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10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
11 **COUNTY OF ORANGE**
12

13 **CHERYL BURLEIGH**, individually and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 **BRANDMAN UNIVERSITY**, a California
18 Non-Profit Corporation,

19 Defendant.
20

CASE NO. 30-2020-01172801-CU-OE-CXC

**EXHIBIT 1 TO [PROPOSED] ORDER
GRANTING PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Settlement Agreement”) is made and entered into between Cheryl Burleigh (“Plaintiff” or “Class Representative”), individually and on behalf of the Settlement Class (as defined below), by and through HammondLaw, P.C. (“Class Counsel”), and UMass Global, formerly Brandman University (“Defendant”) subject to the approval of the Court, as provided below. This Settlement Agreement is intended by Plaintiff and Defendant to fully, finally, and forever resolve, discharge, and settle the Action (as defined below) and Released Claims (as defined below), upon and subject to the terms and conditions hereof, as follows:

1. Definitions.

As used herein, for the purposes of this Settlement Agreement only, the following terms will be defined as set forth below:

1.1 “Action” refers to the civil action entitled: *Burleigh v. Brandman University*, Case No. 30-2020-01172801-CU-OE-CXC, in the Superior Court of California, Orange County.

1.2 “Class Member” refers to all Adjunct Class Members and Reimbursement Class Members as defined below.

1.3 “Adjunct Class” or “Adjunct Class Members” refers to all persons who were employed by Defendant in California as part-time adjunct instructors, were not paid in compliance with Labor Code Section 515.7, and were not paid on an hourly basis, at any time during the Adjunct Class Period.

1.4 “Reimbursement Class” refers to all persons other than adjunct instructors who were employed by Defendant in California and who were required to work remotely at any time during the Reimbursement Class Period.

1.5 “Class Counsel” refers to the attorneys of record for the Class Representative, *i.e.*, HammondLaw, P.C.

1.6 “Class Notice” refers to the form of direct-mail notice substantially in the form attached as “Exhibit A,” as may be modified by the Court.

1.7 “Adjunct Class Period” means the period from December 2, 2016 through August 22, 2021.

1.8 “Reimbursement Class Period” means the period from March 18, 2020 through May 3, 2021.

1.9 “Complaint” refers to the operative Second Amended Complaint in this Action.

1.10 “Court” refers to the Superior Court of California for Orange County.

1.11 “Final Approval Hearing” refers to the hearing at which the Court will make a final determination whether the terms of the Settlement are fair, reasonable, and adequate for the Class and meet all applicable requirements for approval.

1.12 “Final Approval Order and Judgement” refers to the final order by the Court approving the Settlement following the Final Approval Hearing and entering final judgment.

1.13 “Effective Date” is 61 days following date the Final Approval Order and Judgment is signed. If an appeal is taken from the Final Approval Order and Judgment, then the Effective Date will be ten business days after the appeal is withdrawn or after an appellate decision affirming the final approval decision becomes final.

1.14 “Gross Settlement Amount” (also referred to herein as “GSA”) refers to the maximum settlement payment of One Million Five Hundred Fifty Thousand Dollars (\$1,550,000). Defendant will be obligated to make, except that Defendant shall bear, in addition, all employer-side payroll tax payments due and payable to federal and state tax authorities as a result of this Settlement.

1.15 “Net Settlement Amount” (also referred to herein as “NSA”) is the GSA minus Court-approved attorney’s fees and litigation costs, Settlement Administration Costs, Service Award, and the PAGA Penalties. The NSA is the maximum amount that will be available for distribution to Settlement Class Members.

1.16 “PAGA Penalties” refers to the Thirty-Five Thousand Dollars (\$35,000) allocated to Plaintiff’s PAGA claims which shall be paid as follows: 75% of the PAGA Penalties shall be paid to the LWDA as its share of the of civil penalties for PAGA claims; and 25% shall to be distributed to the Class Members who worked during the relevant PAGA Period as their share of the settlement of civil penalties for PAGA claims.

1.17 “Adjunct PAGA Period” means the period from September 25, 2019 through August 22, 2021.

1.18 “Reimbursement PAGA Period” means the period from March 18, 2020 through May 3, 2021.

1.19 “Parties” are Plaintiff and Defendant.

1.20 “Released Claims” are Adjunct Released Claims and Expense Reimbursement Release Claims, as defined in Section 16.1 and 16.2

1.21 “Released Parties” include Defendant and all of its subsidiaries, affiliates, predecessors, successors, and related entities, and its and their respective officers, directors, employees, fiduciaries, trustees, agents, and benefit plans.

1.22 “Request for Exclusion” refers to a request to be excluded from the Settlement, which must be made in writing in conformity with the requirements set forth in the Class Notice, as well as the Court’s order granting preliminary approval, and mailed to the Administrator and postmarked on or before the Response Deadline.

1.23 “Response Deadline” is forty-five (45) calendar days after the date that the Class Notice is mailed to Class Members and is the deadline by which Class Members’ Requests for Exclusion, disputes regarding Settlement Payments, and/or objections must be postmarked in order to be timely.

1.24 “Service Award” refers to monetary award to the Plaintiff, in an amount not to exceed Seven–Thousand Five Hundred Dollars (\$7,500), or other amount as approved by the Court, to be paid for from the Gross Settlement Amount, subject to approval by the Court, as described below.

1.25 “Settlement Administrator” refers to Simpluris, Inc., the third-party administrator mutually selected by the parties, subject to approval by the Court, to perform the notice, claims administration, and distribution functions further described in this Settlement Agreement.

1.26 “Settlement Administration Costs” refers to the cost of paying the Settlement Administrator. This cost will be paid out of the GSA, in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000).

1.27 “Settlement Class” or “Settlement Class Member” refers to Class Members who do not request exclusion from the Settlement.

1.28 “Settlement Payment” refers to the amount paid to each Settlement Class Member.

2. Procedural History and Recitals.

On December 2, 2020, Plaintiff filed her Private Attorneys’ General Act, Labor Code §§ 2698 *et seq.* lawsuit in Orange County Superior Court for PAGA civil penalties based on Defendant’s alleged failure, with respect to its adjunct instructors, to (1) pay wages hourly and separately for non-productive tasks and/or failure to pay wages for all hours worked in violation of California Labor Code §§ 226.2, 1194 and IWC Wage Order No. 4-2001 § 4; (2) failure to pay hourly and separately for rest breaks and/or failure to authorize and permit paid rest breaks and pay premium pay in violation of California Labor

Code §§ 226.2, 226.7 and IWC Wage Order No. 4-2001 § 12; (3) failure to issue accurate itemized wage statements in violation of California Labor Code §§ 226(a), and 226.2(a); and (4) failure to reimburse all necessarily incurred business expenses in violation of California Labor Code § 2802. Plaintiff also pled a claim for PAGA civil penalties for the violation of Labor Code § 2802 on behalf of all of Defendant's employees.

Defendant filed its Answer to the First Amended Complaint on March 2, 2021, generally denying the allegations in the FAC and raising several affirmative defenses, including that Class Members are exempt employees, and that Defendant acted in good faith with respect to its employment policies/practices.

On November 19, 2021, Plaintiff filed a Second Amended Complaint, adding class claims for all the Labor Code violations pled in the First Amended Complaint.

2.1 On August 2, 2021, the Parties participated in a mediation session with Mr. Tripper Ortman, an experienced mediator. Following the mediation, the Parties reached the basic terms of a settlement which are memorialized in this formal settlement agreement, subject to approval by the Court. The Parties jointly represent that this is a fair, reasonable, and adequate settlement and have arrived at this Settlement through arms-length negotiations, considering all relevant factors, present and potential.

2.2 This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement, a Class should be certified in the Action. Notwithstanding, in the interest of avoiding further litigation, Defendant desires to fully and finally settle Released Claims.

NOW THEREFORE, in consideration of the covenants and agreements set forth herein, and of the release of all Released Claims, Plaintiff, on behalf of herself and the Class, Class Counsel, and Defendant agree to the terms and provisions of this Settlement Agreement, subject to the approval of the Court.

3. Limitation on Effect of Settlement.

The Parties agree that certification of a class is appropriate for settlement purposes only. In the event that the Settlement is not finally approved, or the Settlement is otherwise terminated, and any class and representative action, which was certified for settlement purposes only, shall be vacated, and shall be of no force or effect whatsoever and shall not be admissible nor construed as an admission or concession of any kind by the Parties, in whole or part, and Defendant expressly reserves all rights to challenge certification of a class on all available grounds.

4. Establishment of the GSA.

Within 10 business days after the Effective Date, Defendant shall transmit the GSA to the Settlement Administrator, in addition to an amount equal to employer-side payroll taxes due on the wage component of the NSA. This Settlement is non-reversionary and under no circumstances will any part of the GSA revert to Defendant.

5. Calculation of the NSA and Distribution of Settlement Proceeds.

5.1 Each Settlement Class Member will be entitled to a share of the NSA in accordance with the formula set forth below. Payments will be made from the NSA only to Settlement Class Members, as set forth herein.

5.2 8% of the NSA (approx. \$75,266.67) shall be allocated to the Reimbursement Class Member which shall be paid pro rata based on the number of pay periods he or she worked as a Reimbursement Class Member during the Reimbursement Class Period.

5.3 92% of the NSA (approx. \$865,566.66) shall be allocated to the Adjunct Class. Each Adjunct Class Member's Settlement Payment will be calculated based on the number of pay periods he or she worked during the Adjunct Class Period as an Adjunct Faculty in California and during which the Adjunct Class Member was not paid in compliance with Labor Code Section 515.7 and was not paid on an hourly basis.

5.4 The 25% of the PAGA Penalties allocated to the Class shall be paid in equal amounts to each Class Member who worked during the Adjunct/ Reimbursement PAGA Period.

5.4.1 One-third of each Adjunct Settlement Payment will be allocated as wages and reported on an IRS Form W-2; and the remaining two-thirds of each Settlement Payment will be allocated as penalties and interest and reported on an IRS Form 1099.

5.4.2 100% of the Reimbursement Settlement payment shall be allocated as non-wage payments and reported on an IRS Form 1099.

5.4.3 100% of the PAGA payments made to Class Members who opt out of the Settlement shall be allocated as penalties and reported on an IRS Form 1099.

5.4.4 If a Class Member timely and validly submits a Request for Exclusion, as set forth herein, their share will return to the NSA and will be distributed to the remaining Settlement Class Members, with the exception of the Class Member's share of PAGA penalties which shall be paid to the Class Member regardless of whether of they exclude themselves from the Settlement.

5.5 Payments to Class Members pursuant to this Settlement Agreement will not be construed as compensation for purposes of determining eligibility for or benefit calculations of any health and welfare benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, including, without limitation, all plans, subject to Employee Retirement Income Security Act ("ERISA"). The Parties agree these payments do not represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

6. Attorneys' Fees and Costs.

Class Counsel shall request attorneys' fees up to one-third of the GSA (i.e., \$516,666.67) for attorneys' fees; and up to \$25,000 for reimbursement of litigation costs. Defendant agrees to not oppose Class Counsel's request for attorneys' fees and costs in these amounts. If the GSA increases pursuant to the escalator clause, Class Counsel's shall attorneys' fees in the amount of one-third of the increased GSA. The terms of this Settlement Agreement will not be abrogated and will continue in full force even if the Court awards a lower amount of attorneys' fees or costs than requested by Class Counsel. However, Class Counsel retains the right to appeal any such reductions, but such an appeal will delay Defendant's obligation to make all payments set forth in this Settlement Agreement. Any unapproved amounts of attorneys' fees and litigation costs will be added to the NSA and will be distributed to the Settlement Class Members.

7. Service Award.

Class Counsel shall request a Service Award of up to Seven Thousand Five Hundred Dollars (\$7,500) for Plaintiff. Any unapproved amount will be added to the NSA and be distributed to the Settlement Class Members.

8. PAGA Penalties

Subject to Court approval, \$35,000 shall be attributed to Plaintiff's claims under PAGA. The Settlement Administrator shall apportion and distribute the \$35,000 payment as follows: (a) \$26,250 shall be paid to the LWDA as its 75% share of the settlement of civil penalties for PAGA claims; and (b) \$8,750 shall be distributed to the Class Members who worked during the Adjunct/ Reimbursement PAGA Period as their 25% share of the settlement of civil penalties for PAGA claims.

9. Costs of Settlement Administration.

The Parties have mutually agreed to the selection of Simpluris ("Settlement Administrator"), to undertake the administration of the Settlement in this Action. The administration duties include, without limitation, the following: establishing and maintaining a qualified settlement account for the NSA, obtaining tax identification number(s) for Defendant applicable to the Settlement, calculating the Class Member Payments, performing an initial National Change of Address (NCOA) search upon receipt of the Class Member mailing addresses, mailing the Class Notices, performing one skip trace on Class Notices which are returned as undeliverable, reviewing and processing Requests for Exclusion, disputes, and objections, setting up a toll-free number, mailing the Class Members Payments and tax forms to the Settlement Class Members, and setting up a static website regarding the Settlement. The Settlement Administrator will report payment of the individual Class Member Payments to all required taxing and other authorities, take appropriate withholdings, forward payments for withholdings and issue Internal Revenue Service Forms W-2 and 1099. The Parties estimate that the costs and expenses of administration of the settlement will not exceed \$25,000. If the Class size increases, and the Settlement Administration Costs exceed \$25,000, any remaining additional Settlement Administration Costs will be paid out of the GSA. Any amounts allocated but not paid to the Settlement Administrator will be added to the NSA and distributed to the class.

10. Notice Administration.

10.1.1 Within ten business days of the order granting preliminary approval of the Settlement (“Preliminary Approval Order”) Defendant shall provide the Settlement Administrator with the following information (“Class Data List”):

- (a) the names, employment identification number, last known addresses, last known telephone numbers, and Social Security numbers of each Class Member;
- (b) the number of pay periods worked by each Reimbursement Class Member as a Reimbursement Class Member during the Reimbursement Class Period; and
- (c) for each Adjunct Class Member, the number of pay periods worked during the Adjunct Class Period during which the Adjunct Class Member was not paid in compliance with Labor Code Section 515.7 and was not paid on an hourly basis, and whether the Adjunct Class Member worked during the Adjunct PAGA Period.

10.1.2 Upon its receipt of the Class Data List, the Settlement Administrator shall access the National Change of Address (“NCOA”) Database, and update the addresses contained therein.

10.1.3 Within twenty-five days of the Preliminary Approval Order, the Settlement Administrator shall provide the Class Notice by bulk first class mail, forwarding requested, to the Class Members at the addresses identified through the process described above.

10.1.4 As to any Class Notices that are returned as undeliverable, or where the NCOA Database indicates that the last known address of any Class Member is invalid or otherwise undeliverable, the Settlement Administrator will perform a skip trace procedure and re-mail all returned, undelivered mail within five calendar days of the date on which the Settlement Administrator is informed that a Class Notice is undeliverable or otherwise invalid.

10.1.5 The Settlement Administrator and all those working through, in concert with, or on behalf of the Settlement Administrator, shall be obligated to take all reasonable steps to maintain the confidentiality of Class Member information and to carry out the other duties enumerated in the Settlement Agreement, including calculating each Class Member’s potential share of the Settlement.

10.1.6 The Settlement Administrator shall provide Defendant’s counsel and Class Counsel with weekly summary reports, including the total number of Class Notices that were returned as undeliverable, the total number of objections, disputes, and/or Requests for Exclusion. The Settlement

Administrator shall maintain records of its work, which will be available for inspection upon request by Defendant's counsel or Class Counsel.

10.1.7 The Class Notice will be a pre-printed, in substantially the form attached hereto as Exhibit A and to be approved by the Court. In addition to other information contained on the Class Notice, the Class Notice will include an explanation of the *pro rata* distribution formula used to determine the share of the Net Settlement Amount that he or she may be entitled to receive under the Settlement

11. Requests for Exclusion.

11.1 Any Class Member may elect to opt out of the Settlement by submitting a written Request for Exclusion to the Settlement Administrator, received or postmarked no later than the Response Deadline. The Request for Exclusion must contain the following: full name, signature, address and last four digits of his or her social security number; name and case number, and a clear statement that he or she seeks to be excluded from the Settlement. The Settlement Administrator shall immediately send all Requests for Exclusion to Defendant's counsel and Class Counsel. A Class Member who fails to comply with the opt out procedure set forth herein on or before the Response Deadline will not be excluded and will instead be bound by all provisions of the Settlement Agreement and all orders issued pursuant thereto.

11.2 Any Class Member who elects to opt out of the Class in the manner and within the time limits specified above (1) will not have any rights under the Settlement Agreement; (2) will not be entitled to receive any compensation under the Settlement Agreement; (3) will not have standing to submit any objection to the Settlement Agreement; and (4) will not be bound by the Settlement Agreement. However, a Class Member may not opt out of the release of PAGA claims set forth in section 16.1 and 16.2, as applicable, and shall be paid his or her share of PAGA Penalties regardless of whether he or she opts out of the Class.

11.3 Except for persons who elect to opt out of the Settlement in the manner and within the time limits specified above, in the Preliminary Approval Order, and in the Class Notice, all Class Members, will be deemed to be within the Class for all purposes under this Settlement Agreement, will be bound by the terms and conditions of this Settlement Agreement (including the release provisions in Section 16 and its subparts), including all orders issued pursuant thereto, and will be deemed to have waived all unstated objections and opposition to the fairness, reasonableness, and adequacy of this Settlement Agreement, and any of its terms.

12. Objections.

Any Class Member who does not request exclusion from the Settlement may object to the Settlement by sending the Settlement Administrator, not later than the Response Deadline, a written statement objecting to the Settlement. The written objection must contain: full name, address, last four digits of his or her social security number, the case name and number, and a clear statement of the basis for his or her objection. The Settlement Administrator shall immediately send all objections to counsel for Defendant and Class Counsel.

Counsel for the Parties shall file any responses to any objections at the time the Motion for Final Approval is filed. Class Members may, prior to the Final Approval Hearing, withdraw their objections or opt out requests in a writing to the Settlement Administrator, which may then be filed with the Court.

13. Resolution of Disputes.

If any Class Member timely disputes the number of pay periods listed on his or her Class Notice or the date(s) of issue, the dispute will be submitted to the Settlement Administrator, who will examine the records and either verify the calculation or provide a corrected calculation. Disputes must be in writing that is submitted to the Settlement Administrator, postmarked on or before the Response Deadline. The dispute must contain: Class Member's full name, address, signature, and last four digits of his or her Social Security number; and any facts supporting the Class Member's dispute, along with any supporting materials confirming that the paychecks attributed to him or her are incorrect. The Settlement Administrator's determination of disputes will be final and non-appealable.

14. Payment Procedure.

14.1 Payments to Settlement Class Members, Class Counsel, Class Representative, Taxing Authorities and LWDA: Within 10 days of receipt of the GSA, the Settlement Administrator will distribute, subject to approval by the Court: (a) Settlement Payments to Class Members; (b) attorneys' fees and costs to Class Counsel; (c) Settlement Administration Costs to the Settlement Administrator; (d) Service Award to the Class Representative; (e) applicable tax withholdings and employer's portion of payroll tax to the appropriate taxing authorities and (f) the LWDA's share of the PAGA Penalties.

14.2 Uncashed Checks: Settlement Checks that are not cashed within ninety days from the date of issuance by the Settlement Administrator will be voided and the funds will be donated and distributed to Community Legal Aid SoCal (<https://www.communitylegalsocal.org>) as the *cypres* in accordance with

California Code of Civil Procedure § 384. Class Members whose checks are not timely cashed and which are cancelled, will be deemed to have irrevocably waived any right in or claim to any payment under the settlement, but the settlement and their release of Released Claims will remain binding upon them.

15. Taxes.

15.1 Employer's Portion of Payroll Taxes: Defendant shall pay the employer's portion of payroll taxes with respect to the wage portion of Class Member Payments separately and in addition to the GSA.

15.2 Tax Treatment of Service Award: Plaintiff will receive an IRS Form 1099 for his individual Service Award and will be responsible for payment of any taxes owing on said amount.

15.3 Tax Treatment of Attorneys' Fees and Cost Award: Class Counsel will receive an IRS Form 1099 for any amount awarded to Class Counsel in the form of attorneys' fees or costs and will be responsible for payment of any taxes owing on said amount.

15.4 No Tax Advice: The Parties are not giving any tax advice in connection with the settlement or any payments to be made pursuant to this settlement including, but not limited to, within the meaning of United States Treasury Circular 230 (31 CFR part 10, as amended). The Parties do not assume any liability for taxes, fees, costs, or assessments resulting from any Settlement Class Members' failure to timely pay his or her share of taxes, interest, fees, or penalties owed

16. Release.

16.1 Adjunct Class Released Claims: Upon the Court's final approval of the class settlement and entry of final judgment, in exchange for the consideration set forth herein, each member of the Adjunct Class shall be deemed to have released the Released Parties from any and all claims that are alleged, or could reasonably have been alleged based on the facts and claims asserted in the Second Amended Complaint on their behalf and arising during the Adjunct Class Period, including claims under Labor Code §§ 201, 202, 203, 226(a) and (e), 226.2, 512, 226.7, 1194, and 2802; IWC Wage Order No. 4-2001, §§ 4, 11, 12, and the UCL; and claims for PAGA civil penalties based on the Adjunct Class Released Claims and arising during the Adjunct PAGA Period.

16.2 Reimbursement Class Released Claims: Upon the Court's final approval of the class settlement and entry of final judgment, in exchange for the consideration set forth herein, each member of the Reimbursement Class shall be deemed to have released the Released Parties from any and all claims that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Second

Amended Complaint on their behalf and arising during the Reimbursement Class Period, including claims under Labor Code § 2802 and the UCL based on the Labor Code § 2802 claim; and the claims for PAGA civil penalties based on the Reimbursement Class Released Claims and arising during the Reimbursement PAGA Period .

16.3 Plaintiff's General Release: Plaintiff releases, acquits, discharges, and covenants not to sue any of the Released Parties for any claim, whether known or unknown, which she has ever had, or hereafter may claim to have, arising on or before the date he signs this Agreement, including without limitation to, any claims relating to or arising out of any aspect of her relationship with Defendant, or the termination of that relationship, any claims for unpaid compensation, wages, reimbursement for business expenses, penalties, or waiting time penalties under the California Labor Code, the California Business and Professions Code, the federal Fair Labor Standards Act, 29 U.S.C. section 201, et seq., or any state, county or city law or ordinance regarding wages or compensation; any claims for employee benefits, including without limitation, any claims under the Employee Retirement Income Security Act of 1974; any claims of employment discrimination on any basis, including without limitation, any claims under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866, 42 U.S.C. section 1981, the Civil Rights Act of 1991, the Americans with Disabilities Act of 1991, the Family and Medical Leave Act of 1993, the California Government Code, or any other state, county or city law or ordinance regarding employment discrimination. Plaintiff acknowledges and agrees that the foregoing general release is given in exchange for the consideration provided to her under this Agreement by Defendant. However, this release shall not apply to claims for workers' compensation benefits, unemployment insurance benefits, pension or retirement benefits, or any other claim or right that as a matter of law cannot be waived or released. Plaintiff expressly waive any rights or benefits available to her/him under the provisions of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

17. Application for Preliminary Approval Order.

17.1 After the Parties' execution of this Settlement Agreement, Plaintiff shall file a motion for preliminary approval of the Settlement, requesting a Preliminary Approval Order that contains the following provisions:

- 17.1.1 preliminarily approving the Settlement Agreement;
- 17.1.2 preliminarily approving and certifying the Class for settlement purposes only;
- 17.1.3 approving the form of the Class Notice, and finding that the proposed method of disseminating the Class Notice meet the requirements of due process and is the best notice practicable under the circumstances;
- 17.1.4 establishing the procedures and the deadline by which Class Members may assert objections to the Settlement, seek exclusion from the Settlement, and/or dispute their Settlement Shares;
- 17.1.5 establishing a deadline for the Parties to submit papers/briefing in response to any objections and in support of final approval of the Settlement Agreement; and
- 17.1.6 setting a date for the Final Approval Hearing.

18. Final Approval Order and Judgment.

18.1 If the Settlement is preliminarily approved by the Court, the Parties shall thereafter request that the Court enter an order granting final approval of the Settlement and judgment based thereon ("Final Approval Order and Judgment"), which includes the following provisions:

- 18.1.1 confirming certification of the Class for settlement purposes only;
- 18.1.2 finding that the dissemination of the Class Notice in the form and manner ordered by the Court was accomplished as directed, met the requirements of due process; and
- 18.1.3 finally approving the Settlement Agreement as fair, reasonable and adequate and directing consummation of the Settlement in accordance with its terms and provisions;
- 18.1.4 directing the Parties to implement the terms of the Settlement Agreement;
- 18.1.5 releasing and discharging the Released Parties from any and all liability with respect to the Released Claims;
- 18.1.6 awarding reasonable attorneys' fees and litigation costs to Class Counsel as determined by the Court;
- 18.1.7 awarding a Service Award to Class Representative as determined by the Court;

18.1.8 awarding Settlement Administration Costs to the Settlement Administrator as determined by the Court;

18.1.9 approving the allocation of PAGA Penalties to the LWDA;

18.1.10 entering final judgment on the operative Complaint; and

18.1.11 preserving continuing and exclusive jurisdiction over all matters related to the administration and consummation of the terms of this Settlement and enforcement of the Judgment.

19. Escalator Clause.

If the total number of Adjunct Class Members exceeds 1,790 by more than 5% (i.e. more than 1,879), then the Gross Settlement Amount attributable to the Adjunct Class Members (currently estimated as \$1,426,000) shall be increased by the same percentage by which the number of Class Members exceeds 1,879.

If the total number of Reimbursement Class exceeds 564 by more than 5% (i.e. more than 592), then the Gross Settlement Amount attributable to the Reimbursement Class Members (currently estimated as \$124,000) shall be increased by the same percentage by which the number of Class Members exceeds 592.

20. Tolerance of Requests for Exclusion.

Defendant shall have the right to void the Settlement if more than five percent (5%) of the Class Members opt out of the Settlement. Defendant must provide written notice to Class Counsel of its withdrawal within ten (10) calendar days of the Response Deadline. All parties and their counsel agree not to encourage opt-outs, directly or indirectly, through any means. If Defendant exercises its rights under this Section, it shall be solely responsible for the costs incurred for settlement administration up to the date of nullification.

21. No Admissions.

The Parties understand and agree that this Settlement Agreement is the result of a good faith compromise settlement of disputed claims, and no part of this Settlement Agreement, or the negotiations leading thereto, or any document filed in support thereof, whether or not the Settlement is finally approved and/or consummated, may be offered or should be construed as an admission of any wrongdoing by Defendant or the Released Parties.

22. Avoidance of Undue Publicity.

The Parties and their counsel agree that they will not issue any press releases, communicate to the press, media or to the public, through social media or otherwise, the settlement terms or amount unless and until Plaintiff has filed his motion for preliminary approval of the Settlement. Nothing herein will restrict Class Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Class Counsel's qualifications and experience.

23. Non-Disparagement

Released Parties agree that all inquiries about Plaintiff shall be referred to Human Resources, who will confirm the Plaintiff's dates of employment and position held. No other information concerning Plaintiff's work histories will be provided by Human Resources without authorization from Plaintiff.

24. Construction.

This Settlement Agreement was entered into after substantial good faith, arm's-length negotiations between the Parties. This Settlement Agreement has been entered into without any coercion and under no duress. The Parties acknowledge and agree that all Parties had an equal hand in drafting this Settlement Agreement so that it will not be deemed to have been prepared or drafted by one party or another.

25. Due Authority of Attorneys.

Each of the attorneys executing this Settlement Agreement on behalf of one or more Parties hereto warrants and represents that he or she has been duly authorized and empowered to execute this Settlement Agreement on behalf of each such respective Party and to bind them to the terms hereof. The parties also warrant that this Agreement is entered into knowingly and willingly and there is no fraud, duress, or undue influence.

26. Entire Agreement.

This Settlement Agreement (including Exhibits hereto) sets forth the entire agreement of the Parties with respect to its subject matter and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Settlement Agreement, whether oral or written, regarding the subjects covered herein. The Parties acknowledge that no representations, inducements, warranties, promises, or statements relating to the subjects covered herein, oral or otherwise, have been made by any of the Parties that are not embodied or incorporated by reference herein. Except as otherwise set forth in this Agreement, any notice, order, judgment, or other exhibit that requires approval of the Court must be

approved without material alteration that substantially changes or increases the cost of compliance with this Settlement Agreement in order for this Settlement Agreement to become effective. Before invoking this provision to challenge the effectiveness of this Settlement Agreement, the invoking party shall consult with, and if necessary mediate in good faith with, the other party in an effort to resolve any such challenge.

27. Modification or Amendment.

This Settlement Agreement may not be modified or amended except in a writing signed by all signatories hereto or their attorneys or their successors in interest.

28. Successors.

This Settlement Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and assigns, and upon any corporation, partnership or other entity into or with which any Party hereto may merge, combine, or consolidate.

29. Counterparts.

This Agreement may be executed in one or more counterparts by facsimile or electronic signature which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this Agreement.

30. Waivers.

The waiver by any Party of any breach of this Settlement Agreement will not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

31. Governing Law.

This Settlement Agreement will be governed by and construed, enforced, and administered in accordance with the internal laws of the State of California. The parties intend for this Agreement to be admissible and binding under Code of Civil Procedure section 664.6.

32. Headings.

The headings contained in this Settlement Agreement are for convenience and reference purposes only, and will not be given weight in its construction.

33. Notices.

Any notices, requests, demands, or other communications required or permitted to be given pursuant to this Settlement Agreement, other than the contemplated Class Notice to the Class Members, must be in writing and mailed as follows:

33.1 To Class Representative, the Class and Class Counsel to the attention of Julian Hammond, Esq., HammondLaw, P.C., 11780 W Sample Rd, Suite 103 Coral Springs, FL 33065; Telephone: (310) 601-6766.

33.2 To Defendant, to the attention of Aaron A. Buckley, Paul, Plevin, Sullivan, & Connaughton LLP, 101 West Broadway, Ninth Floor, San Diego, California 92101; Telephone: (619) 237-5200

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:

Plaintiff and Class Representative

Dated: 1/17/2022, 2022 By: Cheryl Burleigh
Cheryl Burleigh

UMass Global

Dated: _____, 2022 By: _____
Phillip L. Doolittle
Executive Vice Chancellor of Finance and Administration
and Chief Financial Officer

APPROVED AS TO FORM:

Counsel for Plaintiff and Proposed Class Counsel

Dated: 1/19, 2022 By: Julian Hammond
HammondLaw, P.C.

Counsel for Defendant

Dated: _____, 2022 By: _____
Fred M. Plevin
Aaron A. Buckley
Paul, Plevin, Sullivan, & Connaughton LLP

33. Notices.

Any notices, requests, demands, or other communications required or permitted to be given pursuant to this Settlement Agreement, other than the contemplated Class Notice to the Class Members, must be in writing and mailed as follows:

33.1 To Class Representative, the Class and Class Counsel to the attention of Julian Hammond, Esq., HammondLaw, P.C., 11780 W Sample Rd, Suite 103 Coral Springs, FL 33065; Telephone: (310) 601-6766.

33.2 To Defendant, to the attention of Aaron A. Buckley, Paul, Plevin, Sullivan, & Connaughton LLP, 101 West Broadway, Ninth Floor, San Diego, California 92101; Telephone: (619) 237-5200

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:

Plaintiff and Class Representative

Dated: _____, 2022 By: _____
Cheryl Burleigh

UMass Global

Dated: 1/19/22, 2022 By: 
Phillip L. Doolittle
Executive Vice Chancellor of Finance and Administration
and Chief Financial Officer

APPROVED AS TO FORM:

Counsel for Plaintiff and Proposed Class Counsel

Dated: _____, 2022 By: _____
Julian Hammond
HammondLaw, P.C.

Counsel for Defendant

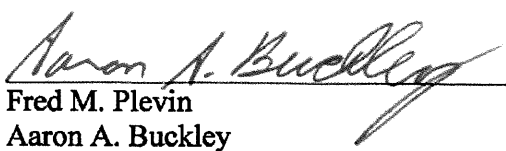
Dated: 1/18, 2022 By: 
Fred M. Plevin
Aaron A. Buckley
Paul, Plevin, Sullivan, & Connaughton LLP

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL APPROVAL

Burleigh v Brandman University
(Orange County Superior Court, Case No. 30-2020-01172801-CU-OE-CXC)

As a current or former Adjunct Faculty Member of Brandman University in California, or a current or former employee who worked remotely for Brandman University in California, you are entitled to receive money from a class action settlement.

Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.

You have received this Notice of Class Action Settlement because Brandman University's ("Defendant" or "Brandman") records show you are an "Adjunct Class Member" or a "Reimbursement Class Member" and therefore entitled to a payment from this class action Settlement. "Adjunct Class Member" refers to all persons who were employed by Defendant in California as part-time adjunct instructors, were not paid in compliance with Labor Code Section 515.7, and were not paid on an hourly basis, at any time during the Adjunct Class Period between December 2, 2016 through August 22, 2021 (the "Adjunct Class Period"). "Reimbursement Class Member" refers to all individuals who worked remotely for Brandman in California at any time between March 18, 2020 through May 3, 2021 (the "Reimbursement Class Period").

- The settlement resolves a class-action lawsuit, *Burleigh v Brandman University* (the "Lawsuit"), which alleges that Defendant: (1) failed to pay Adjunct Class Members for all hours worked, (2) failed to provide Adjunct Class Members legally-compliant meal and rest breaks under California law, (3) failed to pay Adjunct Class Members all wages owed upon discharge from employment, (4) failed to furnish Adjunct Class Members accurate itemized wage statements, and (5) failed to reimburse Adjunct Class Members for business expenses. The Lawsuit also alleges that Defendant failed to reimburse Reimbursement Class Members for business expenses related to working from home during the Covid-19 pandemic.
- On _____, the Orange County Superior Court granted preliminary approval of this class action Settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Brandman vigorously denies the claims in the Lawsuit and contends that it fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment, and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment other than your share of PAGA civil penalties as described below, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit.
OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, Simpluris, Inc., about why you object to the settlement and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

	the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval hearing scheduled for [DATE AND TIME] in the Murrieta Courthouse of Orange County Superior Court.
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The Final Fairness and Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at _____m. on _____, in Dept. CX105, Civil Complex Center, located at 751 W Santa Ana Blvd, Santa Ana, CA, 92701. You are not required to attend the Hearing, but you are welcome to do so.

Why Am I Receiving This Notice?

You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a "Settlement Administrator" appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

What Is This Case About?

Cheryl Burleigh worked as an adjunct instructor for Brandman in California. She is the "Plaintiff" in this case and is suing on behalf of herself and Adjunct Class Members for Brandman's alleged failure to pay all wages due for all hours worked, failure to provide Adjunct Class Members with legally-compliant rest and meal breaks, failure to pay all wages owed upon separation from employment, failure to furnish timely and accurate wage statements, and failure to reimburse necessary business expenses in connection with teaching courses online. Plaintiff also alleges that Brandman failed to reimburse Reimbursement Class Members for their necessary business expenses in connection with working remotely during the Covid-19 pandemic.

Brandman denies all of the allegations made by Plaintiff and denies that it violated any law. The Court has made no ruling on the merits of Plaintiff's claims. The Court has only preliminarily approved a Class Action Settlement Agreement. The Court will decide whether to give final approval to the Settlement at the Final Fairness and Approval Hearing.

Summary of the Settlement Terms

Plaintiff and Brandman have agreed to settle this case on behalf of the Class for the Gross Settlement Amount of \$1,550,000. The Gross Settlement includes: (1) Administration Costs up to \$25,000; (2) a service payment of up to \$7,500 to Plaintiff for her time and efforts in pursuing this case and in exchange for a general release of claims against Brandman; (3) fees of up to 1/3 of the Settlement Amount (\$516,667) and up to \$25,000.00 in litigation costs to Class Counsel; and (4) payment allocated to PAGA penalties in the amount of \$35,000 (with \$26,250 to be paid to the Labor and Workforce Development Agency ("LWDA") and \$8,750 paid equally to Adjunct Class Members who worked during the Adjunct PAGA Period (defined as September 25, 2019 through August 22, 2021) and Reimbursement Class Members who worked during the Reimbursement PAGA Period (March 18, 2020 through May 3, 2021). After deducting these sums, a total of approximately \$940,833 will be available for distribution to Class Members ("Net Settlement Amount"). In addition to the Gross Settlement Amount, Defendant will bear all employer-side payroll tax payments due and payable to federal and state tax authorities as a result of this Settlement.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

Distribution to Class Members

The Net Settlement Amount will be distributed as follows: 8% of the NSA shall be allocated to the Reimbursement Class and shall be paid *pro-rata* based on the number of pay periods worked by a Reimbursement Class Member during the Reimbursement Class Period in proportion to the weeks worked by all Reimbursement Class Members. The remaining 92% of the of the Net Settlement Amount shall be paid to Adjunct Class Members pro-rata based on the number of pay periods that they worked as an adjunct, were not paid in compliance with Labor Code Section 515.7, and were not paid on an hourly basis during the Adjunct Class Period, in proportion to all such pay periods worked by all Adjunct Class Members.

In addition, the \$8,750 in PAGA penalties shall be paid equally to Class Members who worked for Brandman in California during the Adjunct or Reimbursement PAGA Period. You will receive this payment and will release your Released PAGA Claims (defined below) regardless of whether or not you opt-out of the Settlement.

Your Estimated Settlement Award

Defendant's records show that you [ARE/ ARE NOT] a member of the {Reimbursement} Class and were required to work remotely during a total of: << PAY PERIODS>> during the Reimbursement Class Period . Your share of the Settlement allocated to the Reimbursement Class is [\$XX.]

Defendant's records also show that you [ARE/ ARE NOT] a member of the {Adjunct} Class and worked a total of: << PAY PERIODS>> during which you were not paid in compliance with Labor Code Section 515.7 and were not paid on an hourly basis, during the Adjunct Class Period. Your share of the Settlement allocated to the Adjunct Class is [\$XX.]

Finally, Defendant's records show that [ARE/ ARE NOT] a member of the PAGA Class. Your share of the PAGA Payment is [\$8,750/PAGA Class Size]

If you believe that the number of pay periods listed above is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than RESPONSE DEADLINE. Please include any documentation you have that you contend supports your dispute.

Tax Reporting

For tax reporting purposes, the payments monies paid to the Adjunct Class will be allotted 1/3 to wages and 2/3 to penalties and interest. Payout to the Reimbursement Class will be allotted 100% to penalties; and PAGA payments will be allotted 100% to penalties.

Please consult a tax advisor regarding the tax consequences of your Settlement Award. This notice is not intended to provide legal or tax advice on your Settlement Share.

Claims That You Are Releasing Under the Settlement

Adjunct Class Released Claims: If finally approved by the Court, each Adjunct Class Member who does not request exclusion from the Settlement will be bound by all of the terms of the Settlement, and will release Brandman from any and all claims that are alleged, or could reasonably have been alleged based on the facts and claims asserted in the Second Amended Complaint on their behalf and arising during the Adjunct Class Period,

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

including claims under Labor Code §§ 201, 202, 203, 226(a) and (e), 226.2, 512, 226.7, 1194, and 2802; IWC Wage Order No. 4-2001, §§ 4, 11, 12, and the UCL. Adjunct Class Members who worked during the Adjunct PAGA Period will release their claims for PAGA civil penalties based on the Adjunct Class Released Claims and arising during the Adjunct PAGA Period whether or not they opt out of the Settlement.

Reimbursement Class Released Claims: If finally approved by the Court, each Reimbursement Class Member who does not request exclusion from the Settlement will release all claims that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Second Amended Complaint on their behalf and arising during the Reimbursement Class Period, including claims under Labor Code § 2802 and the UCL based on the Labor Code § 2802 claim. Reimbursement Class Members who worked during the Reimbursement PAGA Period will release their claims for PAGA civil penalties based on the Reimbursement Class Released Claims and arising during the Reimbursement PAGA Period.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your payment because you are a Class Member. If you do not dispute your pay periods calculation and do not opt out of the settlement, you will be bound by the settlement and receive a settlement payment. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment set forth above.**

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, address, telephone number, case name and number, and last four digits of your Social Security Number. Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to:

Simpluris, Inc.

The written request to be excluded from the Settlement must be postmarked or received by the Administrator not later than [RESPONSE DEADLINE]. If you exclude yourself from the Settlement then you will get no payment, other than your share of PAGA penalties, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit, other than your claim for PAGA civil penalties.

Option 3 – File an Objection to the Settlement

If you wish to object to the Settlement you may file an objection in writing stating why you object to the Settlement. Your objection must provide your full name, address and telephone number, case name and number, the last four digits of your Social Security Number, the case number and name, and your reasons why you think the Court should not approve the settlement. Your objection must be mailed the Administrator no later than [RESPONSE DEADLINE]. Please note that you cannot both object to the Settlement and exclude yourself. If the Court overrules your objection, you will be bound by the settlement and will receive your Settlement Share.

Final Fairness Hearing

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

You may, if you wish, also appear at the Final Fairness and Approval Hearing set for _____ at _____ .m. in Dept CX105, Civil Complex Center, located at 751 W Santa Ana Blvd, Santa Ana, CA, 92701, and discuss your objections with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may visit www._____.com, call the Settlement Administrator at [PHONE NUMBER], or Class Counsel at:

HAMMONDLAW, P.C.
Julian Hammond (SBN 268489)
jhammond@hammondlawpc.com
Polina Brandler (SBN 269086)
pbrandler@hammondlawpc.com
Ari Cherniak (SBN 290071)
acherniak@hammondlawpc.com
11780 W Sample Rd., Suite 103
Coral Springs, FL 33065
Tel: (310) 601-6766
Fax: (310) 295-2385

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be purchased from the Orange County Superior Court Case Access website, located at: <https://www.occourts.org/online-services/case-access/>.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator or Class Counsel.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, BRANDMAN, OR
BRANDMAN'S ATTORNEYS WITH INQUIRIES.**

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX