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Attorneys for Defendants
GAP, INC. and GPS CONSUMER DIRECT, INC.

(Plaintiff's Counsel on next page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

ALEXANDRIA EATON, as aggrieved
employee pursuant to the Labor Code Private
Attorneys General Act of 2004 ("PAGA"), on
behalf of the State of California and other
aggrieved employees,

Plaintiffs,

v.

THE GAP, INC., GPS CONSUMER DIRECT,
INC., and DOES 2 through 10 inclusive,

Defendants.

Case Nos. RG21104093 and 23CV045852

**AMENDED JOINT STIPULATION OF
CLASS AND PAGA ACTION
SETTLEMENT**

Both cases assigned for all purposes to
Hon. Somnath Raj Chatterjee

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1 This Amended Joint Stipulation of Class and PAGA Actions Settlement and Release
2 (“Settlement Agreement” or “Agreement”) is made by and between Plaintiff Alexandria Eaton
3 (“Plaintiff”) and Defendant Gap, Inc. (“Defendant”). The Agreement refers to Plaintiff and
4 Defendants collectively as “Parties,” or individually as “Party.” This Agreement resolves two
5 related but distinct cases:

6 1. *Alexandria Eaton v. Gap, Inc.*, et al., Case No. RG21104093, Alameda Superior
7 Court; and

8 2. *Alexandria Eaton v. Gap, Inc.*, et al., Case No. 23CV045852, Alameda Superior
9 Court.

10 This is a global settlement, and effectiveness is contingent on the Court’s approval of the
11 settlement with respect to both cases.

12 **I. DEFINITIONS**

13 1.1. “Action” means both of Plaintiff’s lawsuits alleging wage and hour violations against
14 Defendants captioned:

15 1.1.1. *Alexandria Eaton v. Gap, Inc.*, et al., Case No. RG21104093, Alameda
16 Superior Court (“*Eaton I*”); and

17 1.1.2. *Alexandria Eaton v. Gap, Inc.*, et al., Case No. 23CV045852, Alameda
18 Superior Court (“*Eaton II*”).

19 1.2. “Administrator” means CPT Group, the neutral entity the Parties have selected to
20 administer the Settlement.

21 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
22 from the Gross Settlement Amount for its reasonable fees and expenses as approved by the Court.

23 1.4. “Aggrieved Employee” means a member of either the *Eaton I* Aggrieved Employees
24 group or *Eaton II* Aggrieved Employees group.

25 1.4.1. “*Eaton I* Aggrieved Employees” means (1) all exempt and non-exempt
26 employees of GPS Consumer Direct, Inc. in California who worked remotely or from home at
27 any point during the *Eaton I* Class Period, and (2) all exempt and non-exempt employees of Gap,
28 Inc. in California who worked remotely or from home at any point during the *Eaton I* Class

1 Period.

2 1.4.2. “*Eaton II* Aggrieved Employees” means all non-exempt employees of either
3 Gap, Inc. or GPS Consumer Direct, Inc. in California whose work time used for purposes of
4 calculating payroll was lower than the work time captured in the timekeeping systems at any
5 point during the *Eaton II* PAGA Period.

6 1.5.1. “*Eaton I* Class” means all exempt and non-exempt employees of Defendants in
7 California who were required to work remotely or from home at any point during the *Eaton I*
8 Class Period.

9 1.5.2. “*Eaton II* Class” means all non-exempt employees of either Gap, Inc. or GPS
10 Consumer Direct, Inc. in California whose work time used for purposes of calculating payroll was
11 lower than the work time captured in the timekeeping systems at any point during the *Eaton II*
12 Class Period.

13 1.6. “Class Counsel” means Marita M. Lauinger and James F. Clapp of CLAPP &
14 LAUINGER LLP.

15 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
16 mean the amounts approved by the Court for Class Counsel’s attorneys’ fees and for
17 reimbursement of Class Counsel’s litigation expenses, respectively.

18 1.8. “Class Data” means *Eaton I* Class Member and *Eaton II* Class Member identifying
19 information in Gap’s possession including the individual’s name, last-known mailing address,
20 Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

21 1.9. “Class Member” means a member of either the *Eaton I* Class or *Eaton II* Class.

22 1.9.1. “*Eaton I* Class Member” means a member of the *Eaton I* Class, as either a
23 Participating *Eaton I* Class Member or Non-Participating *Eaton I* Class Member (including a
24 Non-Participating *Eaton I* Class Member who qualifies as an *Eaton I* Aggrieved Employee).

25 1.9.2. “*Eaton II* Class Member” means a member of the *Eaton II* Class, as either a
26 Participating *Eaton II* Class Member or Non-Participating *Eaton II* Class Member (including a
27 Non-Participating *Eaton II* Class Member who qualifies as an *Eaton II* Aggrieved Employee).

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1 1.10. “Class Member Address Search” means the Administrator’s investigation and
2 search for current Class Member mailing addresses using all reasonably available sources,
3 methods and means including, but not limited to, the National Change of Address database, skip
4 traces, and direct contact by the Administrator with Class Members.

5 1.11. “Class Notice” means the court approved notice of Class Action Settlement and
6 Hearing Date for Final Court Approval, to be mailed to Class Members in English in the form,
7 without material variation, attached as Exhibit A and incorporated by reference into this
8 Agreement.

9 1.12.1 “*Eaton I* Class Period” means: (1) the period from March 1, 2020, through July 4,
10 2024 for *Eaton I* Class Members who were required to work remotely at any point as a result of
11 the COVID-19 pandemic; and (2) from June 16, 2017, through July 4, 2024 for *Eaton I* Class
12 Members who were remote employees prior to the COVID-19 pandemic.

13 1.12.2 “*Eaton II* Class Period” means the period of September 27, 2019, through July 4,
14 2024.

15 1.13. “Class Representative” or “Plaintiff” means Alexandria Eaton—the named
16 Plaintiff in the operative complaints in the Action, seeking Court approval to serve as a Class
17 Representative.

18 1.14. “Class and PAGA Representative Service Payments” means the payments
19 approved by the Court to the Class and PAGA Representatives for their service on behalf of the
20 Class Members and the LWDA.

21 1.15. “Court” means the Superior Court of California, County of Alameda.

22 1.16. “Defendants” means Gap, Inc. and GPS Consumer Direct, Inc.

23 1.17. “Defense Counsel” means Jessica Perry, Katie Briscoe, Mariam Bicknell, and
24 Scott Morrison of ORRICK, HERRINGTON & SUTCLIFFE LLP.

25 1.18. “Effective Date” means the date by when the following have occurred in both
26 *Eaton I* and *Eaton II*:

27 1.18.1 If any objections are filed, when both (a) the Court enters a Judgment on its
28 Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is

1 final as of the latest of the following occurrences: (a) the day after the deadline for filing a notice
2 of appeal from the Judgment (i.e., the sixty-first day after Judgment is entered); or (b) if a timely
3 appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and
4 issues a remittitur.

5 1.18.2 If no objections are filed, the Effective Date means the date the Court
6 enters a Judgment on its Order Granting Final Approval of the Settlement.

7 1.19. "Final Approval" means the Court's order granting final approval of the
8 Settlement.

9 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final
10 Approval of the Settlement.

11 1.22. "Gross Settlement Amount" means \$7,500,000 which is the total amount
12 Defendant Gap, Inc. agrees to pay under the Settlement except as provided in Paragraph 9 below.
13 The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA
14 Payments, LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, the Class and
15 PAGA Representative Service Payments, and the Administrator's Expenses.

16 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share
17 of the Net Settlement Amount calculated according to the number of Workweeks worked during
18 the applicable Class Period.

19 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of
20 25% of the PAGA Penalties calculated according to the number of Pay Periods worked during the
21 applicable PAGA Period.

22 1.25. "Judgment" means the judgment entered by the Court based upon the Final
23 Approval.

24 1.26. "LWDA" means the California Labor and Workforce Development Agency, the
25 agency entitled, under Labor Code section 2699, subd. (i).

26 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties to be paid to the
27 LWDA under Labor Code section 2699, subd. (i).

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1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, LWDA PAGA Payment, Class and PAGA Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.28.1. “*Eaton I* Net Settlement Amount” means 50% of the Net Settlement Amount.

1.28.2. “*Eaton II* Net Settlement Amount” means 50% of the Net Settlement Amount.

1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion. Non-Participating Class Members who are also Aggrieved Employees cannot opt-out of the PAGA Claims.

1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants (either or both of them) for at least one day during the PAGA Period.

1.31.1. “*Eaton I* PAGA Period” means the period from March 12, 2020, through July 4, 2024.

1.31.2. “*Eaton II* PAGA Period” means the period from September 27, 2022, through July 4, 2024.

1.32. “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698, et seq.).

1.33. “PAGA Notices” means Plaintiff’s letters dated March 10, 2021 and October 11, 2022, and PAGA Representatives (*Eaton II*) Lucy Im and Erika-Justine Tili’s letter dated September 27, 2023, and any subsequent, amended, or supplemental letters, to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.34. “PAGA Penalties” means the \$750,000 in PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$187,500) and the 75% to LWDA (\$562,500) in settlement of PAGA claims.

1.34.1 “*Eaton I* PAGA Penalties” means 50% (\$375,000) of the PAGA Penalties, allocated 25% to the *Eaton I* Aggrieved Employees (\$93,750) and 75% to the LWDA (\$281,250).

1.34.2 “*Eaton II* PAGA Penalties” means the other 50% (\$375,000) of the PAGA Penalties, allocated 25% to the *Eaton II* Aggrieved Employees (\$93,750) and 75% to the LWDA (\$281,250).

1.35 “PAGA Representatives (*Eaton II*)” means Lucy Im and Erika-Justine Tili who submitted their PAGA Notice Letter to the LWDA and Defendants on September 27, 2023.

1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.37. “Preliminary Approval Order” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38. “*Eaton I* Released Class Claims” means the claims being released as described in Paragraph 6.2.1 below.

1.39. “*Eaton II* Released Class Claims” means the claims being released as described in Paragraph 6.2.3 below.

1.40. “*Eaton I* Released PAGA Claims” means the claims being released as described in Paragraph 6.2.2 below.

1.41. “*Eaton II* Released PAGA Claims” means the claims being released as described in Paragraph 6.2.4 below.

1.42. “Released Parties” means: Defendants Gap, Inc. and GPS Consumer Direct, Inc. and each of their former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the *Eaton I* and/or *Eaton II* portions of the class Settlement signed by the Class Member.

1.44. “Response Deadline” means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or

1 her Objection to the Settlement. Class Members to whom Notice Packets are re-mailed after
2 having been returned undeliverable to the Administrator shall have an additional 15 calendar days
3 beyond the Response Deadline has expired.

4 1.45. “Settlement” means this Amended Joint Stipulation of Class and PAGA Action
5 Settlement, the disposition of the Action effected thereby, and any resulting Judgment(s).

6 1.46. “Workweek” means any week during which a Class Member worked for
7 Defendants for at least one day, during the applicable Class Periods.

8 **II. RECITALS**

9 2.1. After submitting her PAGA Notice letter to the LWDA on March 10, 2021, on
10 June 16, 2021, Plaintiff commenced *Eaton I* by filing a complaint alleging a single cause of
11 action against Defendant Gap, Inc. for PAGA penalties for alleged unreimbursed business
12 expenses. On March 10, 2021, Plaintiff filed an amended PAGA Notice letter with the LWDA,
13 naming GPS Consumer Direct, Inc., and adding alleged violations of the Labor Code related to
14 regular rate calculations. On April 21, 2023, Plaintiff filed her Second Amended Complaint,
15 which is the operative complaint, against Defendants Gap, Inc. and GPS Consumer Direct, Inc.
16 The “Operative *Eaton I* Complaint” alleges a class action and PAGA representative action against
17 Defendants for (1) unreimbursed business expenses; (2) unpaid overtime; (3) non-compliant wage
18 statements; (4) waiting time penalties; (5) unfair business practices; and (6) derivative civil
19 penalties under PAGA. Plaintiff alleges that Defendants’ conduct violated Labor Code §§ 201–
20 204, 221–224, 226, 226.3, 400–410, 510, 558, 1174, 1194, 1198, 2802, Section 8 of the
21 applicable wage order, Business and Professions Code § 17200, *et seq.*

22 Defendants deny the allegations in the Operative *Eaton I* Complaint, deny any failure to
23 comply with the laws identified in in the Operative *Eaton I* Complaint, and deny any and all
24 liability for the causes of action alleged.

25 2.2. On September 27, 2023, Plaintiff commenced *Eaton II* by filing a complaint
26 alleging causes of action against Defendants for: (1) failure to pay wages; (2) waiting time
27 penalties; and (3) unfair competition. Plaintiff alleges that Defendants’ conduct violated Labor
28 Code §§ 201–204, 223, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, and Sections 3,

1 4, 7, and 11 of the applicable wage order, and Business and Professions Code § 17200, *et seq.*

2 On September 27, 2023, Lucy Im and Erika-Justine Tili submitted their PAGA Notice
3 letter to the LWDA alleging that Defendants violated the PAGA statute, Labor Code § 2698 *et*
4 *seq.*, by their failure to pay wages as alleged in the *Eaton II* Complaint.

5 As part of, and for purposes of this Settlement only, before filing the Preliminary
6 Approval Motion, Plaintiff shall amend her *Eaton II* Complaint to add Lucy Im and Erika-Justine
7 Tili as named plaintiffs and to allege a cause of action under PAGA, Defendants will stipulate to
8 the filing of the Amended Complaint. The Amended *Eaton II* Complaint will be referred to
9 herein as the “Operative *Eaton II* Complaint.” If the Court does not grant final approval of the
10 Settlement, the Parties agree that the original Eaton II complaint shall be operative and Plaintiff
11 will withdraw or otherwise act to ensure the Amended Complaint is of no force and effect.
12 However, Plaintiff is in no way precluded from seeking leave of court to amend her Complaint to
13 add Lucy Im and Erika-Justine Tili as named plaintiffs and to allege a cause of action under
14 PAGA.

15 Defendants deny the allegations in the *Eaton II* Complaint and the Operative *Eaton II*
16 Complaint, deny any failure to comply with the laws identified in the *Eaton II* Complaint and the
17 Operative *Eaton II* Complaint, and deny any and all liability for the causes of action alleged.

18 2.3. For purposes of Settlement, the Parties agree that, pursuant to Labor Code section
19 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the
20 PAGA Notices.

21 2.4 On September 29, 2022, the Parties participated in an all-day mediation before
22 mediator Mark Rudy, Esq. The mediation was unsuccessful.

23 2.5. On November 3, 2023, the Parties participated in an all-day mediation before
24 mediator Tripper Ortman, Esq., at which the Parties were unable to reach resolution. The Parties
25 continued to negotiate with Mr. Ortman’s assistance for the next several months and, ultimately,
26 accepted a mediator’s proposal on April 4, 2024, which led to this Agreement to settle the Action.

27 2.6. Prior to mediation, Plaintiff obtained, through extensive formal and informal
28 discovery, more than one thousand pages of relevant documents regarding Defendants’ policies

1 and practices, detailed timekeeping and earnings data for putative Class Members, statistics
2 regarding Class Members, Plaintiff's personnel records, and other information relevant to
3 evaluating the strengths and weaknesses of her claims. Plaintiff's investigation was sufficient to
4 satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48
5 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-
6 130 ("Dunk/Kullar").

7 2.7. The Court has not granted class certification in either *Eaton I* or *Eaton II*.

8 2.8. The Parties, Class Counsel and Defense Counsel represent that they are not aware
9 of any other pending matter or action asserting claims that will be extinguished by the Settlement.

10 **III. MONETARY TERMS**

11 3.1. Gross Settlement Amount. Defendant Gap, Inc. promises to pay \$7,500,000 and no
12 more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes
13 owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to
14 pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph
15 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount
16 without asking or requiring Participating Class Members or Aggrieved Employees to submit any
17 claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

18 3.2. Payments from the Gross Settlement Amount. The Administrator will make and
19 deduct the following payments from the Gross Settlement Amount, in the amounts specified by
20 the Court in the Final Approval:

21 3.2.1. To Plaintiff and the PAGA Representatives: The Parties agree the amount
22 of Class Representative Service Payments will be determined by the Court. The Parties also
23 agree Class Representative, Alexandria Eaton will seek Court approval of a Class Representative
24 Service Payment of not more than \$15,000, in addition to any Individual Class Payment and any
25 Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class
26 Member and Aggrieved Employee. The Parties also agree PAGA Representatives, Lucy Im and
27 Erika-Justine Tilli, will each seek Court approval of a PAGA Representative Service Payment of
28 not more than \$5,000. If the Court approves Class and PAGA Representative Service Payments

1 less than the amounts requested, that reduction will not be a basis to invalidate this Settlement,
2 and the Administrator will allocate the remainder to the Net Settlement Amount. The
3 Administrator will pay the Class and PAGA Representative Service Payments using IRS Form
4 W-2.

5 3.2.2. To Class Counsel: The Parties agree the amount of Class Counsel's
6 attorney's fees award and reimbursement of Class Counsel's litigation expenses will be
7 determined by the Court. The Parties also agree Class Counsel will seek Court approval of a
8 Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which
9 is \$2,500,000, and a Class Counsel Litigation Expenses Payment of not more than \$20,000. If the
10 Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses
11 Payment less than the amounts requested, the Administrator will allocate the remainder to the Net
12 Settlement Amount. Released Parties shall have no liability to Class Counsel or any other
13 Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or
14 Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees
15 Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class
16 Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees
17 Payment and the Class Counsel Litigation Expenses Payment.

18 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
19 \$44,750 except for a showing of good cause and as approved by the Court. To the extent the
20 Administration Expenses are less or the Court approves payment less than \$44,750, the
21 Administrator will allocate the remainder in the Net Settlement Amount.

22 3.2.4.1. To Each Participating *Eaton I* Class Member: An Individual Class
23 Payment calculated by (a) dividing the *Eaton I* Net Settlement Amount by the total number of
24 Workweeks worked by all Participating *Eaton I* Class Members during the *Eaton I* Class Period
25 and (b) multiplying the result by each Participating *Eaton I* Class Member's Workweeks.

26 3.2.4.2. To Each Participating *Eaton II* Class Member: An Individual Class
27 Payment calculated by (a) dividing the *Eaton II* Net Settlement Amount by the total number of
28 Workweeks worked by all Participating *Eaton II* Class Members during the *Eaton II* Class Period

1 and (b) multiplying the result by each Participating *Eaton II* Class Member's Workweeks.

2 3.2.4.3. Tax Allocation of Individual Class Payments. 50% of each *Eaton II*
3 Participating Class Member's Individual Class Payment will be allocated to settlement of wage
4 claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be
5 reported on an IRS W-2 Form. The 50% of each *Eaton II* Participating Class Member's
6 Individual Class Payment and 80% of each *Eaton I* Participating Class Member's Individual
7 Class Payment will be allocated to settlement of claims for non-wage statutory penalties and
8 reimbursements (the "Non-Wage Portion") and 20% will be allocated to settlement of claims for
9 wage claims (the "Wage Portion"). The Non-Wage Portions are not subject to wage withholdings
10 and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility
11 and liability for any employee taxes owed on their Individual Class Payment.

12 3.2.4.4. Effect of Non-Participating Class Members on Calculation of
13 Individual Class Payments. Non-Participating Class Members will not receive an Individual Class
14 Payment. The Administrator will retain amounts equal to the Individual Class Payment in the Net
15 Settlement Amount for distribution to Participating Class Members on a pro rata basis.

16 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
17 \$750,000 to be paid from the Gross Settlement Amount, divided evenly into *Eaton I* PAGA
18 Penalties and *Eaton II* PAGA Penalties, with 75% allocated to the LWDA PAGA Payment and
19 25% allocated to the Individual PAGA Payments.

20 3.2.5.1. For each case, the Administrator will calculate each Individual
21 PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA
22 Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees
23 during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA
24 Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes
25 owed on their Individual PAGA Payment.

26 3.2.5.2. If the Court approves PAGA Penalties of less than the amount
27 requested, the Administrator will allocate the remainder to the Net Settlement Amount. The
28 Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

1 **IV. SETTLEMENT FUNDING AND PAYMENTS.**

2 4.1. Class Workweeks. Based on a review of its records, Defendants estimate that
3 Class Members collectively worked a total of 461,235 Workweeks through February 28, 2024.

4 4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of
5 the Settlement, Defendants will deliver the Class Data to the Administrator, in the form of a
6 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must
7 maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and
8 for no other purpose, and restrict access to the Class Data to Administrator employees who need
9 access to the Class Data to effect and perform under this Agreement. Administrator will keep
10 confidential and not share the Class Data with Plaintiffs, Class Counsel, or anyone else.
11 Defendants will notify Class Counsel if they discover that the Class Data omitted class member
12 identifying information and to provide corrected or updated Class Data as soon as reasonably
13 feasible. Without any extension of the deadline by which Defendants must send the Class Data to
14 the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith,
15 to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

16 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross
17 Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of
18 payroll taxes by transmitting the funds to the Administrator no later than 30 calendar days after
19 the Effective Date.

20 4.4. Payments from the Gross Settlement Amount.

21 Within two business days of receipt of the Gross Settlement Amount, the Administrator
22 will disburse the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment,
23 and the Class and PAGA Representative Service Payments pursuant to the instructions provided
24 to the Administrator by Class Counsel.

25 Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator
26 will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA
27 PAGA Payment, and the Administration Expenses Payment.

28 4.4.1. The Administrator will issue checks for the Individual Class Payments

1 and/or Individual PAGA Payments and send them to the Participating Class Members and
2 Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall
3 prominently state the date (not less than 180 days after the date of mailing) when the check will
4 be voided. The Administrator will cancel all checks not cashed by the void date. The
5 Administrator will send checks for Individual Settlement Payments to all Participating Class
6 Members (including those for whom Class Notice was returned undelivered). The Administrator
7 will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-
8 Participating Class Members who qualify as Aggrieved Employees (including those for whom
9 Class Notice was returned undelivered). The Administrator may send Participating Class
10 Members a single check combining the Individual Class Payment and the Individual PAGA
11 Payment. If a Class Member or Aggrieved Employee is to receive a payment from each *Eaton I*
12 and *Eaton II*, the Administrator may send a single check consolidating payments for both cases.
13 Before mailing any checks, the Settlement Administrator must update the recipients' mailing
14 addresses using the National Change of Address database.

15 4.4.2. The Administrator must conduct a Class Member Address Search for all
16 other Class Members whose checks are returned undelivered without USPS forwarding address.
17 Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS
18 forwarding address provided or to an address ascertained through the Class Member Address
19 Search. The Administrator need not take further steps to deliver checks to Class Members whose
20 re-mailed checks are returned as undelivered. The Administrator shall promptly send a
21 replacement check to any Class Member whose original check was lost or misplaced, requested
22 by the Class Member prior to the void date.

23 4.4.3 For any Class Member whose Individual Class Payment check and/or Individual
24 PAGA Payment check is uncashed within 90 days of mailing, the Administrator will mail a check
25 cashing reminder postcard, in a form approved by Class Counsel and Defense Counsel, to that
26 Class Member.

27 4.4.4. For any Class Member whose Individual Class Payment check and/or Individual
28 PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall

1 transmit the funds represented by such checks to a Court-approved nonprofit organization or
2 foundation, such as Legal Aid At Work, consistent with Code of Civil Procedure Section 384,
3 subd. (b) (“Cy Pres Recipient”). The Parties, Class Counsel and Defense Counsel represent that
4 they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

5 4.4.5. The payment of Individual Class Payments and Individual PAGA Payments shall
6 not obligate Defendants to confer any additional benefits or make any additional payments to
7 Class Members (such as 401(k) contributions or bonuses) beyond those specified in this
8 Agreement.

9 **V. RELEASES OF CLAIMS.**

10 This Settlement is binding on the Parties, *Eaton I* Participating Class Members, *Eaton II*
11 Participating Class Members, *Eaton I* Aggrieved Employees, *Eaton II* Aggrieved Employees, and
12 the LWDA, subject to the terms and conditions hereof and the Court’s approval. In addition,
13 those terms shall have res judicata and other preclusive effect in all pending and future claims,
14 lawsuits, or other proceedings maintained by or on behalf of any such persons to the extent those
15 claims, lawsuits, or other proceedings involve matters that were or could have been raised in the
16 Action and are encompassed by the *Eaton I* Released Class Claims, *Eaton II* Released Class
17 Claims, *Eaton I* Released PAGA Claims, and *Eaton II* Released PAGA Claims.

18 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and
19 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments,
20 Plaintiff, Participating Class Members, LWDA, and Class Counsel will release claims against all
21 Released Parties as follows:

22 5.1 Representatives’ General Release. Class Representative Alexandria Eaton and
23 PAGA Representatives Lucy Im and Erika-Justine Tili (collectively, “Representatives”) and their
24 respective former and present spouses, representatives, agents, attorneys, heirs, administrators,
25 successors, and assigns generally, release and discharge Released Parties from all claims, charges,
26 complaints, liens, demands, causes of action, obligations, damages and liabilities, known or
27 unknown, suspected or unsuspected, that they had, now have, or may hereafter claim to have
28 against said Released Parties, or any of them, arising out of, grounded upon, or in any way

1 connected with their employment relationship with Defendants, their termination and/or release
2 from that employment, any damages they claim to have sustained while employed by Defendants,
3 or any other transactions, occurrences, acts or omissions or any loss, damages or injury
4 whatsoever, known or unknown, suspected or unsuspected, resulting from any act or omission by
5 or on the part of the Released Parties, or any of them, committed or omitted prior to the date of
6 this Agreement (“Representatives’ Release”). Representatives’ Release does not extend to any
7 claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment
8 benefits, disability benefits, social security benefits, or workers’ compensation benefits that arose
9 at any time. The Representatives acknowledge that they may discover facts or law different from,
10 or in addition to, the facts or law that they now know or believe to be true but agrees, nonetheless,
11 that Representatives’ Release shall be and remain effective in all respects, notwithstanding such
12 different or additional facts or their discovery of them.

13 5.1.1 Plaintiff’s Waiver of Rights Under California Civil Code Section 1542. For
14 purposes of Representatives’ Release, the Representatives expressly waive and relinquish the
15 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

16 **“A general release does not extend to claims that the creditor or releasing**
17 **party does not know or suspect to exist in his or her favor at the time of**
18 **executing the release, and that if known by him or her would have materially**
19 **affected his or her settlement with the debtor or Released Party.”**

20 5.2.1 Release by Participating *Eaton I* Class Members:

21 All Participating *Eaton I* Class Members, on behalf of themselves and their respective
22 former and present representatives, agents, attorneys, heirs, administrators, successors, and
23 assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have
24 been alleged, based on the facts stated in the Operative *Eaton I* Complaint, which occurred during
25 the *Eaton I* Class Period, including any and all claims involving any alleged (1) failure to
26 reimburse business expenses; (2) failure to properly calculate the regular rate of pay; (3) failure to
27 issue compliant wage statements; (4) failure to timely pay wages due and owing each pay period
28 and at the time of termination; (5) failure to keep complete and accurate records; (6) unlawful

1 deductions from wages; and (7) unlawful business practices, or alleged violation of Labor Code
2 §§ 201–204, 221–224, 226, 226.3, 400–410, 510, 512, 558, 1174, 1194, 1198, 2802, 2699, *et*
3 *seq.*, Section 8 of the applicable wage order, and Business and Professions Code § 17200, *et seq.*

4 Except as set forth in this Agreement, Participating *Eaton I* Class Members do not release
5 any other claims, including claims for vested benefits, wrongful termination, violation of the
6 unemployment insurance, social security, workers’ compensation, or claims based on facts
7 occurring outside the *Eaton I* Class Period.

8 5.2.2 *Eaton I* PAGA Release by Plaintiff and State of California:

9 Plaintiff, on behalf of herself and her respective former and present representatives,
10 agents, attorneys, heirs, administrators, successors, and assigns, and as an agent and proxy of the
11 State of California, waives, releases, and discharges, the Released Parties from all claims, actions,
12 and causes of action for PAGA penalties that were alleged, or reasonably could have been
13 alleged, based on the factual allegations or legal theories asserted in the *Eaton I* PAGA Notice(s),
14 that occurred during the *Eaton I* PAGA Period, which include such claims based on the alleged
15 (1) failure to reimburse business expenses; (2) failure to calculate the regular rate of pay; (3)
16 failure to issue compliant wage statements; (4) failure to timely pay wages due and owing each
17 pay period and at the time of termination; (5) failure to keep complete and accurate records; and
18 (6) unlawful deductions from wages, or alleged violation of California Labor Code §§ 201–204,
19 221–224, 226, 226.3, 400–410, 510, 512, 558, 1174, 1194, 1198, 2802, 2699. When the Court’s
20 Final Approval order and Judgment becomes final, by operation of law, the State of California
21 shall be deemed to have waived, released, and discharged the Released Parties to the same degree
22 and extent as described in this paragraph.

23 5.2.3 Release by Participating *Eaton II* Class Members:

24 All Participating *Eaton II* Class Members, on behalf of themselves and their respective
25 former and present representatives, agents, attorneys, heirs, administrators, successors, and
26 assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have
27 been alleged, based on the facts stated in the Operative *Eaton II* Complaint, which occurred
28 during the *Eaton II* Class Period, including any and all claims involving any alleged (1) unpaid

1 minimum, straight, and overtime wages, (2) non-compliant meal periods; (2) failure to issue
2 compliant wage statements; (3) failure to timely pay wages due and owing each pay period and at
3 the time of termination; (4) failure to keep complete and accurate records; (5) unlawful
4 deductions from wages; and (6) unlawful business practices, or alleged violation of Labor Code
5 §§ 201–204, 223, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 2699, *et seq.*, Section
6 3, 4, 7, and 11 of the applicable wage order, and Business and Professions Code § 17200, *et seq.*

7 Except as set forth in this Agreement, Participating *Eaton II* Class Members do not release
8 any other claims, including claims for vested benefits, wrongful termination, violation of the
9 unemployment insurance, social security, workers’ compensation, or claims based on facts
10 occurring outside the *Eaton II* Class Period.

11 5.2.4 *Eaton II* PAGA Release by PAGA Representatives and State of California: PAGA
12 Representatives, on behalf of themselves and their respective former and present representatives,
13 agents, attorneys, heirs, administrators, successors, and assigns, and as agents and proxies of the
14 State of California, waive, release, and discharge the Released Parties from all claims, actions,
15 and causes of action for PAGA penalties that were alleged, or reasonably could have been
16 alleged, based on the factual allegations or legal theories asserted in the *Eaton II* PAGA
17 Notice(s), that occurred during the *Eaton II* PAGA Period, which include such claims based on
18 the alleged (1) unlawful rounding of timekeeping practices resulting in (a) unpaid minimum,
19 straight, and overtime wages, and (b) non-compliant meal periods; (2) failure to issue compliant
20 wage statements; (3) failure to timely pay wages due and owing each pay period and at the time
21 of termination; (4) failure to keep complete and accurate records; and (5) unlawful deductions
22 from wages, or alleged violation of California Labor Code §§ 201–204, 223, 226, 226.7, 510,
23 512, 558, , 1194, 1194.2, 1197, 1197.1, 1198 2699, and Sections 3, 4, 7, and 11 of the applicable
24 wage orders. When the Court’s Final Approval order and Judgment becomes final, by operation
25 of law, the State of California shall be deemed to have waived, released, and discharged the
26 Released Parties to the same degree and extent as described in this paragraph.

27 **VI. MOTION FOR PRELIMINARY APPROVAL.**

28 Class Counsel will prepare and file a motion for preliminary approval (“Motion for

Preliminary Approval”).

6.1 Defendants’ Declaration in Support of Preliminary Approval. Defendants will prepare and provide to Class Counsel at least 5 court days before the filing deadline, a signed Declaration from Defendants and/or Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient for filing with the Motion for Preliminary Approval. In their Declarations, Defense Counsel and/or Defendants shall aver that they are not aware of any other pending matter that will be extinguished by the Settlement.

6.2 Plaintiff’s Responsibilities. Plaintiff will prepare and provide to Defense Counsel at least 5 court days before filing: (i) a draft of the memorandum of points and authorities in support of the Motion for Preliminary Approval; and (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

6.3 Responsibilities of Counsel. Class Counsel is responsible for preparing, finalizing and filing the Motion for Preliminary Approval. Class Counsel will consider in good faith Defense Counsel’s comments pertaining to the draft Motion for Preliminary Approval and Order Granting Preliminary Approval and Approval of PAGA Settlement. Class Counsel is responsible for providing the Court’s Preliminary Approval Order to the Administrator.

6.4 Duty to Cooperate. The Parties agree to cooperate with each other and use their best efforts to obtain Preliminary Approval of the Settlement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together in good faith to modify the Agreement and otherwise satisfy the Court’s concerns.

VII. SETTLEMENT ADMINISTRATION

7.1 Selection of Administrator. The Parties have jointly selected CPT Group to serve as the Administrator and verified that, as a condition of appointment, CPT Group agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a

1 professional relationship arising out of prior experiences administering settlements.

2 7.2 Employer Identification Number. The Administrator shall have and use its own
3 Employer Identification Number for purposes of calculating payroll tax withholdings and
4 providing reports state and federal tax authorities.

5 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund
6 that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury
7 Regulation section 468B-1.

8 7.4 Notice to Class Members.

9 7.4.1 No later than three (3) business days after receipt of the Class Data, the
10 Administrator shall notify Class Counsel that the list has been received and state the number of
11 Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data for both *Eaton*
12 *I* and *Eaton II*.

13 7.4.2 Using best efforts to perform as soon as practicable, and in no event later
14 than 14 days after receiving the Class Data, the Administrator will send to all Class Members
15 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class
16 Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the
17 Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment
18 and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks
19 and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class
20 Notices, the Administrator shall update Class Member addresses using the National Change of
21 Address database.

22 7.4.3 Not later than 3 business days after the Administrator’s receipt of any Class
23 Notice returned by the USPS as undeliverable, the Administrator shall re-mail the Class Notice
24 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
25 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class
26 Notice to the most current address obtained. The Administrator has no obligation to make further
27 attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the
28 USPS a second time.

1 7.4.4 The deadlines for Class Members' written objections, Challenges to
2 Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 15
3 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
4 notice is re-mailed. The Administrator will inform the Class Member of the extended deadline
5 with the re-mailed Class Notice.

6 7.4.5 If the Administrator, Defendants, or Class Counsel is contacted by or
7 otherwise discovers any persons who believe they should have been included in the Class Data
8 and should have received Class Notice, Defendants will expeditiously review its business records
9 to determine whether the individual should be a Class Member and receive a Class Notice. If
10 Defendants determine that such persons should be included in either *Eaton I*, *Eaton II*, or both,
11 such persons will be Class Members entitled to the same rights as other Class Members, and the
12 Administrator will send, via email or overnight delivery, a Class Notice requiring them to
13 exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the
14 deadline dates in the Class Notice, which ever are later.

15 7.5 Requests for Exclusion (Opt-Outs).

16 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class
17 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
18 Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional
19 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
20 from a Class Member or his/her legal representative that reasonably communicates the Class
21 Member's election to be excluded from the *Eaton I* and/or *Eaton II* class action portions of the
22 Settlement and includes the Class Member's name, address and email address or telephone
23 number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by
24 the Response Deadline.

25 7.5.2 The Administrator may not reject a Request for Exclusion as invalid simply
26 because it fails to contain all the information specified in the Class Notice. The Administrator
27 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
28 identity of the person as a Class Member and the Class Member's desire to be excluded. The

1 Administrator's determination shall be final and not appealable or otherwise susceptible to
2 challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion,
3 the Administrator may demand additional proof of the Class Member's identity. The
4 Administrator's determination of authenticity shall be final and not appealable or otherwise
5 susceptible to challenge.

6 7.5.3 Every Class Member who does not submit a timely and valid Request for
7 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
8 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
9 Members' Releases under Paragraphs 5.2.1 and 5.2.3 of this Agreement, regardless whether the
10 Participating Class Member actually receives the Class Notice or objects to the Settlement.

11 7.5.4 Every Class Member who submits a valid and timely Request for
12 Exclusion is a Non-Participating Class Member for *Eaton I*, *Eaton II*, or both, as applicable, and
13 accordingly shall not receive an Individual Class Payment or have the right to object to the class
14 action components of the Action. Because future PAGA claims are subject to claim preclusion
15 upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are
16 deemed to release the claims identified in Paragraphs 5.2.2 and 5.2.4 of this Agreement and are
17 eligible for an Individual PAGA Payment(s) and have no right to bring a future PAGA action for
18 any of the claims released in Paragraphs 5.2.2 and 5.2.4.

19 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days
20 after the Administrator mails the Class Notice (plus an additional 15 days for Class Members
21 whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay
22 Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may
23 challenge the allocation by communicating with the Administrator via fax, email or mail. The
24 Administrator must encourage the challenging Class Member to submit supporting
25 documentation. In the absence of any contrary documentation, the Administrator is entitled to
26 presume that the Workweeks contained in the Class Notice are correct so long as they are
27 consistent with the Class Data. The Administrator's determination of each Class Member's
28 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise

1 susceptible to challenge. The Administrator shall promptly provide copies of all challenges to
2 calculation of Workweeks and/or Pay Periods to Defense Counsel and the Administrator's
3 determination of the challenges.

4 7.7 Objections to Settlement.

5 7.7.1 Only Participating Class Members may object to the class action
6 components of the Settlement, including contesting the fairness of the Settlement, and/or amounts
7 requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment
8 and/or Class and PAGA Representative Service Payments.

9 7.7.2 Participating Class Members may send written objections to the
10 Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear
11 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
12 Hearing. A Participating Class Member who elects to send a written objection to the
13 Administrator must do so not later than 45 days after the Administrator's mailing of the Class
14 Notice (plus an additional 15 days for Class Members whose Class Notice was re-mailed).

15 7.7.3 Non-Participating Class Members have no right to object to any of the
16 class action components of the Settlement.

17 7.8 Administrator Duties. The Administrator has a duty to perform or supervise all
18 tasks to be performed or supervised by the Administrator reasonably contained in this Agreement
19 or otherwise.

20 7.8.1 Website, Email Address and Toll-Free Number. The Administrator will
21 establish and maintain and use an internet website to post information of interest to Class
22 Members for both *Eaton I* and *Eaton II*, including the respective date, time and location for the
23 Final Approval Hearing and copies of the Settlement Agreement and Class Notice. The
24 Administrator will also maintain and monitor an email address and a toll-free telephone number
25 to receive Class Member calls, faxes and emails.

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27 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
28 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not

1 later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the
2 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
3 and other identifying information of Class Members who have timely submitted valid Requests
4 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
5 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
6 Exclusion from Settlement submitted (whether valid or invalid).

7 7.8.3 Weekly Reports. The Administrator will, on a weekly basis, provide
8 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
9 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion
10 (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay
11 Periods received and/or resolved, and checks mailed for Individual Class Payments and
12 Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the
13 Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all
14 Requests for Exclusion and objections received.

15 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the
16 authority to address and make final decisions consistent with the terms of this Agreement on all
17 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
18 Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

19 7.8.5 Administrator’s Declaration. Not later than 15 days before the date by
20 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
21 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
22 for filing in Court attesting to its due diligence and compliance with all of its obligations under
23 this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices
24 returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the
25 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
26 number of written objections and attach the Exclusion List. The Administrator will supplement its
27 declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible
28 for filing the Administrator’s declaration(s) in Court.

1 7.8.6 Final Report by Settlement Administrator. Within 10 days after the
2 Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide
3 Class Counsel and Defense Counsel with a final report detailing its disbursements by employee
4 identification number only of all payments made under this Agreement. At least 15 days before
5 any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and
6 Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of
7 all payments required under this Agreement. Class Counsel is responsible for filing the
8 Administrator's declaration in Court.

9 **VIII. DEFENDANTS' RIGHT TO WITHDRAW**

10 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5%
11 of the total of all Class Members, Defendants may, but are not obligated to, elect to withdraw
12 from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void
13 ab initio, have no force or effect whatsoever, and that neither Party will have any further
14 obligation to perform under this Agreement; provided, however, Defendant will remain
15 responsible for paying all Settlement Administration Expenses incurred to that point. Defendants
16 must notify Class Counsel and the Court of any election to withdraw not later than seven days
17 after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have
18 no effect.

19 **IX. MOTION FOR FINAL APPROVAL**

20 Plaintiff will file in the Alameda County Superior Court a noticed motion for final
21 approval of the Settlement that includes a memorandum of points and authorities, a proposed
22 Final Approval Order, and a proposed Judgment. Plaintiff shall provide drafts of these documents
23 to Defense Counsel no later than 5 court days prior to filing the filing deadline. Class Counsel
24 will in good faith consider Defense Counsel's comments prior to filing the Motion for Final
25 Approval, the proposed Final Approval Order, and the proposed Judgment.

26 9.1 Response to Objections. Each Party retains the right to respond to any objection
27 raised by a Participating Class Member, including the right to file responsive documents in Court
28 no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or

1 accepted by the Court.

2 9.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
3 Approval on any material change to the Settlement (including, but not limited to, the scope of
4 release to be granted by Class Members), the Parties will expeditiously work together in good
5 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
6 Approval. The Court's decision to award less than the amounts requested for the Class and PAGA
7 Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation
8 Expenses Payment and/or Administrator Expenses Payment shall not constitute a material
9 modification to the Agreement within the meaning of this paragraph.

10 9.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of
11 Judgment, the Court will retain jurisdiction in each *Eaton I* and *Eaton II* over the Parties, Action,
12 and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment,
13 (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters
14 as are permitted or required by law.

15 9.4 Waiver of Right to Appeal. Provided the Judgment in each *Eaton I* and *Eaton II* is
16 consistent with the terms and conditions of this Agreement, specifically including the Class
17 Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this
18 Settlement, the Parties, their respective counsel, and all Participating Class Members who did not
19 object to the Settlement as provided in this Agreement, waive all rights to appeal from the
20 Judgment, including all rights to post-judgment and appellate proceedings, the right to file
21 motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver
22 of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an
23 objector appeals either Judgment, the Parties' obligations to perform under this Agreement will
24 be suspended until such time as the appeal is finally resolved and the Judgment becomes final,
25 except as to matters that do not affect the amount of the Net Settlement Amount.

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27 9.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If
28 the reviewing Court vacates, reverses, or modifies the Judgment in either *Eaton I* or *Eaton II* in a

manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members or Aggrieved Employees), this Agreement shall be null and void in its entirety. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class and PAGA Representative Service Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

X. AMENDED JUDGMENT

If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

XI. ADDITIONAL PROVISIONS

11.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative *Eaton I* Complaint, Operative *Eaton II* Complaint, and PAGA Notices have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment in both *Eaton I* and *Eaton II*, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

1 11.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel,
2 Defendants, and Defense Counsel separately agree that, until the Motion for Preliminary
3 Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or
4 publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms
5 of the Agreement directly or indirectly, specifically or generally, to any person, corporation,
6 association, government agency, or other entity except: (1) to the Parties' attorneys, accountants,
7 or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a
8 related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in
9 response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a
10 state or federal government agency. Each Party agrees to immediately notify each other Party of
11 any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class
12 Counsel, Defendants, and Defense Counsel separately agree not to, directly or indirectly, initiate
13 any conversation or other communication, before the filing of the Motion for Preliminary
14 Approval, any with third party regarding this Agreement or the matters giving rise to this
15 Agreement except to respond only that "the matter was resolved," or words to that effect. This
16 paragraph does not restrict Class Counsel's communications with Class Members in accordance
17 with Class Counsel's ethical obligations owed to Class Members.

18 11.3. No Solicitation. The Parties separately agree that they and their respective counsel
19 and employees will not solicit any Class Member to opt out of or object to the Settlement, or
20 appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
21 Counsel's ability to communicate with Class Members in accordance with Class Counsel's
22 ethical obligations owed to Class Members.

23 11.4 Integrated Agreement. Upon execution by all Parties and their counsel, this
24 Agreement together with its attached exhibits shall constitute the entire agreement between the
25 Parties relating to the Settlement, superseding any and all oral representations, warranties,
26 covenants, or inducements made to or by any Party.

27 11.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant
28 and represent that they are authorized by Plaintiff and Defendants, respectively, to take all

1 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to
2 effectuate its terms, and to execute any other documents reasonably required to effectuate the
3 terms of this Agreement including any amendments to this Agreement.

4 11.6 Cooperation. The Parties and their counsel will cooperate with each other and use
5 their best efforts, in good faith, to implement the Settlement by, among other things, modifying
6 the Settlement Agreement, submitting supplemental evidence and supplementing points and
7 authorities as requested by the Court. In the event the Parties are unable to agree upon the form or
8 content of any document necessary to implement the Settlement, or on any modification of the
9 Agreement that may become necessary to implement the Settlement, the Parties will seek the
10 assistance of a mediator and/or the Court for resolution.

11 11.7 No Prior Assignments. The Parties separately represent and warrant that they have
12 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
13 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
14 action, or right released and discharged by the Party in this Settlement.

15 11.8 No Tax Advice. Neither Plaintiff, Class Counsel, nor Defense Counsel are
16 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
17 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
18 Part 10, as amended) or otherwise.

19 11.9 Modification of Agreement. This Agreement, and all parts of it, may be amended,
20 modified, changed, or waived only by an express written instrument signed by all Parties or their
21 representatives, and approved by the Court.

22 11.10 Agreement Binding on Successors. This Agreement will be binding upon, and
23 inure to the benefit of, the successors of each of the Parties.

24 11.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will
25 be governed by and interpreted according to the internal laws of the state of California, without
26 regard to conflict of law principles.

27 11.12 Cooperation in Drafting. The Parties have cooperated in the drafting and
28 preparation of this Agreement. This Agreement will not be construed against any Party on the

1 basis that the Party was the drafter or participated in the drafting.

2 11.13 Confidentiality. To the extent permitted by law, all agreements made, and orders
3 entered during the Action and in this Agreement relating to the confidentiality of information
4 shall survive the execution of this Agreement.

5 11.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to
6 Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel
7 by Defendants in connection with the mediation, other settlement negotiations, or in connection
8 with the Settlement, may be used only with respect to this Settlement, and no other purpose, and
9 may not be used in any way that violates any existing contractual agreement, statute, or rule of
10 court. Not later than 90 days after the date when the Court discharges the Administrator's
11 obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff
12 shall destroy the Class Data received from Defendants, along with any other material provided
13 informally for purposes of mediation.

14 11.15 Headings. The descriptive heading of any section or paragraph of this Agreement
15 is inserted for convenience of reference only and does not constitute a part of this Agreement.

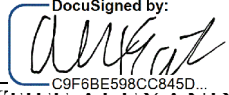
16 11.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement
17 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
18 weekend or federal legal holiday, such date or deadline shall be on the first business day
19 thereafter.

20 11.17 Notice. All notices, demands or other communications between the Parties in
21 connection with this Agreement will be by e-mail addressed to Class Counsel and Defense
22 Counsel as reflected in the caption of this Stipulation.

23 11.18 Execution in Counterparts. This Agreement may be executed in one or more
24 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this
25 Agreement shall be accepted as an original. All executed counterparts and each of them will be
26 deemed to be one and the same instrument if counsel for the Parties will exchange between
27 themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove
28 the existence and contents of this Agreement.

11.19 Stay of Litigation. The Parties agree that, upon the execution of this Agreement, the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: January __, 2025
1/13/2025

By:  PLAINIFF ALEXANDRIA EATON

Dated: January __, 2025

By: _____
PAGA REPRESENTATIVE
LUCY IM

Dated: January __, 2025

By: _____
PAGA REPRESENTATIVE
ERIKA-JUSTINE TILI

Dated: January __, 2025

GAP, INC.

By: _____

Its: _____

(Counsel signatures on next page)

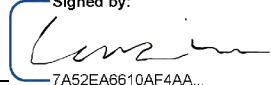
APPROVED OF AS TO FORM:

11.19 Stay of Litigation. The Parties agree that, upon the execution of this Agreement, the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: January __, 2025

By: _____
PLAINTIFF ALEXANDRIA EATON

Dated: January __, 2025
1/13/2025

Signed by: 
By: _____
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PAGA REPRESENTATIVE
LUCY IM

Dated: January __, 2025

By: _____
PAGA REPRESENTATIVE
ERIKA-JUSTINE TILI

Dated: January __, 2025

GAP, INC.

By: _____

Its: _____

(Counsel signatures on next page)

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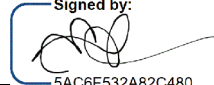
Dated: January __, 2025

By: _____
PLAINTIFF ALEXANDRIA EATON

Dated: January __, 2025

By: _____
PAGA REPRESENTATIVE
LUCY IM

Dated: January __, 2025
1/13/2025

By: _____

5AC6F532A82C480...
PAGA REPRESENTATIVE
ERIKA-JUSTINE TILI

Dated: January __, 2025

GAP, INC.

By: _____

Its: _____

(Counsel signatures on next page)

APPROVED OF AS TO FORM:

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Dated: January __, 2025

By: _____
PLAINTIFF ALEXANDRIA EATON

Dated: January __, 2025

By: _____
PAGA REPRESENTATIVE
LUCY IM

Dated: January __, 2025

By: _____
PAGA REPRESENTATIVE
ERIKA-JUSTINE TILI

Dated: January ^{1/13/2025} __, 2025

GAP, INC.

By: Julie Gruber
Its: _____
EVP, Chief Legal Officer

(Counsel signatures on next page)

APPROVED OF AS TO FORM:

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APPROVED OF AS TO FORM:

Dated: January 13, 2025

CLAPP & LAUINGER LLP

By: 
JAMES CLAPP
MARITA LAUINGER
Attorneys for Plaintiff

Dated: January __, 2025

ORRICK, HERRINGTON & SUTCLIFFE
LLP

By: _____
JESSICA R. PERRY
KATIE BRISCOE
MARIAM BICKNELL
SCOTT MORRISON
Attorneys for Defendants

1 Dated: January __, 2025

CLAPP & LAUINGER LLP

By: _____

JAMES CLAPP
MARITA LAUINGER
Attorneys for Plaintiff

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5
6 1/13/2025
7 Dated: January __, 2025

ORRICK, HERRINGTON & SUTCLIFFE
LLP

By: Katie Briscoe

JESSICA R. PERRY
KATIE BRISCOE
MARIAM BICKNELL
SCOTT MORRISON
Attorneys for Defendants