

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ALEXIS PARKER and LATISHA
RHODES,, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

IAS LOGISTICS DFW, LLC,
d/b/a PINNACLE LOGISTICS,

Defendant.

Case No.: 2020-CV-005103

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT AND FOR
CERTIFICATION OF CLASS AND COLLECTIVE FOR SETTLEMENT PURPOSES
AND INCORPORATED BRIEF IN SUPPORT**

Plaintiffs, Latisha Rhodes and Alexis Parker (collectively, “Plaintiffs”), and Defendant, IAS Logistics DFW LLC d/b/a Pinnacle Logistics (“Defendant”), (collectively, “the Parties”), have reached what they believe to be a full and fair resolution for the members of the FLSA Collective Action and Rule 23 Class. Plaintiffs, on behalf of themselves and all others similarly situated, and without objection from Defendant, respectfully submit the Parties’ proposed \$3,250,000 non-reversionary settlement for the Court’s approval. As described herein, the proposed Settlement satisfies all criteria for preliminary approval. As such, Plaintiffs respectfully request that the Court: (1) grant preliminary approval of the Settlement Agreement and Release, appended as **Exhibit 1**; (2) certify the Settlement Class and Collective Action, and appoint Plaintiffs’ Counsel as Class Counsel under Fed. R. Civ. P. 23; (3) approve the proposed settlement process for Class Members and FLSA Collective Members; and (4) approve the Notice of Proposed Settlement of Class and Collective Action Settlement, appended as **Exhibit 2** and order its distribution; and (4) approve the proposed schedule for final approval, including scheduling the

Fairness Hearing.

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I. INTRODUCTION

Plaintiffs seek preliminary approval of the class and collective action Settlement Agreement and Release (“Settlement Agreement”), which provides for a settlement fund of **\$3.25 million** to resolve the wage-and-hour claims of approximately 5,291 hourly-paid employees who worked for Defendant in Illinois or Maryland before Defendant ceased its operations in those facilities in May 2020. *See Exhibit 1* (“Settlement Agreement”). After extensive arm’s length negotiations and the exchange of time and payroll data, and a mediation with Judge James Holderman (Ret.), the Parties believe that they have reached a fair compromise of the claims. *See Declaration of Jason T. Brown* (“Brown Decl.”). Plaintiffs assert that IAS Logistics DFW, LLC d/b/a Pinnacle Logistics (“Defendant”) violated the Fair Labor Standards Act (“FLSA”), the Illinois Minimum Wage Law (“IMWL”), the Illinois Wage Payment and Collection Act (“IWPCA”), the Maryland Wage and Hour Law (“MWHL”), and the Maryland Wage Payment and Collection Law (“MWPCCL”). Plaintiffs alleged two discrete wage and hour violations: 1) their wages were automatically deducted for meal breaks even during those instances a full meal break was not taken (“the Meal Break Deduction Claim,”) and 2) during workweeks in which they worked overtime (e.g., more than 40 hours in a workweek) and earned a shift differential rate of pay- - a modest increase to their regular rate of pay, the shift differential rate of pay was not included when calculating their overtime rate of pay (“the Shift Differential Claim”). Defendant denies Plaintiffs’ allegations. It is Defendant’s position that it properly paid Plaintiffs and other employees.

For settlement purposes and the reasons below, Plaintiffs request that the Court enter the accompanying proposed order: (1) preliminarily approving the settlement as fair, reasonable and adequate, and in the best interest of the Class Members and FLSA Collective Members; (2) reinstating Latisha Rhodes as a named Plaintiff along with the FLSA and Maryland law claims she

asserted in the original complaint; (ECF Doc. No. 1);¹ (3) certifying the proposed Illinois Class and the proposed Maryland Class for settlement purposes pursuant to Fed. R. Civ. P. 23; (4) certifying the FLSA Collective Action for settlement purposes pursuant to 29 U.S.C. § 216(b); (5) approving the proposed Notice and the plan for distribution thereof; (6) appointing class representatives and Class Counsel; and (7) setting of dates for the submission of exclusions, objections, and a Fairness Hearing.

II. BACKGROUND

On August 31, 2020, Plaintiffs Alexis Parker, who worked for Defendant in Rockford, Illinois, and Latisha Rhodes, who worked for Defendant in Baltimore, Maryland, filed a class and collective action lawsuit alleging: 1) Defendant automatically deducted 30 to 60 minutes per shift for meal breaks even during those instances when full meal breaks were not taken (“the Meal Break Deduction Claim”), and 2) Defendant improperly calculated employees’ regular rate of pay for overtime purposes (“the Shift Differential Claim”). Plaintiffs sought to represent a nationwide collective action under the FLSA. Parker alleged putative Rule 23 class action claims under the IMWL and the IWPCA. Rhodes alleged putative Rule 23 class action claims under the MWHL and the MWPCL.

On March 24, 2021, the Court conditionally certified a collective action pursuant to § 216(b) of the FLSA. (ECF Doc. No. 57) On September 9, 2021, the Court granted Defendant’s Motion to Dismiss the FLSA claims of non-Illinois Plaintiff Latisha Rhodes and out-of-state opt-

¹ On September 9, 2021, the Court granted Defendant’s Motion to Dismiss the FLSA claims of non-Illinois Plaintiff Latisha Rhodes and out-of-state opt-in plaintiffs for lack of personal jurisdiction. (ECF Doc. No. 99) For the limited and sole purpose of this Settlement, Defendant agrees not to challenge the Court’s personal jurisdiction over it as to the state and federal law claims of Plaintiff, Latisha Rhodes, Class Members who worked for Pinnacle in Baltimore, Maryland (and never in Illinois), and FLSA Collective Members who worked for Pinnacle in Baltimore, Maryland (and never in Illinois). This concession is for the sole purpose of administering an efficient and expedient Settlement. Neither the existence nor the fact of this provision as to jurisdiction in this Agreement shall be referred to, relied upon, or otherwise argued to create jurisdiction or the waiver of any defenses to jurisdiction in any other claim, lawsuit, arbitration demand, or administrative proceeding.

in plaintiffs for lack of specific personal jurisdiction over Defendant. (ECF Doc. No. 99) On June 28, 2021, the Court approved the Parties' stipulation to send notice to workers in Illinois, (ECF Doc. Nos. 73) who were notified of their right to opt-in to the case by September 16, 2021.

On February 11, 2022, the parties participated in a partial-day mediation overseen by Judge Holderman and shortly thereafter, reached a settlement in principle to resolve all matters pertaining to, arising from, and associated with the Litigation. Brown Decl. ¶ 5.

III. SUMMARY OF SETTLEMENT TERMS

The Settlement Agreement provides that Defendant will pay \$3,250,000 to resolve and satisfy all monetary obligations, including Class Counsel's attorneys' fees and litigation costs, Settlement Administration Expenses, payments to Plaintiffs, Class Members, and FLSA Collective Members, Enhancement Awards to Plaintiffs, and all other applicable taxes, interest, and payroll taxes. *Settlement Agreement*, § 3.1.A. The amount available for payments to Plaintiffs, Class Members, and FLSA Collective Members after deduction for Class Counsel's attorneys' fees and litigation costs, Settlement Administration Expenses, Enhancement Awards, and all other applicable taxes, interest, and payroll taxes is the "Net Settlement Fund." *Id.* 3.4.A. The Net Settlement Fund is estimated to be \$2,073,354.67, which is nearly 78% of the \$2,659,437.40 unpaid wages Class Counsel estimated to be recoverable if successful at trial, based on extensive review of the Class Members' time and payroll records. Brown Decl. ¶ 4.

The Net Settlement Fund will be divided into an Illinois Class Fund, a Maryland Class Fund, and an FLSA Collective Fund. *Settlement Agreement*, § 3.4. The Illinois and Maryland Class Funds are estimated to be \$412,063.70 and \$624,613.64, respectively, and will be distributed to the Illinois and Maryland Class Members (excluding those who opt out) *pro rata* based on the number of weeks each employee worked during the Covered Period. *Id.* §§ 3.4.A (ii) and (iii), 3.4.E. The other half of the Net Settlement Fund (i.e. \$1,036,677.34) is allocated to the FLSA

Collective Fund. *Id.* § 3.4.A(i). The FLSA Collective Fund is allocated *pro rata* similarly to the Illinois and Maryland Class Funds, however, those individuals who previously filed a consent form on or before the September 16, 2021 deadline (of whom there are approximately 744) will receive a double share of the FLSA Collective Fund allocation. *Id.*; Brown Decl. ¶ 7. For tax purposes, 50% of each settlement payment shall be allocated to wage damages and 50% to non-wage damages. *Settlement Agreement*, § 3.6.C. The Settlement is non-reversionary. The funds associated with any checks that remain uncashed after the 120-day void deadline, less any funds necessary for Settlement Administration, shall be distributed equally to two *cy pres* recipients: 50% to Northern Illinois Food Bank and 50% to Maryland Food Bank. *Id.* at §§ 3.4.F; 3.5.

In addition to the Net Settlement Fund, Class Counsel will request up to one-third of the Settlement Fund in attorneys' fees (\$1,834,333.33) and will request up to \$30,000 in reimbursement of reasonable litigation costs and expenses, *id.* at § 3.2.A, as well as \$10,000 Enhancement Awards to each of Plaintiffs Alexis Parker and Latisha Rhodes for services rendered as class representatives to, and for the benefit of, the Class Members. *Id.* at § 3.4. Class Counsel will file a motion for approval of the proposed attorneys' fees, costs, and Enhancement Awards at least fourteen (14) days prior to the Fairness Hearing.

The two proposed class representatives will provide general releases of all legally releasable claims, whether known or unknown, based upon any conduct, action, or omission by Defendant up to and including the date that Plaintiffs execute the release, in exchange for their Enhancement Awards, *id.* at § 3.7.D. The release applicable to members of the FLSA Collective Action and Class are limited to all FLSA claims and all claims under Illinois and Maryland state and local wage-and-hour laws and derivative claims, including all claims that were or could have been pled in this action from August 31, 2017 through the date of preliminary approval. Specifically, Class Members who do not submit requests for exclusion within sixty (60) days after

the Claims Administrator mails the Notice will release Defendant from state and local law wage-and-hour claims and derivative claims, *id.* at § 3.7.A. FLSA Collective Members who either previously filed consent forms or who cash their settlement checks will opt-in to the Collective Action and release Defendant from FLSA claims and all wage and hour claims, and derivative claims, including all claims that were or could have been pled in this Litigation during the Covered Period. *Id.* at § 3.7.B.

The Claims Administrator will mail each Class and FLSA Collective Member a copy of the Notice, which details each Class Member’s and FLSA Collective Member’s Individual Settlement Amount, their options to object and/or exclude themselves from the Settlement, and how the Settlement affects their rights. *Settlement Agreement, Ex. A.* If the Class Members and FLSA Collective Members are not satisfied with the specific amount of their allocation, they can elect to submit a valid request for exclusion from the Settlement and retain their claims or object to the Settlement within sixty (60) days after receiving the Notice. *Id.* at § 1.22. The Parties have agreed to use Analytics Consulting LLC (“Analytics”) as the Claims Administrator. Brown Decl. ¶ 17. Analytics previously performed the FLSA notice mailing in this case in 2021. *Id.* at ¶ 18. Analytics has estimated that its fees and costs will be approximately \$43,312.00. *Id.* at ¶ 19.

IV. THE COURT SHOULD GRANT PRELIMINARY APPROVAL

A. Class Action Settlement Approval Process

Approval of class action settlements is a three-step process: (1) preliminary approval of the settlement at an informal hearing; (2) dissemination of mailed and/or published notice of the settlement to all affected class members; and (3) a “formal fairness hearing” or final settlement approval hearing, at which class members may be heard regarding the settlement, and at which evidence and argument concerning the fairness, adequacy and reasonableness of the settlement may be presented. *Manual for Complex Lit.*, at § 21.632–34.

This procedure, used by courts in this Circuit and endorsed by the leading class action treatise, safeguards the due process rights of absent class members and enables the district court to fulfill its role as the guardian of class interests. *See* 2 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions*, at § 11.22, *et seq.* With this motion, the Parties request that the Court take the first step in the process by granting preliminary approval of the Settlement.

The decision to preliminarily approve a proposed settlement is in the Court's sound discretion. *See Moore v. Nat'l Ass'n of Sec. Dealers, Inc.*, 762 F.2d 1093, 1106 (D.C. Cir. 1985) ("Rule 23 places the determination [to approve or reject a proposed settlement] within the sound discretion of the trial judge who can be sensitive to the dynamics of the situation"). The purpose of preliminary evaluation of a proposed class action settlement is to determine whether the settlement is within the "range of reasonableness," and thus whether notice to the class of the settlement's terms and the scheduling of a formal fairness hearing is worthwhile. *Id.*, § 11.25 at 11-36, 11-37. If so, the Court should grant preliminary approval of the settlement, authorize the Parties to give notice of the proposed Settlement to Class Members, and schedule a formal fairness hearing. *Id.*; *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982). At the formal fairness hearing, Class Members may be heard and further evidence and argument concerning the fairness, adequacy, and reasonableness of the Settlement may be presented.

B. The Criteria for Preliminary Settlement Approval Are Satisfied

Ultimately, "the district court must determine that a class action settlement is fair, adequate, and reasonable, and not a product of collusion." *Reynolds v. Beneficial Nat'l Bank*, 288 F.3d 277, 279 (7th Cir. 2002) (internal citation omitted). At the preliminary approval stage, however, a court's task is to determine whether class settlement is within the range of possible approval. *American Int'l Group, Inc. v. ACE INA Holdings, Inc.*, Nos. 07 C 2898, 09 C 2026, 2011 WL 3290302, at *6 (N.D. Ill. July 26, 2011). Utilizing a five-factor test, a court must consider: (1) the

strength of plaintiffs' case compared with the terms of the proposed settlement; (2) the likely complexity, length and expense of continued litigation; (3) the amount of opposition to settlement; (4) the opinion of competent counsel; and (5) the stage of the proceedings and the amount of discovery completed. *Synfuel Techs., Inc. v. DHL Express (USA), Inc.*, 463 F.3d 646, 653 (7th Cir. 2006); *Isby v. Bayh*, 75 F.3d 1191, 1199 (7th Cir. 1996). Further, a court must not focus on an individual component of the compromise but must instead view the settlement in its entirety. *Isby*, 75 F.3d at 1199. Finally, a strong presumption of fairness exists when the settlement is the result of extensive arm's-length negotiations. *Hispanics United of DuPage County v. Village of Addison, Ill.*, 988 F. Supp. 1130, 1149 n.6 (N.D. Ill. 1997); *Great Neck Capital Appreciation Inv. P'Ship, L.P. v. Pricewaterhouse Coopers*, 212 F.R.D. 400, 410 (E.D. Wis. 2002). This mirrors the analysis pertaining to final approval of the settlement, although generally the demands are lower at this preliminary stage when there are no objections to the settlement. *See In re Nat'l Collegiate Athletic Ass'n Student-Athlete Concussion Injury Litig.*, 314 F.R.D. 580, 589 (N.D. Ill. 2016) (“[A]t the preliminary approval stage, the extent of the district court's inquiry into the appropriateness of class certification and the reasonableness of the settlement terms depends, as it must, on the circumstances of the individual case.”). The Settlement Agreement here meets these criteria and clearly falls “within the range of possible approval.” *Cook*, 1997 U.S. Dist. LEXIS 1090, at *24-25 (citation omitted).

1. Strength of the Claims Compared to the Amount of the Settlement and Allocation of the Settlement Payment

A key consideration in evaluating a proposed settlement is the strength of the plaintiffs' case as compared to the amount of the defendant's offer. *See Isby*, 75 F.3d at 1199. However, “district courts have been admonished ‘to refrain from resolving the merits of the controversy or making a precise determination of the parties' respective legal rights.’” *EEOC v. Hiram Walker &*

Sons, Inc., 768 F.2d 884, 889 (7th Cir. 1985). Accordingly, in deciding whether to preliminarily approve a settlement, a district court must focus on the general principles of fairness and reasonableness, but not on the substantive law governing the plaintiffs' claims. *Id.* A settlement is fair "if it gives [plaintiffs] the expected value of their claim if it went to trial, net of the costs of trial." *Mars Steel Corp. v. Continental Ill. Nat'l Bank & Trust*, 834 F.2d 677, 682 (7th Cir. 1987) (finding adequate a settlement of ten percent of the total sought due to risks and costs of trial); *Hiram Walker*, 768 F.2d at 891 (settlement approved because "there [was] no showing that the amounts received by the beneficiaries were totally inadequate").

Based on time and payroll data Defendant produced, Class Counsel estimated that the Class Members stood to recover up to \$2,659,437.40 unpaid wages if successful at trial, plus liquidated damages and penalties. Brown Decl. ¶ 4. This is the sum of the \$166,232.78 attributable to the overtime rate claims and \$2,493,204.62 attributable to the meal break claims. *Id.* The Settlement provides Class Members and FLSA Collective Members with an estimated total of \$2,073,354.67, which is nearly a 78% rate of recovery, or stated differently, a 100% rate of recovery on the overtime rate claims and nearly a 77% rate of recovery on the meal break claims.

This is an excellent result for Class Members and Collective Members given Defendant's available defenses, which include that Defendant properly paid Plaintiffs, Class Members, Collective Members and other employees, that the additional compensation did not need to be included in the regular rate or may have set-off overtime obligations, that liquidated damages should not be awarded, and/or that any recovery should be limited to the FLSA's two-year statute of limitations, as opposed to the three-year period that applies to willful violations. *Id.* at ¶ 9. Further, Defendant may have had strong defenses against certification and liability on the meal break deduction issue, as Defendant's records showed that there were thousands of instances in which employees' meal break deductions were cancelled and they were paid for working through

their full shifts. *Id.* at ¶ 10. By settling these claims, the Class Members are assured a significant recovery.

2. Complexity, Length, and Expense of Further Litigation

A second factor to be considered by the Court is the complexity, length, and expense of litigation that will be spared by the proposed settlement. *In re Mexico Money Transfer Litigation*, 164 F. Supp. 2d 1002, 1019 (N.D. Ill. 2000). Absent settlement, Defendant would continue to vigorously defend the case. As discovery is in the early stages, significant attorneys' fees and costs would be expended by all Parties in investigating the claims further. Further litigation would certainly result in dispositive motions, and the possibility of appeals. Additional litigation would increase expenses and would not reduce the risks of litigation to the Settlement Class. *See Isby*, 75 F.3d at 1199; *see also In re Mexico Money Transfer Litig.*, 164 F. Supp. 2d at 1019; *see also Great Neck Capital*, 212 F.R.D. at 409-10. Accordingly, the remaining burden, expenses, and risks for the Class Members would be substantial as continued litigation would require resolution of complex issues at considerable expense. "Courts encourage early settlement of class actions, when warranted, because early settlement allows class members to recover without unnecessary delay and allows the judicial system to focus resources elsewhere." *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 474-75 (S.D.N.Y. 2013). Moreover, it cannot be ignored that this settlement puts money in the hands of Class Members when they need it the most, as the nation continues to endure a world-wide pandemic and economic uncertainty.

3. At This Preliminary Stage, There is No Opposition to the Settlement

The class representatives Parker and Rhodes have signed the Settlement Agreement, thus indicating their support, and Class Counsel is unaware of any opposition to the settlement. Brown Decl. ¶ 12. Thus, this factor supports preliminary approval.

4. Opinions of Counsel

Class Counsel Fish Potter Bolaños, P.C. and Brown, LLC both have substantial experience in employment litigation and class action litigation. Brown Decl. ¶¶ 14-15 (citing firm resumes). Class Counsel had a substantial amount of information to evaluate, negotiate and make well-informed judgments about the adequacy of the Settlement. In Class Counsel's opinion, the Settlement is fair, reasonable and adequate. Brown Decl. ¶ 13. It is appropriate for the Court to place significant weight on the endorsement of this Settlement by Class Counsel. Class Counsel exercised their experience based on an intimate knowledge of the facts of the case and the legal issues facing the Class, including conducting an independent analysis of the strength and weakness of the claims, the value of the claims and the time costs, as well as the expense of trials and appeals. *Id.* at ¶ 3. Defendant's counsel is similarly experienced in defending FLSA and state wage cases. When experienced counsel supports the settlement, as they do here, their opinions are entitled to considerable weight. *See In re Mexico Money Transfer Litigation*, 164 F. Supp. 2d at 1020; *Reed v. General Motors Corp.*, 703 F.2d 170, 175 (5th Cir. 1983). "[J]udges should not substitute their own judgment as to optimal settlement terms for the judgment of the litigants and their counsel." *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1148-49 (8th Cir.1999) (citation omitted).

5. The Settlement Was the Result of Arm's Length Negotiations Without Any Collusion.

The Settlement was the result of adversarial, arm's length negotiations, conducted based on an analysis of payroll data Defendant produced for the Class Members. Brown Decl. ¶ 3. In determining whether a settlement was reached absent any collusion between the parties, courts look to whether the settlement negotiation is "intense, vigorous, and at arm's length." *In re Mexico Money Transfer Litig.*, 164 F. Supp. 2d at 1020. Such arm's-length negotiations conducted by competent counsel constitute *prima facie* evidence of a fair settlement. *Berenson v. Fanueil Hall*

Marketplace, 671 F. Supp. 819, 822 (D. Mass. 1987) (“where . . . a proposed class settlement has been reached after meaningful discovery, after arm’s-length negotiation by capable counsel, it is presumptively fair”). In the absence of any evidence of collusion, this factor favors final approval of the settlement. *See Winston v. Speybroeck*, No. 3:94-CV-150AS, 1996 U.S. Dist. LEXIS 12131, at *15-16 (N.D. Ind. Aug. 2, 1996).

V. THE PARTIES PROPOSED NOTICE PLAN

The notice and procedure outlined in Section 2.4 of the Settlement Agreement provides proper notice to the members of the FLSA Collective and Classes. “Rule 23(e)(1)(B) requires the Court to ‘direct notice in a reasonable manner to all class members who would be bound by a proposed settlement, voluntary dismissal, or compromise’ regardless of whether the class was certified under Rule 23(b)(1), (b)(2), or (b)(3).” *Manual for Complex Lit.* at § 21.312. Many of the same considerations govern both certification and settlement notices. In order to protect the rights of absent class members, a court must require the best notice practicable to class members. *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811–12 (1985). The Parties’ proposed notice and procedure satisfy the notice requirements. The Notice informs the Class Members and FLSA Collective Members of their right to object to the settlement, or to opt out of, or exclude themselves from, the settlement if they would prefer not to be bound by it. In addition, Defendant, through the Claims Administrator, will cause notice of the proposed settlement to be served pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

VI. SCHEDULING OF A FINAL APPROVAL HEARING IS APPROPRIATE

The Court should schedule Fairness Hearing to hear all evidence and argument necessary to determine whether the settlement should be finally approved, whether any objections thereto should be overruled, and whether the proposed attorneys’ fees, costs, and enhancement payments

should be approved. To allow time for the Notice plan to be administered, the Court should schedule the final Fairness Hearing approximately 110 days from the date of preliminary approval.

VIII. CERTIFICATION OF COLLECTIVE ACTION AND CLASS ACTIONS FOR SETTLEMENT PURPOSES

The Parties seek certification of the FLSA Collective Act, the Illinois Class, and the Maryland Class for settlement purposes. The FLSA Collective Action consists of all current and former hourly-paid warehouse workers employed by Defendant, including, but not limited to, warehouse agents, ramp agents, tug drivers, ground control, forklift drivers, team leads, maintenance worker and supervisors, who worked at least one shift Defendant’s facility in Baltimore, Maryland and/or Defendant’s facility in Rockford, Illinois between August 31, 2017 through the date of the Order Granting Preliminary Approval. *Settlement*, § 1.14. The Class consists of the Illinois Class and the Maryland Class, with each Class consisting of the same set of employees who make up the FLSA Collective Action, who worked in Illinois and Maryland, respectively. *Id.* § 1.15, 1.18.

A. The Classes Meet All Four Requirements of FRCP 23(a).

1. Numerosity

The Federal Rules of Civil Procedure require that the class be so large as to render joinder of all parties impracticable. Fed. R. Civ. P. 23(a)(1). Here, numerosity is satisfied because there are approximately 5,291 persons in the Classes, with over 2,000 persons in each of the Illinois and Maryland Classes, respectively. Brown Decl., ¶ 4. *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986) (concluding that “generally . . . more than forty [is] adequate”); see *Fletcher v. ZLB Behring LLC*, 245 F.R.D. 328, 336 (N.D. Ill. 2006) (“[C]ourts in this circuit have concluded that 40 or more class members is generally sufficient to fulfill the numerosity requirement.”); As such, the numerosity standard is met.

1. Commonality

The second requirement for class certification, as set forth in Rule 23(a)(2), is that there must be “questions of law or fact common to the class.” “[E]ven a single question of law or fact common to the members of the class will satisfy the commonality requirement.” *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2562 (2011). “[F]or purposes of Rule 23(a)(2) even a single common question will do.” *Id.* at 2556. “Rule 23(a)(2) does not demand that every member of the class have an identical claim,” and some degree of factual variation will not defeat commonality provided that common questions yielding common answers can be identified. *Spano v. Boeing Co.*, 633 F.3d 574, 585 (7th Cir. 2011); *see also Rosario v. Livaditis*, 963 F.2d 1013, 1017-18 (7th Cir. 1992). The common questions here include whether Defendant improperly calculated Class Members’ overtime rates of pay and whether the Class Members worked through meal breaks they allege were automatically deducted from their pay.

2. Typicality

“[T]ypicality under Rule 23(a)(3) should be determined with reference to the company’s actions, not with respect to particularized defenses it might have against certain class members.” *CE Design Ltd. v. King Architectural Metals, Inc.*, 637 F.3d 721, 725 (7th Cir. 2011); *see also Rosario*, 963 F.2d at 1018 (“we look to the defendant’s conduct and the Plaintiffs’ legal theory to satisfy Rule 23(a)(3)”). The class representatives each worked in positions, locations, and time periods covered by the classes they seek to represent, and claim to have suffered from the overtime rate and meal break violations in the same manner as the Class Members.

3. Adequacy

The final requirement for class certification under Rule 23(a) is that “the representative parties will fairly and adequately protect the interests of the class.” In the instant case, the class representatives Parker and Rhodes worked for Defendant and allege they suffered from the same

allegedly unlawful practices as all other non-exempt employees. They have been cooperative throughout this Litigation. As the Supreme Court has noted, “[t]he adequacy inquiry under Rule 23(a)(4) serves to uncover conflicts of interest between named parties and the class they seek to represent.” *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 625 (1997). Here, the class representatives’ claims pose no conflicts with those of the other Class members because their claims and those of the entire Class turn on the existence and implementation of the same wage and time policies, which are alleged to have improperly calculated the regular rate for overtime purposes and improperly deducted meal time from time worked. The class representatives’ financial interests are not in conflict with those of other Class members. Accordingly, Plaintiffs Alexis Parker and Latisha Rhodes should be appointed as class representatives.

Adequate representation also requires competent and experienced counsel able to conduct the litigation. *Amchem*, 521 U.S. at 625; Plaintiffs’ counsels Fish Potter Bolaños, P.C. and Brown LLC have substantial experience in employment litigation and class action litigation. *See* Brown Decl., ¶¶ 14-15.

B. The Classes Meet the Requirements of FRCP 23(b)(3).

Rule 23(b)(3) requires a showing that: (1) issues common to the class “predominate” over those affecting individual class members; and (2) prosecuting the litigation as a class action is “superior” to other available methods of proceeding. *Amchem*, 521 U.S. at 615. When making this inquiry, the court must examine the interests of the class members in individually controlling a separate action, the extent and nature of any litigation already commenced by class members, the desirability of the forum and the difficulties likely to be encountered in the management of a class action. Rule 23(b)(3)(A-D).

1. Predominance

The standard to determine whether common questions predominate is a flexible one, focusing

on whether the common issues are a significant enough part of the case that proceeding as a class action makes sense. “The Rule 23(b)(3) predominance inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation.” *Amchem*, 521 U.S. at 623; *see also, e.g., Jenkins v. Raymark Indus., Inc.*, 782 F.2d 468, 472 (5th Cir. 1986)(“In order to ‘predominate,’ common issues must constitute a significant part of the individual cases.”); *In re Playmobil*, 35 F. Supp. 2d at 245 (“The predominance requirement is satisfied unless it is clear that individual issues will overwhelm the common questions to render the class action valueless.”). Not all questions of law or fact need to be identical as long as there are common questions at the heart of the case. *Hubler*, 193 F.R.D. at 577. The significant issue is whether “the class claims arise out of the same legal or remedial theory.” *Id.* The predominance requirement is satisfied. The most significant factual issue is whether Defendant properly paid their employees. This will boil down to an analysis of whether the overtime rate was properly calculated and whether employees had improper automatic meal break deductions.

The only issue in the instant case that could be individual to each class member is damages. But it is well-established that individual damages issues do not defeat a finding that common liability issues predominate under Rule 23(b)(3). *Gomez v. PNC Nat’l Bank Assn*, 2014 WL 3640798 (N.D. Ill. 2014) (class certification appropriate even if some members did not perform unpaid work because this relates to damages); *Keele v. Wexler*, 149 F.3d 589 (7th Cir. 1998).

2. Superiority

The specific factors set forth in Rule 23(b)(3) dictate the superiority of this case proceeding as a class action. When inquiring into the matters pertinent to the findings of predominance and superiority, the court must examine the interests of the class members in individually controlling a separate action, the extent and nature of any litigation already commenced by class members, the desirability of the forum and the difficulties likely to be encountered in the management of a class action. Rule 23(b)(3)(A-D).

There is no compelling reason to adjudicate thousands of identical separate actions. Because of the uniformity of the factual and legal claims of the Class Members, it would be needlessly repetitive if the Class Members were forced to prosecute their claims individually. A class action in the case at bar meets the superiority test of Rule 23(b)(3) because the difficulties and expense of prosecuting this type of litigation would be counterproductive for all Parties. With multiple claims, Defendant's legal expenses (owed to attorneys for both sides) could be greater than the overall damages at stake in the class action.

C. The Court Should Appoint Class Counsel

In determining whether to appoint class counsel under Fed. R. Civ. P. 23(g), the Court must consider the following factors: (1) the work counsel has done in identifying or investigating potential claims in the action; (2) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (3) counsel's knowledge of the applicable law; and (4) the resources that counsel will commit to representing the class. Brown, LLC and Fish Potter Bolaños, P.C., attorneys for Plaintiffs Alexis Parker and Latisha Rhodes in this Litigation, satisfies each of the above factors.

Here, Fish Potter Bolaños, P.C. and Brown, LLC have represented the Plaintiffs from the inception of the Litigation and have dedicated hundreds of hours of attorney hours into this matter. Brown Decl. ¶ 2. Brown, LLC performed substantial work identifying, investigating, and settling Plaintiffs' and the Class Members' claims. Among other tasks, counsel engaged in motion practice regarding conditional certification and personal jurisdiction, propounded written discovery requests on Defendant, reviewed a large volume of policy documents and payroll data that was used to create a classwide damage model, and participated in a partial-day mediation session and subsequent negotiations with Judge Holderman. *Id.* at ¶ 3.

Brown, LLC and Fish Potter Bolaños, P.C. have substantial experience handling complex and class action cases, and are well-versed in the law governing wage & hour class and collective actions. *Id.* at ¶¶ 14-15. The work that Brown, LLC and Fish Potter Bolaños, P.C. have performed thus far in litigating and settling this case demonstrates their commitment to the Classes. If appointed as Class Counsel, Brown, LLC and Fish Potter Bolaños, P.C. will dedicate the necessary additional time and labor to ensure that Class Members receive their Notices, understand their options, and resolve or address any of their questions. *Id.* at ¶ 16. Accordingly, the Court should approve this Motion and appoint Brown, LLC and Fish Potter Bolaños, P.C. as Class Counsel.

D. The Court Should Certify the FLSA Collective for Settlement Purposes

The Court has already granted conditional certification based on Plaintiffs' showing regarding Defendant's meal break and overtime rate policies, (ECF Doc. No. 57) and approved notice to employees who worked in Illinois (ECF Doc. No. 72). Plaintiff now requests certification of the FLSA Collective Action as defined in the Settlement Agreement, which includes Maryland employees and encompasses the same Covered Period as the Class.² Certification of the FLSA Collective Action is appropriate based on the same similarities that supported the Court's previous decision to grant conditional certification and that support certification of the Rule 23 Class. *See Espenscheid v. DirectSat USA, LLC*, 705 F.3d 770, 772 (7th Cir. 2013) ("[D]espite the difference between a collective action and a class action and the absence from the collective-action section of the Fair Labor Standards Act of the kind of detailed procedural provisions found in Rule 23, . . . there isn't a good reason to have different standards for the certification of the two different types

² The FLSA collective action previously certified by the Court was limited to hourly paid workers who lived in Illinois and worked at least one shift for Defendant in Rockford, Illinois between June 24, 2018 and June 24, 2021. (ECF Doc. No. 72). The FLSA Collective Action proposed herein as related to Rockford, Illinois FLSA Collective Members include the dates of August 31, 2017 to June 23, 2018, and June 25, 2021 through the date of the Preliminary Approval Order so that it covers the same Covered Period as the Maryland Class and the Illinois Class. *Settlement*, § 2.1, B.

of action....”).

E. Proposed Schedule

The Parties propose the following schedule for the issuance of Notice and Court approval:

A. Within 14 calendar days after the Court issues its preliminary approval order regarding the Settlement, Defendant will provide the Claims Administrator, on a confidential basis, with a list, in electronic form, of the names and last known addresses, telephone numbers, social security numbers, and number of weeks worked for Defendant during the Covered Period for all Class and FLSA Collective Action (“Notice List”), as described in the Settlement Agreement.

B. Within 21 calendar days after receiving the Notice List, or as soon thereafter as practicable, the Claims Administrator shall mail, via First Class United States mail, postage prepaid, the Notice to all Class and FLSA Collective Members.

C. The Opt-Out/Objection Deadline is 60 calendar days from the date the Claims Administrator mails the Notice to Class and FLSA Collective Members.

D. Within 10 calendar days of the filing of the Motion for Preliminary Approval of the Settlement, Defendant, through the Claims Administrator, will (or will have already) mail(ed) a notice to the Attorney General of the United States, the Attorney General of the States of Illinois, and the Attorney General of each other state where Class Members reside according to Defendant’s records in compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. §1715.

E. No later than 7 calendar days before the Fairness Hearing, Plaintiffs will submit a Motion for Judgment and Final Approval.

VII. CONCLUSION

For the foregoing reasons, Plaintiffs’ Motion for Preliminary Approval should be granted.

Dated: May 4, 2022

Respectfully Submitted,

By: /s/ Jason T. Brown
One of Plaintiffs’ Attorneys

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EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is entered into by and between Plaintiffs (as hereinafter defined), on behalf of themselves and the respective Class of individuals they seek to represent for settlement purposes only (as hereinafter defined) and Defendant (as hereinafter defined). Plaintiffs, Class Counsel (as hereinafter defined), and Defendant hereby stipulate and agree that, in consideration of the promises and covenants as set forth in this Agreement and upon entry by the Court (as hereinafter defined) of a Final Order and Judgment (as hereinafter defined), all claims of Plaintiffs, the FLSA Collective Members (as hereinafter defined), and the Class Members (as hereinafter defined) in the Litigation (as hereinafter defined), shall be compromised and released upon the terms and conditions contained herein.

FACTUAL BACKGROUND AND RECITALS

WHEREAS, On August 31, 2020, Plaintiffs Alexis Parker (who worked for Defendant in Rockford, Illinois) and Latisha Rhodes (who worked for Defendant in Baltimore, Maryland), individually and on behalf of all others similarly situated, filed a class and collective action lawsuit in the United States District Court for the Northern District of Illinois against Defendant, IAS Logistics DFW, LLC d/b/a Pinnacle Logistics, Case No. 1:20-cv-05103, as a result of two wage and hour violations: 1) the Meal Break Deduction Claim for which they claim their wages were automatically deducted for meal breaks even during those instances a full meal break was not taken, and 2) the Shift Differential Claim for which they claim that shift differential pay, a modest increase to their regular rate of pay for working certain shifts, was not included when calculating overtime;

WHEREAS, Plaintiffs Parker and Rhodes sought to represent a national collective action under § 216(b) of the Fair Labor Standards Act, Plaintiff Parker alleged putative Rule 23 class action claims under the Illinois Minimum Wage Law and the Illinois Wage Payment and Collection Act, and Plaintiff Rhodes alleged putative Rule 23 class action claims under the Maryland Wage and Hour Law and the Maryland Wage Payment and Collection Law;

WHEREAS, Plaintiffs seeks recovery of, among other things, overtime wages, liquidated damages, statutory damages, attorneys’ fees, and costs;

WHEREAS, in response to Defendant’s Motion to Dismiss (ECF Doc. No. 44), Class Counsel agreed to dismiss Plaintiff Rhodes and the claims brought under Maryland Wage and Hour Law and the Maryland Wage Payment and Collection Law from the Litigation because personal and general jurisdiction were lacking;

WHEREAS, on March 24, 2021, the Court conditionally certified a collective action pursuant to § 216(b) of the FLSA. (ECF Doc. No. 57);

WHEREAS, on September 9, 2021, the Court granted Defendant’s Motion to Dismiss the FLSA claims of non-Illinois Plaintiff Latisha Rhodes and out-of-state opt-in plaintiffs for lack of personal jurisdiction. (ECF Doc. No. 99);

WHEREAS, notice of the conditionally certified collective action was sent to members of the defined collective action, which included:

Current and former hourly-paid warehouse workers who lived in Illinois and work[ed] at Defendant's facility in Rockford, Illinois, including, but not limited to, warehouse agents, ramp agents, tug drivers, ground control, forklift drivers, team leads, maintenance worker and supervisors, employed by IAS Logistics DFW, LLC, d/b/a Pinnacle Logistics in its Rockford, Illinois facility within the three years preceding the date of the Court's signature upon this Stipulation.

(ECF Doc. Nos. 73).

WHEREAS, the Court entered the Stipulation on June 28, 2021 such that the Covered Period for the conditionally certified FLSA collective action was June 28, 2018 through June 28, 2021 (*Id.*);

WHEREAS, Class Counsel has conducted extensive discovery, including, but not limited to, interviewing Plaintiffs, propounding and responding to written discovery and reviewing and analyzing data relative to the hours recorded and wages paid to hourly waged employees who worked for Defendant in Rockford, Illinois and Baltimore, Maryland, and engaging in numerous discussions with Defendant's counsel regarding the claims;

WHEREAS, the Parties agreed to attempt to resolve the Litigation through mediation. On February 11, 2022, the Parties participated in a partial-day mediation overseen by the Honorable Judge James Holderman (Ret.) of JAMS with negotiations continuing on February 14, 2022;

WHEREAS, with the assistance of Ret. Judge Holderman, the Parties reached a settlement in principle on February 14, 2022, by which the Parties agreed to resolve all matters pertaining to, arising from, and associated with the Litigation, including but not limited to the Related Litigation, and all claims Plaintiffs, Class Members, and FLSA Collective Action Members have or may have had against Defendant and any Releasee (as hereinafter defined);

WHEREAS, the Parties have agreed to settle the Litigation on the terms and conditions set forth herein in recognition that the outcome of the Litigation is uncertain and that achieving a final result through litigation would require substantial additional risk, discovery, time and expense;

WHEREAS, following arms'-length negotiations, including mediation before an experienced mediator, the Parties now seek to enter into this Agreement. Plaintiffs and Class Counsel have conducted an investigation into the facts and the law regarding the Action and have concluded that a settlement according to the terms set forth below is fair, reasonable, adequate, and beneficial to and in the best interests of Plaintiffs, Class Members and FLSA Collective Action Members, recognizing: (1) the existence of complex and contested issues of law and fact; (2) the risks inherent in litigation; (3) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; (4) the magnitude of the benefits derived from the contemplated settlement in light of both the maximum

potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever; and (5) Plaintiffs' determination that the settlement is fair, reasonable, adequate, and will substantially benefit the Class Members and FLSA Collective Action Members; and

WHEREAS, Defendant denies all charges of wrongdoing or liability of any kind whatsoever that have been asserted against it in this Litigation by or on behalf of Plaintiffs, Class Members, and FLSA Collective Action members, or which may be asserted in the future. Despite Defendant's belief that it is not liable for, and has good defenses to, the claims alleged in the Action, Defendant desires to settle the Litigation, and thus avoid the expense, risk, exposure, inconvenience, and distraction of continued litigation of any action or proceeding relating to the matters being fully settled and finally put to rest in this Agreement. Neither this Agreement, nor any negotiation or act performed or document created in relation to this Agreement or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission of, or evidence of, any wrongdoing or liability.

AGREEMENT

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

1. DEFINITIONS

The defined terms set forth herein shall have the meanings ascribed to them below.

- 1.1 Agreement.** "Agreement" shall mean this Settlement Agreement and Release, and all exhibits.
- 1.2 Claims Administrator.** "Claims Administrator" shall mean the entity selected by the Parties to provide notice to the Class and administer payment of the settlement to Class Members.
- 1.3 Class; Class Members.** "Class" shall mean all persons who fall within the Illinois Class and/or the Maryland Class as defined in Sections 1.14 and 1.17, respectively, and who were employed by Defendant and worked at least one partial shift during the Covered Period, except that any individual who timely submitted or submits a valid request for exclusion shall not be included in the Class. A member of the Class is a "Class Member." Plaintiffs will move for class certification, for settlement purposes only, under the Federal Rules of Civil Procedure in their motions for Preliminary Approval and/or Final Approval, and Defendant will not oppose such motion(s).
- 1.4 Class Counsel.** "Class Counsel" shall mean Jason T. Brown and Nicholas Conlon of Brown, LLC and David Fish and John Kunze of Fish, Potter Bolanos, P.C.

- 1.5 Court.** “Court” shall mean the United States District Court for the Northern District of Illinois.
- 1.6 Covered Period.** “Covered Period” shall mean August 31, 2017 through the date of the Order Granting Preliminary Approval.
- 1.7 Defendant.** “Defendant” shall mean IAS Logistics DFW, LLC d/b/a Pinnacle Logistics.
- 1.8 Defendant’s Counsel.** “Defendant’s Counsel” shall mean Lisa Handler Ackerman of Wilson, Elser, Moskowitz, Edelman & Dicker LLP.
- 1.9 Effective; Effective Date.** The “Effective Date” is the tenth business day after the last of the following dates:
- A. all Parties, Class Counsel, and Defendant’s Counsel have executed this Agreement;
 - B. the Court has entered, without material change, the Final Order and Judgment; and
 - C. the final disposition of any related appeals, and in the case of no appeal or review being filed, expiration of the applicable appellate period.
- 1.10 Escrow Account.** “Escrow Account” shall mean the FDIC insured interest-bearing account(s) created and controlled by the Claims Administrator.
- 1.11 Fairness Hearing.** “Fairness Hearing” shall mean the hearing on the Motion for Judgment and Final Approval.
- 1.12 Final Order and Judgment.** “Final Order and Judgment” shall mean the final Order entered by the Court after the Fairness Hearing approving the settlement and entering Judgment pursuant to this Agreement and in accordance with Fed. R. Civ. P. 58. A proposed version of the Final Order and Judgment shall be submitted to the Court in the form attached hereto as Exhibit B.
- 1.13 FLSA Collective; FLSA Collective Member.** “FLSA Collective” shall mean all hourly paid and/or non-exempt employees who were employed by Defendant and worked at least one partial shift at Defendant’s facility in Rockford, Illinois and/or Baltimore, Maryland during the Covered Period. A member of the FLSA Collective is an “FLSA Collective Member.” Plaintiffs will move for conditional certification of the FLSA collective action (“FLSA Collective Action,”) for settlement purposes only, under the Federal Rules of Civil Procedure, in their Motion for Preliminary Approval and/or Final Approval, and Defendant will not oppose such motion(s).
- 1.14 Illinois Class; Illinois Class Members.** “Illinois Class” shall mean all hourly paid and/or non-exempt employees who were employed by Defendant and worked at least one partial shift at Defendant’s facility in Rockford, Illinois during the Covered Period, except that anyone who timely submits a valid request for exclusion shall not be included in the Illinois Class. A member of the Illinois Class is an “Illinois Class Member.” Plaintiff will move for certification of the Illinois Class for settlement purposes only, under the Federal Rules

of Civil Procedures, in their Motion for Preliminary Approval and/or Final Approval, and Defendant will not oppose such motion(s).

- 1.15 Individual Settlement Amount.** “Individual Settlement Amount” shall mean the amount allocated to each Class Member and/or FLSA Collective Member. An individual who is both a Class Member and FLSA Collective Member shall be allocated one Individual Settlement Amount.
- 1.16 Litigation.** “Litigation” shall mean the action pending in the United States District Court for the Northern District of Illinois, captioned *Latisha Rhodes and Alexis Parker, individually and on behalf of all others similarly situated v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, Case No. 1:20-cv-05103.
- 1.17 Maryland Class; Maryland Class Members.** “Maryland Class” shall mean all hourly paid and/or non-exempt employees who were employed by Defendant and worked at least one partial shift at Defendant’s facility in Baltimore, Maryland during the Covered Period, except that anyone who timely submits a valid request for exclusion shall not be included in the Maryland Class. A member of the Maryland Class is a “Maryland Class Member.” Plaintiff will move for certification of the Maryland Class for settlement purposes only, under the Federal Rules of Civil Procedures, in their Motion for Preliminary Approval and/or Final Approval, and Defendant will not oppose such motion(s).
- 1.18 Maximum Settlement Amount.** “Maximum Settlement Amount” shall have the meaning defined in Section 3.1 below.
- 1.19 Named Plaintiffs.** “Named Plaintiffs” shall mean Alexis Parker and Latisha Rhodes.
- 1.20 Net Settlement Fund.** “Net Settlement Fund” shall mean the remainder of the Settlement Fund after deductions for court-approved attorneys’ fees and costs as described in Section 3.2, court-approved Enhancement Award payments as described in Section 3.3, Settlement Administration Expenses, the Defendant’s share of payroll taxes resulting from payment of the Enhancement Awards and the allocated wage portion to each Claimant, and any taxes incurred directly or indirectly as a result of investing the Settlement Payment. The Net Settlement Fund shall be used to pay all amounts due to Plaintiffs, Class Members and FLSA Collective Members, except for Defendant’s share of employer payroll, social security, and Medicare taxes due for the wages payments made under this Agreement, which Defendant will separately remit to the Claims Administrator.
- 1.21 Notice.** The “Notice” shall mean the Class Notice of Proposed Settlement of Class Action and Collective Action Lawsuit, Conditional Certification of the Settlement Class, Preliminary Approval of Settlement, and Hearing Date for Final Court Approval that will be provided pursuant to Section 2.4C of this Agreement, subject to approval by the Court, substantially in the form attached hereto as Exhibit A.
- 1.22 Opt-Out Deadline or Objection Deadline.** “Opt-Out Deadline” or “Objection Deadline” (or collectively, “Opt-Out/Objection Deadline”) shall mean the date that is sixty (60)

calendar days after the Claims Administrator mails the Notice to Class Members and FLSA Collective Members pursuant to Section 2.4C of this Agreement. If the Opt-Out/Objection Deadline falls on a Sunday or holiday, the deadline to return Opt-Out will be the next business day that is not a Sunday or holiday.

- 1.23 Order Granting Preliminary Approval.** “Order Granting Preliminary Approval” shall mean the Order entered by the Court preliminarily approving, *inter alia*, the terms and conditions of this Agreement, the manner and timing of providing notice to the Class Members and FLSA Collective Members, and the time period for opt-outs and objections. A proposed version of the Order Granting Preliminary Approval shall be submitted to the Court in the form attached hereto as Exhibit B.
- 1.24 Parties.** “Parties” shall refer to the Plaintiffs and Defendant.
- 1.25 Plaintiffs(s).** “Plaintiff(s)” shall refer to Alexis Parker and/or Latisha Rhodes, the Named Plaintiffs in this Litigation, and shall also include any and all of their respective representatives, heirs, administrators, executors, beneficiaries, agents, and assigns of such individuals, as applicable and without limitation.
- 1.26 Related Litigation.** “Related Litigation” shall mean any proceedings, other than the Litigation, which alleges that Defendant failed to pay any FLSA Collective Member, Illinois Class Member, and/or Maryland Class Member in accordance with the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”), the Illinois Minimum Wage Law, 820 Ill. Comp. Stat. 105/1, *et seq.*, the Illinois Wage Payment and Collection Act, 820 Ill. Comp. Stat. 115/1, *et seq.*, the Maryland Wage Payment and Collection Law, Md. Code. Ann. Lab. & Empl. § 3-501, *et seq.*, and the Maryland Wage Hour Law, Md. Code. Ann. Lab. & Empl. § 3-401, *et seq.*, or any related statutes or common law claims, that were or could have been brought by an FLSA Collective Member, Illinois Class Member and/or Maryland Class Member alleging that Pinnacle did not pay him/her/they/it the correct regular or overtime wages for compensable time worked, including but not limited to:
- A. *Nicole Meyer, Daniel Merema, and Ebondy Dandridge v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, Case No. 1:20-cv-02575;
 - B. *Tyler Sharp v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-20-0007-2721;
 - C. *Larry Blake v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-20-0017-9440;
 - D. *Isaiah Byrd v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-20-0007-9448;
 - E. *Lakeshia Green v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-20-0017-9451;

- F. *Kanakiesha Haney v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-20-0017-9455;
- G. *Brandy Webb v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-20-0017-9458;
- H. *Cassandra Lucas v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-20-0018-1643;
- I. *Ray Shipp v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-21-0018-1661;
- J. *Quinton Ross v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-21-0018-1651;
- K. *Patricia Carter v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-21-0018-1649;
- L. *George Logan v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-21-0018-1647;
- M. *Destiny Brown v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-21-0018-1646;
- N. *Cariesha Griffis v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-22-0000-1576;
- O. *Darius Smith v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-22-0000-1367;
- P. *Kedar Kennedy v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-22-0000-1351;
- Q. *Keyonna McCune v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-22-0000-1352;
- R. *Amber Slawson v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-22-0000-2341;
- S. *Shantiguia Holliman v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-22-0000-2336;
- T. *Stephanie Rayford v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-22-0000-2339;

- U. *David Andrews, Sr. v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-22-0000-1337; and
- V. *Daniel Merema v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-21-0002-3736.

For purposes of clarity, Related Litigation does not include: *Taryn Mosley v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-20-0010-9529, *LaShawn Shipman v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, AAA Case No. 01-20-0010-9532, and *Larhonda Jones, individually and on behalf of all others similarly situated, v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, Case No. 1:19-cv-02510.

- 1.27 Releasees.** Defendant, its affiliates and related and/or merged entities, present and former officers, partners, directors, officers, shareholders, employees, agents, attorneys, successors and/or assigns, insurers or reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, including, but not limited to, G&A Partners, and any individual or entity that could be jointly liable with any of them.
- 1.28 Releasers.** Plaintiffs, Class Members, and FLSA Collective Members, on their own behalf, and on behalf of their respective current, former and future heirs, assigns, spouses, executors, administrators, agents, and attorneys.
- 1.29 Settlement.** The “Settlement” shall mean the settlement embodied in this Agreement, and all exhibits.
- 1.30 Settlement Administration Expenses.** “Settlement Administration Expenses” are those expenses incurred and charged by the Claims Administrator in effectuating the Settlement, including any fees or costs associated with the Claims Administrator establishing any interest-bearing account or investment vehicle for the settlement fund (or liquidating/closing such account or vehicle).
- 1.31 Settlement Fund.** The “Settlement Fund” shall be the settlement fund created by the payment by Defendant of up to the Maximum Settlement Amount of Three Million Two Hundred Fifty Thousand Dollars (\$3,250,000.00).

2. APPROVAL AND CLASS NOTICE

2.0 Jurisdiction. For the limited and sole purpose of this Settlement, Defendant agrees not to challenge the Court’s personal jurisdiction over it as to the state and federal law claims of Plaintiff, Latisha Rhodes, Class Members who worked for Pinnacle in Baltimore, Maryland (and never in Illinois), and FLSA Collective Members who worked for Pinnacle in Baltimore, Maryland (and never in Illinois). This concession is for the sole purpose of administering an efficient and expedient Settlement. Neither the existence nor the fact of this provision as to jurisdiction in this Agreement

shall be referred to, relied upon, or otherwise argued to create jurisdiction or the waiver of any defenses to jurisdiction in any other claim, lawsuit, arbitration demand, or administrative proceeding. For the sole purpose of effectuating this Paragraph 2.0, as part of the relief requested in their Motion for Preliminary Approval, Plaintiffs will request that the Court reinstate the FLSA claims of Plaintiff, Latisha Rhodes, and the Opt-in Plaintiffs who worked for Pinnacle in Maryland (which the Court had previously dismissed for lack of personal jurisdiction over Pinnacle) (*See* ECF Doc. No. 59), and the state law claims of the Maryland Class (*see* ECF Doc. No. 44, Page ID # 376 where Plaintiffs stated they did not oppose the dismissal of claims brought by Plaintiff Rhodes individually and on behalf of the Maryland Class, but which the Court never affirmatively ruled).

2.1 Stipulation to Certification.

A. For the purposes of the Settlement only, the Parties stipulate and agree that the Illinois Class and the Maryland Class (as defined in Sections 1.14 and 1.17, respectively) shall be certified subject to the Court's approval. Plaintiff Parker shall represent the Illinois Class for settlement purposes; Plaintiff Rhodes shall represent the Maryland Class for settlement purposes; and Plaintiffs' Counsel shall be appointed as Class Counsel.

B. For purposes of the Settlement only, the Parties stipulate and agree to the certification by the Court of a Conditionally Certified FLSA Collective Action as to all claims of the FLSA Collective Members encompassed by this Settlement pursuant to the FLSA. The Court has already conditionally certified a collective action as to, "*Current and former hourly-paid warehouse workers who lived in Illinois and work[ed] at least one shift Defendant's facility in Rockford, Illinois, including, but not limited to, warehouse agents, ramp agents, tug drivers, ground control, forklift drivers, team leads, maintenance worker and supervisors, employed by IAS Logistics DFW, LLC, d/b/a Pinnacle Logistics in its Rockford, Illinois facility between June 24, 2018 and June 24, 2021.*" (ECF Doc. No. 72). The FLSA Collective Action herein as related to Rockford, Illinois FLSA Collective Members include the dates of August 31, 2017 to June 23, 2018, and June 25, 2021 through the date of the Preliminary Approval Order. For purposes of clarity, the three time periods in the preceding sentences are intended to include the same time period as the Covered Period.

C. Excluded from each Class and the FLSA Collective Action are all persons who elect to exclude themselves from his/her/their/it respective Class and the legal representatives, heirs, successors or assigns of any such excluded persons, and the Court and staff to whom this case is assigned, and any member of the Court's or staff's immediate family.

D. If for any reason the Court does not approve this Agreement, or does not enter a Final Order and Judgment, or if this Settlement is lawfully terminated for any other reason, the certification of the Class and FLSA Collective Action shall become null and void, and the fact of certification shall not be cited to, used, or admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural.

2.2 Retention of Claims Administrator. The Claims Administrator shall be jointly selected by the Parties and shall be responsible for the claims administration process and distributions to Plaintiffs, Class Members and FLSA Collective Members, as provided herein, as well as for

making any mailings and performing other services as required under this Agreement. Data regarding Class Members and FLSA Collective Members shall be provided only to the Claims Administrator pursuant to Section 2.4A below, which shall execute a Confidentiality Agreement. The Parties agree to cooperate with the Claims Administrator and assist it in administering the Settlement. All Settlement Administration Expenses shall come out of the Settlement Fund. If the Settlement is not given final approval by the Court and does not become Effective, the Parties shall bear Settlement Administration Expenses incurred equally.

2.3 Preliminary Approval by the Court.

A. Plaintiffs will submit to the Court a Motion for an Order Preliminarily Approving the Class Action Settlement (“Preliminary Approval Motion”). In connection with the Preliminary Approval Motion, Plaintiffs will submit to the Court, among other things, a proposed Notice of the Class and FLSA Collective Action Settlement, which is attached as Exhibit A, and a proposed Order Granting Preliminary Approval, which is attached as Exhibit B.

B. The Preliminary Approval Motion will seek the setting of dates for the submission of exclusions, objections, and a Fairness Hearing. Plaintiffs will provide Defendant with a draft of the Preliminary Approval Motion in advance of filing.

C. All proceedings in the Litigation and Related Litigation will be stayed (and/or remained dismissed) following entry of the Preliminary Approval Order, except as may be necessary to implement the Settlement or comply with the terms of the Settlement. Pending determination of whether the motions for Preliminary Approval and/or Final Approval should be granted, the Parties agree not to pursue any claims or defenses otherwise available to them in the Litigation.

2.4 Class and FLSA Collective Notice.

A. Notice List to Claims Administrator. Within fourteen (14) calendar days of the date of the Order Granting Preliminary Approval, Defendant will provide the Claims Administrator with a list, in electronic form, of the names and last known addresses, telephone numbers, social security numbers, and number of weeks worked for Defendant during the Covered Period for all Class Members and FLSA Collective Members (“Notice List”). Prior to the provision of the Notice List, the Claims Administrator shall execute an agreement, in a form acceptable to Defendant, not to use or disclose the information from the Notice List except as is necessary to perform the services required of the Claims Administrator under this Agreement. The Notice List and the data and information contained in the Notice List shall not be disclosed to Class Counsel, Plaintiffs, or anyone else external to the Claims Administrator without the written consent of Defendant.

B. Claims Administrator to Update Addresses. Prior to mailing the Notices and Claim Forms, the Claims Administrator will update the addresses for those on the Notice List using the National Change of Address database and other available resources deemed suitable by the Claims Administrator.

C. Notice to Class Members and FLSA Collective Members. Within twenty-one (21) calendar days after receiving the Notice List, or as soon thereafter as practicable, the Claims Administrator shall mail, via First Class United States mail, postage prepaid, the Notice appended hereto as Exhibit A to all Class Members and FLSA Collective Members using each member's last known address as provided by Defendant and as updated by Class Counsel or the Claims Administrator. The Notice shall inform all Class Members and FLSA Collective Members of their rights under this Agreement and of their estimated Individual Settlement Amounts. The Claims Administrator shall take all reasonable steps to obtain the correct address of any Class Members and/or FLSA Collective Members for whom the notice is returned by the post office as undeliverable and shall attempt re-mailings as described below. Defendant's Counsel and Class Counsel have the right to make inquiries and receive any information from the Claims Administrator as is necessary to the administration of this Settlement. The Claims Administrator must disclose Plaintiffs', Class Members', and FLSA Collective Members' estimated Individual Settlement Amounts to Class Counsel and Defendant's Counsel upon request.

D. Undeliverable Notices. If any Notice is returned as undeliverable, the Claims Administrator shall forward to any forwarding address provided by the U.S. Postal Service. If no such forwarding address is provided, the Claims Administrator shall perform skip traces using the Class Member/FLSA Collective Member's social security number to attempt to obtain the most recent addresses for these individuals.

E. CAFA Notice. Within ten (10) calendar days of the filing of the motion for preliminary approval of the Settlement, Defendant, through the Claims Administrator, will mail a notice to the Attorney General of the United States, the Attorney General of the States of Illinois, and the Attorney General of each other state where Class Members reside according to Defendant's records in compliance with the Class Action Fairness Act ("CAFA"), 28 U.S.C. §1715. The Parties intend and believe that the CAFA notice pursuant to the procedures described in this section comply with the requirements of CAFA; will seek approval of these procedures for CAFA notice in the motion for preliminary approval of the Settlement; and will request the Court to adjudicate the validity of the CAFA Notice in the motion for final approval of the Settlement and bar any Class Member's claim to void or avoid the Settlement under CAFA.

2.5 Class Member Opt-Out.

A. Any Class Member may request exclusion from the Class by "opting out." Class Members who choose to opt-out of the Class must mail a written, signed statement to the Claims Administrator stating that he or she is opting out of the Settlement ("Opt-Out Statement"). The Opt-Out Statement must contain the name, address and telephone number of the Class Member to be valid. It must also contain the words "I elect to exclude myself from the settlement in *Parker and Rhodes, et al. v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*," in order to be valid. To be effective, such Opt-Out Statements must also be sent via First Class United States mail and postmarked by the Opt-Out Deadline.

B. If a Class Member submits a deficient Opt-Out Statement, the Claims Administrator shall notify the Class Member of the deficiency within five (5) business days of receipt. The Class Member shall have fifteen (15) calendar days to cure said deficiencies, at which

point his or her attempted opt-out will be rejected if not received. Class Members submitting untimely or deficient Opt-Out Statements shall be bound by the Settlement and its Class Member release.

C. Plaintiffs shall not opt-out of the Settlement. Plaintiffs' respective execution of this Agreement shall signal their agreement to all of the terms of the Settlement.

2.6 Objections to Settlement.

A. Class Members who wish to present objections to the proposed settlement at the Fairness Hearing must first do so in writing. To be considered, such statement must be filed with the Court and served upon all counsel of record by no later than sixty (60) calendar days after the mailing of the Notice, which applies notwithstanding any argument regarding non-receipt of the notice. Any objection must also be mailed to Class Counsel and Defendant's Counsel at the addresses listed on the signature block below. Anyone who fails to file and serve timely written objections in this manner shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Settlement and from filing any appeal from any final approval order issued by the Court.

B. An objector who has filed and served a timely written objection in accordance with Section 2.6A also has the right to appear at the Fairness Hearing either in person or through counsel hired by the objector. An objector who wishes to appear at the Fairness Hearing must state his or her intention to do so at the time he/she submits his/her written objections. An objector may withdraw his/her objections at any time. No objector may appear at the Fairness Hearing unless he/she has filed a timely objection that complies with the procedures provided in Section 2.6A. Only Class Members and FLSA Collective Members may object to the Settlement. Any Class Member who has submitted an Opt-Out Statement may not submit objections to the Settlement.

C. To be heard at the Fairness Hearing, any written objection must: (a) attach documents establishing, or provide information sufficient to allow the Parties to confirm, that the objector is a Class Member; (b) include a statement of such Class Member's specific objections; and (c) state the grounds for objection, as well as identify any documents which such objector desires the Court to consider.

D. The Parties may file with the Court written responses to any filed objections at or prior to the Fairness Hearing.

2.7 Claims Administrator Reporting. After issuing the Notices, the Claims Administrator shall provide periodic reports to counsel for the Parties with respect to the numbers of individuals submitting Opt-Out Statement, and objections. Within ten (10) calendar days of the close of the Opt-Out Deadline, the Claims Administrator shall prepare a final list of all Class Members and FLSA Collective Members who timely submitted valid Opt-Out Statements and objections, together with copies of the applicable Opt-Out Statements, and provide such information and documents to Defendant's Counsel and Class Counsel. The Claims Administrator will update and supplement this information as necessary or upon request by Defendant's Counsel.

2.8 Motion for Final Order and Judgment. No later than seven (7) calendar days before the Fairness Hearing, Plaintiffs will submit a Motion for Judgment and Final Approval. The Fairness Hearing shall be held at the Court's convenience.

2.9 Final Order and Judgment from the Court. The Parties will seek to obtain from the Court, as a condition of settlement, a Final Order and Judgment in a form attached as Exhibit B, except that the parties may mutually agree to changes to the Proposed Final Order and Judgment prior to seeking the Court's final approval of the Settlement. The Proposed Final Order and Judgment will, among other things:

- A. enter judgment in accordance with this Agreement;
- B. approve the settlement as fair, adequate, reasonable, and binding on all Plaintiffs, Class Members and FLSA Collective Members;
- C. dismiss the Litigation with prejudice;
- D. enter an order permanently enjoining all Plaintiffs, Class Members and FLSA Collective Members from pursuing and/or seeking to reopen claims that have been released by this Agreement;
- E. adjudicate the validity of the CAFA Notice and bar any Class Members' claim to void or avoid the Settlement under CAFA;
- F. find that the effect of the endorsement or redemption of a settlement check by a Class Member acts as a properly filed consent to join the FLSA claims in the Litigation, and an agreement to be bound by this Agreement; and
- G. incorporate the terms of this Agreement.

Plaintiffs will provide Defendant's Counsel with a draft of the motion seeking the Final Order and Judgment 10 days before its filing. The tolling of the statute of limitations on the FLSA Collective's and Class' claims as to those persons who worked for Defendant in Maryland ends on the date that the Court issues the Final Order and Judgment.

2.10 Right to Revoke. Defendant has the right to withdraw from the Settlement at any time prior to the entry of the Final Order and Judgment if:

- A. Five percent (5%) or more of the Class Members opt out of the Settlement;
- B. The Settlement construed by the Court is materially different from this Agreement, meaning that (i) Defendant is required to pay more than the Maximum Settlement Amount set forth in Section 3.1; (ii) the Court denies certification of the Class and/or FLSA Collective Action; (iii) the Court otherwise makes an order inconsistent with any of the terms of this Settlement; or
- C. Plaintiffs or Class Counsel breach the Agreement.

2.11 Effect of Revocation or Failure to Grant Final Approval. In the event the Court fails to enter Judgment in accordance with this Agreement, or such Judgment does not become Final as defined herein, or the Agreement does not become Effective, or Defendant revokes the Settlement pursuant to Section 2.10, (i) this Agreement shall have no force or effect, other than the non-publicity provisions in Paragraph 3.12, and the non-admission provisions in Paragraph 3.11; (ii)

neither this Agreement, nor any other related papers or orders, nor the negotiations leading to the Settlement, shall be cited to, used, or admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; (iii) the preliminary and conditional certification of the class shall become null and void, and the fact of certification shall not be cited to, used, or admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; (iv) none of the Parties will be deemed to have waived any claims, objections, defenses, or arguments with respect to the issue of class or collective action certification or the merits of Plaintiffs' claims or any other issue; and (v) the Litigation will proceed as if no settlement had been attempted.

3. SETTLEMENT TERMS

3.1 Settlement Payment.

A. Defendant agrees to pay a maximum of \$3,250,000 (the "Maximum Settlement Amount"), which shall resolve and satisfy all monetary obligations under this Agreement, including all attorneys' fees, litigation costs, Settlement Administration Expenses, payments to Plaintiffs, Class Members, and FLSA Collective Members, Enhancement Awards, and all other applicable taxes, interest, and payroll taxes (including the share owed by Defendant). Defendant shall not pay more than the Maximum Settlement Amount.

B. Within 30 days after the entry of the Preliminary Approval Order, Defendant shall fund the Settlement Fund in the amount of One Hundred Thousand Dollars (\$100,000.00).

C. When and if the Court enters the Final Order and Judgment, Defendant shall deposit into the Escrow Account the Maximum Settlement Amount minus the sum of \$100,000.00 already deposited per sub-paragraph B above no later than seven (7) calendar days after the Effective Date. Any interest accrued from the Escrow Account, net of taxes and any fees associated with investing such amount, shall immediately be added to and become part of the Settlement Fund.

D. Within thirty (30) calendar days following the Effective Date, or as soon as practicable thereafter, the Claims Administrator will distribute the money in the Escrow Account by making the following payments:

- i. Paying Class Counsel Court-approved attorneys' fees as described in Section 3.2.
- ii. Reimbursing Class Counsel for all costs and expenses approved by the Court as described in Section 3.2.
- iii. Paying the Claims Administrator as described in Section 3.2.
- iv. Paying the Enhancement Awards in the amounts described in Section 3.3.
- v. Paying the *cy pres* distribution as described in Section 3.5.
- vi. Withholding and remitting payroll taxes (both the employees' and employers' portions of taxes) as described in Section 3.6.
- vii. Paying Plaintiffs, Class Members and FLSA Collective Members their respective Individual Settlement Amount as described in Section 3.4.

E. The Parties agree that the Escrow Account is intended to be a “Qualified Settlement Fund” under Section 468B of the Internal Revenue Code of 1986, as amended (the “Code”), 26 U.S.C. Section 468B and Treas. Reg. §1.468B-1, 26 C.F.R § 1.468B-1, et seq., and will be administered by the Claims Administrator as such. The Claims Administrator shall apply for an employer identification number (“EIN”) for the Escrow Account pursuant to Internal Revenue Service (“IRS”) Form SS-4, and in accordance with Treas. Reg. §1.468B-2(k)(4), 26 C.F.R § 1.468B-2(k)(4). With respect to the Escrow Account, the Claims Administrator shall: (1) calculate, withhold, remit and report each Claimant’s share of applicable payroll taxes (including, without limitation, federal, state and local income tax withholding, FICA, Medicare and any state or local employment taxes), and indemnify Defendant for any penalty arising out of any error or incorrect calculation and/or interest with respect to any late deposit of the same; (2) calculate and coordinate with Defendant their share of payroll taxes; (3) satisfy all federal, state and local and income and other tax reporting, return and filing requirements with respect to the Escrow Account; and (4) satisfy out of the Escrow Account all (i) taxes (including any estimated taxes, interest or penalties) with respect to the interest or other income earned by the Escrow Account, and (ii) fees, expenses and costs incurred in connection with the opening and administration of the Escrow Account and the performance of its duties and functions as described in this Stipulation. The aforementioned taxes, fees, costs and expenses shall be treated as and included in the costs of administering the Escrow Account. The Parties and the Claims Administrator shall elect to treat the Settlement Fund as coming into existence as a Qualified Settlement Fund on the earliest date set forth in Treas. Reg. §1.468B-1(j)(2)(i), 26 C.F.R §1.468B-1(j)(2)(i), and that such election statement shall be attached to the appropriate returns as required by Treas. Reg. §1.468B-1(j)(2)(ii), 26 C.F.R §1.468B-1(j)(2)(ii). The Parties agree to cooperate with the Claims Administrator and one another to the extent reasonably necessary to carry out the provisions of this Section 3.1. The Claims Administrator will agree to indemnify and hold harmless the Parties for and against any claims or liabilities resulting from errors or omissions in its administration of the Escrow Account. Defendant (or some other person on behalf of the Defendant) shall supply to the Claims Administrator and to the IRS the statement described in Treas. Reg. §1.468B-3(e)(2), 26 C.F.R §1.468B-3(e)(2), no later than February 15th of the year following each calendar year in which the Defendant (or some other person on behalf of the Defendant) make a transfer to the Escrow Account.

F. The payments to Plaintiffs, Class Members and FLSA Collective Members pursuant to Section 3.4 shall be considered compensation for disputed unpaid wages, penalties, and interest, resulting from their period of employment with Defendant. To the extent any settlement payment results in any overpayment of unemployment benefits to Plaintiffs and/or any Claimant, the amount of any such overpayment shall be the responsibility of each Plaintiff, Class Member or FLSA Collective Member.

G. It is intended that all transfers by Defendant to the Escrow Account will satisfy the “all events test” and the “economic performance” requirement of Section 461(h)(1) of the Code, 26 U.S.C. Section 461(h)(1), and Treas. Reg. § 1.461-1(a)(2), 26 C.F.R. § 1.461-1(a)(2). As such, the Defendant shall not be taxed on any income of the Escrow Account.

3.2 Settlement Amounts Payable as Attorneys' Fees and Costs and as Settlement Administration Expenses.

A. At least fourteen (14) days prior to the Fairness Hearing, Class Counsel shall petition the Court for attorneys' fees and reimbursement of reasonable litigation costs and expenses from the Settlement Fund. Class Counsel shall not seek more than one-third of the Settlement Fund in attorneys' fees (i.e. \$1,083,333.33), and may seek an additional amount of up to \$30,000.00 in reimbursement of reasonable litigation costs and expenses, payable to Class Counsel, and additional amount, estimated to be \$43,312.00, payable to the Claims Administrator for Settlement Administration Expenses. Defendant will not oppose such application provided that Class Counsel has abided by the terms of this Agreement. Defendant shall have no additional liability for attorneys' fees and costs relating to the Litigation, the Settlement, or any claims released by this Settlement. Any portion of attorneys' fees, litigation costs and expenses, and/or Settlement Administration Expenses not approved or awarded by the Court shall be added on a *pro rata* basis to the FLSA Collective Fund, the Illinois Class Fund, and the Maryland Class Fund.

B. The substance of Class Counsel's application for attorneys' fees and costs is not part of this Agreement and is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the settlement of the Litigation. The outcome of any proceeding related to Class Counsel's application for attorneys' fees and costs shall not terminate this Agreement or otherwise affect the Court's ruling on the Motion for Judgment and Final Approval.

3.3. Enhancement Award to Plaintiffs. Prior to the Fairness Hearing, Class Counsel will apply to the Court for each Plaintiff to receive an enhancement award of \$10,000.00 from the Settlement Fund for services rendered to and for the benefit of the Class ("Enhancement Award"). Defendant will not oppose such application provided that it is made in accordance with the terms of this Agreement. The outcome of the Court's ruling on the application for an Enhancement Award shall not terminate this Agreement or otherwise affect the Court's ruling on the Motion for Judgment and Final Approval. Plaintiffs shall not appeal any decision by the Court regarding the Enhancement Award. Any portion of the Enhancement Award not approved or awarded by the Court shall be added on a *pro rata* basis to the FLSA Collective Fund, the Illinois Class Fund, and the Maryland Class Fund, those terms are defined in Section 3.4 below.

3.4 Distribution to Plaintiffs/Class Members/FLSA Collective Members.

A. The Net Settlement Fund shall be the amount of money remaining from the up to Three Million Two Hundred Fifty Dollars (\$3,250,000.00) Settlement Fund after deducting (i) attorneys' fees and costs approved by the Court, pursuant to Section 3.2; (ii) the Enhancement Awards approved by the Court pursuant to Section 3.3; and (iii) amounts paid to the Claims Administrator pursuant to Section 3.2; and (iv) Defendant's share of payroll taxes. The Net Settlement Fund shall be allocated amongst the FLSA Collective Fund, the Illinois Class Fund, and the Maryland Class Fund (as these terms are defined below) as follows:

i. **FLSA Collective Fund:** \$1,036,677.34, to be allocated amongst the FLSA Collective Members *pro rata* based on the number of weeks they worked for Defendant in the

Covered Period, with weeks worked by FLSA Collective Members who filed timely consent forms in the Litigation counting for twice the value of weeks worked by all other FLSA Collective Members.

ii. **Illinois Class Fund:** \$412,063.70, to be allocated amongst the Illinois Class Members *pro rata* based on the number of weeks they worked for Defendant in Illinois in the Covered Period.

iii. **Maryland Class Fund:** \$624,613.64, to be allocated amongst the Maryland Class Members *pro rata* based on the number of weeks they worked for Defendant in Illinois in the Covered Period.

B. The Individual Settlement Amount for each Plaintiff, FLSA Collective Member, and Class Member shall consist of the sum of each person's *pro rata* shares of the FLSA Collective Fund, and the Illinois Class Fund, and/or Maryland Class Fund.

C. Names of Plaintiffs, Class Members, and FLSA Collective Members and their Individual Settlement Amounts shall be kept strictly confidential by the Claims Administrator, Class Counsel, and Defendant's Counsel, which information will not be disclosed except as is necessary to the administration of the Settlement, and will be filed under seal at Defendant's option and subject to any orders of the Court.

D. Defendant and the Claims Administrator shall exchange such information as is necessary and reasonably available for: (i) the Claims Administrator and Defendant to make proper tax withholdings and comply with tax reporting obligations as described in Section 3.1E; and (ii) for the Claims Administrator to calculate Plaintiffs', Class Members', and FLSA Collective Members' Individual Settlement Amounts.

E. Within thirty (30) calendar days following the Effective Date, the Claims Administrator will issue and deliver via first-class mail to each Plaintiff and Class Member who does not timely submit a valid request for exclusion a check from the Escrow Account in the amount of each person's Individual Settlement Amount. Any Individual Settlement Amounts owed to Class Members who timely submit valid requests for exclusion shall remain the property of Defendant.

F. Plaintiffs, Class Members and FLSA Collective Members will have One Hundred Twenty (120) calendar days after each check date to redeem their settlement payments. If Plaintiffs, Class Members and FLSA Collective Members do not redeem their settlement payment checks within the 120-day period, their settlement checks (the "Unclaimed Checks") will be void and a stop-payment will be placed. In such event, the amounts associated with the unclaimed checks shall remain the property of Defendant and shall be distributed to a *cy pres* recipient described below in Section 3.5. Plaintiffs and Class Members who do not redeem their settlement checks shall remain bound by this Settlement and the Release in Section 3.7D. The outcome of any proceeding related to the distribution of amounts associated with unclaimed checks shall not terminate this Agreement or otherwise affect the Court's ruling on the Motion for Judgment and Final Approval.

3.5 Cy Pres. The Settlement Payment is non-reversionary and the amount of any uncashed checks after the expiration date, less any funds necessary for Settlement Administration, will be distributed to the following *cy pres* recipient(s), subject to approval by the Court: 50% to Northern Illinois Food Bank and 50% to Maryland Food Bank.

3.6 Taxability of Settlement Payments.

A. For tax purposes, the Enhancement Awards paid to Plaintiffs pursuant to Section 3.3 shall be treated as non-wage compensation, reported by the Claims Administrator on the applicable IRS Form 1099 as required by the Code, and shall be made without withholding.

B. Within twenty (20) calendar days following the Effective Date, Plaintiffs shall provide the Claims Administrator with a duly completed IRS Form W-9 or applicable IRS Form W-8 together with any other documentation and information requested by the Claims Administrator in connection with the Claims Administrator's tax reporting obligations under the Code. Plaintiffs understand that in the event valid U.S. tax forms or other required supporting documentation are not provided to the Claims Administrator, the Claims Administrator may be required to withhold tax from payments made pursuant to this Agreement.

C. For tax purposes, the payments to Plaintiffs, Class Members and FLSA Collective Members pursuant to Section 3.4 shall be allocated as follows: unpaid wages (50% of each settlement payment) and non-wage compensation (50% of each settlement payment). The Claims Administrator will calculate, withhold, remit and report each Plaintiff's, Class Member's and FLSA Collective Member's share of applicable payroll taxes (including, without limitation, federal, state and local income tax withholding, FICA, Medicare and any state or local employment taxes) based on the wage portions of each person's Individual Settlement Amount. The Claims Administrator will issue each Plaintiff, Class Member and/or FLSA Collective Member the appropriate Individual Settlement Amount as a single check consisting of the portions for unpaid wages and non-wage compensation, and shall accompany each check with a statement setting forth any withholdings and remittances. Defendant shall cooperate with the Claims Administrator to timely arrive at an amount equal to the employer's share of the FICA tax and any federal and state unemployment tax due by employers, with respect to the amounts treated as wages, which amounts shall be withheld by the Claims Administrator from the applicable wage payments. The Claims Administrator shall be responsible for making all reporting, deposits, and withholdings with respect to all amounts payable to Plaintiffs, Class Members and FLSA Collective Members required pursuant to any federal, state, or local tax law or regulation hereunder under the EIN of the Escrow Account.

D. Payments treated as unpaid wages pursuant to Section 3.4 shall be made net of all applicable employment taxes, including, without limitation, federal, state and local income tax withholding and the FICA tax, and shall be reported to the IRS and the payee under the payee's name and social security number on an IRS Form W-2. Payments treated as non-wage compensation pursuant to Section 3.6 shall be made without withholdings (unless otherwise required by law), and if required by law, reported to the IRS and the payee under the payee's name and social security number on an IRS Form 1099.

E. Within twenty (20) calendar days following the Effective Date, Class Counsel shall provide the Claims Administrator with duly completed IRS Form W-9's for their law firms. Payments of attorneys' fees and costs pursuant to Section 3.2 shall be reported by the Claims Administrator on the applicable IRS Form 1099 as required by the Code and shall be made without withholding, provided the Claims Administrator has timely received duly completed Form W-9s from Class Counsel.

F. As to the payments reported as non-wage compensation, Plaintiffs, Class Members and FLSA Collective Members agree to indemnify and hold harmless Defendant for any taxes, penalties, interest, attorneys' fees and costs, or other amounts due or owing by Plaintiffs, Class Members or FLSA Collective Members on such payments. Other than as set forth above, and as required by law, Defendant and the Claims Administrator will not make from the payment to Plaintiffs, Class Members or FLSA Collective Members any deductions, withholdings, or additional payments, including without limitation, medical or other insurance payments or premiums, employee 401(k) contributions or matching employer contributions, wage garnishments, or charity withholdings, and entry of the Final Order and Judgment by the Court shall be deemed authority not to make such deductions, withholdings, or additional payments. Any amount paid to Plaintiffs, Class Members or FLSA Collective Members shall not create any credit or otherwise affect the calculation of any deferred compensation, benefit, pension, or other compensation or benefit plan provided by Defendant.

G. Plaintiffs and each individual Class Member and FLSA Collective Member will be solely responsible for all taxes, interest, penalties, or other amounts due with respect to any payment received pursuant to this Agreement (other than FICA and any federal and state unemployment taxes specified in Section 3.7D). Plaintiffs, on behalf of the Class Members and FLSA Collective Members, acknowledge and agree that they have not relied upon any advice from Defendant as to the taxability of the payments received pursuant to this Agreement.

H. The Claims Administrator shall handle all tax reporting with respect to the payments made pursuant to this Agreement, and shall report the payments in accordance with applicable law.

3.7 Release.

A. Release of Claims by Plaintiffs and Class Members. Upon the entry of the Final Order and Approval, each Plaintiff and Class Member who has not timely submitted a valid request for exclusion, on his or her behalf, and on behalf of his or her respective current, former and future heirs, assigns, spouses, executors, administrators, agents, and attorneys ("Releasers"), shall fully release and discharge IAS Logistics DFW LLC d/b/a Pinnacle Logistics and its affiliates and related and/or merged entities, present and former officers, partners, directors, officers, shareholders, employees, agents, attorneys, successors and/or assigns, insurers or reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, including, but not limited to, G & A Partners, and any individual or entity that could

be jointly liable with any of them (“Releasees”), of and from any and all state and local law wage and hour claims arising from his or her employment including statutory claims, whether known or unknown, in law or in equity, including, but not limited to, any and all wage and hour claims under state and local law, that accrued or accrue prior to the date of the Order Granting Preliminary Approval, including claims under any legal theory for failure to pay minimum wage, failure to pay overtime compensation, failure to properly calculate overtime compensation, failure to pay for all hours worked, failure to provide meal and rest periods, failure to timely pay wages or compensation or final wages or compensation, failure to reimburse for business expenses, making illegal deductions from wages or compensation, and/or failure to furnish accurate wage statements or other notices, failure to keep accurate records, and any and all claims for recovery of compensation, overtime pay, minimum wage, premium pay, interest, and/or penalties, claims under the Employee Retirement Income Security Act (“ERISA”) that are related or derivative of the claims released in this Section 3.7A, other penalties, related tort and punitive and liquidated damages claims, and/or violations of any other state or local statutory and common law.

B. Release of Claims by Plaintiffs and FLSA Collective Members. In addition, each FLSA Collective Member who has filed a consent form in the Litigation and/or who timely cashes his or her settlement check, and the Releasers, shall fully release and discharge Defendant and the Releasees in the manner described in Section 3.7C from any and all federal, state, and local wage and hour claims arising from his or her employment, including statutory claims, whether known or unknown, in law or in equity, including FLSA claims, including but not limited to claims under 29 U.S.C. § 206, 207, 211(c) and 215(a), including liquidated damages, during the Covered Period through the latter of the date of the Order Granting Preliminary Approval, and including claims under any legal theory for failure to pay minimum wage, failure to pay overtime compensation, failure to properly calculate overtime compensation, failure to pay for all hours worked, failure to provide meal and rest periods, failure to timely pay wages or compensation or final wages or compensation, failure to reimburse for business expenses, making illegal deductions from wages or compensation, and/or failure to furnish accurate wage statements or other notices, failure to keep accurate records, and any and all claims for recovery of compensation, overtime pay, minimum wage, premium pay, interest, and/or penalties, claims under ERISA that are related or derivative of the claims released in this Section 3.7B, other penalties, related tort and punitive and liquidated damages claims, and/or violations of any other federal, state, or local statutory and common law.

This Settlement is intended to include in its effect all claims identified in this Section 3.7B, including claims that each Plaintiff, Class Member and FLSA Collective Member do not know or suspect to exist in his or her favor against Defendant or Releasees at the time of the release. Plaintiffs, Class Members and FLSA Collective Members shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may otherwise have had relating to the claims identified in this Section 3.7B.

This Agreement does not release or otherwise apply to claims asserted under the Biometric Information Privacy Act in *Larhonda Jones, individually and on behalf of all others similarly situated, v. v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, Case 1:19-cv-02510.

C. Settlement Check Endorsement.

All settlement checks shall contain on the back of the check, the following limited endorsement:

“CONSENT TO JOIN AND FINAL RELEASE OF FLSA CLAIMS: I understand that I have up to [INSERT DATE 120 DAYS FROM MAILING] to sign and cash this Settlement Check. By endorsing and/or redeeming this check, I consent to join the Fair Labor Standards Act claims in the case entitled Latisha Rhodes and Alexis Parker, individually and on behalf of all others similarly situated v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics, Case No. 1:20-cv-05103, pending in the United States District Court for the Northern District of Illinois, and agree to be bound by the Settlement Agreement in that case and hereby release Defendant from all claims that I might have for or relating to wages I am owed for working at Pinnacle between August 31, 2017 and [date of Preliminary Approval Order].

_____ Dated: _____

Signature

The Order of Final Approval shall state that the effect of this endorsement and/or redeeming of the check by a Class Member is to act as a properly filed Consent to join the Fair Labor Standards Act claims in the Litigation, and an agreement to be bound by this Agreement.

D. General Release of Claims by Plaintiffs. In addition, to the maximum extent permitted by law, Plaintiffs, and the Releasors generally release Defendant and the Releasees from any and all claims, actions, causes of action, lawsuits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, bonuses, controversies, agreements, promises, claims, charges, complaints and demands whatsoever, whether in law or equity, known or unknown, which against the Defendant or Releasees Plaintiffs and their respective heirs, executors, administrators, successors, and assigns, ever had, may now have, or hereafter later determine that she/they have or had upon, or by reason of, any cause or thing whatsoever, including, but not limited to relating to their employment or termination of employment, including, but not limited to, claims arising under the Consumer Financial Protection Act, 12 U.S.C. § 5567 (“CFPA”), Americans With Disabilities Act, the National Labor Relations Act, the Fair Labor Standards Act, the Equal Pay Act, the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., including but not limited to, breach of fiduciary duty and equitable claims to be brought under §1132(a)(3) (“ERISA”), the Worker Adjustment and Retraining Notification Act, Title VII of the Civil Rights Act of 1964, the Vocational Rehabilitation Act of 1973, the Civil Rights Acts of 1866, 1871 and 1991, including Section 1981 of the Civil Rights Act, the Family and Medical Leave Act, and/or any other federal, state or local human rights, civil rights, wage-hour, pension or labor law, rule, statute, regulation, constitution or ordinance and/or public policy, contract or tort law, or any claim of retaliation under such laws, or any claim of breach of any contract (whether express, oral, written or implied from any source), or any claim of intentional or negligent infliction of emotional distress, tortious interference with contractual relations, wrongful or abusive or constructive discharge, defamation, prima facie tort, fraud, negligence, loss of consortium, malpractice, breach of duty of care, breach of fiduciary duty or any action similar thereto against Defendant or Releasees, including any claim for attorneys’ fees, expenses or costs based upon any conduct from the beginning of the world up to and including

the date that Plaintiffs executes this General Release. Specifically included in this General Release of Claims by Plaintiffs are any and all claims arising out of the same transactions, series of connected transactions, occurrences, or nucleus of operative facts that form the basis of the claims that were or could have been asserted in the Litigation. Plaintiffs do not, however, waive any right to file an administrative charge with the Equal Employment Opportunity Commission (“EEOC”), subject to the condition that she agrees not to seek, or in any way obtain or accept, any monetary award, recovery or settlement therefrom; and further, Plaintiffs do not release any claim for breach of the terms of the Agreement.

This Settlement is intended to include in its effect all claims identified in this Section 3.7D, including claims that Plaintiffs do not know or suspect to exist in their favor against Defendant or Releasees at the time of the release. Plaintiffs shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may otherwise have had relating to the claims identified in this Section 3.7D.

E. Nothing in this Release shall prohibit or restrict Plaintiffs, Class Members or FLSA Collective Members from: (i) providing information to or cooperating with Congress, the Securities and Exchange Commission (“SEC”), the Commodity Futures Trading Commission (“CFTC”), the Consumer Financial Protection Bureau (“CFPB”), the EEOC, the Occupational Safety and Health Administration (“OSHA”), the National Labor Relations Board (“NLRB”) or any other federal, state or local government, regulatory, or law enforcement agency (“Government Agencies”), the Financial Industry Regulatory Authority (“FINRA”), or any other self-regulatory organization (“SRO”); (ii) reporting to Defendant’s management or directors regarding conduct the employee believes to be in violation of the law or prohibits or restricts the employee from providing information to or cooperating with any Government Agencies or any SROs; (iii) communicating with any Government Agencies or SRO or otherwise participating in any investigation or proceeding that may be conducted by any Government Agency or SRO, including providing documents or other information; or (iv) receiving an award for information provided to any Government Agencies other than for charges filed with the EEOC or corresponding state or local agency as set forth above.

F. Plaintiffs, Class Members, and FLSA Collective Members further covenant that they will not participate in any other legal actions against Defendant relating to claims released by this Agreement, including but not limited to the Related Litigation, and will not opt-in, will withdraw any opt-in, will dismiss the action or themselves in Litigation where they are a claimant, plaintiff or appellant, and will opt-out of those actions if they become aware of such actions.

G. Class Counsel agrees to hold in abeyance each Demand for Arbitration filed on behalf of Plaintiffs, FLSA Collective Members, and Class Members, with the American Arbitration Association as set forth in Section 1.26 until the Effective Date, at which point Class Counsel shall also dismiss the Demands for Arbitration with prejudice pursuant to this Agreement and without costs assessed against Defendant.

H. It is further agreed and stipulated that the existence of or fact that this Settlement has been negotiated to include Class Members and/or FLSA Collective Members who have entered into arbitration agreements with class/collective action waivers with Pinnacle, and Related

Litigation including Demands for Arbitration filed by Class Members and/or FLSA Collective Members who have or claim to have entered into arbitration agreements with class/collective action waivers with Pinnacle, shall not be referred to, relied upon, or otherwise argued to create a waiver by Pinnacle of its intention to rely on arbitration agreements in any other context outside the scope of this Litigation or Related Litigation. It is understood and agreed that only for the limited and sole purpose of this Settlement, Defendant agrees to waive arguments available to it to challenge the enforceability of these arbitration agreements and the arbitrability of the claims of those who entered into arbitration agreements. This concession is for the sole purpose of administering an efficient and expedient Settlement.

I. Release of Fees and Costs for Settled Matters. Class Counsel and Plaintiffs, individually and on behalf of the Class, hereby irrevocably and unconditionally release, acquit, and forever discharge any claim that she or they may have against Defendant or Releasees for attorneys' fees or costs associated with Class Counsel's representation of Plaintiffs, the Class, and the FLSA Collective Action in this Litigation, the Settlement, or any claims being Released by this Agreement. Class Counsel further understand and agree that any fee payments approved by the Court will be the full, final and complete payment of all attorneys' fees and costs associated with Class Counsel's representation of these individuals and/or their representation in the Litigation.

3.8 No Reemployment. Plaintiffs hereby agree that they shall not seek and hereby waive any claim for employment or re-employment (as a full-time or part-time employee) or assignment or work (as a temporary worker, independent contractor or consultant) or, in the event of a merger or acquisition, continued employment or assignment or work or any other position in which she receives payment either directly or indirectly from any Defendant, and that this General Release shall be a complete bar to any such application, employment, continued employment, re-employment or work.

3.9 No Assignment. Class Counsel and Plaintiffs, individually and on behalf of the Class, and FLSA Collective Members, represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Litigation, or any related action.

3.10 Non-Admission. Nothing relating to this Agreement, or any communications, papers, or orders related to the Settlement, shall be cited to as, construed to be, admissible as, or deemed an admission by Defendant or Releasees of any liability, culpability, negligence, or wrongdoing toward Plaintiffs, the Class Members, the FLSA Collective Members, or any other person, and Defendant and Releasees specifically disclaim any liability, culpability, negligence, or wrongdoing toward Plaintiffs, the Class Members, FLSA Collective Members, or any other person, or that class or collective action certification is appropriate in this or any other matter. Each of the Parties has entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and contingencies. This Agreement, and any communications, papers, or orders related to the Settlement, may not be cited to, used, or admitted as evidence of liability or that class or collective action certification is appropriate. There has been no determination by any Court as to the merits of the claims asserted by Plaintiffs against Defendant or as to whether a class or collective should be certified, other than for settlement

purposes only. Furthermore, nothing in this Agreement shall be cited to as, construed to be, admissible as, or considered any form of waiver of any alternative dispute resolution agreements, provisions, or policies by Defendant or Releasees.

3.11 Non-Publicity/Non-Disparagement. Except as may be required for purpose of obtaining preliminary and final approval of this Agreement, Plaintiffs agree not to disclose to individuals other than immediate family, tax preparers, and attorneys the terms of this Settlement or the negotiations leading thereto except in court papers or if required by legal process or protected by law. After the filing of the Motion for Preliminary Approval, neither Plaintiffs nor Class Counsel shall, directly or indirectly, issue or cause to be issued any statements to the media or engage in any other publicity regarding the Agreement or the Settlement, nor shall they issue any notice of the Settlement to Class Members or FLSA Collective Members (other than communications with Plaintiffs or other Class Members or FLSA Collective Members) except for the class notice issued through the Claims Administrator as set forth in this Agreement. Neither Plaintiffs nor Class Counsel, directly or indirectly, shall issue a press release, hold a press conference, publish information or advertise about the Settlement or the settlement negotiations on any website, or otherwise publicize the settlement or negotiations. Plaintiffs and Class Counsel agree not to respond to any press inquiries concerning the settlement except to refer reporters to the papers filed with the District Court. Plaintiffs further agree not to make disparaging comments relating to Defendant's compensation of Plaintiffs. Nothing in this Section prohibits Class Counsel from citing to the Order Granting Preliminary Approval or Final Approval in future court papers in support of arguments that Class Counsel is adequate.

3.12 Non-Interference with Settlement. Pending the Court's decision on final approval of the Settlement and entry of the Court's Final Order and Judgment, Plaintiffs and all Class and FLSA Collective Members and anyone acting on behalf of any Class and FLSA Collective Member shall be barred and enjoined from: (a) further prosecution of the Litigation; (b) filing, or taking any action directly or indirectly, to commence, prosecute, pursue or participate on a class or collective action basis any action, claim or proceeding against Defendant in any forum in which any of the claims subject to the Settlement are asserted, or which in any way would prevent any such claims from being extinguished; or (c) seeking, whether on a conditional basis or not, certification of a class or collective action that involves any such claims.

3.13 Returns and/or Destruction of Confidential Settlement Materials. Plaintiffs and Class Counsel agree to return and/or destroy all documents produced to them for settlement purposes in this Litigation, including but not limited to all time and payroll records for current or former employees of Defendant. As to all documents Class Counsel is required to return to Defendant's Counsel, Defendant's Counsel shall retain all such documents for a period of three years, and shall provide to Class Counsel for inspection upon request.

3.14 Circular 230 Disclaimer. Each Party to this Agreement acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) each Party (A) has relied exclusively upon his, her or its own, independent legal and tax advisers

for advice (including tax advice) in connection with this Agreement, (B) has not entered into this Agreement based upon the recommendation of any other party or any attorney or advisor to any other party, and (C) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the Party; and (3) no attorney or adviser to any other party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

3.15 Miscellaneous.

A. Cooperation Between the Parties; Further Acts. The Parties shall cooperate fully with each other and shall use their reasonable best efforts to obtain the Court's approval of this Agreement and all of its terms. Each of the Parties, upon the request of any other party, agrees to perform such further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this Agreement.

B. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Agreement.

C. Binding Effect. This Agreement shall be binding upon the Parties and Class Counsel, with respect to Plaintiffs and the Class and FLSA Collective Members, their spouses, children, representatives, heirs, administrators, executors, beneficiaries, conservators, attorneys and assigns.

D. Arms' Length Transaction; Materiality of Terms. The Parties have negotiated all the terms and conditions of this Agreement at arm's length. All terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement.

E. Captions. The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

F. Construction. The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this Agreement, and therefore the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any party by virtue of draftsmanship.

G. Governing Law. This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of Illinois, without regard to choice of law principles, except to the extent that the law of the United States governs any matter set forth herein, in which case such federal law shall govern.

H. Continuing Jurisdiction. The Court shall retain jurisdiction over the interpretation and implementation of this Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Agreement and of the settlement contemplated thereby. The Court shall not have jurisdiction to modify the terms of the Agreement or to increase Defendant's payment obligations hereunder.

I. Waivers, etc. to Be in Writing. No waiver, modification or amendment of the terms of this Agreement, whether purportedly made before or after the Court's approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties and then only to the extent 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.

J. When Agreement Becomes Effective. Except for provisions of this Agreement requiring any Party to act or seek Court action prior to Court approval, which provisions are intended to be binding on the parties upon mutual execution hereof, this Agreement shall become fully effective upon the Effective Date.

K. Facsimile/Electronic Signatures. Any signature made and transmitted by facsimile or email for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the party whose counsel transmits the signature page by facsimile or email.

L. Extensions of Time. If any deadlines related to this Settlement cannot be met, Class Counsel and counsel for Defendant shall meet and confer to reach agreement on any necessary revisions of the deadlines and timetables set forth in this Agreement. In the event that the Parties fail to reach such agreement, any of the Parties may apply to the Court via a noticed motion for modification of the dates and deadlines in this Agreement.

M. Counterparts. The Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court.

N. The Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto; but this Agreement is not designed to and does not create any third party beneficiaries other than third parties that are identified as Releasees in Section 1.27 of this Agreement.

O. Recitals. All of the above recitals are included as part and parcel of this Agreement as if fully set forth herein.

P. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible

consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable. If any other term or provision of this Agreement is found to be inconsistent with any law, statute or regulation, or is invalid or unenforceable for any reason (except for the Release set forth in Sections 3.7A, 3.7B, 3.7C and/or 3D), the remainder of this Agreement, shall not thereby be affected and shall be given full effect without regard to the invalid portions; and such term or provision shall be deemed curtailed, limited or reduced to the extent necessary to achieve consistency, validity, or enforceability, as the case may be, but such term or provision shall only be so curtailed and limited to the extent necessary to achieve the same, and the term or provision, in its curtailed, limited or reduced form, shall then be enforceable to the maximum extent permitted by applicable law.

Q. No Unauthorized Written Communications. Neither Class Counsel nor Defendant’s Counsel shall cause the publication, distribution, or issuance of written or digital communications relative to, related to, which references, or in connection with this Settlement, to Class Members and/or FLSA Collective Members other than the Notice and settlement payments.

Latisha Rhodes

By: _____

Date: _____

IAS Logistics DFW d/b/a Pinnacle Logistics

Print: _____

Signature: _____

Date: _____

Alexis Parker

By: _____

Date: _____

Wilson, Elser, Moskowitz, Edelman & Dicker LLP

Print: _____

Signature: _____

Fish, Potter & Bolanos, P.C.

Print: _____

Date: _____

Signature: _____

Date: _____

Brown, LLC

Print: _____

Signature: _____

Date: _____

consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable. If any other term or provision of this Agreement is found to be inconsistent with any law, statute or regulation, or is invalid or unenforceable for any reason (except for the Release set forth in Sections 3.7A, 3.7B, 3.7C and/or 3D), the remainder of this Agreement, shall not thereby be affected and shall be given full effect without regard to the invalid portions; and such term or provision shall be deemed curtailed, limited or reduced to the extent necessary to achieve consistency, validity, or enforceability, as the case may be, but such term or provision shall only be so curtailed and limited to the extent necessary to achieve the same, and the term or provision, in its curtailed, limited or reduced form, shall then be enforceable to the maximum extent permitted by applicable law.

Q. No Unauthorized Written Communications. Neither Class Counsel nor Defendant's Counsel shall cause the publication, distribution, or issuance of written or digital communications relative to, related to, which references, or in connection with this Settlement, to Class Members and/or FLSA Collective Members other than the Notice and settlement payments.

Latisha Rhodes

By: *Latisha Rhodes*
Date: 04 / 30 / 2022

IAS Logistics DFW d/b/a Pinnacle Logistics

Print: Mark J. Elser
Signature: *Mark J. Elser*
Date: 5 / 3 / 2022

Alexis Parker

By: *Alexis Parker*
Date: 04 / 30 / 2022

Wilson, Elser, Moskowitz, Edelman & Dicker LLP

Print: Lisa Handler Ackerman
Signature: *Lisa Handler Ackerman*

Fish, Potter & Bolanos, P.C.

Print: David Fish
Signature: *David Fish*
Date: 05 / 01 / 2022

Date: 05/03/2022 20:50 UTC

Brown, LLC

Print: Jason T. Brown
Signature: *Jason Brown*
Date: 05 / 01 / 2022

EXHIBIT 1

NOTICE OF PROPOSED CLASS AND COLLECTIVE ACTION SETTLEMENT

TO: Hourly paid and/or non-exempt employees of IAS Logistics DFW, LLC d/b/a Pinnacle Logistics (“Pinnacle” or “Defendant”) employed at any Pinnacle location in Illinois or Maryland anytime between August 31, 2017 and [insert date of Preliminary Approval Order] (“the Covered Period”).

A federal court authorized this Notice. This is not a solicitation from a lawyer.

1. WHY DID I RECEIVE THIS NOTICE?

Based on Pinnacle’s records, you were employed by the company as an hourly paid and/or non-exempt employee between August 31, 2017 and [insert date of Preliminary Approval Order] (“the Covered Period”) and may be entitled to participate in the Settlement of the lawsuit captioned, *Alexis Parker and Latisha Rhodes v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, No. Case No. 1:20-cv-5103 (N.D. Ill.) (“the Litigation”). Accordingly, under the terms of the preliminarily approved Settlement you may claim money as a Class Member and/or FLSA Collective Member. This notice explains the Settlement of this Litigation and your options.

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiffs, Alexis Parker and Latisha Rhodes, filed a lawsuit on behalf of themselves and other hourly paid and/or non-exempt employees of Pinnacle (“Plaintiffs”) alleging the company violated the Fair Labor Standards Act (“FLSA”), the Illinois Minimum Wage Law, the Illinois Wage Payment and Collection Act, the Maryland Wage and Hour Law, and the Maryland Wage Payment and Collection Law. The Plaintiffs alleged two wage and hour violations: 1) their wages were automatically deducted for meal breaks even during those instances a full meal break was not taken, and 2) during workweeks in which they worked overtime (e.g., more than 40 hours in a workweek) and earned a shift differential that was not included when calculating their overtime rate of pay. Defendant denies Plaintiffs’ allegations. It is Defendant’s position that it properly paid Plaintiffs and other employees.

3. WHAT ARE CLASS AND COLLECTIVE ACTIONS?

A class and collective action is a lawsuit where one or more persons (in this case Alexis Parker and Latisha Rhodes) sue not only for themselves but on behalf of other people who may have similar claims. These other people are known as Class and Collective Members. In a class and collective action, one court resolves the issues for all Class and Collective Members, except those who exclude themselves from the Settlement. The Honorable Judge Ronald A. Guzman, of the United States District Court for the United States District Court for the Northern District of Illinois, Eastern Division, is presiding over the Litigation. Judge Guzman has not made any determinations about who is right or wrong in the Litigation.

4. WHY IS THERE A SETTLEMENT?

After extensive negotiations and with the help of a neutral mediator, the parties agreed to settle. While both Plaintiffs and Defendant believe they would have prevailed, by settling the Litigation they avoid the costs of a trial, the risk of losing, the delay of litigating the case and of potential appeals. Plaintiffs and Class Counsel believe that the preliminarily approved Settlement is fair and reasonable and in the best interests of all Class and Collective Members. The Settlement does not mean Defendant did anything wrong or violated the law.

5. WHAT DOES THE SETTLEMENT PROVIDE?

Defendant has agreed to deposit \$3,250,000.00 into a Settlement Fund, which shall resolve and satisfy all monetary obligations under the Settlement, including: 1) payments to a Claims Administrator for Settlement Administration Expenses estimated to be approximately \$43,312.00; 2) Enhancement Awards in the amount of \$10,000 to each Class Representative/Plaintiff, Alexis Parker and Latisha Rhodes; 3) attorneys' fees to Class Counsel in the amount of one-third of the Settlement Fund (i.e., \$1,083,333.33), and an additional amount of up to \$30,000.00 as reimbursement of reasonable litigation costs and expenses; and 4) payroll taxes.

After such fees and costs have been deducted, the remaining amount ("the Net Settlement Fund"), shall be allocated amongst the FLSA Collective Fund, the Illinois Class Fund, and the Maryland Class Fund as described below:

A. FLSA Collective Fund: \$1,036,677.34, to be allocated amongst the FLSA Collective Members *pro rata* based on the number of weeks they worked for Defendant in the Covered Period, with weeks worked by FLSA Collective Members who filed timely consent forms in the Litigation counting for twice the value of weeks worked by all other FLSA Collective Members.

B. Illinois Class Fund: \$412,063.70, to be allocated amongst the Illinois Class Members *pro rata* based on the number of weeks they worked for Defendant in Illinois in the Covered Period.

C. Maryland Class Fund: \$624,613.64, to be allocated amongst the Maryland Class Members *pro rata* based on the number of weeks they worked for Defendant in Illinois in the Covered Period.

Any unclaimed funds shall be applied to a *cy pres* charitable donation to a charitable organization.

6. HOW MUCH WILL MY PAYMENT BE?

Based on the formula (described in Paragraph 5 above), you will be entitled to receive a *pro rata* award for each week that you were employed, which shall be reported as 50% W-2 wages and 50% 1099 earnings or to the extent required by law.

Your estimated Individual Settlement Amount is \$[INSERT]. The allocation formula takes into account the number of weeks you worked during the Covered Period.

7. HOW CAN I GET MY PAYMENT?

If you do nothing, you will automatically be deemed to be part of the Class and you will be paid your *pro rata* share of the Settlement. You will be sent a settlement check if and when Court enters an order of final approval of the Settlement and after all appeals have been exhausted.

If you choose to exclude yourself, then you will not receive a payment.

8. WHAT AM I GIVING UP TO GET A PAYMENT IN THE CLASS AND COLLECTIVE ACTION?

A. Release of Claims Class Members. Upon the entry of the Final Order and Approval, each Plaintiff and Class Member who has not timely submitted a valid request for exclusion, on his or her behalf, and on behalf of his or her respective current, former and future heirs, assigns, spouses, executors, administrators, agents, and attorneys (“Releasers”), shall fully release and discharge IAS Logistics DFW LLC d/b/a Pinnacle Logistics and its affiliates and related and/or merged entities, present and former officers, partners, directors, officers, shareholders, employees, agents, attorneys, successors and/or assigns, insurers or reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, including, but not limited to, G & A Partners, and any individual or entity that could be jointly liable with any of them (“Releasees”), of and from any and all state and local wage and hour claims arising from his or her employment including statutory claims, whether known or unknown, in law or in equity, including, but not limited to, any and all wage and hour claims under state and local law, that accrued or accrue prior to [the date of the Order Granting Preliminary Approval], including claims under any legal theory for failure to pay minimum wage, failure to pay overtime compensation, failure to properly calculate overtime compensation, failure to pay for all hours worked, failure to provide meal and rest periods, failure to timely pay wages or compensation or final wages or compensation, failure to reimburse for business expenses, making illegal deductions from wages or compensation, and/or failure to furnish accurate wage statements or other notices, failure to keep accurate records, and any and all claims for recovery of compensation, overtime pay, minimum wage, premium pay, interest, and/or penalties, claims under the Employee Retirement Income Security Act (“ERISA”) that are related or derivative of the claims released in herein, other penalties, related tort and punitive and liquidated damages claims, and/or violations of any other state or local statutory and common law.

B. Release of Claims by FLSA Collective Members. In addition, upon the entry of the Final Order and Approval, each FLSA Collective Member who has filed a consent form in the Litigation and/or who timely cashes his or her settlement check, and who has not timely submitted a valid request for exclusion, on his or her behalf, and on behalf of his or her respective current, former and future heirs, assigns, spouses, executors, administrators, agents, and attorneys (“Releasers”), shall fully release and discharge IAS Logistics DFW LLC d/b/a Pinnacle Logistics

and its affiliates and related and/or merged entities, present and former officers, partners, directors, officers, shareholders, employees, agents, attorneys, successors and/or assigns, insurers or reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, including, but not limited to, G & A Partners, and any individual or entity that could be jointly liable with any of them (“Releasees”), shall fully release and discharge Defendant and the Releasees in the manner described herein from any and all federal, state, and local wage and hour claims arising from his or her employment, including statutory claims, whether known or unknown, in law or in equity, including FLSA claims, including but not limited to claims under 29 U.S.C. § 206, 207, 211(c) and 215(a), including liquidated damages, during the Covered Period through the latter of the date of the Order Granting Preliminary Approval, and including claims under any legal theory for failure to pay minimum wage, failure to pay overtime compensation, failure to properly calculate overtime compensation, failure to pay for all hours worked, failure to provide meal and rest periods, failure to timely pay wages or compensation or final wages or compensation, failure to reimburse for business expenses, making illegal deductions from wages or compensation, and/or failure to furnish accurate wage statements or other notices, failure to keep accurate records, and any and all claims for recovery of compensation, overtime pay, minimum wage, premium pay, interest, and/or penalties, claims under ERISA that are related or derivative of the claims released herein, other penalties, related tort and punitive and liquidated damages claims, and/or violations of any other federal, state, or local statutory and common law.

C. This Settlement is intended to include in its effect all claims identified herein, including claims that each Plaintiff, Class Member and FLSA Collective Member do not know or suspect to exist in his or her favor against Defendant or Releasees at the time of the release. Plaintiffs, Class Members and FLSA Collective Members shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may otherwise have had relating to the claims identified herein.

D. By failing to opt-out of this lawsuit, you will automatically be part of the Class and included in the Settlement for the Illinois and Maryland state law claims. By endorsing and depositing a settlement check, you will automatically be part of the Settlement for the FLSA claims.

9. AS A CLASS MEMBER, HOW DO I OPT OUT OF THE SETTLEMENT?
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If you do not want to participate in the Settlement (e.g., not receive a payment from the Settlement) or be bound by the release of claims described above, you have the option of opting out of the Settlement.

To opt out, you must mail a signed letter to the Claims Administrator that specifically states: “I opt out of the Pinnacle Logistics wage and hour settlement” and include your name, address, and telephone number (“Opt-out Statement”).

To be effective, the Opt-out Statement must be mailed to the Claims Administrator via First Class United States Mail, postage prepaid, and postmarked by [INSERT DATE].

[Settlement Administrator]
[Address]

If you exclude yourself from the Settlement, you will NOT be allowed to object to the Settlement as described in Paragraph 10 below.

10. WHAT IF I HAVE AN OBJECTION TO THE SETTLEMENT?

Any Class Member who has not opted-out of the Settlement (as described in Paragraph 9), and who objects to any part of the Settlement, may file a written objection with the United States District Court for the Northern District of Illinois at 219 S. Dearborn Street, Chicago, Illinois 60604, as well as mailing a copy to of your written objection to the Claims Administrator at:

[INSERT CONTACT INFO FOR CLAIMS ADMINISTRATOR]

Written objections must be filed with the Court and postmarked no later than [INSERT DATE], contain your name, address, be signed by you, and include a reference to *Alexis Parker and Latisha Rhodes v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, No. Case No. 1:20-cv-5103. You are not required to submit an objection. You can give the reasons why you think the Court should not approve the Settlement, and include any evidence you wish the Court to consider.

11. WHEN IS THE COURT'S FAIRNESS HEARING?

The Court has preliminarily approved the Settlement and will hold a Fairness Hearing to decide whether to give final approval to the Settlement. The purpose of the Fairness Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Class; to consider the award of attorneys' fees and expenses to Class Counsel; to consider the request for Enhancement Awards to Plaintiffs. The Court will take into account any objections filed in accordance with procedures described in Paragraph 10 above.

The Fairness Hearing will be held on [INSERT DATE] at [INSERT TIME] at the Everett McKinley Dirksen United States District Court for the Northern District of Illinois, 219 South Dearborn Street, Courtroom 1886, Chicago, Illinois 60604 and/or by dialing in: [REDACTED] before the Honorable Judge Ronald A. Guzman.

You are welcome to appear at the Fairness Hearing, but you are not required to do so. If you send a written objection, you are not required to come to Court to talk about it. You may also pay your own lawyer to attend, but that is also not necessary.

12. AS A CLASS MEMBER, DO I HAVE A LAWYER IN THIS LITIGATION?

The Court has appointed the following law firms as Class Counsel to represent you and the Class and Collective Members:

Jason T. Brown
Nicholas R. Conlon
Brown LLC
111 Town Square Place, Suite 400
Jersey City, New Jersey 07310

David Fish
John Kunze
Fish, Potter and Bolanos, P.C.
2000 E. 5th Avenue, Suite 123
Naperville, Illinois 60565

You will not be charged separately for these lawyers. Their fees are being paid from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

13. HOW CAN I GET MORE INFORMATION ABOUT THE SETTLEMENT?

This Notice summarizes the preliminarily approved Settlement. More details, including the definitions of the capitalized terms, are in the Settlement Agreement, which you can view by calling or writing the Claims Administrator and asking for a copy. For more detailed information, you can refer to the underlying documents filed with the Court or on-line at the settlement Internet site at: [REDACTED]. You can also call the Claims Administrator at [REDACTED] or contact them via email at: [REDACTED].

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS**

ALEXIS PARKER and LATISHA
RHODES, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

IAS LOGISTICS DFW, LLC, d/b/a PINNACLE
LOGISTICS,

Defendant,

Case No.: 2020-CV-005103

PRELIMINARY APPROVAL ORDER

The parties have applied, pursuant to Rule Federal Rule of Civil Procedure 23(e) and Section 216(b) of the Fair Labor Standards Act of 1938 (“FLSA”), for an order approving settlement of the claims alleged in this litigation, in accordance with a Settlement and Release Agreement (the “Settlement Agreement”), which, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the claims against Defendant and for dismissal of this litigation in its entirety and with prejudice upon the terms and conditions set forth therein, and the Court has read and considered the Agreement and the exhibits annexed thereto and all other materials properly before the Court and conducted an inquiry pursuant to Rule 23 of the Federal Rules of Civil Procedure and Section 216(b) of the FLSA. IT IS HEREBY ORDERED:

1. Unless otherwise defined herein, all terms used in this Order (the “Order Granting Preliminary Approval”) will have the same meaning as defined in the Settlement Agreement.
2. The Court has jurisdiction over the subject matter of this action, the Plaintiffs, the Class Members, the FLSA Collective Members, and Defendant for purposes of settlement.
3. The Court hereby preliminarily approves the settlement set forth in the Settlement

Agreement as being fair, reasonable and adequate, and in the best interest of Plaintiffs, the Class Members, and FLSA Collective Members.

4. The Court certifies, for settlement purposes only (and for no other purpose and with no other effect upon this or any other action, including no effect upon this action should the Settlement not ultimately be approved), on a preliminary basis the Illinois Class pursuant to Fed. R. Civ. P. 23 for settlement purposes only, which is defined as: all hourly paid and/or non-exempt employees who were employed by Defendant and worked at least one partial shift at Defendant's facility in Rockford, Illinois during the Covered Period. The Covered Period shall mean the period from August 31, 2017 through the date of the Order Granting Preliminary Approval.

5. The Court certifies, for settlement purposes only (and for no other purpose and with no other effect upon this or any other action, including no effect upon this action should the Settlement not ultimately be approved), on a preliminary basis the Maryland Class pursuant to Fed. R. Civ. P. 23 for settlement purposes only, which is defined as: all hourly paid and/or non-exempt employees who were employed by Defendant and worked at least one partial shift at Defendant's facility in Baltimore, Maryland during the Covered Period. The Covered Period shall mean the period from August 31, 2017 through the date of the Order Granting Preliminary Approval.

6. The Court conditionally certifies, for settlement purposes only (and for no other purpose and with no other effect upon this or any other action, including no effect upon this action should the Settlement not ultimately be approved), the following Fair Labor Standards Act ("FLSA") Collective for settlement purposes pursuant to 29 U.S.C. § 216(b): all hourly paid and/or non-exempt employees who were employed by Defendant and worked at least one partial shift at Defendant's facility in Rockford, Illinois and/or Baltimore, Maryland during the Covered Period

as defined in the Settlement Agreement.

7. Excluded from each Class and the FLSA Collective Action are all persons who elect to exclude themselves from his/her/their/it respective Class and the legal representatives, heirs, successors or assigns of any such excluded persons, and the Court and staff to whom this case is assigned, and any member of the Court's or staff's immediate family.

8. The Fairness Hearing shall be held before this Court at _____m. on _____, 2022, at the United States District Court, Northern District of Illinois, 219 South Dearborn Street, Courtroom 1886, Chicago, IL 60604, and/or by dialing in: [_____] to determine finally whether the proposed Settlement of this Litigation on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, adequate, and in the best interest of the Class, and should be approved by the Court, and whether an Final Approval Order and Final Judgment of Dismissal should be entered. Plaintiffs shall file a motion seeking final approval of the Settlement and Class Counsel's proposed attorneys' fees, litigation costs and expenses, Enhancement Awards, and Settlement Administrative Expenses at least 14 days prior to the Final Approval Hearing.

9. The Court approves, as to form and content, the Notice that is attached to the Agreement and the settlement process for Class Members and FLSA Collective Members as the Notice and process comply fully with the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 216(b) of the FLSA, the Constitution of the United States and any other applicable laws.

10. Brown, LLC and Fish Potter Bolaños, P.C. are appointed, for settlement purposes only, as Class Counsel for the Class Members.

11. For settlement purposes only, Alexis Parker is appointed as the Class

Representative of the Illinois Class, Latisha Rhodes is appointed as the Class Representative of the Maryland Class, and both Named Plaintiffs, Parker and Rhodes, are appointed as representatives of the FLSA Collective Action.

12. With regard to distribution of the Notice, Class Counsel and Defendant's Counsel are hereby directed and authorized to effectuate Notice as called for in the Settlement Agreement, and Defendant shall provide to the Claims Administrator the information provided for in the Settlement Agreement by the deadlines required therein. The Court authorizes the utilization of a Claims Administrator as called for in the Settlement Agreement.

13. Any Class Member wishing to object to the Settlement Agreement, or the judgment to be entered thereon if the same is approved, must comply with the procedures set forth in the Notice. Any Class Member who has served and filed an objection as set forth therein may appear at the Fairness Hearing and show cause to the Court, if the Class Member has any, why the proposed Settlement of this Litigation should or should not be approved as fair, reasonable, and adequate, or why a judgment should or should not be entered thereon. Any Class Member who does not make an objection in the manner provided in the Settlement Agreement shall be deemed to have waived such objection and shall be foreclosed from making any objection to the fairness, adequacy, or reasonableness of the proposed settlement. The date by when any objections to the Settlement must be made is set for 60 days from the date the Notice was mailed.

14. Any Class Member wishing to exclude him/her/them/itself from the Settlement must mail a signed letter to the Claims Administrator that specifically states: "I elect to exclude myself from the settlement in *Parker and Rhodes, et al. v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*," and include his/her/their/its name, address, and telephone number ("Opt-out Statement") via First Class United States Mail, postage prepaid, and postmarked no later than 60

days from the date the Notice was mailed. The Claims Administrator will provide any such Opt-Out Statements or written objections to Class Counsel and Defendant's Counsel. Class Counsel shall file all Opt-Out Statements and/or written objections with the Motion for Final Approval of the Settlement.

15. The Court hereby adopts the settlement approval process as set forth in the Settlement Agreement.

16. In the event that the Effective Date as defined in the Settlement Agreement does not occur, the Settlement, the Settlement Agreement, and this Preliminary Approval Order shall be deemed null and void and shall have no effect whatsoever, other than the non-admission provisions in Paragraph 3.10 and the non-publicity / non-disparagement provisions in Paragraph 3.11 of the Settlement Agreement, which shall remain in effect. In such case, nothing in the Settlement or this Order shall be relied upon, cited as, constitute evidence of, or constitute an admission that class or collective action certification is or may be appropriate in this action or any other matter.

17. Pending the Court's decision on final approval of the Settlement and entry of the Court's Final Order and Judgment, Plaintiff, all Class Members and Collective Members, and anyone acting on behalf of any Class Member or Collective Member shall be barred and enjoined from: (a) further litigation in this Litigation; (b) filing, or taking any action directly or indirectly, to commence, prosecute, pursue or participate on a class or collective action basis any action, claim or proceeding against Defendant in any forum in which any of the claims subject to the Settlement are asserted, or which in any way would prevent any such claims from being extinguished; or (c) seeking, whether on a conditional basis or not, certification of a class or collective action that involves any such claims.

18. All proceedings in this Litigation are stayed, except as may be necessary to implement the Settlement or comply with the terms of the Settlement or as described in this order.

19. The parties are ordered to carry out the Settlement according to the terms of the Settlement Agreement.

20. The deadlines as set forth in the Settlement Agreement and adopted by the Court herein are as follows:

A. Within 14 calendar days of this Order granting preliminary approval being entered, Defendant will provide the Claims Administrator with a list, in electronic form, of the names and last known addresses, telephone numbers, social security numbers, and number of weeks worked for Defendant during the Covered Period for all Class Members and FLSA Collective Members ("Notice List").

B. Within 21 calendar days after receiving the Notice List, or as soon thereafter as practicable, the Claims Administrator shall mail, via First Class United States mail, postage prepaid, the Notice to all Class Members and FLSA Collective Members.

C. The Opt-Out/Objection Deadline is 60 calendar days from the date the Claims Administrator mails the Notice to Class Members and FLSA Collective Members.

D. Within 10 calendar days of the filing of the Motion for Preliminary Approval of the Settlement, Defendant, through the Claims Administrator, will (or will have already) mail(ed) a notice to the Attorney General of the United States, the Attorney General of the States of Illinois, and the Attorney General of each other state where Class Members reside according to Defendant's records in compliance with the Class Action Fairness Act ("CAFA"), 28 U.S.C. §1715.

E. No later than 7 calendar days before the Fairness Hearing, Plaintiffs will submit a Motion for Judgment and Final Approval.

IT IS SO ORDERED this ____ day of _____, 2022

UNITED STATES DISTRICT JUDGE

EXHIBIT 2

NOTICE OF PROPOSED CLASS AND COLLECTIVE ACTION SETTLEMENT

TO: Hourly paid and/or non-exempt employees of IAS Logistics DFW, LLC d/b/a Pinnacle Logistics (“Pinnacle” or “Defendant”) employed at any Pinnacle location in Illinois or Maryland anytime between August 31, 2017 and [insert date of Preliminary Approval Order] (“the Covered Period”).

A federal court authorized this Notice. This is not a solicitation from a lawyer.

1. WHY DID I RECEIVE THIS NOTICE?

Based on Pinnacle’s records, you were employed by the company as an hourly paid and/or non-exempt employee between August 31, 2017 and [insert date of Preliminary Approval Order] (“the Covered Period”) and may be entitled to participate in the Settlement of the lawsuit captioned, *Alexis Parker and Latisha Rhodes v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, No. Case No. 1:20-cv-5103 (N.D. Ill.) (“the Litigation”). Accordingly, under the terms of the preliminarily approved Settlement you may claim money as a Class Member and/or FLSA Collective Member. This notice explains the Settlement of this Litigation and your options.

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiffs, Alexis Parker and Latisha Rhodes, filed a lawsuit on behalf of themselves and other hourly paid and/or non-exempt employees of Pinnacle (“Plaintiffs”) alleging the company violated the Fair Labor Standards Act (“FLSA”), the Illinois Minimum Wage Law, the Illinois Wage Payment and Collection Act, the Maryland Wage and Hour Law, and the Maryland Wage Payment and Collection Law. The Plaintiffs alleged two wage and hour violations: 1) their wages were automatically deducted for meal breaks even during those instances a full meal break was not taken, and 2) during workweeks in which they worked overtime (e.g., more than 40 hours in a workweek) and earned a shift differential that was not included when calculating their overtime rate of pay. Defendant denies Plaintiffs’ allegations. It is Defendant’s position that it properly paid Plaintiffs and other employees.

3. WHAT ARE CLASS AND COLLECTIVE ACTIONS?

A class and collective action is a lawsuit where one or more persons (in this case Alexis Parker and Latisha Rhodes) sue not only for themselves but on behalf of other people who may have similar claims. These other people are known as Class and Collective Members. In a class and collective action, one court resolves the issues for all Class and Collective Members, except those who exclude themselves from the Settlement. The Honorable Judge Ronald A. Guzman, of the United States District Court for the United States District Court for the Northern District of Illinois, Eastern Division, is presiding over the Litigation. Judge Guzman has not made any determinations about who is right or wrong in the Litigation.

4. WHY IS THERE A SETTLEMENT?

After extensive negotiations and with the help of a neutral mediator, the parties agreed to settle. While both Plaintiffs and Defendant believe they would have prevailed, by settling the Litigation they avoid the costs of a trial, the risk of losing, the delay of litigating the case and of potential appeals. Plaintiffs and Class Counsel believe that the preliminarily approved Settlement is fair and reasonable and in the best interests of all Class and Collective Members. The Settlement does not mean Defendant did anything wrong or violated the law.

5. WHAT DOES THE SETTLEMENT PROVIDE?

Defendant has agreed to deposit \$3,250,000.00 into a Settlement Fund, which shall resolve and satisfy all monetary obligations under the Settlement, including: 1) payments to a Claims Administrator for Settlement Administration Expenses estimated to be approximately \$43,312.00; 2) Enhancement Awards in the amount of \$10,000 to each Class Representative/Plaintiff, Alexis Parker and Latisha Rhodes; 3) attorneys' fees to Class Counsel in the amount of one-third of the Settlement Fund (i.e., \$1,083,333.33), and an additional amount of up to \$30,000.00 as reimbursement of reasonable litigation costs and expenses; and 4) payroll taxes.

After such fees and costs have been deducted, the remaining amount ("the Net Settlement Fund"), shall be allocated amongst the FLSA Collective Fund, the Illinois Class Fund, and the Maryland Class Fund as described below:

A. FLSA Collective Fund: \$1,036,677.34, to be allocated amongst the FLSA Collective Members *pro rata* based on the number of weeks they worked for Defendant in the Covered Period, with weeks worked by FLSA Collective Members who filed timely consent forms in the Litigation counting for twice the value of weeks worked by all other FLSA Collective Members.

B. Illinois Class Fund: \$412,063.70, to be allocated amongst the Illinois Class Members *pro rata* based on the number of weeks they worked for Defendant in Illinois in the Covered Period.

C. Maryland Class Fund: \$624,613.64, to be allocated amongst the Maryland Class Members *pro rata* based on the number of weeks they worked for Defendant in Illinois in the Covered Period.

Any unclaimed funds shall be applied to a *cy pres* charitable donation to a charitable organization.

6. HOW MUCH WILL MY PAYMENT BE?

Based on the formula (described in Paragraph 5 above), you will be entitled to receive a *pro rata* award for each week that you were employed, which shall be reported as 50% W-2 wages and 50% 1099 earnings or to the extent required by law.

Your estimated Individual Settlement Amount is \$[INSERT]. The allocation formula takes into account the number of weeks you worked during the Covered Period.

7. HOW CAN I GET MY PAYMENT?

If you do nothing, you will automatically be deemed to be part of the Class and you will be paid your *pro rata* share of the Settlement. You will be sent a settlement check if and when Court enters an order of final approval of the Settlement and after all appeals have been exhausted.

If you choose to exclude yourself, then you will not receive a payment.

8. WHAT AM I GIVING UP TO GET A PAYMENT IN THE CLASS AND COLLECTIVE ACTION?

A. Release of Claims Class Members. Upon the entry of the Final Order and Approval, each Plaintiff and Class Member who has not timely submitted a valid request for exclusion, on his or her behalf, and on behalf of his or her respective current, former and future heirs, assigns, spouses, executors, administrators, agents, and attorneys (“Releasers”), shall fully release and discharge IAS Logistics DFW LLC d/b/a Pinnacle Logistics and its affiliates and related and/or merged entities, present and former officers, partners, directors, officers, shareholders, employees, agents, attorneys, successors and/or assigns, insurers or reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, including, but not limited to, G & A Partners, and any individual or entity that could be jointly liable with any of them (“Releasees”), of and from any and all state and local wage and hour claims arising from his or her employment including statutory claims, whether known or unknown, in law or in equity, including, but not limited to, any and all wage and hour claims under state and local law, that accrued or accrue prior to [the date of the Order Granting Preliminary Approval], including claims under any legal theory for failure to pay minimum wage, failure to pay overtime compensation, failure to properly calculate overtime compensation, failure to pay for all hours worked, failure to provide meal and rest periods, failure to timely pay wages or compensation or final wages or compensation, failure to reimburse for business expenses, making illegal deductions from wages or compensation, and/or failure to furnish accurate wage statements or other notices, failure to keep accurate records, and any and all claims for recovery of compensation, overtime pay, minimum wage, premium pay, interest, and/or penalties, claims under the Employee Retirement Income Security Act (“ERISA”) that are related or derivative of the claims released in herein, other penalties, related tort and punitive and liquidated damages claims, and/or violations of any other state or local statutory and common law.

B. Release of Claims by FLSA Collective Members. In addition, upon the entry of the Final Order and Approval, each FLSA Collective Member who has filed a consent form in the Litigation and/or who timely cashes his or her settlement check, and who has not timely submitted a valid request for exclusion, on his or her behalf, and on behalf of his or her respective current, former and future heirs, assigns, spouses, executors, administrators, agents, and attorneys (“Releasers”), shall fully release and discharge IAS Logistics DFW LLC d/b/a Pinnacle Logistics

and its affiliates and related and/or merged entities, present and former officers, partners, directors, officers, shareholders, employees, agents, attorneys, successors and/or assigns, insurers or reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, including, but not limited to, G & A Partners, and any individual or entity that could be jointly liable with any of them (“Releasees”), shall fully release and discharge Defendant and the Releasees in the manner described herein from any and all federal, state, and local wage and hour claims arising from his or her employment, including statutory claims, whether known or unknown, in law or in equity, including FLSA claims, including but not limited to claims under 29 U.S.C. § 206, 207, 211(c) and 215(a), including liquidated damages, during the Covered Period through the latter of the date of the Order Granting Preliminary Approval, and including claims under any legal theory for failure to pay minimum wage, failure to pay overtime compensation, failure to properly calculate overtime compensation, failure to pay for all hours worked, failure to provide meal and rest periods, failure to timely pay wages or compensation or final wages or compensation, failure to reimburse for business expenses, making illegal deductions from wages or compensation, and/or failure to furnish accurate wage statements or other notices, failure to keep accurate records, and any and all claims for recovery of compensation, overtime pay, minimum wage, premium pay, interest, and/or penalties, claims under ERISA that are related or derivative of the claims released herein, other penalties, related tort and punitive and liquidated damages claims, and/or violations of any other federal, state, or local statutory and common law.

C. This Settlement is intended to include in its effect all claims identified herein, including claims that each Plaintiff, Class Member and FLSA Collective Member do not know or suspect to exist in his or her favor against Defendant or Releasees at the time of the release. Plaintiffs, Class Members and FLSA Collective Members shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may otherwise have had relating to the claims identified herein.

D. By failing to opt-out of this lawsuit, you will automatically be part of the Class and included in the Settlement for the Illinois and Maryland state law claims. By endorsing and depositing a settlement check, you will automatically be part of the Settlement for the FLSA claims.

9. AS A CLASS MEMBER, HOW DO I OPT OUT OF THE SETTLEMENT?

If you do not want to participate in the Settlement (e.g., not receive a payment from the Settlement) or be bound by the release of claims described above, you have the option of opting out of the Settlement.

To opt out, you must mail a signed letter to the Claims Administrator that specifically states: “I opt out of the Pinnacle Logistics wage and hour settlement” and include your name, address, and telephone number (“Opt-out Statement”).

To be effective, the Opt-out Statement must be mailed to the Claims Administrator via First Class United States Mail, postage prepaid, and postmarked by [INSERT DATE].

[Settlement Administrator]
[Address]

If you exclude yourself from the Settlement, you will NOT be allowed to object to the Settlement as described in Paragraph 10 below.

10. WHAT IF I HAVE AN OBJECTION TO THE SETTLEMENT?

Any Class Member who has not opted-out of the Settlement (as described in Paragraph 9), and who objects to any part of the Settlement, may file a written objection with the United States District Court for the Northern District of Illinois at 219 S. Dearborn Street, Chicago, Illinois 60604, as well as mailing a copy to of your written objection to the Claims Administrator at:

[INSERT CONTACT INFO FOR CLAIMS ADMINISTRATOR]

Written objections must be filed with the Court and postmarked no later than [INSERT DATE], contain your name, address, be signed by you, and include a reference to *Alexis Parker and Latisha Rhodes v. IAS Logistics DFW, LLC d/b/a Pinnacle Logistics*, No. Case No. 1:20-cv-5103. You are not required to submit an objection. You can give the reasons why you think the Court should not approve the Settlement, and include any evidence you wish the Court to consider.

11. WHEN IS THE COURT'S FAIRNESS HEARING?

The Court has preliminarily approved the Settlement and will hold a Fairness Hearing to decide whether to give final approval to the Settlement. The purpose of the Fairness Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Class; to consider the award of attorneys' fees and expenses to Class Counsel; to consider the request for Enhancement Awards to Plaintiffs. The Court will take into account any objections filed in accordance with procedures described in Paragraph 10 above.

The Fairness Hearing will be held on [INSERT DATE] at [INSERT TIME] at the Everett McKinley Dirksen United States District Court for the Northern District of Illinois, 219 South Dearborn Street, Courtroom 1886, Chicago, Illinois 60604 and/or by dialing in: [REDACTED] before the Honorable Judge Ronald A. Guzman.

You are welcome to appear at the Fairness Hearing, but you are not required to do so. If you send a written objection, you are not required to come to Court to talk about it. You may also pay your own lawyer to attend, but that is also not necessary.

12. AS A CLASS MEMBER, DO I HAVE A LAWYER IN THIS LITIGATION?

The Court has appointed the following law firms as Class Counsel to represent you and the Class and Collective Members:

Jason T. Brown
Nicholas R. Conlon
Brown LLC
111 Town Square Place, Suite 400
Jersey City, New Jersey 07310

David Fish
John Kunze
Fish, Potter and Bolanos, P.C.
2000 E. 5th Avenue, Suite 123
Naperville, Illinois 60565

You will not be charged separately for these lawyers. Their fees are being paid from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

13. HOW CAN I GET MORE INFORMATION ABOUT THE SETTLEMENT?

This Notice summarizes the preliminarily approved Settlement. More details, including the definitions of the capitalized terms, are in the Settlement Agreement, which you can view by calling or writing the Claims Administrator and asking for a copy. For more detailed information, you can refer to the underlying documents filed with the Court or on-line at the settlement Internet site at: [REDACTED]. You can also call the Claims Administrator at [REDACTED] or contact them via email at: [REDACTED].