

# EXHIBIT 1

**AGREEMENT AND STIPULATION OF SETTLEMENT AND RELEASE**

This Agreement and Stipulation of Settlement and Release (“Settlement Agreement,” “Settlement” or “Agreement”) is made and entered into on August 25, 2019, by and between the following parties: Luis Rufino De La Cruz (“Plaintiff” or “Named Plaintiff”), individually and on behalf of similarly situated persons, and Defendant Metro Link IL, LLC (“Defendant”). Plaintiff and Defendant are collectively referred to herein as the “Parties.”

As more fully set forth below, through the above-captioned collective and class action lawsuit (the “Lawsuit”), Plaintiff, individually and on behalf of similarly situated persons, seeks relief for Defendants’ allegedly unlawful wage and hour practices, including Defendants’ alleged overtime miscalculations, allegedly unlawful deductions taken from paychecks for register shortages and loans, and alleged off the clock work. This Settlement Agreement constitutes the Parties’ settlement for the claims alleged under the Fair Labor Standards Act (“FLSA”), the Illinois Minimum Wage Law (“IMWL”), and the Illinois Wage Payment and Collections Act (“IWPCA”) in the Complaint in the Lawsuit on behalf of the Settlement Class.

**RECITALS**

1. On or about November 30, 2017, Named Plaintiff filed a Complaint, Case No. 17-CV-8661, in the United States District Court for the Northern District of Illinois on behalf of himself and similarly situated employees of Defendants, seeking relief individually, in the form of a class action under Rule 23 of the Federal Rules of Civil Procedure and in the form of a collective action under Section 216(b) of the FLSA, under state and federal law for, *inter alia*, Defendants alleged failure to pay proper overtime wages, allegedly unlawful deductions taken from paychecks and alleged off the clock work.

2. The Parties are represented as follows:

- The Fish Law Firm, located in Illinois, is counsel of record for Plaintiff (“Plaintiff’s Counsel” or “Class Counsel”).
- O’Hagan Meyer, LLC is counsel of record for Defendant (“Defendant’s Counsel”). Defendant was formerly represented by Rafati, Ward and Associates, who has since withdrawn as Counsel and no longer represents Defendant.

3. Plaintiff and Plaintiff’s Counsel believe that the claims which are the subject of the instant Settlement, represent meritorious claims for violations of the FLSA, IMWL, and IWPCA, and are appropriate for class and collective action treatment.

4. Arm’s-length settlement negotiations have taken place between the Parties, including numerous telephone conferences and two settlement conferences between Plaintiff’s Counsel and Defendants’ Counsel facilitated by a United States Magistrate Judge.

5. Each of the Parties acknowledge that the Settlement Payments and Release of Claims, as described below, are a fair and reasonable settlement and release of claims of a *bona fide* dispute over Plaintiff’s pay at issue and constitute good, valid, and sufficient consideration for the promises contained herein. Plaintiff acknowledges and agrees that the Settlement Payments are consideration to which he would not otherwise be entitled to receive if she did not make the promises that he is making in this Agreement.

6. Consultation by Plaintiff. Plaintiff acknowledges that he has been given the opportunity to consult with an attorney prior to signing this Agreement and has been given a reasonable period within which to consider the Agreement. Plaintiff further acknowledges that he has either sought and obtained advice from legal counsel before entering in this Agreement or has elected not to do so, that he understands the contents of this Agreement, and he voluntarily consents and agrees to each provision contained herein.

7. Additional Acknowledgements. Plaintiff agrees that he is competent, as a matter of law, to enter into this Agreement.

8. Despite Defendants' good faith belief that they have good defenses to the claims alleged by Plaintiff, Defendants enter into this Settlement to obtain the conclusive and complete dismissal of the Lawsuit, to resolve fully claims under the FLSA, IMWL, and IWPCA with the Named Plaintiff and the Settlement Class, and to avoid: (i) the further expense, inconvenience and burden of this litigation, (ii) the distraction and diversion of their personnel and resources, and (iii) the risk and uncertainty of the outcome inherent in any litigation.

9. Defendants expressly deny any wrongdoing or any violation of law as alleged in the Lawsuit. Nothing contained in this Agreement shall be construed as an admission of any liability by any Party, and all Parties agree not to offer this Agreement as evidence or otherwise use it in any judicial or administrative proceeding, except that this Agreement may be introduced in any proceeding for the sole purpose of enforcing its terms.

10. This Settlement Agreement contains the terms between the Parties and their respective counsel relating to the Settlement. There are no side agreements between the Parties or their counsel. At all times, the negotiations leading to the Settlement Agreement were adversarial, non-collusive, and at arm's length.

11. This Settlement Agreement shall, upon court approval and the Effective Date, be a full and complete settlement and release of all "Class Released Claims", defined below, for all Settlement Class Members who do not opt-out of the Settlement. The Parties agree to cooperate and take all necessary and appropriate steps to effectuate the terms of this Settlement.

12. A motion for class certification has not been filed and no class has been certified in the Lawsuit. The Parties agree that for the purposes of this Settlement only, the Settlement Class



defined below should be certified under Fed. R. Civ. P. 23. In the event that this Settlement is not approved by the Court, Defendants reserve the right to challenge certification under Fed. R. Civ. P. 23.

13. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements and other good and valuable consideration set forth herein, the Parties, intending to be legally bound, agree, subject to the Court's approval, as follows:

#### **DEFINITIONS**

14. The following definitions shall apply to terms used in this Settlement Agreement.

a. "Administrative Costs" means all regular and ordinary costs and expenses incurred by the Administrator in the administration of this including, but not limited to, all printing, mailing, and other expenses incurred in providing the Notice Packet, all costs related to the preparation and mailing of settlement payments, all fees and charges of the Administrator, all costs incurred in implementing the administration of the Settlement as set forth herein, and any other expenses determined to be an expense reasonably necessary for the administration of this Agreement. The Parties agree to pay Administrative Costs associated with notice and administration of this Agreement as set forth below.

b. "Notice Period" means the time period of 30 days commencing on the date when the Notice Packet is initially sent to Class Members.

c. "Class Member" or "Settlement Class Member" is defined as all hourly, non-exempt employees who worked for Defendants from July 1, 2014 through May 7, 2018 who worked uncompensated hours, had unauthorized deductions taken from pay, or were not properly compensated for overtime worked and whose names appear on Exhibit 1. Excluded from the Settlement Class are current and former executives and officers of Defendants, Defendants'

counsel, Plaintiff's counsel, and any member of the judiciary presiding over this action. Current and former Defendants workers may be a Class Member if they meet this definition.

d. "Class Period" means the time period from and including July 1, 2014, to and including May 7, 2018.

e. "Lawsuit" means the civil action pending in the United States District Court for the Northern District of Illinois, captioned *Luis De La Cruz, et al. v. Metro Link IL, LLC*, Case No. 17-CV-8661.

f. "Notice" or "Settlement Notice" means the Notice of Class Action Settlement and Claim Form, as attached as Exhibit 2.

g. "Settlement Administrator" or "Administrator" means the third-party administrator selected by the Parties that is charged with administering this Agreement, in concert with the Parties and their counsel, including as set forth herein.

h. "Effective Date" means the date in which the settlement embodied by this Settlement Agreement shall become effective, and shall be defined as the date when all the following events have occurred:

- i. This Agreement has been executed by the Parties and by Plaintiff's Counsel and Defendants' Counsel;
- ii. The Guarantees and Consent Judgments have been executed;
- iii. The Court has entered a Preliminary Approval Order;
- iv. Notice has been given to the Class Members;
- v. The Court has held a Final Approval Hearing and entered a Final Approval Order;

vi. The later of the following events: when the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or any appeal, writ or other appellate proceeding has upheld in all respects to the Court's final order approving the settlement with no right to pursue further remedies or relief. It is the intention of the Parties that the Settlement shall not become effective until the Court's order approving the Settlement is completely final, and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

i. "Preliminary Approval Hearing" means the hearing contemplated by the Parties, at which the Court will grant preliminary approval of the settlement, order the sending of Notice to the Class Members, and make such other rulings as are contemplated by the Settlement.

j. "Final Approval Hearing" means the hearing contemplated by the Parties, at which the Court will grant final approval of the settlement and make such other final rulings as are contemplated by the Settlement.

k. "Final Approval Order" means the Court's order granting final approval of this Settlement Agreement on the terms provided herein, or as those terms may be modified by subsequent mutual agreement of the Parties. "Preliminary Approval Order" refers to the Court's order pursuant to Rule 23 of the Federal Rules of Civil Procedure granting preliminary approval of this Settlement on the terms provided herein or as those terms may be modified by subsequent mutual written agreement of the Parties.

1. “Qualified Settlement Fund” or “QSF” means the qualified settlement fund established by the Settlement Administrator into which the Settlement Payments will be made by Defendants.

### **TERMS OF SETTLEMENT**

15. It is agreed by and among Plaintiff and Defendants that the Lawsuit be settled and compromised as between Plaintiff, the Settlement Class Members who do not exclude themselves from the Settlement Class, and Defendants, subject to the terms and conditions set forth in this Settlement Agreement and the approval of this Settlement by the Court.

16. Defendants agree to make the following payments pursuant to this Settlement:

a. Settlement Payments: Defendants agree to pay, through the Administrator, as follows:

i. Defendants agree to pay the Gross Settlement Amount of Two Hundred and Ninety Thousand Dollars (\$290,000). This Gross Settlement Amount shall be mailed or otherwise paid into the Settlement Administrator’s QSF pursuant to the schedule in paragraph 42 of this Agreement.

ii. Each Settlement Class Member who does not exclude himself or herself from the Settlement Class will be paid the approximate amount set forth on Exhibit 1 (approximate because the amount may slightly be higher or lower depending on administrative costs or any unforeseen modifications), assuming the Court approves the allocations as provided for in this Agreement. Class Settlement Payments shall be disbursed from the Gross Settlement Fund over three payments described more in detail in Paragraph 19. The amounts are reflective of each Class Member’s pro-rata share of claims. The parties stipulate that each Class Member’s share was determined as follows: settlement proceeds are determined by subtracting estimated



Class Administration fees and attorney fees and costs, and service award from the Gross Settlement Amount to reflect a Net Settlement Fund of approximately \$169,000.00. Settlement proceeds are then separated into three sub-classes: Overtime Wage, Deductions and Off the Clock Damages.

- 1) **Overtime Wage:** Defendant identified all overtime worked and commission paid to Settlement Class Members for the relevant three-year limitations period. Overtime damages were calculated for the failure to include commissions into the overtime rate of pay. Class members are awarded 100% of all regular rate overtime damages. Settlement Class Members who returned FLSA notice of consents will receive 100% of FLSA liquidated damages. All Settlement Class Members who suffered these damages within the statutory period will receive IMWL penalty damages from the date such damages accrued through the date of May 7, 2018. In total, the Overtime Wage Damages are approximately \$20,000.
- 2) **Deduction Damages:** Defendants identified all unauthorized deductions from Settlement Class Members pay from the beginning of Defendant's inception in 2014. Class members are awarded 100% of deductions, as well as, IWPCA Penalty Damages from the date such damages accrued through the date of May 7, 2018. The total deduction damages are approximately \$50,000.
- 3) **Off The Clock:** Defendants identified approximately 396 Settlement Class Members who worked for Defendant from Defendant's inception in 2014 through May 7, 2018. Approximately \$93,000 has been assigned to compensate Settlement Class Members for time spent traveling and attending meetings, traveling in-between stores, mileage for travel, and otherwise performing work without compensation. These damages will be awarded to Settlement Class Members on a

basis proportional to the amount of pay periods worked for Defendant. At minimum, each Settlement Class Member will receive at least, \$18.12 for these damages.

iii. Any Class Member who opts out will not be entitled to any amount of the Settlement Fund and the Administrator will not pay that person his or her share and he or she will not be a part of this Agreement or release any claims.

b. Tax Allocations of Settlement Payments: Each Settlement Class Member who does not exclude himself or herself from the Settlement Class' Settlement Payment shall have two equal components: (1) a wage distribution; and (2) a portion consisting of liquidated damages and/or interest penalty. Appropriate federal, state and local tax withholdings will be deducted from the wage distribution component, and an IRS Form W-2 will issue with respect to that portion of the Settlement Payment. An IRS Form 1099 will issue for the interest penalty distribution portion, if required by law. The Settlement Administrator shall be responsible for preparing and filing all IRS Forms W-2 and Forms 1099 and other necessary tax forms (and the equivalent state tax forms), notices, mailings, and making any and all payments (other than the employer portion of payroll taxes, which Defendants will pay) to in accordance with this Agreement. Settlement Class Members who do not exclude themselves from the Settlement Class are responsible to pay the appropriate individual taxes due on the settlement payments they receive. 50% of each Class Member's allocation will be allocated as a W2 payment and 50% to a 1099 payment.

Plaintiff's Counsel and Defendants' Counsel do not intend this Agreement to constitute legal advice relating to the tax liability of any Settlement Class Member who does not exclude himself or herself from the Settlement Class, and no part of this Agreement constitutes tax advice. To the extent that this Agreement, or any of its attachments, is interpreted to contain or constitute

advice regarding any federal, state or local tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any tax liability or penalties. Settlement Class Members who do not exclude themselves from the Settlement Class are urged to obtain counsel from a tax advisor regarding the tax consequences and obligations resulting from participating in the Settlement.

c. Attorneys' Fees and Costs: In consideration for the work already performed in this matter and all work remaining to be performed in documenting the Settlement, securing Court approval of the Settlement, administering the Settlement, and ensuring that the Settlement is fairly implemented, the parties agree that 35% of the Gross Settlement Amount plus out of pocket costs shall be allocated to Plaintiff's Counsel for attorneys' fees and costs, subject to Court approval. These costs as of September 23, 2019 are \$1,966.87. These payments shall be made from the Gross Settlement Fund to Fish Law Firm, P.C. The Attorney Fees shall be paid in three disbursements from the settlement fund at the same time date as Class member disbursement are scheduled to be mailed. The first Attorney fee payment to be approximately 44% of the total Attorney Fee Award, and the 2<sup>nd</sup> and 3<sup>rd</sup> to be approximately 28% each. (by example, if an attorney fee award of \$101,500 is approved, the first payment shall be \$44,660, the second shall be \$28,420, and the third shall be \$28,420.)

d. Defendants, through the Settlement Administrator, will issue an IRS Form 1099 to Plaintiffs' Counsel, The Fish Law Firm, reflecting this payment as required by law. Plaintiff's Counsel shall provide Defendants or the Settlement Administrator with a fully-executed IRS Form W-9 from The Fish Law Firm for this payment within three days of the final Approval Order being entered.



e. Settlement Payments To Lead Plaintiff Luis Rufino De La Cruz: Subject to Court approval, Defendants agree to pay Plaintiff Luis Rufino De La Cruz a settlement payment of \$7,500 for service as lead plaintiff (“Lead Plaintiff Payment”). The Lead Plaintiff Payment is in addition to the Settlement Payment that Plaintiff Luis Rufino De La Cruz (along with other Settlement Class Members who do not exclude themselves from the Settlement Class) is entitled to receive as set forth above. 50 percent of the Lead Plaintiff Payment shall be a wage distribution, and 50 percent shall be a liquidated damages, penalty, or interest distribution. The employee’s share of appropriate federal, state and local tax withholdings will be deducted from the wage distribution and Plaintiff Luis Rufino De La Cruz will receive an IRS Form W-2 with respect to this portion of the Settlement. Plaintiff Luis Rufino De La Cruz will be issued an IRS Form 1099 for the liquidated damages, penalty, or interest distribution, if required by law. Plaintiff Luis Rufino De La Cruz will be responsible for correctly characterizing the payment for tax purposes and for paying any taxes due on the amounts received. Neither Plaintiff’s Counsel nor Defendants’ Counsel are providing any tax advice to Plaintiff in connection with said this Settlement or any payments due to Plaintiff thereunder. The Settlement Administrator shall remit the Lead Plaintiff Payment to Plaintiff Luis Rufino De La Cruz, along with any applicable tax withholding documentation, within twenty-one (21) calendar days of the Effective Date.

f. Settlement Administration Costs: Defendants shall pay all Administrative Costs and other costs associated with this Settlement, including costs of notice and Settlement administration, including without limitation all fees and costs of the Settlement Administrator, all costs associated with the notices to the Settlement Class and administration of this Settlement, and all costs associated with the manner in which administration of the Settlement is to be



accomplished as set forth below, and such amounts shall be taken from the Qualified Settlement Fund. These costs are estimated to be approximately \$10,000 - \$15,000.

Decisions regarding notice and Settlement administration, including selection of the Settlement Administrator, are to be made with the consent of Plaintiffs' and Defendants' counsel. The payment of fees and costs of the Settlement Administrator for work done is not dependent on any outcome associated with this Settlement or the administration of this Settlement, and will be paid by Defendants from the Qualified Settlement Fund regardless of any such outcome.

17. Guarantees: As additional consideration for this agreement Metro Link Leaders, LLC and Safieh Alshayeb ("Guarantors") shall guaranty the payment of the entire Gross Settlement Fund (\$290,000) to Plaintiff and the Class (collectively, the "Guarantees"). This guaranty is located on pages 24-27 of this agreement. Per these Guarantees, the Guarantors shall be liable to pay the any amount of the Gross Settlement Fund not paid by Defendant. The Guarantees are material terms to this Agreement and Plaintiff and Class Counsel would not have agreed to this Agreement without the inclusion of these Guarantees.

18. Consent Decree: As additional consideration for this agreement, Defendant, Metro Link Leaders, LLC and Safieh Alshayeb shall each agree to Consent Decrees ("Decrees"). Per these Decrees, Defendant, Metro Link Leaders, LLC and Safieh Alshayeb shall each, joint and severally, be liable for the entire Gross Settlement Fund upon default by Defendant of this Agreement. This is located on pages 24-28 of this agreement. The Consent Decrees are material terms to this Agreement. Plaintiff and Class Counsel would not have agreed to this Agreement without the inclusion of these Decrees.

19. Mailing Of Settlement Payments to Settlement Class Members: The Settlement Administrator shall cause the Settlement Payments to be mailed to Settlement Class Members who

do not exclude themselves from the Settlement Class. Settlement Check Payment #1 will be mailed within twenty-one (21) calendar days of the Effective Date, in the form of a Settlement check. Settlement Check Payment #2 will be mailed by December 31, 2020. Settlement Check Payment #3 will be mailed by December 31, 2021. Class Members receiving \$150 or less will receive their full settlement payment in Settlement Check Payment #1. Class Members receiving more than \$150 will receive 1/3 of their settlement class payment in Settlement Check Payment #1, 2, and 3. The Settlement Checks mailed to Settlement Class Members shall include a notice setting forth the 90-day time period as set forth herein in which the checks must be cashed or deposited. If any checks are returned to the Settlement Administrator as undeliverable, the Settlement Administrator will take reasonable measures to determine the accurate address, including review of information available in Defendants' records such as phone numbers and alternative addresses, if any, and will re-send the check to the new address.

20. Cashing Settlement Payments: Settlement Class Members who do not exclude themselves from the Settlement Class will have ninety (90) calendar days after mailing of the Settlement Payments to cash, deposit or negotiate their Settlement Payment checks. If Settlement Class Members who do not exclude themselves from the Settlement Class do not cash, deposit or negotiate their Settlement Payment checks within the 90-day period, their Settlement Payment checks will be void and a stop-pay will be placed on such checks. The Settlement Payment checks remitted to Settlement Class Members who do not exclude themselves from the Settlement Class shall clearly disclose the end date by which the check must be negotiated, and the Settlement Administrator shall include, with the checks, a letter stating that the check must be cashed or deposited within 90 days or it will be canceled. Any Settlement Checks for Payment #1 or #2 that have been rendered void due to the Settlement Class Member failing to cash, deposit or negotiate shall be reissued to any

Settlement Class Member who contacts the Settlement Administrator and requests such Checks be reissued before the 90-day expiration period of Settlement Check Payment #3.

21. Any remaining funds in the Qualified Settlement Fund after all Class Payments have been made and all Class Administration Costs and Fees, Attorney Fees and Costs, and service award have been paid reverts to Metro Link IL, LLC. The Settlement Administrator shall issue a check to Metro Link IL, LLC for all such remaining funds 120 days after Settlement Check Payment #3 is mailed.

22. Defendants' signature on this Settlement Agreement certifies that Defendants have used reasonable efforts to ensure that information for the administration of the Settlement, including payroll data used to determine the amount of Settlement Payments and the Class Member lists that Defendants produces in order to disseminate the Notice Packet are complete and correct in all material respects to the best of Defendants' knowledge.

#### **SETTLEMENT APPROVAL PROCEDURE**

23. The Settlement Agreement requires the occurrence of all of the following events: (a) execution of the Settlement Agreement by the Parties; (b) execution of the Guarantees; (c) execution of the Consent Decrees; (d) submission of the Settlement Agreement by the Parties to the Court for preliminary approval; (e) entry of the Preliminary Approval Order by the Court; (f) Court approval of the method of distribution and the form and content of the Settlement Notice; (g) dissemination of the Settlement Notice as set forth in this Settlement or as otherwise ordered by the Court; (h) the holding of a Final Approval Hearing and the Court's entry of the Final Approval Order; (i) Defendants make all payments set forth herein to the Qualified Settlement Fund; and (j) the Effective Date occurs. The Settlement Agreement will become final and effective only upon the: (a) the Court enters the Final Approval Order; and (b) the Effective Date occurs.



### **MOTION FOR PRELIMINARY APPROVAL**

24. Within 28 days after the execution of this Settlement Agreement, Plaintiff shall file with the Court a Motion for Preliminary Approval of Settlement (“Preliminary Approval Motion”).

25. In the Preliminary Approval Motion, the Plaintiff shall request that the Court: (a) grant preliminary approval to the Settlement Agreement described herein; (b) approve the Settlement Notice and the proposed plan of settlement administration described herein; and (c) schedule a tentative date for a Final Approval Hearing.

### **SETTLEMENT ADMINISTRATION**

26. Within seven (7) calendar days after the Court grants preliminary approval of the Settlement Agreement described herein, Defendants will provide the Settlement Administrator with the names, employee identification numbers, social security numbers, and last known mailing addresses for each of the Class Members in order for the Settlement Administrator to perform its duties. Upon receiving this information, the Claims Administrator will run a check of the Class Members’ addresses against those on file with the United States Postal Service’s National Change of Address List; this check will be performed only once per Class Member by the Claims Administrator.

27. Within fourteen (14) calendar days after receiving the above-mentioned information, the Settlement Administrator shall send the Settlement Notice, as approved by the Court, to the Settlement Class Members by first class U.S. mail

28. The Claims Administrator shall promptly resend Settlement Notice returned to the Claims Administrator as non-delivered.

29. The Claims Administrator shall provide to Counsel for the Parties, for filing with the Court, at least fourteen (14) calendar days prior to the Final Approval Hearing, a declaration by the Claims Administrator indicating due diligence and proof of mailing with regard to the mailing of



the Notice as set forth above and other information as reasonably requested by Plaintiff's or Defendants' Counsel.

30. Each Notice will contain the total amount paid to the Settlement Class Member as set forth herein. The Notice will include instructions as to how a Class Member may submit a Request for Exclusion from this Settlement or object to the Settlement.

31. Those Class Members who do not want to participate in the Settlement Agreement may opt out by sending a letter to the Settlement Administrator expressing their intent to be excluded from the Settlement pursuant to the instructions on the Settlement Notice. To be valid, the letter requesting exclusion must include: (1) the individual's name, and former name if any; (2) their Social Security Number; (3) a statement that they agree not to participate in the Settlement; and (4) their signature, and must be mailed to the Settlement Administrator whose address is listed on the Settlement Notice, by the date specified in the Settlement Notice (30 days after the initial mailing of the Settlement Notice.) Within three (3) business days after receiving a request for exclusion, the Settlement Administrator must notify counsel for the Parties *via* e-mail of the name of the Class Member who submitted the request for exclusion. The Settlement Administrator shall retain the requests for exclusion and the envelopes showing the postmark of the request for exclusion and permit inspection and copying of same by counsel for the Parties at their request. Requests for exclusion shall be disregarded if they are not post-marked on or before the applicable deadline. Class Members who do not submit a timely and valid request for exclusion in the manner described herein shall be deemed bound by this Settlement Agreement.

32. No person shall have any claim against Defendants, Defendants' counsel, the Named Plaintiff, Plaintiffs' Counsel, or the Settlement Administrator based on any claim that a request for exclusion was not received in a timely manner.

33. At no time shall any of the Parties or their counsel: (a) discourage any Class Member from participating in the Settlement; or (b) encourage any Class Member to object to the Settlement Agreement or request exclusion from the Settlement Agreement.

34. Class Members employed by Defendants may object to the Settlement Agreement. To object to the Settlement Agreement or any terms of it, the person making the objection must be a Class Member employed by Defendants, must not have opted out of the Settlement Agreement, and must send to the Settlement Administrator and file with the Court a written statement of the grounds of objection, signed by the Class Member or his or her attorney, by the date specified in the Settlement Notice (30 days after the initial mailing of the Settlement Notice). Any objection that does not meet the requirements of this paragraph shall not be considered by the Court, unless otherwise ordered by the Court. Class Members who fail to serve timely and proper written objections shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement. The Parties may file a response to any objections prior to the Final Approval Hearing. Any Class Member filing an objection who intends to appear at the Final Approval Hearing either in person or through counsel, must state in the objection the intention to appear, the purpose of the appearance, and whether the Class Member is represented by counsel.

35. No later than seven (7) calendar days after the later of the opt-out and objection deadline, the Settlement Administrator shall provide the Parties' counsel with a declaration that includes a complete list of all individuals who have timely requested exclusion from the Settlement Class ("Opt-outs"), and all Class Members who have timely objected to the Settlement (the "Administrator's Declaration").

36. The Settlement Administrator shall provide weekly reports of Class Member responses to the Notice, including opt-outs and objections; the number of returned Notices and re-mailed Notices; and other information requested by Defendants' or Plaintiff's Counsel.

#### **MOTION FOR FINAL APPROVAL**

37. At least three (3) business days prior to the Final Approval Hearing, the Plaintiff shall file with the Court: (a) a Motion for Final Approval of Settlement.

38. At the Final Approval Hearing, the Parties will ask the Court to: certify the Settlement Class and approve the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions; to approve the payment by Defendants to Class Counsel for attorneys' fees and costs; and to approve the enhancement award for Named Plaintiff.

39. Counsel for the Parties shall jointly present the Court with a proposed Final Approval Order:

a. Certifying the Settlement Class and approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

b. Approving the payment by Defendants to Class Counsel for attorneys' fees and reimbursement of costs; and

c. Approving the Payment to the Class Representative.

40. If the Court does not approve any material condition of this Settlement Agreement that effects a fundamental change to the terms of the settlement hereunder, the entire Settlement Agreement will be voidable and unenforceable. In the event that the Court does not approve the Settlement, and the basis for the Court's disapproval of the Settlement does not involve a material



term of this Settlement, the Parties shall make good faith efforts to modify this Settlement so as to gain the Court's approval.

#### **RELEASE OF CLAIMS**

41. Upon the Effective Date of this Settlement, and except as to such rights or claims as may be created by this Settlement, Plaintiff and each Settlement Class Member who does not exclude himself or herself from the Settlement and who receives the complete Settlement Payments described herein, individually, and on behalf of his or her respective current, former and future heirs, spouses, executors, administrators, agents, and attorneys, agrees to give up the right to sue, and fully releases and discharges, the "Released Parties" (defined as, Defendant, and each of their present and former parent companies, owners, related parties, subsidiaries, related or affiliated companies, shareholders, officers, directors, employees, members, managers, co-joint venturers, fiduciaries, trustees, employee benefit plan administrators, agents, attorneys, insurers, successors and assigns, and all persons or entities acting by, through, under or in concert with any of them, and any individual or entity which could be jointly liable with) from the following "Class Released Claims": any and all claims for any wage and hour violations under federal, state, and/or local law, including but not limited to, any and all claims relating to their work for Defendants for unpaid wages, gap time pay, overtime pay, failure to maintain and furnish employees with proper wage records, off-the-clock work, unpaid wages due to allegedly unlawful deductions, and all other wage and hour violation claims relating to their work for Defendant that were or, could have been asserted in this Lawsuit, whether known or unknown, asserted or unasserted under federal, state, and/or local wage and hour laws, including but not limited to, the FLSA, IWPCA, and IMWL. This Release includes all claims for all damages arising from any such released claims, including claims for liquidated damages, interest, statutory interest, and attorneys' fees and costs.



### **TRANSFER OF FUNDS FOR SETTLEMENT PAYMENTS**

42. Defendants will mail or otherwise transfer funds (“deposit”) into the QSF as follows:

- a. Defendant, within 14 calendar days of the Preliminary Approval Order shall deposit \$40,000.
- b. Upon 14 calendar days of the Final Approval Order, or 14 days after December 1, 2019 (whichever is later), shall deposit \$85,000.
- c. Before June 1, 2020, Defendant shall deposit \$41,250.
- d. Before December 1, 2020 Defendant shall deposit \$41,250.
- e. Before June 1, 2021, Defendant shall deposit \$41,250.
- f. Before December 1, 2021, Defendant shall deposit \$41,250.
- g. The Settlement Administrator shall distribute the Settlement Payments, Attorneys Fees and Costs, and Lead Plaintiff Payments as set forth herein from these funds. Plaintiff’s Counsel may make reasonable inquiry with the Settlement Administrator as to the status of this account.

### **DISMISSAL**

43. Within ten (10) calendar days of the Settlement Administrator confirming to Plaintiff’s Counsel of Receipt of all payments to be made to the QSF by Defendants, the Plaintiff shall cooperate with Defendant’s request to file a Stipulation of Dismissal dismissing the Lawsuit with prejudice.

### **PARTIES’ AUTHORITY**

44. The signatories represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties to its terms and conditions.

### **NOTICES**

45. Unless otherwise specifically provided, all notices, demands or other communications in connection with this Settlement Agreement shall be: (1) in writing; (2) deemed given on the third business day after mailing; and (3) sent by United States registered or certified mail, return receipt requested, addressed as follows:

To Named Plaintiff or Class Members:

David Fish  
The Fish Law Firm, P.C.  
200 E. 5th Avenue, Suite 123  
Naperville, IL 60563

To Defendants:

Kate Kosartes  
O'Hagan Meyer  
One East Wacker Drive, Suite 3400  
Chicago, IL 60601

### **STAY DISCOVERY**

46. Consistent with this Agreement, the Parties agree to the stay of all discovery in the Lawsuit, pending the issuance of the Final Order. Defendants represent and warrant that the payroll filed provided to Plaintiff during discovery and settlement are complete and accurate business records and that the data provided to Plaintiffs relating to deductions and payroll was true and correct to the best of their knowledge.

### **MISCELLANEOUS**

47. Neither this Settlement Agreement, nor any document referred to herein, nor any action taken to carry out this Settlement Agreement, is, or may be construed as, or may be used as an admission, concession or indication by or against Defendants of any fault, wrongdoing or liability whatsoever.

48. The Named Plaintiff and Plaintiff's Counsel represent, covenant and warrant that they have not directly or indirectly, assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity any portion of any claims, causes of actions, demands, rights and liabilities of every nature and description released under this Settlement Agreement.

49. Provided that the Final Approval Order is consistent with the terms and conditions of this Settlement Agreement in all material respects, the Named Plaintiff, Plaintiff's Counsel, and Defendants all hereby waive any and all rights to appeal from the Final Approval Order, including all rights to any post-judgment proceedings, such as a motion to vacate or set-aside judgment, a motion for a new trial, and any extraordinary writ, and the Final Approval Order will become final and non-appealable at the time it is entered. The waiver does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment proceedings.

50. This Agreement shall be construed and enforced under the laws of the State of Illinois.

51. The Parties agree that the terms and conditions of this Settlement Agreement are the result of intensive, arms'-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor or against any of the Parties by reason of their participation in the drafting of the Settlement Agreement.

52. Paragraph titles and headings are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any of its provisions. Each term of this Settlement Agreement is contractual and not merely a recital.

53. This Settlement Agreement contains the entire agreement between the Parties relating to any and all matters addressed in the Settlement Agreement (including settlement of the Lawsuit), and all prior or contemporaneous agreements, understandings, representations, and

statements, whether oral or written and whether by one of the Parties or such Parties' legal counsel, with respect to such matters are extinguished. No rights hereunder may be waived or modified except in a writing signed by all Parties and approved by the Court.

54. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns. This Agreement may be executed in multiple counterparts with each constituting an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to the Parties and each of them. Signatures sent by facsimile machine or scanned signatures in Portable Document Format sent by email shall be deemed original signatures.

55. Any disputes related to this Settlement Agreement that arise prior to the dismissal of this Lawsuit shall be referred to the Court.

56. To the extent that the Defendants fail to make any of the payment as required herein, then the Plaintiff shall provide them with email notice through their counsel and a 7-day opportunity to cure the default. If the Defendants still fail to cure that default after such properly provided notice, then the Plaintiffs shall be entitled to their reasonable attorney fees and costs incurred in enforcing this Agreement.

IN WITNESS WHEREOF, the undersigned duly executed this Agreement as of the date indicated below:

**LEAD PLAINTIFF AND PLAINTIFF'S COUNSEL**

Dated: \_\_\_\_\_, 2019

PLAINTIFF LOUISE RUFINO DE LA CRUZ

\_\_\_\_\_

Dated: \_\_\_\_\_, 2019

THE FISH LAW FIRM, P.C., as to form, only

\_\_\_\_\_



statements, whether oral or written and whether by one of the Parties or such Parties' legal counsel, with respect to such matters are extinguished. No rights hereunder may be waived or modified except in a writing signed by all Parties and approved by the Court.

54. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns. This Agreement may be executed in multiple counterparts with each constituting an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to the Parties and each of them. Signatures sent by facsimile machine or scanned signatures in Portable Document Format sent by email shall be deemed original signatures.

55. Any disputes related to this Settlement Agreement that arise prior to the dismissal of this Lawsuit shall be referred to the Court.

56. To the extent that the Defendants fail to make any of the payment as required herein, then the Plaintiff shall provide them with email notice through their counsel and a 7-day opportunity to cure the default. If the Defendants still fail to cure that default after such properly provided notice, then the Plaintiffs shall be entitled to their reasonable attorney fees and costs incurred in enforcing this Agreement.

IN WITNESS WHEREOF, the undersigned duly executed this Agreement as of the date indicated below:

**LEAD PLAINTIFF AND PLAINTIFF'S COUNSEL**

Dated: 11/07/2019, 2019

Luis

PLAINTIFF ~~LOUISE~~ RUFINO DE LA CRUZ

*Luis Rufino De La Cruz*

Dated: 11/8/2019, 2019

THE FISH LAW FIRM, P.C., as to form, only

*[Signature]*

opportunity to cure the default. If the Defendants still fail to cure that default after such properly provided notice, then the Plaintiffs shall be entitled to their reasonable attorney fees and costs incurred in enforcing this Agreement.

IN WITNESS WHEREOF, the undersigned duly executed this Agreement as of the date indicated below:

**LEAD PLAINTIFF AND PLAINTIFF'S COUNSEL**

Dated: \_\_\_\_\_, 2019

PLAINTIFF LOUISE RUFINO DE LA CRUZ

Dated: \_\_\_\_\_, 2019

THE FISH LAW FIRM, P.C., as to form, only

Printed Name: DAVID FISH  
Attorneys for Plaintiffs

**DEFENDANTS AND DEFENDANTS' COUNSEL**

Dated: 10/24, 2019

DEFENDANT METRO LINK IL, LLC

Safieh Alshayeb Owner  
Printed Name: Safieh Alshayeb  
Title: OWNER

Dated: October 30, 2019

O'HAGAN MEYER., as to form, only

Kate M. Kosartes  
Printed Name: Kate Kosartes  
Attorneys for Defendants

**GUARANTORS.**

Metro Link Leaders, LLC

Dated: 10/24, 2019



Printed Name: Said Abdelqader

Title: Owner

Dated: 10/24, 2019



Printed Name: Safieh Alshayeb

**GUARANTY AND CONSENT JUDGEMENT**

This Guaranty and Consent Judgement (“Guaranty” or “Agreement”) is made by Metro Link Leaders, LLC and Safieh Alshayeb, personally (Metro Link Leaders, LLC and Safieh Alshayeb are referred to herein as “Guarantors”).

WHEREFORE, On or about November 30, 2017, Plaintiff filed a Complaint, Case No. 17-CV-8661, in the United States District Court for the Northern District of Illinois on behalf of himself and similarly situated employees of Metro Link IL, LLC, (“Defendant”) seeking relief individually, in the form of a class action under Rule 23 of the Federal Rules of Civil Procedure and in the form of a collective action under Section 216(b) of the FLSA, under state and federal law for, *inter alia*, Defendants alleged failure to pay proper overtime wages, allegedly unlawful deductions taken from paychecks and alleged off the clock work;

WHEREFORE, Plaintiff and Defendant desire to settle the above claims on a class basis for adequate consideration set in the Plaintiff and Defendant’s Agreement and Stipulation of Settlement and Release (“Settlement Agreement”);

WHEREFORE, Plaintiff requires solvent entities to guaranty Defendant’s faithful payment and performance pursuant to the Settlement Agreement;

WHEREFORE, as part of the consideration in the Settlement Agreement, the Parties have agreed that Metro Link Leaders, LLC and Safieh Alshayeb will Guaranty Defendant’s payment of the settlement fund to Plaintiff and the Class, and will agree that a consent judgement will be entered against them in the event Defendant is in default of the Settlement Agreement;

WHEREFORE, this Guaranty Agreement is a material part of the Settlement Agreement and Plaintiff would not have agreed to the Settlement Agreement absent a Guarantee from Metro Link Leaders, LLC and Safieh Alshayeb.



WHEREFORE, Metro Link Leaders, LLC represents it is the most current entity formerly known as Metro Link NJ, LLC. Metro Link Leaders, LLC also represents it owns and operates retail cellular phone locations in New Jersey and Metro Link NJ, LLC is no longer in operation. Metro Link Leaders, LLC agrees to guaranty Defendant's faithful payment and performance of the Settlement Agreement;

WHEREFORE, Safieh Alshayeb represents she is a natural person residing at 5204 W. 110<sup>th</sup> Street, Oaklawn, IL 60453 She also represents she is the majority member of Metro Link IL, LLC. Safieh Alshayeb agrees to personally guaranty Defendant's faithful payment and performance of the Settlement Agreement.

NOW THEREFORE, in consideration of the mutual and reciprocal promises stated below, the Parties hereto agree to the following:

**Guaranty:** In further consideration and as an inducement for Plaintiff's execution of the Settlement Agreement, Guarantors guaranty to Plaintiff, Plaintiff's Attorneys, and the Class that Guarantors hereby covenant and agree that if there is a default by Defendant in the payment or performance of any of Defendant's obligations under the Settlement Agreement the Guarantors each will cure such defect, default, non-payment, or arrearage and will faithfully perform and fulfill all obligations, terms and covenants under the Settlement Agreement and will immediately pay and reimburse Plaintiff and Plaintiff's Attorneys for all costs, expenses, and damages of all sorts and natures incurred in consequence of any default by Defendant or Guarantors, their heirs, administrators, executors, successors and assigns, including, but not limited to, all reasonable attorney's fees incurred or caused by any default and by an enforcement of this Guaranty.

For collection purposes, Metro Link Leaders, LLC and Safieh Alshayeb each shall give Plaintiff's Attorneys a canceled blank check from their primary bank accounts. Metro Link

Leaders, LLC and Safieh Alshayeb each represent and swear that these bank accounts are the accounts primarily used by each. If either Metro Link Leaders, LLC or Safieh Alshayeb close these accounts, or otherwise use a different primary account, it will notify Plaintiff's Attorneys at The Fish Law Firm P.C. via email at [admin@fishlawfirm.com](mailto:admin@fishlawfirm.com) and telephone at (630)355-7590.

**Consent Judgement:**

- a. It is acknowledged that this Agreement is part of the consideration of the Settlement Agreement.
- b. In the event that Guarantors fail to make, or fail to timely make, any payment due hereunder or otherwise breach this Agreement, and to further secure the payments due to under the Settlement Agreement, Guarantors irrevocably authorize and consent to any attorney of record to appear at any time from time to time after payment is due, in the United States District Court For the Northern District of Illinois or any court in Illinois, and enter the Agreed Judgement Order attached as Exhibit A without process, in favor of Plaintiff, Plaintiff's Attorneys, and the Class under the Settlement Agreement, and against Guarantors, jointly and severally, together with costs of such proceedings, reasonable attorneys' fees, and the Guarantors waive and release all errors which may intervene in any such proceeding and consent to immediate execution upon said judgment, hereby ratifying and confirming all that said attorney may do by virtue hereof. The Guarantors waive any errors and fully release any attorney-in-fact obtained by Plaintiff, Plaintiff's Attorneys, and the Class to enter the Agreed Judgement Order.

c. Metro Link Leaders, LLC and Safieh Alshayeb are jointly and severally liable for the obligations of Metro Link IL, LLC under the Settlement Agreement.

Agreed:

Safieh Alshayeb  
Safieh Alshayeb

On this 28 day of October, 2019, Safieh Alshayeb appeared personally before me and is known to me to be the person described herein and executed the foregoing Guaranty and Confession of Judgement and acknowledged that he did so freely and voluntarily.

Haf



Metro Link Leaders, LLC

By: Said Abdelqader

Title: Owner

On this 28 day of October, 2019, Said Abdelqader appeared personally before me and is known to me to be the person described herein and executed the foregoing Guaranty and Confession of Judgement and acknowledged that he did so freely and voluntarily.

Haf

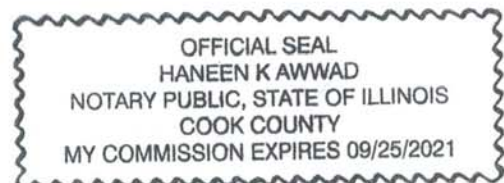




Exhibit A

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

LUIS DE LA CRUZ, individually and	)	
on behalf of all others similarly situated,	)	
	)	
Plaintiffs,	)	
	)	Case No.: 1:17-cv-8661
v.	)	
	)	
METRO LINK IL, LLC	)	
	)	
	)	
Defendant.	)	

**AGREED JUDGEMENT ORDER**

This matter before the Court for Plaintiff's Motion for Entry of Agreed Judgement Order, this Court having jurisdiction over the parties and the parties being in agreement as to the entry of this Agreed Judgement Order,

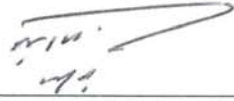
IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Judgment is entered in favor of Plaintiff and against Metro Link IL, LLC, Safieh Alshayeb, and Metro Link Leaders, LLC, jointly and severally, in the amount of \$290,000, less any amount Defendant paid into the Class Settlement Account, and for reasonable attorneys' fees and costs incurred in these proceedings in the amount of \_\_\_\_\_.

Entered: \_\_\_\_\_

Metro Link IL, LLC  
By: Safieh Alshayeb  
Title: Counsel

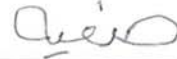
\_\_\_\_\_  
Judge



Metro Link Leaders, LLC

By: Said Abdelqader

Title: owner



Safieh Alshayeb