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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR COUNTY OF VENTURA**

COURTNEY JOHNSTON, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

ERIC YOUNG CORPORATION., a California
Corporation, and DOES 1 to 100, inclusive,

Defendant.

Case No.

**CLASS ACTION SETTLEMENT
AGREEMENT**

CLASS ACTION SETTLEMENT AGREEMENT

DEFENSE COUNSEL

Attorneys for Defendant
Christopher Correa
Schneider and Associates, LLP
300 E. Esplanade Drive, Suite 1980
Oxnard, CA 93036

1 This Class Action Settlement Agreement (“Settlement Agreement”) is made and entered into
2 between Plaintiff COURTNEY JOHNSTON (“Plaintiff” or “Class Representative”) and Defendant ERIC
3 YOUNG CORPORATION (“Defendant” or “Eric Young”) on the other hand subject to the approval of
4 the Court, as provided below. This Settlement Agreement is intended by Plaintiff and Defendant to fully,
5 finally, and forever resolve, discharge, and settle the Action (as defined below) and Released Claims (as
6 defined below), upon and subject to the terms and conditions hereof, as follows:

7 **1. Definitions.**

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

10 **1.1** “Action” refers to the civil action entitled *Courtney Johnston v. Eric Young Corporation* to
11 be filed in Ventura County Superior Court.

12 **1.2** “Class Counsel” refers to the attorneys of record for the Class Representative,
13 *i.e.*, Ackermann & Tilajef, P.C. and Employment Rights Law Group, APC.

14 **1.3** “Class Member” refers to all non-exempt individuals who were employed by Eric Young
15 Corporation in the State of California as drivers for FedEx or other third party companies and who worked
16 one or more shifts from October 6, 2019 through the date of preliminary approval of the settlement.
17 Defendant represents there are approximately 59 Class Members who worked during the Class Period.

18 **1.4** “Class Notice” refers to the form of direct-mail notices substantially in the form attached as
19 “**Exhibit A.**” as may be modified by the Court.

20 **1.5** “Class Period” means October 6, 2016 through the date of preliminary approval of the
21 settlement.

22 **1.6** “Complaint” refers to the operative Complaint in this Action, and any Complaints
23 subsequently filed in this Action.

24 **1.7** “Court” refers to the California Superior Court for the County of Ventura.

25 **1.8** “Defendant” means Eric Young Corporation.

26 **1.9** “Final Approval Hearing” refers to the hearing at which the Court will make a final
27 determination whether the terms of the Settlement are fair, reasonable, and adequate for the Class and
28 meet all applicable requirements for approval.

1 **1.10** “Final Approval Order” refers to the final order by the Court approving the Settlement
2 following the Final Approval Hearing and entering final judgment.

3 **1.11** “Final Effective Date” refers to the date the Final Approval Order is entered if no objections
4 to the Settlement are filed. If objections are filed and overruled, and no appeal of the Final Approval
5 Order is filed, then the Final Effective Date will be sixty (60) calendar days following date the Final
6 Approval Order is signed. If an appeal is taken from the Final Approval Order, then the Final Effective
7 Date will be twenty (20) calendar days after the appeal is withdrawn or after an appellate decision
8 affirming the Final Approval Order becomes final.

9 **1.12** “Gross Settlement Amount” (“GSA”) refers to the maximum payment of One Hundred
10 Ninety Thousand Dollars and no cents (\$190,000.00) Defendant will be obligated to make. The GSA
11 includes all payments made to Settlement Class Members, Service Award payment to Class
12 Representative, all Settlement Administration Costs, the PAGA Award, and attorneys’ fees and litigation
13 costs and expenses to Class Counsel, as approved by the Court. Defendant has already paid Five Thousand
14 Ten Dollars and no cents (\$5,010.00 of the Settlement Amount to certain Class Members, which shall be
15 treated as a credit

16 **1.13** “Net Settlement Amount” (also referred to herein as “NSA”) is the GSA minus Court-
17 approved attorney’s fees and litigation costs, Settlement Administration Costs, Court-approved
18 Enhancement Award, the LWDA’s share of the amount of the GSA allocated to PAGA Award, and the
19 \$5,010.00 Defendant has already paid to certain Class Members, which shall be treated as a credit. The
20 NSA is the maximum amount that will be available for distribution to Settlement Class Members.

21 **1.14** “PAGA Award” refers to the Nineteen Thousand Dollars and no cents (\$19,000) that will be
22 set aside for the PAGA penalty, with Fourteen Thousand Two Hundred Fifty Dollars and no cents
23 (\$14,250) paid to the LWDA the remaining Four Thousand Seven Hundred Fifty Dollars and no cents
24 (\$4,750) payable to the Settlement Class Members.

25 **1.15** “Parties” are Plaintiff and Defendant.

26 **1.16** “Released Claims” are those defined in Section 17, below.

27 **1.17** “Released Parties” include Eric Young Corporation and any parent, subsidiary, affiliate,
28 predecessor or successor, and all agents, trustees, employees, officers, directors and attorneys thereof.

1 **1.18** “Request for Exclusion” refers to a request to be excluded from the Settlement, which must
2 be made in writing in conformity with the requirements set forth in the Class Notice, the Court’s order
3 granting preliminary approval, and herein, and mailed to the Administrator and postmarked on or before
4 the Response Deadline.

5 **1.19** “Response Deadline” refers to a date that is sixty (60) calendar days after the date that the
6 Class Notice is mailed to Class Members and is the deadline by which Class Members’ Requests for
7 Exclusion, disputes regarding Credits, and/or objections must be postmarked in order to be timely.

8 **1.20** “Enhancement Award” refers to a monetary award to the Plaintiff, in an amount not to exceed
9 Six Thousand Five Hundred Dollars (\$6,500), or other lesser amount as approved by the Court, for her
10 service as Class Representative as described in Section 6, below, to be paid for from the Gross Settlement
11 Amount, subject to approval by the Court, as described below.

12 **1.21** “Settlement Administrator” refers to the third-party administrator mutually selected by the
13 parties, subject to approval by the Court, to perform the notice, claims administration, and distribution
14 functions further described in this Settlement Agreement.

15 **1.22** “Settlement Administration Costs” refers to the costs and expenses of the administrator, to
16 perform its tasks and duties as provided by this Settlement Agreement. These costs will be paid out of the
17 GSA.

18 **1.23** “Settlement Class Member” refers to Class Members who do not request exclusion from the
19 Settlement pursuant to Section 13, below.

20 **1.24** “Settlement Payment” refers to the amount paid to Settlement Class Member.

21 **2. Procedural History and Recitals.**

22 **2.1** On October 6, 2020, Plaintiff submitted her PAGA letter to the LWDA alleging Defendant
23 failed to reimburse for necessary incurred business expenses and failed to provide accurate itemized wage
24 statements.

25 **2.2** On or around January 22, 2020, through direct settlement negotiations, the parties reached
26 an agreement in principle.

27 **2.3** Shortly thereafter, Plaintiff filed her class and PAGA representative action complaint in the
28 Ventura County Superior Court alleging four causes of action for (1) failure to reimburse business

1 expenses (Labor Code section 2802); (2) failure to provide accurate itemized wage statements (Labor
2 Code section 226); (3) UCL violations (Cal. Bus. & Prof. Code sections 17200-17204); and (4) PAGA
3 penalties (Labor Code section 2698, *et seq.*).

4 **2.4** The Parties jointly represent that this is a fair, reasonable, and adequate settlement and have
5 arrived at this Settlement through arms-length negotiations, taking into account all relevant factors, present
6 and potential.

7 **2.5** This Agreement is entered into solely for the purpose of compromising highly disputed
8 claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of
9 liability or wrongdoing. Defendant makes no admission of liability or wrongdoing by virtue of entering
10 into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class
11 certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any
12 unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the
13 claims asserted in the Action, or that but for the Settlement, a Class should be certified in the Action. This
14 Settlement, and Plaintiff's and Defendant's willingness to settle the Action will have no bearing on, and
15 will not be admissible in connection with, any litigation between the parties (other than in connection with
16 this Settlement).

17 **2.6** Class Counsel represent that they have thoroughly investigated the claims alleged against
18 Defendant in the Action. Class Counsel represent that they have conducted their own investigation into
19 the underlying facts, events, and issues related to the subject matter of this Action. Class Counsel represent
20 that they have further undertaken an extensive analysis of the legal principles applicable to the claims
21 asserted against Defendant, and the potential defenses thereto. Both Class Representative and Defendant
22 have had an opportunity to evaluate their respective positions on the merits of the claims asserted.

23 **2.7** Class Counsel has also engaged in intensive arm's-length negotiations with counsel for
24 Defendant with a view toward achieving substantial benefits for the Class while avoiding the cost, delay
25 and uncertainty of further litigation, trial, and appellate review.

26 **2.8** As a consequence of said negotiations, and of Class Counsel's investigation, analysis and
27 discovery, Plaintiff and Class Counsel determined to enter into this Settlement Agreement on the terms
28 and conditions hereinafter set forth, believing such Settlement to be fair, reasonable and adequate and in

1 the best interests of Plaintiff and the other members of the Class. Plaintiff and Class Counsel have
2 determined to execute this Settlement Agreement and urge approval by the Court of the Settlement after
3 considering (a) the substantial factual and legal defenses available to Defendant to the claims asserted in
4 the Action, which render the outcome of the Action substantially uncertain; (b) the potential difficulties
5 Plaintiff and Class Members would encounter in establishing the elements of their claims; (c) the
6 substantial benefits made available to Class Members pursuant to the Settlement; (d) the fact that the
7 Settlement ensures that Class Members will receive relief in the most expeditious and efficient manner
8 practicable, and thus much sooner than would be possible were the claims to be litigated successfully
9 through trial and appeal; and (e) the fact that the Settlement allows persons who would otherwise fall
10 within the definition of the Class, if they so desire, to opt out of the Action and individually pursue any
11 Release Claims that he or she may have.

12 **2.9** As set forth above, without admitting any wrongdoing or liability, Defendant is willing to
13 agree to the terms of the Settlement in order to settle, compromise, and fully resolve the Action and
14 Released Claims (as defined below).

15 **3. Limitation on Effect of Settlement.**

16 The Settlement will not constitute, in this or any other proceeding, an admission of any kind by
17 Defendant, including without limitation, that certification of a class is appropriate or proper or that
18 Plaintiff could establish any of the requisite elements for class treatment of any of the claims in the Action.
19 In the event that the Settlement is not finally approved, or the Settlement is otherwise terminated, and any
20 class and representative action, which were certified for settlement purposes only, shall be vacated, and
21 shall be of no force or effect whatsoever and shall not be admissible nor construed as an admission or
22 concession of any kind by the Parties, in whole or part, and Defendant expressly reserves all rights to
23 challenge certification of a class on all available grounds.

24 **4. Establishment of the GSA.**

25 This Settlement will be made on a non-claims-made basis and will be non-reversionary. Under no
26 circumstances will any of the GSA revert to Defendant. Defendant shall pay a total of no more than the
27 GSA, less the \$5,010 already paid to certain Class Members, which will cover payment by Defendant
28 pursuant to this Settlement Agreement, to Settlement Class Members, Settlement Administration Costs,

attorneys' fees and litigation costs to Class Counsel, and Service Award to Plaintiff. Defendant will deposit money into an account, through the Settlement Administrator, in an amount equal to the GSA.

5. Attorneys' Fees and Costs.

Class Counsel shall request attorneys' fees up to 1/3 of the GSA, i.e., \$63,333.33 for attorneys' fees; and up to \$3,500.00 for reimbursement of litigation costs and expenses. Defendant agrees to not oppose Class Counsel's request for attorneys' fees and costs in these amounts. 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. Any unapproved amount of attorneys' fees and litigation costs will be added to the NSA and be distributed to the Settlement Class Members.

6. Enhancement Award.

Class Counsel shall request an Enhancement Award of up to Six Thousand Five Hundred Dollars (\$6,500) for Plaintiff. Any unapproved amounts will be added to the NSA and be distributed to the Settlement Class Members.

7. PAGA Award.

Subject to Court approval, \$19,000 shall be attributed to Plaintiff's claims under PAGA. The Settlement Administrator shall apportion and distribute the \$19,000 payment as follows: (a) \$14,250 shall be paid to the LWDA as its 75% share of the settlement of civil penalties for PAGA claims; and (b) \$4,750 shall be added to the NSA and distributed to the Settlement Class Members as their 25% share of the settlement of civil penalties for PAGA claims.

8. Costs of Settlement Administration.

The Parties have mutually agreed to the selection of ILYM Group, Inc. ("Settlement Administrator"), to undertake the administration of the Settlement in this Action. The Parties estimate that the costs and expenses of administration of the settlement will not exceed \$4,000.

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

9.1 This settlement is a "non-claims-made" settlement. 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.

1 **9.2** The Net Settlement Amount will be allocated among the members of the settlement Class on
2 a pro rata basis based on the number of pay periods worked by each settlement Class member out of the
3 total amount of pay periods worked by all Class Members. Class Members who previously received
4 amounts from Defendant as part of the \$5,010.00 credit shall have their prior amounts credited toward
5 any amount due under this Settlement. For purposes of settlement, the payments from the NSA will be
6 allocated 100% as reimbursement, penalties and interest.

7 **9.3** The amount distributed to Settlement Class Members, plus all required withholdings, shall
8 not exceed the NSA.

9 **9.4** If a Class Member timely and validly submits a Request for Exclusion, as set forth herein,
10 his or her share will return to the NSA and will be distributed to the remaining Settlement Class Members.

11 **9.5** Payments to Class Members pursuant to this Settlement Agreement will not be construed as
12 compensation for purposes of determining eligibility for or benefit calculations of any health and welfare
13 benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, including,
14 without limitation, all plans, subject to Employee Retirement Income Security Act ("ERISA").
15 The Parties agree these payments do not represent any modification of any employee's previously-
16 credited hours of service or other eligibility criteria under any employee pension benefit plan, employee
17 welfare benefit plan, or other program or policy.

18 **9.6** Defendant will deposit money into an account, through the Settlement Administrator, in an
19 amount equal to the GSA.

20 **9.7** Within ten (10) calendar days of the Final Effective Date, the Settlement Administrator will
21 pay all Class Members' settlement shares, and attorney's fees, costs, enhancement payment, and
22 administration costs, as approved by the Court.

23 **9.8** Class Member Payment Checks that are not cashed within one hundred and eighty (180)
24 calendar days from the date of issuance by the Settlement Administrator, will be cancelled. Class
25 Members whose Class Member Payment checks are not timely cashed and which are cancelled, will be
26 deemed to have irrevocably waived any right in or claim to any payment under the Settlement, but the
27 settlement and their release of Released Claims will remain binding upon them. The value of the cancelled
28

Class Member Payment checks will be transmitted in conformity with California Civil Procedure Code section 384, to a *cy pres* agreed upon by the Parties and approved by the Court.

9.9 Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

10. Tax Treatment.

10.1 Tax Treatment of Class Member Payments: Of the amounts paid to individual Settlement Class Members, 100% shall be designated as reimbursement, penalties and interest reported on IRS Form 1099.

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

10.3 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.

10.4 No Tax Advice: Neither Plaintiff nor Defendant, nor the parties' attorneys, shall give or are giving any tax advice in connection with the settlement or any payments to be made pursuant to this settlement. Each Settlement Class Member agrees to indemnify, and hold harmless Defendant from any liability for taxes, fees, costs, or assessments resulting from his or her failure to timely pay his or her share of taxes, interest, fees, or penalties owed.

11. Notice Administration.

11.1 Within twenty (20) calendar days of the later of the Preliminary Approval Order or court approval of settlement notice to the class Defendant shall provide the Settlement Administrator only 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 being attributed to each Class Member.

11.2 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.

1 **11.3** Within thirty-five (35) days of the later of the Preliminary Approval Order or court approval
2 of settlement notice to the class, the Settlement Administrator shall provide the Class Notice by bulk first
3 class mail, forwarding requested, to the Class Members at the addresses identified through the process
4 described above.

5 **11.4** As to any Class Notices that are returned as undeliverable, or where the NCOA Database
6 indicates that the last known address of any Class Member is invalid or otherwise undeliverable, the
7 Settlement Administrator will perform a skip trace procedure and re-mail all returned, undelivered mail
8 within five (5) calendar days of the date on which the Settlement Administrator is informed that a Class
9 Notice is undeliverable or otherwise invalid.

10 **11.5** Other than the obligations set forth in this Settlement Agreement, Parties will have no
11 additional obligation to identify or locate any Class Member.

12 **11.6** Parties will not be responsible for nor have any liability in connection with the provision of
13 Class Member data to the Settlement Administrator, outside of the obligations set forth in the Settlement
14 Agreement. The Settlement Administrator and all those working through, in concert with, or on behalf of
15 the Settlement Administrator, shall be obligated to take all reasonable steps to maintain the confidentiality
16 of Class Member information and to carry out the other duties enumerated in the Settlement Agreement,
17 including calculating each Class Member's potential share of the Settlement.

18 **11.7** The Settlement Administrator shall provide Defendant's counsel and Class Counsel with
19 weekly summary reports, including the total number of Class Notices that were returned as undeliverable,
20 the total number of objections, and disputes regarding pay periods, and/or Requests for Exclusion. The
21 Settlement Administrator shall maintain records of its work, which will be available for inspection upon
22 request by Defendant's counsel.

23 **12. Class Notice and Notification of Credits.**

24 **12.1** The Class Notice will be a pre-printed notice, in substantially the form attached hereto as
25 **Exhibit A** and to be approved by the Court. In addition to other information contained on the Class
26 Notice, the Class Notice will state the number of pay periods that the Class Member worked in California
27 during the Class Period for Defendant, according to Defendant's records.
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1 **13. Request for Exclusion.**

2 **13.1** Any Class Member may elect to opt out of the Settlement by submitting a written Request
3 for Exclusion from the Settlement to the Settlement Administrator, postmarked no later than the Response
4 Deadline. The Request for Exclusion must contain the following: the Class Member's full name,
5 signature, address and last four digits of his or her social security number, and a clear statement that he or
6 she seeks to be excluded from the Settlement. The Settlement Administrator shall immediately send all
7 Requests for Exclusion to Defendant's counsel and Class Counsel. A Class Member who fails to comply
8 with the opt out procedure set forth herein on or before the Response Deadline will not be excluded and
9 will instead be bound by all provisions of the Settlement Agreement and all orders issued pursuant thereto.
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11 **13.2** Any Class Member who elects to opt out of the Class in the manner and within the time limits
12 specified above and in the Class Notice: (1) will not have any rights under the Settlement Agreement;
13 (2) will not be entitled to receive any compensation under the Settlement Agreement; (3) will not have
14 standing to submit any objection to the Settlement Agreement; and (4) will not be bound by the Settlement
15 Agreement.

16 **13.3** Except for persons who elect to opt out of the Settlement in the manner and within the time
17 limits specified above, in the Preliminary Approval Order, and in the Class Notice, all Class Members,
18 will be deemed to be within the Class for all purposes under this Settlement Agreement, will be bound by
19 the terms and conditions of this Settlement Agreement, including all orders issued pursuant thereto.

20 **13.4** If the Settlement Agreement is given final approval, it will operate as a full, complete, and
21 final release of all the Released Claims of the Class Representative and all Settlement Class Members,
22 and as an effective covenant not to sue.

23 **14. Objections.**

24 Any Class Member who does not request exclusion from the Settlement may object to the
25 Settlement Agreement by sending the Settlement Administrator, not later than the Response Deadline, a
26 written statement objecting to the Settlement. The written objection must contain: the Class Member's
27 full name, address, last four digits of his or her social security number, the case name and number of the
28 Action, 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.

All Parties and their counsel will not seek to solicit or otherwise encourage any Class Member to submit an opt out request or objection, nor encourage any Class Member to appeal from the final judgment.

15. Resolution of Disputes.

If a Class Member timely disputes the number of pay periods listed on his or her Class Notice, 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 pay periods attributed to him or her are incorrect. The Settlement Administrator's determination of disputes will be final and non-appealable.

16. Non-Materiality of Attorneys' Fees, Costs and Enhancement Awards.

Any denial or reduction in amount by the Court of the application for attorneys' fees and litigation costs, Enhancement Awards, and/or Settlement Administration Costs will in no way affect the validity the remainder of this Settlement Agreement, or give rise to a right to abrogate this Settlement Agreement.

17. Released Claims.

Plaintiff and all other class members will release the Released Parties from those claims alleged in the PAGA Notice and Complaint, as well as all claims that could have been alleged based on the facts and causes of action in the Complaint, including claims under Labor Code sections 226(a), 226(e), 226.3, 2802, the California Business and Professions Code section 17200 based on the alleged violations of the foregoing statutes, as well as any civil penalty claims predicated on the claims alleged in the Complaint under PAGA. The Release Period shall be the Class Period. No other claims are released other than those claims specifically plead in the Complaint.

17.1 Plaintiff's General Release:

1 In addition to the Released Claims, Plaintiff shall be bound by a compete and general release of
2 all claims under any and all applicable federal and state laws and/or regulations as to Released Parties,
3 and shall also be bound by a California Civil Code section 1542 release and waiver of all claims known
4 and unknown, without exception, except as may be prohibited by law, such as claims for workers'
5 compensation benefits. California Civil Code section 1542 reads as follows:

6 **“A general release does not extend to claims that the creditor or releasing party**
7 **does not know or suspect to exist in his or her favor at the time of executing the**
8 **release and that, if known by him or her, would have materially affected his or**
9 **her settlement with the debtor or released party.”**

10 **18. Application for Preliminary Approval.**

11 **18.1** Within 30 business days after the Parties' execution of this Settlement Agreement, Plaintiff
12 shall file a motion for preliminary approval of the Settlement, requesting a Preliminary Approval Order
13 that contains the following provisions:

14 **18.1.1** preliminarily approving the Settlement Agreement and its terms;

15 **18.1.2** preliminarily approving and certifying the Class for settlement purposes only;

16 **18.1.3** approving the form of the Class Notice, and finding that the proposed method
17 of disseminating the Class Notice meets the requirements of due process and is the best notice
18 practicable under the circumstances;

19 **18.1.4** establishing the procedures and the deadline by which Settlement Class
20 Members may assert objections to the Settlement, seek exclusion from the Settlement, and/or
21 dispute their Settlement Shares; and

22 **18.1.5** setting a date for the Final Approval Hearing.

23 **18.2** Counsel for Defendant will be given an opportunity to review and comment on the motion
24 for preliminary approval of the Settlement prior to its being filed with the Court, and such comments will
25 be implemented to the extent reasonable.
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1 **19. Final Approval Order and Final Judgment.**

2 **19.1** If the Settlement is preliminarily approved by the Court, the Parties shall thereafter request
3 that the Court enter an order granting final approval of the Settlement and judgment based thereon
4 (“Final Approval Order and Judgment”), which includes the following provisions:

5 **19.1.1** confirming certification of the Class for settlement purposes only;

6 **19.1.2** finding that the dissemination of the Class Notice in the form and manner
7 ordered by the Court was accomplished as directed, met the requirements of due process; and

8 **19.1.3** finally approving the Settlement Agreement and the Settlement as fair,
9 reasonable and adequate and directing consummation of the Settlement in accordance with its
10 terms and provisions;

11 **19.1.4** directing the Parties to implement the terms of the Settlement Agreement;

12 **19.1.5** releasing and discharging the Released Parties from any and all liability with
13 respect to the Released Claims as hereinabove provided;

14 **19.1.6** resolving and settling all the Released Claims by the Class Representative
15 and all Settlement Class Members, as herein above provided, with the release precluding them
16 from instituting, commencing, or continuing to prosecute, directly or indirectly, as an individual
17 or collectively, representatively, derivatively, or on behalf of himself or herself, or in any other
18 capacity of any kind whatsoever, any action in this Court, any other state court, or any arbitration
19 or mediation proceeding or any other similar proceeding, against any of the Released Parties, that
20 asserts any Released Claims.

21 **19.1.7** awarding reasonable attorneys’ fees and litigation costs to Class Counsel as
22 determined by the Court;

23 **19.1.8** awarding an Enhancement Award to Class Representative as determined by
24 the Court;

25 **19.1.9** awarding Settlement Administration Costs to the Settlement Administrator as
26 determined by the Court and other administration costs as provided herein;

27 **19.1.10** approving the allocation of PAGA Penalties to the LWDA;

28 **19.1.11** entering final judgment on the Complaint; and

1 **19.1.12** preserving continuing and exclusive jurisdiction over all matters related to the
2 administration and consummation of the terms of this Settlement and enforcement of the
3 Judgment.

4 **19.2** Counsel for Defendant will be given an opportunity to comment on the motion for final
5 approval of the Settlement prior to its being filed with the Court, and such comments will be implemented
6 to the extent reasonable.

7 **20. Effect of Settlement Not Being Final.**

8 In the event that the Settlement does not become final, then the Settlement Agreement will become
9 null and void, and all negotiations, proceedings, and statements relating thereto will be without prejudice
10 as to the rights of any and all Parties hereto, and all Parties and their respective predecessors and successors
11 will be deemed to have reverted to their respective positions in the Action as of the date and time
12 immediately prior to the execution of this Settlement Agreement. If the Court does not approve either
13 preliminarily or finally any material term or condition of the Settlement Agreement, or if the Court effects
14 a material change to the Parties' settlement (including but not limited to the scope of release to be granted
15 by Class Members or the binding effect of the Settlement on Class Members), the Parties shall work
16 together in good faith to address any concerns raised by the Court and propose a revised Settlement for
17 the Court's approval.

18 **21. Withdrawal From Settlement Based on Requests for Exclusion.**

19 Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement in
20 the event that 6 or more Class Members opt out. Defendant must provide written notice to Class Counsel
21 of its withdrawal within thirty (30) calendar days of the Response Deadline. All signatories and their
22 counsel agree not to encourage opt-outs. Class Counsel and Defendant specifically agree not to solicit
23 opt-outs, directly or indirectly, through any means. If Defendant exercises this right, it shall be solely
24 responsible for the costs incurred for settlement administration up to the date of nullification.
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1 **22. Escalator Clause.**

2 The parties agree that if the total Class Members is greater than 70, then the Gross Settlement
3 Amount shall increase proportionally for each Class Member over 70.

4 **23. No Admissions.**

5 The Parties understand and agree that this Settlement Agreement is the result of a good faith
6 compromise settlement of disputed claims, and no part of this Settlement Agreement, or any conduct or
7 written or oral statements made in connection with this Settlement and this Settlement Agreement,
8 including the Memorandum of Understanding, whether or not the Settlement is finally approved and/or
9 consummated, or the negotiations leading to the Settlement Agreement, or any document filed in support
10 thereof, should be construed as an admission or concession of any kind by Defendant or any of the
11 Released Parties.

12 **24. Avoidance of Undue Publicity.**

13 Except as required to obtain preliminary or final approval in this case, Plaintiff and Class Counsel
14 agree not to publicize the amount or other terms of this settlement to any person. Nothing herein will
15 restrict Class Counsel from including publicly available information regarding this settlement in future
16 judicial submissions regarding Class Counsel's qualifications and experience.

17 **25. Non-Disparagement.**

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

21 **26. Construction.**

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

26 **27. Due Authority of Attorneys.**

27 Each of the attorneys executing this Settlement Agreement on behalf of one or more Parties hereto
28 warrants and represents that he or she has been duly authorized and empowered to execute this Settlement

1 Agreement on behalf of each such respective Party and to bind them to the terms hereof. The parties also
2 warrant that this Agreement is entered into knowingly and willingly and there is no fraud, duress, or undue
3 influence.

4 **28. Entire Agreement.**

5 This Settlement Agreement (including Exhibits hereto) sets forth the entire agreement of the
6 Parties with respect to its subject matter and supersedes any and all other prior agreements and all
7 negotiations leading up to the execution of this Settlement Agreement, whether oral or written, regarding
8 the subjects covered herein. The Parties acknowledge that no representations, inducements, warranties,
9 promises, or statements relating to the subjects covered herein, oral or otherwise, have been made by any
10 of the Parties that are not embodied or incorporated by reference herein. Except as otherwise set forth in
11 this Agreement, any notice, order, judgment, or other exhibit that requires approval of the Court must be
12 approved without material alteration that substantially changes or increases the cost of compliance with
13 this Settlement Agreement in order for this Settlement Agreement to become effective. Before invoking
14 this provision to challenge the effectiveness of this Settlement Agreement, the invoking party shall consult
15 with, and if necessary mediate in good faith with, the other party in an effort to resolve any such challenge.

16 **29. Modification or Amendment.**

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

19 **30. Successors.**

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

23 **31. Counterparts.**

24 This Settlement Agreement may be executed in counterparts, each of which will be deemed an
25 original, and all of which together will constitute one and the same instrument.
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Dated: 02/23/2021, 2021 By: 
Courtney Johnston

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8 Dated: 3-7-21, 2021 By: Eric Young
Eric Young

On behalf of Defendant

APPROVED AS TO FORM:

**Counsel for Plaintiff and
Proposed Class Counsel**

Dated: February 23, 2021

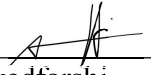
By:


Craig Ackerman

Ackerman & Tilajef

Dated: 02 / 23 / 2021, 2021

By:


Amir Seyedfarshi

Employment Rights Law Group, APC

Counsel for Defendant

Dated: _____, 2021

By:

Chris Correa

Schneiders & Associates LLP

1 On behalf of Defendant

2 ***APPROVED AS TO FORM:***

3 **Counsel for Plaintiff and**
4 **Proposed Class Counsel**

5 Dated: _____, 2021 By: _____
6 Craig Ackerman

7 Ackerman & Tilajef

8 Dated: _____, 2021 By: _____
9 Amir Seyedfarshi

10 Employment Rights Law Group, APC

11 **Counsel for Defendant**

12 Dated: 3/11/2021, 2021 By: 
13 Chris Correa

14 Schneiders & Associates LLP

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