Stipulation”) and that the Court shall make  
6 and enter judgment, subject to the continuing jurisdiction of the Court as set forth below, and  
7 subject to the definitions, recitals, and terms set forth herein which by this reference become an  
8 integral part of this Stipulation.

9 **DEFINITIONS**

- 10 1. “Action” means the putative class action entitled *Wilson v. Hydro Systems, Inc.*,  
11 Los Angeles Superior Court Case No. 19STCV41455.
- 12 2. “Aggrieved Employees” means all current and former non-exempt employees of  
13 Defendant in California at any time during the PAGA Period.
- 14 3. “Class Counsel” means Matthew J. Matern, Launa Adolph, and Deanna S. Leifer  
15 of Matern Law Group, PC.
- 16 4. “Class Counsel Award” means reasonable attorneys’ fees for Class Counsel’s  
17 litigation and resolution of this Action (not to exceed one-third of the Maximum Settlement  
18 Amount), and Class Counsel’s expenses and costs reasonably incurred in connection with this  
19 Action.
- 20 5. “Class Information” means information regarding Class Members that Defendant  
21 shall in good faith compile from its records and shall be authorized by the Court to transmit in a  
22 secured manner to the Settlement Administrator. Class Information shall be transmitted in  
23 electronic form and shall include each Class Member’s full name; last known address; Social  
24 Security number; and total number of Compensable Workweeks.
- 25 6. “Class Members” means all current and former non-exempt employees of  
26 Defendant in California at any time during the Class Period.
- 27 7. “Class Notice” means the Notice of Class Action Settlement, substantially in the  
28 form attached hereto as **Exhibit 1**, which shall be subject to Court approval and which the

1 Settlement Administrator shall mail to each Class Member explaining the terms of this Stipulation  
2 and the Settlement.

3 8. "Class Period" means the period from November 19, 2015 through ninety (90)  
4 days after execution of the Stipulation.

5 9. "Class Representative Service Award" means the amount the Court authorizes to  
6 be paid to Plaintiff, in addition to Plaintiff's Individual Settlement Payment, in recognition of  
7 Plaintiff's efforts and risks in prosecuting the Action.

8 10. "Compensable Workweeks" means the total number of weeks during which a  
9 Class Member or Aggrieved Employee performed work as a non-exempt employee of Defendant  
10 in California during the Class Period and/or PAGA Period, based on Defendant's records, and  
11 which shall be used to calculate Individual Settlement Payments.

12 11. "Defendant" means defendant Hydro Systems, Inc.

13 12. "Defense Counsel" means Brian E. Koegle and Michael R. Fostakowsky of Poole,  
14 Shaffery & Koegle, LLP.

15 13. "Effective Date" means the latter of: (a) if there are no objections to the  
16 Settlement, the date upon which the Judgment is entered by the Court; (b) if there are objections  
17 to the Settlement, and if an appeal, review or writ is not sought from the Judgment, the sixty-first  
18 (61<sup>st</sup>) day after the date upon which the Judgment is entered; or (c) if an appeal, review or writ is  
19 sought from the Judgment, the date upon which all appellate and/or other proceedings resulting  
20 from the appeal, review or writ have been finally terminated in such a manner as to permit the  
21 Judgment to take effect in substantially the form described herein.

22 14. "Employer's Share of Payroll Taxes" means Defendant's portion of payroll taxes,  
23 including, but not limited to FICA and FUTA, on the portion of the Individual Settlement  
24 Payments that constitutes wages. The Employer's Share of Payroll Taxes shall be submitted by  
25 Defendant to the Settlement Administrator in addition to the Maximum Settlement Amount.

26 15. "Final Approval Hearing" means the hearing to be conducted by the Court after  
27 the filing of an appropriate motion by Plaintiff and following appropriate notice to Class  
28 Members giving Class Members an opportunity to request exclusion from the class and

1 Settlement and to object to the Settlement, at which time Plaintiff shall request that the Court  
2 finally approve the Settlement, enter the Judgment, and take other appropriate action.

3 16. "Individual Settlement Payment" means the amount payable from the Net  
4 Settlement Amount to each Participating Class Member and Aggrieved Employee.

5 17. "Information Sheet" means the form that shall be prepared by the Settlement  
6 Administrator and sent to each Class Member that sets forth the total number of Compensable  
7 Workweeks and the estimated Individual Settlement Payment for the Class Member, substantially  
8 in the form attached hereto as **Exhibit 2**.

9 18. "Judgment" means the judgment to be entered by the Court upon granting final  
10 approval of the Settlement and this Stipulation as binding upon the Parties and Participating Class  
11 Members.

12 19. "LWDA" means the California Labor and Workforce Development Agency.

13 20. "Maximum Settlement Amount" means the maximum amount Defendant shall  
14 have to pay in connection with this Settlement, by way of a common fund, which shall be  
15 inclusive of all Individual Settlement Payments to Participating Class Members, the Class  
16 Counsel Award, the Class Representative Service Award, Settlement Administration Costs, and  
17 the PAGA Payment. Subject to Court approval and the terms of this Stipulation, the Maximum  
18 Settlement Amount that Defendant shall be required to pay is Eight Hundred Twenty Five  
19 Thousand Dollars (\$825,000.00).

20 21. "Net Settlement Amount" means the Maximum Settlement Amount, less the Class  
21 Counsel Award, the Class Representative Service Award, Settlement Administration Costs, and  
22 the PAGA Payment.

23 22. "Notice of Objection" means a Class Member's written objection to the  
24 Settlement.

25 23. "Notice Packet" means the packet of documents which shall be mailed to all Class  
26 Members by the Settlement Administrator, including the Class Notice and Information Sheet.

27 24. "PAGA" means the Labor Code Private Attorneys General Act of 2004, California  
28 Labor Code sections 2698, et seq.

1           25.    “PAGA Payment” means the amount payable from the Maximum Settlement  
2 Amount to resolve the PAGA claim alleged in the Action, of which seventy-five percent (75%)  
3 shall be paid to the LWDA and twenty-five percent (25%) shall be paid to Aggrieved Employees.

4           26.    “PAGA Period” means the period from September 15, 2018 through September  
5 14, 2020.

6           27.    “Participating Class Members” means Plaintiff and all other Class Members who  
7 do not submit a valid and timely Request for Exclusion.

8           28.    “Parties” means Plaintiff and Defendant.

9           29.    “Plaintiff” means plaintiff Johnathan Wilson.

10          30.    “Preliminary Approval Order” means the order to be issued by the Court  
11 approving and authorizing the mailing of the Notice Packet by the Settlement Administrator,  
12 setting the date of the Final Approval Hearing and granting preliminary approval of the  
13 Settlement set forth in this Stipulation, among other things.

14          31.    “Released Parties” means Defendant and its present or former parents, owners,  
15 subsidiaries, and any affiliated or related persons or entities and each of its officers, directors,  
16 employees, partners, shareholders, attorneys and agents, and any other successors, assigns, or  
17 legal representatives.

18          32.    “Request for Exclusion” means a written request by a Class Member to opt out of,  
19 or exclude oneself from, the Settlement.

20          33.    “Response Deadline” means the date forty-five (45) days after the Settlement  
21 Administrator mails the Notice Packets to Class Members and the last date on which Class  
22 Members may submit a Request for Exclusion, Notice of Objection, or dispute regarding the  
23 number of Compensable Workweeks stated on their respective Information Sheet.

24          34.    “Settlement” means the final and complete disposition of the Action pursuant to  
25 this Stipulation.

26          35.    “Settlement Administration Costs” means the reasonable costs and fees of  
27 administering the Settlement to be paid from the Maximum Settlement Amount, including, but  
28 not limited to: (i) printing, mailing and re-mailing (if necessary) of Notice Packets to Class

1 Members; (ii) preparing and submitting to Participating Class Members and government entities  
2 all appropriate tax filings and forms; (iii) computing the amount of and distributing Individual  
3 Settlement Payments, the Class Representative Service Award, the Class Counsel Award, and the  
4 PAGA payment to the LWDA; (iv) processing and validating Requests for Exclusion and Notices  
5 of Objection; (v) establishing a Qualified Settlement Fund (“QSF”), as defined by the Internal  
6 Revenue Code; and (vi) calculating and remitting to the appropriate government agencies all  
7 employer and employee payroll tax obligations arising from the Settlement and preparing and  
8 submitting filings required by law in connection with the payments required by the Settlement.

9 36. “Settlement Administrator” means CPT Group, Inc.

### 10 RECITALS

11 37. Procedural History. On November 19, 2019, Plaintiff filed a putative wage and  
12 hour class action lawsuit against Defendant in Los Angeles County Superior Court. Plaintiff’s  
13 complaint alleges causes of action for: (1) failure to provide meal periods; (2) failure to authorize  
14 and permit rest periods; (3) failure to pay minimum wages; (4) failure to pay overtime wages; (5)  
15 failure to pay all wages due to discharged and quitting employees; (6) failure to furnish accurate  
16 itemized statements; (7) failure to maintain required records; (8) failure to indemnify employees  
17 for necessary expenditures incurred in discharge of duties; (9) unfair and unlawful business  
18 practices; and (10) penalties under PAGA, as a representative action.

19 38. Defendant filed an answer to Plaintiff’s complaint on March 11, 2020.

20 39. On July 14, 2020, the Parties participated in a private mediation session with  
21 mediator Gig Kyriacou, Esq. On July 15, 2020, Mr. Kyriacou made a mediator’s proposal  
22 outlining the material terms of a proposed class action settlement. On July 16, 2020, the Parties  
23 accepted the mediator’s proposal, subject to the Parties entering into a more comprehensive  
24 written settlement agreement.

25 40. Benefits of Settlement to Plaintiff and the Class Members. Plaintiff and Class  
26 Counsel recognize the expense and length of continued proceedings necessary to litigate  
27 Plaintiff’s claims in the Action through trial and through any possible appeals. Plaintiff also has  
28 taken into account the uncertainty and risks of the outcome of further litigation, and the

1 difficulties and delays inherent in such litigation. Plaintiff and Class Counsel are also aware of  
2 the burdens of proof necessary to establish liability for the claims asserted in the Action, both  
3 generally and in response to Defendant's defenses thereto, and the difficulties in establishing  
4 damages, penalties, restitution and other relief sought in the Action. Plaintiff and Class Counsel  
5 also have taken into account Defendant's agreement to enter into a settlement that confers  
6 substantial benefits upon the Class Members. Based on the foregoing, Plaintiff and Class  
7 Counsel have determined that the Settlement set forth in this Stipulation is fair, adequate, and  
8 reasonable and is in the best interests of all Class Members.

9 41. Defendant's Reasons for Settlement. Defendant has concluded that any further  
10 defense of the Action would be protracted and expensive for all Parties. Substantial amounts of  
11 Defendant's time, energy, and resources have been, and unless this Settlement is completed, shall  
12 continue to be, devoted to the defense of the claims asserted by Plaintiff. Defendant has also  
13 taken into account the risks of further litigation in reaching its decision to enter into this  
14 Settlement. Even though Defendant contends it is not liable for any of the claims alleged by  
15 Plaintiff in the Action, Defendant has agreed, nonetheless, to settle in the manner and upon the  
16 terms set forth in this Stipulation and to put to rest the claims alleged in this Action. Defendant  
17 has asserted and continues to assert that the claims alleged by Plaintiff have no merit and do not  
18 give rise to any liability, damages, restitution, penalties or other payments. This Stipulation is a  
19 compromise of disputed claims. Nothing contained in this Stipulation, no documents referred to  
20 herein, and no action taken to carry out this Stipulation, shall be construed or used as an  
21 admission by or against Defendant as to the merits or lack thereof of the claims asserted in the  
22 Action. Defendant contends that it has complied with all applicable state, federal and local laws.

### 23 TERMS OF SETTLEMENT

24 NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements  
25 set forth herein, the Parties agree, subject to the Court's approval, as follows:

26 42. Binding Settlement. This Settlement shall bind the Parties and all Participating  
27 Class Members and Aggrieved Employees, subject to the terms and conditions hereof and the  
28 Court's approval.

1           43.    Tax Liability. The Parties make no representations as to the tax treatment or legal  
2 effect of the payments specified herein, and Class Members are not relying on any statement or  
3 representation by the Parties, Class Counsel, or Defense Counsel in this regard. Participating  
4 Class Members and Class Counsel understand and agree that they shall be responsible for the  
5 payment of all taxes and penalties assessed on the payments specified herein, and shall hold the  
6 Parties, Class Counsel, and Defense Counsel free and harmless from and against any claims  
7 resulting from treatment of such payments as non-taxable, including the treatment of such  
8 payments as not subject to withholding or deduction for payroll and employment taxes.

9           44.    Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision  
10 of this Stipulation, and no written communication or disclosure between or among the Parties,  
11 Class Counsel, or Defense Counsel and other advisers, is or was intended to be, nor shall any  
12 such communication or disclosure constitute or be construed or be relied upon as, tax advice  
13 within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as  
14 amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own,  
15 independent legal and tax counsel for advice (including tax advice) in connection with this  
16 Stipulation, (b) has not entered into this Stipulation based upon the recommendation of any other  
17 party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any  
18 communication or disclosure by any attorney or advisor to any other party to avoid any tax  
19 penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any  
20 other party has imposed any limitation that protects the confidentiality of any such attorney's or  
21 adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure  
22 by the acknowledging party of the tax treatment or tax structure of any transaction, including any  
23 transaction contemplated by this Stipulation.

24           45.    Preliminary Approval of Settlement. Plaintiff shall move the Court to enter the  
25 Preliminary Approval Order, thereby provisionally certifying the class for settlement purposes  
26 only and setting a Final Approval Hearing date. The Parties agree to work diligently and  
27 cooperatively to have this Settlement presented to the Court for preliminary approval. The  
28 Preliminary Approval Order shall provide for, among other things, the Notice Packet to be sent to



1 Class Members as specified herein. The Parties agree that provisional certification of the class is  
2 for settlement purposes only and is in no way an admission by Defendant in the Action or in any  
3 other proceeding that class certification is proper.

4 46. Release of Claims.

5 a. Participating Class Members' Released Claims. Upon Defendants  
6 providing the Maximum Settlement Amount to the Settlement Administrator, all Participating  
7 Class Members shall be deemed to have released the Released Parties of any and all claims,  
8 demands, rights, liabilities, and/or causes of action that were pleaded or could have been pleaded  
9 based upon the factual allegations set forth in the operative complaint filed in this Action and  
10 arising at any time during the Class Period, including claims for (1) failure to provide meal  
11 periods; (2) failure to authorize and permit rest periods; (3) failure to pay minimum wages; (4)  
12 failure to pay overtime wages; (5) failure to pay all wages due to discharged and quitting  
13 employees; (6) failure to furnish accurate itemized statements; (7) failure to maintain required  
14 records; (8) failure to indemnify employees for necessary expenditures incurred in discharge of  
15 duties; and (9) unfair and unlawful business practices.

16 b. Aggrieved Employees' Released Claims. In addition to the release set  
17 forth in Paragraph 46.a. above, upon Defendants providing the Maximum Settlement Amount to  
18 the Settlement Administrator, all Aggrieved Employees shall be deemed to have released the  
19 Released Parties of any and all claims and/or causes of action under PAGA which are based upon  
20 the factual allegations set forth in the operative complaint and arising at any time during the  
21 PAGA Period.

22 c. Plaintiff's Released Claims. The Parties understand and agree that Plaintiff  
23 is not waiving or releasing any claims other than those specified in Paragraphs 46.a. and 46.b.  
24 above, and that Plaintiff is not releasing any claims under the Fair Employment and Housing Act  
25 or any other claims alleged in the lawsuit *Wilson v. Hydro Systems, Inc.*, Los Angeles County  
26 Superior Court Case No. 19STCV38899.

27 47. Settlement Administration.

28

1           a.       Within fourteen (14) days of entry of the Preliminary Approval Order,  
2 Defendant shall provide the Settlement Administrator with the Class Information for purposes of  
3 mailing the Notice Packets to Class Members.

4                   i.       Notice by First Class U.S. Mail. Upon receipt of the Class  
5 Information, the Settlement Administrator shall perform a search based on the National Change  
6 of Address Database maintained by the United States Postal Service to update and correct any  
7 known or identifiable address changes. Within twenty (20) days after receiving the Class  
8 Information from Defendant as provided herein, the Settlement Administrator shall mail copies of  
9 the Notice Packet to all Class Members via regular First Class U.S. Mail. The Settlement  
10 Administrator shall exercise its best judgment to determine the current mailing address for each  
11 Class Member. The address identified by the Settlement Administrator as the current mailing  
12 address shall be presumed to be the most current mailing address for each Class Member. The  
13 Parties agree that this procedure for notice provides the best notice practicable to Class Members  
14 and fully complies with due process.

15                   ii.       Undeliverable Notice Packets. Any Notice Packet returned to the  
16 Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-  
17 mailed to the forwarding address affixed thereto. If no forwarding address is provided, the  
18 Settlement Administrator shall promptly attempt to determine a correct address by the use of  
19 skip-tracing, or other type of automated search, using the name, address and/or Social Security  
20 number of the Class Member involved, and shall then perform a re-mailing to the Class Member  
21 whose Notice Packet was returned as non-deliverable, assuming another mailing address is  
22 identified by the Settlement Administrator. If a Notice Packet is re-mailed to a Class Member  
23 less than ten (10) days prior to the Response Deadline, the Class Member shall have their  
24 Response Deadline extended by ten (10) days from the date the Settlement Administrator re-mails  
25 the Notice Packet. If these procedures are followed, notice to Class Members shall be deemed to  
26 have been fully satisfied, and if the intended recipient of the Notice Packet does not receive the  
27 Notice Packet, the intended recipient shall nevertheless remain a Class Member and shall be  
28 bound by all terms of the Settlement and the Judgment.

1                   iii.     Determination of Individual Settlement Payments. The Settlement  
2 Administrator shall determine the eligibility for, and the amount of, each Individual Settlement  
3 Payment under the terms of this Stipulation. The Settlement Administrator’s determination of the  
4 eligibility for and amount of each Individual Settlement Payment shall be binding upon the Class  
5 Member and the Parties, yet subject to review by Class Counsel, Defense Counsel, and the Court.  
6 In the absence of fraud or gross negligence, Defendant’s records shall be presumed accurate.

7                   iv.     Disputes Regarding Administration of Settlement. Any dispute not  
8 resolved by the Settlement Administrator concerning the administration of the Settlement shall be  
9 resolved by the Court. Prior to any such involvement of the Court, counsel for the Parties shall  
10 confer in good faith and make use of the services of mediator Gig Kyriacou, if necessary, to  
11 resolve the dispute without the necessity of involving the Court.

12                   b.     Exclusions. The Class Notice shall explain that Class Members who wish  
13 to exclude themselves from the class and Settlement must submit a Request for Exclusion to the  
14 Settlement Administrator by the Response Deadline. The Request for Exclusion must: (1)  
15 contain the name, address, and telephone number of the person requesting exclusion; (2) be  
16 signed by the Class Member; and (3) be postmarked by the Response Deadline and returned to  
17 the Settlement Administrator at the specified address. Subject to review by Class Counsel,  
18 Defense Counsel, and the Court, the date of the postmark on the return mailing envelope on the  
19 Request for Exclusion shall be the exclusive means used by the Settlement Administrator to  
20 determine whether a Class Member has timely requested exclusion from the class and Settlement.  
21 Any Class Member who timely and properly requests to be excluded from the class and  
22 Settlement shall not be entitled to any benefits under the Settlement and shall not be bound by the  
23 terms of the Settlement nor shall the Class Member have any right to object to the Settlement or  
24 appeal from the entry of the Judgment. Class Members who do not submit a valid and timely  
25 Request for Exclusion on or before the Response Deadline shall be bound by all terms of the  
26 Settlement and the Judgment entered in this Action if the Settlement is finally approved by the  
27 Court. No later than ten (10) days after the Response Deadline, the Settlement Administrator  
28

1 shall provide counsel for the Parties a complete list of all Class Members who submitted a timely  
2 and valid Request for Exclusion.

3 c. Objections. The Class Notice shall state that Class Members who wish to  
4 object to the Settlement must submit to the Settlement Administrator a Notice of Objection by the  
5 Response Deadline or appear at the Final Approval Hearing to explain their objection(s). A  
6 Notice of Objection must (1) state the full name of the Class Member; (2) be signed by the Class  
7 Member; (3) state the grounds for the objection; and (4) be postmarked by the Response Deadline  
8 and returned to the Settlement Administrator at the specified address. Subject to review by Class  
9 Counsel, Defense Counsel, and the Court, the date of the postmark on the return mailing envelope  
10 on the Notice of Objection shall be the exclusive means used by the Settlement Administrator to  
11 determine whether a Class Member has timely objected to the Settlement. Class Members who  
12 do not submit a Notice of Objection or appear at the Final Approval Hearing to explain their  
13 objection(s) shall be deemed to have waived any objections and shall be foreclosed from making  
14 any objections (whether by appeal or otherwise) to the Settlement. At no time shall any of the  
15 Parties, Class Counsel, or Defense Counsel seek to solicit or otherwise encourage or discourage  
16 Class Members from objecting to the Settlement or filing an appeal from the Judgment.

17 d. Disputes Regarding the Number of Compensable Workweeks. If a Class  
18 Members disagrees with the number of Compensable Workweeks stated on the Information  
19 Sheet, the Class Member must send a letter to the Settlement Administrator by the Response  
20 Deadline stating the reasons why they dispute the number of Compensable Workweeks and  
21 provide any supporting documentation. The Settlement Administrator will evaluate the evidence  
22 submitted by the Class Member and make a decision as to the number of Compensable  
23 Workweeks that should be applied and/or the Individual Settlement Payment to which the Class  
24 Member is entitled.

25 e. Monitoring and Reviewing Settlement Administration. The Parties have  
26 the right to monitor and review the administration of the Settlement to verify that the monies  
27 allocated under the Settlement are distributed in the correct amount, as provided for in this  
28 Stipulation.

1 f. Best Efforts. The Parties agree to use their best efforts to carry out the  
2 terms of this Settlement.

3 48. Funding and Allocation of Maximum Settlement Amount. No later than the latter  
4 of fifteen (15) days after the Effective Date or March 15, 2021, Defendant shall provide to the  
5 Settlement Administrator in any feasible manner, including, but not limited to, by way of a wire  
6 transfer, the Maximum Settlement Amount. If this Settlement is not finally approved by the  
7 Court in full, or is terminated, rescinded, canceled or fails to become effective for any reason, or  
8 if the Effective Date does not occur, then no portion of the Maximum Settlement Amount shall be  
9 paid.

10 a. Individual Settlement Payments. Class Members shall not be required to  
11 submit a claim in order to receive a share of the Net Settlement Amount, and no portion of the  
12 Maximum Settlement Amount shall revert to Defendant or result in an unpaid residue. Individual  
13 Settlement Payments shall be paid by the Settlement Administrator from the Net Settlement  
14 Amount pursuant to the formula set forth herein. Individual Settlement Payment payments shall  
15 be mailed by the Settlement Administrator by regular First Class U.S. Mail to each Participating  
16 Class Member's last known mailing address within fourteen (14) days after Defendant provides  
17 the Settlement Administrator with the Maximum Settlement Amount. Prior to mailing the  
18 Individual Settlement Payments, the Settlement Administrator shall perform a search based on the  
19 National Change of Address Database maintained by the United States Postal Service to update  
20 and correct any known or identifiable address changes.

21 i. Each Participating Class Member's Individual Settlement Payment  
22 shall be calculated solely by the Settlement Administrator according to the following formula:  
23 Defendant shall provide the Settlement Administrator with the Compensable Workweeks for each  
24 Participating Class Member. The Settlement Administrator shall then divide the Net Settlement  
25 Amount by the total number of Compensable Workweeks for all Participating Class Members  
26 resulting in a value for each week worked by the Participating Class Members during the Class  
27 Period ("Workweek Value"). The Settlement Administrator shall then multiply the number of  
28 Compensable Workweeks for each Participating Class Member by the Workweek Value. In

1 addition, all Aggrieved Employees shall receive a pro rata share of the portion of the PAGA  
2 Payment allocated to Aggrieved Employees based on their Compensable Workweeks during the  
3 PAGA Period.

4 ii. Individual Settlement Payments shall be made by check and shall  
5 be made payable to each Participating Class Member as set forth in this Stipulation.

6 iii. Individual Settlement Payments shall be allocated as follows:  
7 twenty-five percent (25%) as wages subject to all applicable tax withholdings, and seventy-five  
8 percent (75%) as non-wage penalties, interest, and reimbursement of employment-related  
9 expenses not subject to payroll tax withholdings. The Settlement Administrator shall issue an  
10 IRS Form W-2 to each Participating Class Member and Aggrieved Employee for the portion of  
11 each Individual Settlement Payment allocated as wages and subject to all applicable tax  
12 withholdings. The Settlement Administrator shall issue an IRS Form 1099 to each Participating  
13 Class Member and Aggrieved Employee for the portion of each Individual Settlement Payment  
14 allocated as non-wage penalties, interest, and reimbursement of employment-related expenses not  
15 subject to payroll tax withholdings. The Settlement Administrator shall calculate the amount of  
16 the Employer's Share of Payroll Taxes and shall remit and report the applicable portions of the  
17 payroll tax payment to the appropriate taxing authorities in a timely manner.

18 iv. Individual Settlement Payment checks shall remain negotiable for  
19 one hundred eighty (180) days from the date of mailing. If an Individual Settlement Payment  
20 check remains uncashed after one hundred eighty (180) days from issuance, the Settlement  
21 Administrator shall distribute the value of the uncashed check to the State Controller's Office  
22 Unclaimed Property Fund in the name of the Participating Class Member and/or Aggrieved  
23 Employee. In such event, such Participating Class Members and/or Aggrieved Employees shall  
24 nevertheless remain bound by the Settlement.

25 v. All monies received by Participating Class Members under the  
26 Settlement which are attributable to wages shall constitute income to such Participating Class  
27 Members solely in the year in which such monies actually are received by the Participating Class  
28 Members. It is expressly understood and agreed that the receipt of Individual Settlement

1 Payments shall not entitle any Participating Class Member to additional compensation or benefits  
2 under any collective bargaining agreement or under any bonus, contest or other compensation or  
3 benefit plan or agreement in place during the period covered by the Settlement, nor shall it entitle  
4 any Participating Class Member to any increased pension and/or retirement, or other deferred  
5 compensation benefits. It is the intent of the Parties that Individual Settlement Payments  
6 provided for in this Stipulation are the sole payments to be made by Defendant to Participating  
7 Class Members in connection with this Settlement, with the exception of Plaintiff, and that the  
8 Participating Class Members are not entitled to any new or additional compensation or benefits as  
9 a result of having received the Individual Settlement Payments. Furthermore, the receipt of  
10 Individual Settlement Payments by Participating Class Members shall not, and does not, by itself  
11 establish any general, special, or joint employment relationship between and among the  
12 Participating Class Member(s) and Defendant.

13           b.     Class Representative Service Award. Subject to Court approval, Plaintiff  
14 shall be paid a Class Representative Service Award not to exceed Seven Thousand Five Hundred  
15 Dollars (\$7,500.00), or any lesser amount as awarded by the Court, for his time and effort in  
16 bringing and presenting the Action and for releasing his claims. Defendant shall not oppose or  
17 object to Plaintiff's request for a Class Representative Service Award in an amount not to exceed  
18 Seven Thousand Five Hundred Dollars (\$7,500.00). The Class Representative Service Award  
19 shall be paid to Plaintiff from the Maximum Settlement Amount no later than ten (10) days after  
20 Defendant provides the Settlement Administrator with the Maximum Settlement Amount. The  
21 Settlement Administrator shall issue an IRS Form 1099 to Plaintiff for his Class Representative  
22 Service Award. Plaintiff shall be solely and legally responsible to pay any and all applicable  
23 taxes on his Class Representative Service Award and shall hold harmless Defendant, Class  
24 Counsel, and Defense Counsel from any claim or liability for taxes, penalties, or interest arising  
25 as a result of payment of the Class Representative Service Award. The Class Representative  
26 Service Award shall be made in addition to Plaintiff's Individual Settlement Payment. Any  
27 amount requested by Plaintiff for the Class Representative Service Award and not awarded by the  
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1 Court shall become part of the Net Settlement Amount and shall be distributed to Participating  
2 Class Members as part of their Individual Settlement Payments.

3 c. Class Counsel Award. Subject to Court approval, Class Counsel shall be  
4 entitled to receive reasonable attorneys' fees in an amount not to exceed one-third (1/3) of the  
5 Maximum Settlement Amount, which amounts to Two Hundred Seventy Five Thousand Dollars  
6 (\$275,000.00). In addition, subject to Court approval, Class Counsel shall be entitled to an award  
7 of reasonable costs associated with Class Counsel's prosecution of the Action in an amount not to  
8 exceed Fifteen Thousand Dollars (\$15,000.00). Class Counsel shall provide the Settlement  
9 Administrator with a properly completed and signed IRS Form W-9 in order for the Settlement  
10 Administrator to process the Class Counsel Award approved by the Court. Defendant shall not  
11 oppose or object to Plaintiff's request for an award of attorneys' fees in an amount not to exceed  
12 Two Hundred Seventy Five Thousand Dollars (\$275,000.00) and request for an award of  
13 reasonable costs not to exceed Fifteen Thousand Dollars (\$15,000.00). In the event the Court  
14 awards Class Counsel less than Two Hundred Seventy Five Thousand Dollars (\$275,000.00) in  
15 attorneys' fees and/or less than Fifteen Thousand Dollars (\$15,000.00) in costs, the difference  
16 shall become part of the Net Settlement Amount and shall be distributed to Participating Class  
17 Members as part of their Individual Settlement Payments. Class Counsel shall be paid any Court-  
18 awarded attorneys' fees and costs no later than ten (10) days after Defendant provides the  
19 Settlement Administrator with the Maximum Settlement Amount. Class Counsel shall be solely  
20 and legally responsible to pay all applicable taxes on the Class Counsel Award. The Settlement  
21 Administrator shall issue an IRS Form 1099 to Class Counsel for the Class Counsel Award. This  
22 Settlement is not conditioned upon the Court awarding Class Counsel any particular amount of  
23 attorneys' fees or costs, unless the amount awarded is more than specified in this paragraph.

24 d. PAGA Payment. Twenty Four Thousand Dollars (\$24,000.00) from the  
25 Maximum Settlement Amount shall be allocated as penalties under PAGA, of which Eighteen  
26 Thousand Dollars (\$18,000.00) shall be paid by the Settlement Administrator directly to the  
27 LWDA. The remaining Six Thousand Dollars (\$6,000.00) shall be part of the Net Settlement  
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1 Amount and shall be distributed to Aggrieved Employees as part of their Individual Settlement  
2 Payments.

3 e. Settlement Administration Costs. The Settlement Administration fees and  
4 expenses, which are estimated not to exceed Six Thousand Five Hundred Dollars (\$6,500.00),  
5 shall be paid from the Maximum Settlement Amount. Prior to Plaintiff filing a motion for final  
6 approval of the Settlement, the Settlement Administrator shall provide the Parties with a  
7 statement detailing the Settlement Administration Costs to date. The Parties agree to cooperate in  
8 the Settlement Administration process and to make all reasonable efforts to control and minimize  
9 Settlement Administration Costs.

10 i. The Parties each represent they do not have any financial interest in  
11 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator  
12 that could create a conflict of interest.

13 ii. The Settlement Administrator shall keep the Parties timely apprised  
14 of the performance of all Settlement Administrator responsibilities required by the Settlement.  
15 The Settlement Administrator shall be authorized to establish a QSF pursuant to IRS rules and  
16 regulations in which the Maximum Settlement Amount shall be placed and from which payments  
17 required by the Settlement shall be made.

18 49. Final Settlement Approval Hearing and Entry of Judgment. Following expiration  
19 of the Response Deadline, a Final Approval Hearing shall be conducted to determine whether to  
20 grant final approval of the Settlement, including determining the amounts properly payable for:  
21 (i) the Class Counsel Award; (ii) the Class Representative Service Award; and (iii) the PAGA  
22 Payment. Prior to the Final Approval Hearing, the Settlement Administrator shall provide a  
23 written report or declaration to the Parties describing the process and results of the administration  
24 of the Settlement to date, which report or declaration shall be filed by Plaintiff with the Court  
25 prior to the Final Approval Hearing. If the Court grants final approval of the Settlement, the  
26 Settlement Administrator shall post notice of final judgment on its website within seven (7)  
27 calendar days of entry of the Judgment.

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1           50.   Adjustment of Settlement Amount.   The Maximum Settlement Amount was  
2 negotiated and is premised on the understanding that, as of July 16, 2020, there were  
3 approximately 299 Class Members during the Class Period. In the event that the total number of  
4 Class Members exceeds that number by ten percent (10%) or more, Defendant shall have the  
5 option to increase the Maximum Settlement Amount proportionately or, if they decline to do so,  
6 Plaintiff shall have the option to withdraw from the Settlement.

7           51.   Nullification of Settlement.   In the event: (i) the Court does not enter the  
8 Preliminary Approval Order; (ii) the Court does not grant final approval the Settlement; (iii) the  
9 Court does not enter the Judgment; or (iv) the Settlement does not become final for any other  
10 reason, this Stipulation shall be rendered null and void, any order or judgment entered by the  
11 Court in furtherance of this Settlement shall be treated as void from the beginning and this  
12 Stipulation and any documents related to it shall not be used by any Class Member or Class  
13 Counsel to support any claim or request for class certification in the Action, and shall not be used  
14 in any other civil, criminal or administrative action against Defendant or any of the other  
15 Released Parties. In the event an appeal is filed from the order granting final approval or  
16 Judgment, or any other appellate review is sought, administration of the Settlement shall be  
17 stayed pending final resolution of the appeal or other appellate review. Any fees incurred by the  
18 Settlement Administrator prior to it being notified of the filing of an appeal from the Judgment, or  
19 any other appellate review, shall be paid by Defendant to the Settlement Administrator.

20           52.   No Admission by Defendant.   Defendant denies all claims alleged in this Action  
21 and denies all wrongdoing whatsoever by Defendant. Neither this Stipulation, nor any of its  
22 terms and conditions, nor any of the negotiations connected with it, is a concession or admission,  
23 and none shall be used against Defendant as an admission or indication with respect to any claim  
24 of any fault, concession, or omission by Defendant or that class certification is proper under the  
25 standard applied to contested certification motions. The Parties stipulate and agree to the  
26 certification of the proposed class for settlement purposes only. The Parties further agree that this  
27 Stipulation shall not be admissible in this or any other proceeding as evidence that either (i) a  
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1 class action should be certified or (ii) Defendant is liable to Plaintiff or any Class Member, other  
2 than according to the terms of this Stipulation.

3 53. Exhibits and Headings. The terms of this Stipulation include the terms set forth in  
4 any attached Exhibits, which are incorporated by this reference as though fully set forth herein.  
5 The Exhibits to this Stipulation are an integral part of the Settlement. The descriptive headings of  
6 any paragraphs or sections of this Stipulation are inserted for convenience of reference only.

7 54. Interim Stay of Action. The Parties agree to stay and to request that the Court stay  
8 all proceedings in the Action, except such proceedings necessary to implement and complete the  
9 Settlement and enter the Judgment.

10 55. Amendment or Modification. This Stipulation may be amended or modified only  
11 by a written instrument signed by counsel for all Parties or their successors-in-interest.

12 56. Entire Agreement. This Stipulation and any attached Exhibits constitute the entire  
13 agreement between the Parties, and no oral or written representations, warranties, or inducements  
14 have been made to Plaintiff or Defendant concerning this Stipulation or its Exhibits other than the  
15 representations, warranties, and covenants contained and memorialized in this Stipulation and its  
16 Exhibits. No other prior or contemporaneous written or oral agreements may be deemed binding  
17 on the Parties.

18 57. Authorization to Enter into Settlement Agreement. Class Counsel and Defense  
19 Counsel warrant and represent they are expressly authorized by the Parties whom they represent  
20 to negotiate this Stipulation and to take all appropriate actions required or permitted to be taken  
21 by such Parties pursuant to this Stipulation to effectuate its terms, and to execute any other  
22 documents required to effectuate the terms of this Stipulation. The Parties, Class Counsel, and  
23 Defense Counsel shall cooperate with each other and use their best efforts to effect the  
24 implementation of the Settlement. In the event the Parties are unable to reach agreement on the  
25 form or content of any document needed to implement the Settlement, or on any supplemental  
26 provisions that may become necessary to effectuate the terms of this Settlement, the Parties may  
27 seek the assistance of the Court and/or mediator Gig Kyriacou to resolve such disagreement. The  
28 person signing this Stipulation on behalf of Defendant represents and warrants that he/she is

1 authorized to sign this Stipulation on behalf of Defendant. Plaintiff represents and warrants that  
2 he is authorized to sign this Stipulation and that she has not assigned any claim, or part of a claim,  
3 covered by this Settlement to a third-party. The Parties have cooperated in the drafting and  
4 preparation of this Stipulation. Hence, in any construction made of this Stipulation, the same  
5 shall not be construed against any of the Parties.

6 58. Binding on Successors and Assigns. This Stipulation shall be binding upon, and  
7 inure to the benefit of, the successors and assigns of the Parties.

8 59. California Law Governs. All terms of this Stipulation and the Exhibits hereto shall  
9 be governed by and interpreted according to the laws of the State of California, without giving  
10 effect to any law that would cause the laws of any jurisdiction other than the State of California to  
11 be applied.

12 60. Counterparts. This Stipulation may be executed in one or more counterparts. All  
13 executed counterparts and each of them shall be deemed to be one and the same instrument.

14 61. Jurisdiction of the Court. Following entry of the Judgment, the Court shall retain  
15 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of  
16 this Stipulation and all orders and judgments entered in connection therewith, and the Parties,  
17 Class Counsel, and Defense Counsel submit to the jurisdiction of the Court for purposes of  
18 interpreting, implementing, and enforcing the Settlement embodied in this Stipulation and all  
19 orders and judgments entered in connection therewith.

20 62. Invalidity of Any Provision. Before declaring any term or provision of this  
21 Stipulation invalid, the Parties request that the Court first attempt to construe the terms or  
22 provisions valid to the fullest extent possible consistent with applicable precedents so as to define  
23 all provisions of this Stipulation as valid and enforceable.

24 63. Binding Nature of Notice of Class Action Settlement. It is agreed that because the  
25 Class Members are so numerous, it is impossible or impractical to have each Class Member  
26 execute the Stipulation. The Class Notice shall advise all Class Members of the binding nature of  
27 the Settlement, and the release of Released Claims and shall have the same force and effect as if  
28 this Stipulation were executed by each Participating Class Member.

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Dated: 11/5/2020, 2020



\_\_\_\_\_  
Plaintiff Johnathan Wilson

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Defendant Hydro Systems, Inc.

By: \_\_\_\_\_

Its: \_\_\_\_\_

Approved as to form and content:

Dated: \_\_\_\_\_, 2020

MATERN LAW GROUP, PC

By: \_\_\_\_\_

MATTHEW J. MATERN  
LAUNA ADOLPH  
DEANNA S. LEIFER  
Attorneys for Plaintiff

Dated: \_\_\_\_\_, 2020

POOLE, SHAFFERY & KOEGLE, LLP

By: \_\_\_\_\_

BRIAN E. KOEGLE  
MICHAEL R. FOSTAKOWSKY  
Attorneys for Defendant

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Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Plaintiff Johnathan Wilson

Dated: 11-5, 2020

  
\_\_\_\_\_  
Defendant Hydro Systems, Inc.

By: Kevin Steinhardt

Its: VP

Approved as to form and content:


Dated: \_\_\_\_\_, 2020

MATERN LAW GROUP, PC

By: \_\_\_\_\_  
MATTHEW J. MATERN  
LAUNA ADOLPH  
DEANNA S. LEIFER  
Attorneys for Plaintiff

Dated: November 3, 2020

POOLE, SHAFFERY & KOEGLE, LLP

  
By: \_\_\_\_\_  
BRIAN E. KOEGLE  
MICHAEL R. FOSTAKOWSKY  
Attorneys for Defendant