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Attorneys for Defendants
DENTSU MCGARRY BOWEN LLC and RYAN LINDHOLM

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

JUSTINE K. DHARNI, an individual, on behalf
of herself and all others similarly situated,

Plaintiff,

v.

DENTSU MCGARRY BOWEN L.L.C., a New
York Limited Liability Company, RYAN
LINDHOLM, an individual, and DOES 1
through 25, Inclusive,

Defendants.

Case No. CGC-21-590170

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

1 This Class Action Settlement Agreement (“Settlement” or “Agreement”) is made by and
2 between Plaintiff Justine Dharni (“Dharni” or “Plaintiff”), and Defendant Dentsu McGarry Bowen
3 L.L.C. (“McGarry Bowen” or “Defendant”) (Plaintiff and Defendant are collectively referred to
4 herein as the “Parties”) with regard to the lawsuit filed against Defendant in the San Francisco
5 County Superior Court, styled *Justine K. Dharni, et al. v. Dentsu McGarry Bowen L.L.C., et al.*,
6 San Francisco Superior Court Case No. CGC-21-590170 (the “Action”).

7 **THE SETTLEMENT**

8 1. Subject to the Court’s approval pursuant to Section 382 of the California Code of
9 Civil Procedure and Rule 3.769 of the California Rules of Court, Plaintiff and Defendant have
10 agreed to settle the Action upon the terms and conditions and for the consideration set forth in this
11 Agreement. This Agreement and the promises and obligations set forth herein are intended to
12 effectuate a final resolution and dismissal of the Action in its entirety and without limitations, and
13 this Agreement is made and intended to be enforceable in accordance with the provision of
14 California Code of Civil Procedure § 664.6. Upon final approval of the Court of this Settlement as
15 set forth herein, the Action shall be promptly dismissed and done so with prejudice as to the claims
16 released by this Agreement, subject to the Court’s ongoing jurisdiction to ensure the Parties’
17 compliance with the Agreement and the Court’s orders with respect to the Agreement.

18 2. A summary of the terms of the Agreement is as follows:

- 19 (a) Defendant shall pay the gross settlement amount of Three Hundred Thousand
20 Dollars and No Cents (\$300,000.00), inclusive of all Settlement Payments to
21 individual Class Members, all attorneys’ fees and expenses (including court
22 costs) to be paid to Class Counsel, any Class Representative Enhancement
23 Awards, any settlement administration costs, any payments made pursuant to
24 the California Labor Code Private Attorneys General Act of 2004 (“PAGA”),
25 and the employee portion of payroll taxes or tax withholdings due on the
26 Settlement Payments to the individual Class Members. In no event shall
27 Defendant be required to pay more than the Gross Settlement Amount under
28 this Agreement, except for the employer’s share of any payroll taxes due on

1 the settlement payments made pursuant to this Agreement, and in no event
2 shall any amount of the Gross Settlement Amount revert to Defendant's
3 possession. The employer portion of any required payroll taxes will be paid
4 separately by Defendant and not from the Gross Settlement Amount.

5 (b) The Agreement shall be administered on an opt-out basis. This means that
6 unless a Class Member submits a valid and timely Request for Exclusion
7 from the Settlement, as described herein, the Class Member will be bounded
8 by the terms of this Agreement, including the release of claims, as set forth
9 herein.

10 (c) The Agreement shall apply to and include three classes, which are referred to
11 herein as the "FCRA Class," the "Wage Statement Class," and the "UCL
12 Class," and at times collectively as the "Class." Members of the Class who
13 do not submit valid and timely Requests for Exclusion from the Settlement
14 shall receive Settlement Payments in accordance with paragraphs 59 through
15 66 of the Agreement.

16 (d) The Settlement Administrator shall be CPT Group, subject to approval of the
17 Court. From the Gross Settlement Amount, settlement administration fees in
18 a reasonable amount shall be paid to the Settlement Administrator.
19 Settlement administration fees are estimated not to exceed eight thousand
20 dollars and no cents (\$8,000.00). If the actual cost of settlement
21 administration is less or more than the amount of approval by the Court,
22 those funds shall be added to or subtracted from the Net Settlement Amount.

23 (e) Class Counsel may seek attorneys' fees up to One Hundred Thousand Dollars
24 and No Cents (\$100,000.00), which is Thirty Three Percent (33%) of the
25 Gross Settlement Amount, as well as a reasonable recovery of litigation costs
26 in an amount not to exceed Twelve Thousand Dollars and No Cents
27 (\$12,000.00), both of which shall be deducted from the Gross Settlement
28 Amount, and neither of which shall be opposed by Defendant.

- 1 (f) From the Gross Settlement Amount, the Class Representative may seek from
2 the Court an Enhancement Award not to exceed Five Thousand Dollars and
3 No Cents (\$5,000.00), which Defendant shall not oppose.
- 4 (g) From the Gross Settlement Amount, Three Point Three Percent (3.3%) shall
5 be allocated to penalties under the California Labor Code Private Attorneys
6 General Act of 2004, California Labor Code Sections 2698, *et seq.*
7 (“PAGA”), which amounts to Ten Thousand Dollars and No Cents
8 (\$10,000.00), and Seventy-Five Percent (75%) of which shall be paid by the
9 Settlement Administrator directly to the California Labor and Workforce
10 Development Agency (“LWDA”). The remaining Twenty-Five Percent
11 (25%) shall be part of the Net Settlement Amount and shall be distributed to
12 PAGA Members as part of their Settlement Payments and shall be based on
13 their pro rata number of qualifying workweeks worked during the PAGA
14 Period. (the “PAGA Allocation”).
- 15 (h) Within the Net Settlement Amount, Fifty Thousand Dollars and No Cents
16 (\$50,000.00) shall be allocated to the Settlement Payments to the FCRA
17 Class (the “FCRA Allocation”) in accordance with paragraphs 59 through 66
18 of the Agreement.
- 19 (i) Within the Net Settlement Amount, Fifty Thousand Dollars and No Cents
20 (\$50,000.00) shall be allocated to the Settlement Payments to the Wage
21 Statement Class (the “Wage Statement Allocation”) in accordance with
22 paragraphs 59 through 66 of the Agreement.
- 23 (j) Within the Net Settlement Amount, Sixty-five Thousand Dollars and No
24 Cents (\$65,000.00) shall be allocated to the Settlement Payments to the
25 Unfair Competition Law Class (“the UCL Allocation”) in accordance with
26 paragraphs 59 through 66 of the Agreement.
- 27 (k) In the event that there are more funds remaining in the Net Settlement
28 Amount than allocated above, the difference shall be added to the UCL,

FCRA, and Wage Statement Allocations on an equal basis and distributed to Participating Class Members in accordance with paragraphs 59 through 66 of this agreement.

DEFINITIONS

Unless otherwise defined herein, capitalized terms in this Agreement shall have the meanings set forth below:

3. “Class Counsel” means

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4. “Class,” “Class Member,” or “Class Members” means all individuals who are members of any of the three classes to be certified for settlement purposes by the Court, i.e., (1) the FCRA Class, (2) the Wage Statement Class, and (3) the UCL Class.

5. “Class List” or “Class Lists” means a complete list of all FCRA, Wage Statement Class, and UCL Class Members and PAGA Members, that Defendant will diligently and in good faith compile from their records and provide to the Settlement Administrator within thirty (30) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include the following two lists: one list containing each UCL Class Member’s: (1) full name; (2) last known home address; (3) last known email address; (4) last known telephone number; (5) social security number and/or Employee ID number; (6) start and end dates of active employment as an hourly-paid non-exempt employee of Defendants; (7) total Qualifying Workweeks during the Class Period for UCL Class Members; (8) total Qualifying Workweeks during the PAGA Period; and (9) total Qualifying Workweeks during the Class Period for Wage Statement Class Members; and a second list containing each FCRA Class Member’s: (1) full name; (2) last known home address; (3) last known email address; (4) last known telephone number; and (5) social security number and/or Employee ID number; as well any

1 other information required by the Settlement Administrator in order to effectuate the terms of the
2 Settlement.

3 6. “Class Period” means March 12, 2016 through December 31, 2021 for the FCRA
4 Class; March 12, 2017 to December 31, 2021 for the UCL Class; and March 12, 2020 to December
5 31, 2021 for the Wage Statement Class.

6 7. “Class Representative” means Justine K. Dharni.

7 8. “Complaint” and “Amended Complaints” means the Complaint, the First Amended
8 Complaint, and Second Amended Complaint, filed by Dharni on March 15, 2021, May 19, 2021,
9 and May 5, 2022 respectively.

10 9. “Court” means the San Francisco County Superior Court.

11 10. “Defendant” or “McGarry Bowen” means Dentsu McGarry Bowen L.L.C..

12 11. “Defense Counsel” means

13 HOLLAND & KNIGHT LLP
14 Christina T. Tellado
15 Samuel J. Stone
16 400 S. Hope Street, 8th Floor
17 Los Angeles, CA 90071
18 Telephone: (213) 896-2400
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20 12. “Effective Date” means the later of the following:

- 21 (i) if no timely objections are filed, or if all objections are withdrawn, the date
22 upon which the Court enters the Final Order and Judgment approving the
23 Settlement;
24 (ii) if an objection is filed and not withdrawn, the date for filing an appeal and no
25 such appeal being filed; and
26 (iii) if any timely appeals are filed, the date of the resolution (or withdrawal) of
27 any such appeal in a way that does not alter the terms of the Settlement.

28 13. “Enhancement Award” means any payment to the Class Representative for their
service to the Class, the risks they undertook and their general release in favor of Defendant, which
is in addition to whatever payment they may otherwise be entitled to as a Class Member.

1 14. “FCRA Class” means all individuals who worked in the State of California and for
2 whom Defendant requested a consumer report for employment purposes between March 12, 2016
3 and December 31, 2021.

4 15. “Final Fairness and Approval Hearing” means the hearing to be requested by
5 Plaintiff and conducted by the Court after the filing by Plaintiff of an appropriate motion and
6 following appropriate notice to Class Members giving Class Members an opportunity to opt out
7 from the Class and Settlement and/or to object to the Settlement, at which time Plaintiff shall
8 request that the Court finally approve the fairness, reasonableness and adequacy of the terms and
9 conditions of the Settlement, enter the Final Order and Judgment, and take other appropriate action.

10 16. “Final Order and Judgment” means the order and judgment to be entered by the
11 Court upon granting final approval of the Settlement and this Agreement as binding upon the
12 Parties and the Class Members who do not properly and timely Opt Out. Notice of the Final Order
13 and Judgment shall be posted on the Settlement Administrator’s website.

14 17. “Gross Settlement Amount” means the maximum amount of Three Hundred
15 Thousand Dollars and No Cents (\$300,000.00) that Defendant shall be required to pay under this
16 Agreement.

17 18. “Net Settlement Amount” means the amount of money remaining after Class
18 Counsel’s attorneys’ fees and costs, any Enhancement Award to the Class Representative,
19 settlement administration costs and expenses to the Settlement Administrator, and the PAGA
20 payment to the LWDA are all deducted from the Gross Settlement Amount. The Net Settlement
21 Amount will be allocated into four funds. Fifty Thousand Dollars and No Cents (\$50,000.00) of the
22 Net Settlement Amount shall be reserved for payments to the FCRA Class. Fifty Thousand Dollars
23 and No Cents (\$50,000.00) of the Net Settlement Amount shall be reserved for payments to the
24 Wage Statement Class. Sixty-five Thousand Dollars and No Cents (\$65,000) of the Net Settlement
25 Amount shall be reserved for payments to the UCL Class. Two Thousand Five Hundred Dollars and
26 No Cents (\$2,500.00) shall be allocated for distribution to PAGA Members. The remainder of the
27 Net Settlement Amount shall be allocated on an equal basis to the FCRA Class, Wage Statement
28 and the UCL Class. The entire Net Settlement Amount will be distributed to Participating Class

Members/PAGA Members without the need for Participating Class Members/PAGA Members to submit claim forms.

19. “Notice of Class Settlement” means the form attached hereto as Exhibit 1 or whichever form is approved by the Court that shall be mailed to Class Members to inform them of the terms of this Agreement and their rights and options related thereto. “Electronic Notice of Class Settlement” means the form attached hereto as Exhibit 2, or whatever form is approved by the Court that shall be electronically provided to Class Members whose electronic mail addresses are known to the parties, to inform them of the terms of this Agreement and their rights and options related thereto.

20. “Opt Out Request” or “Request for Exclusion” means a written request for exclusion that a Class Member may submit to be excluded from the Class and the Settlement. Requests for Exclusion shall be in the form described in paragraphs 50-52.

21. “PAGA Members” means all individuals who are or previously were employed by Defendant in California during the time period March 12, 2020 to December 31, 2021.

22. “PAGA Period” means the period from March 12, 2020 through December 31, 2021.

23. “PAGA Letters” means the notices of alleged Labor Code violations that Plaintiff caused to be sent to the LWDA pursuant to Labor Code Section 2699.3(1) on or about March 12, 2021.

24. “PAGA Payment” means the amount that the Parties have agreed to allocate in order to settle claims arising under the Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) (“PAGA”). The Parties have agreed that Ten Thousand Dollars and No Cents (\$10,000.00) of the Gross Settlement Amount will be allocated to the resolution of Plaintiff’s PAGA Claims. Seventy-Five Percent (75%) of this amount (\$7,500.00) will be paid to the California Labor and Workforce Development Agency in accordance with Labor Code §§ 2698 *et seq.*, while Twenty-Five Percent (25%) of this amount (\$2,500.00), will be included in the Net Settlement Amount and distributed to PAGA Members. PAGA Members will receive payment from the employee portion of the PAGA Payment regardless of their decision to participate in the class action if the PAGA Payment is approved by the Court.

25. “Participating Class Members” means all Class Members who do not submit a timely and valid Request for Exclusion from a specific subclass to the Settlement Administrator.

26. “Qualifying Workweek” means a calendar week during which a member of the UCL Class worked at least one day as an employee of Defendant in California during the Class Period.

27. “Qualifying Workweeks” means the total number of calendar weeks that each member of the UCL Class was employed by Defendant in California as non-exempt employees during the Class Period.

28. “Released Claims” are defined in paragraphs 78-80 of this Agreement.

29. “Released Parties” means Defendants Dentsu McGarry Bowen L.L.C., Ryan Lindholm, and past and present corporate affiliates, subsidiaries, divisions, related entities, divested business and business units, and each of their respective present and former board members, directors, officers, shareholders, agents, representatives, employees, partners, attorneys, insurers, predecessors, successors, assigns, affiliated companies and entities.

30. “Response Deadline” refers to the sixty (60) day period following the date the Settlement Administrator mails the Notice of Class Settlement to Class Members, and within which any Class Member who wishes to be excluded from the Class and this Settlement may submit a Request for Exclusion, written objection, or dispute regarding the number of weeks worked during the Class Period or other information contained in the Notice. “Settlement” means the settlement as provided for in this Agreement.

31. “Settlement Administrator” means CPT Group Claims Administration.

32. “Settlement Payment” or “Settlement Payments” means the amount payable from the Net Settlement Amount to each Participating Class Member/PAGA Member.

33. “UCL Class” means all individuals who worked in the State of California for Defendant from March 12, 2017 to December 31, 2021.

34. “Wage Statement Class” means all individuals who worked in the State of California and for whom Defendant provided a wage statement between March 12, 2020 and December 31, 2021.

BACKGROUND

35. On March 15, 2021, Dharni, on behalf of herself and other allegedly aggrieved current and former California employees, filed a Complaint in San Francisco Superior Court. On May 19, 2021, Dharni amended her Complaint to allege an additional cause of action pursuant to PAGA (“FAC”). Dharni’s Complaint and FAC allege, *inter alia*, that Defendant: (1) failed to provide accurate itemized wage statement as required by Labor Code section 226; (2) failed to reimburse necessary business expenses in violation of Labor Code section 2802; and (3) committed unfair business practices in violation of Business & Professions Code section 17200, *et seq.* by way of the alleged failure to reimburse business expenses; and thus that she was entitled to recover for the substantive Labor Code violations and civil penalties pursuant to PAGA predicated on the aforementioned Labor Code violations in addition to attorneys’ costs and fees in connection therewith.

36. Additionally, through the course of investigation and litigation of the Complaint and FAC, Plaintiff discovered and thereafter alleged additional causes of action for violations of the federal Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681b(b)(2)(A)(i), by way of a Second Amended Complaint (“SAC”) (the FAC and SAC are collectively referred to herein as the “Amended Complaints”).

37. Defendant denies each of the allegations of the Complaints, Amended Complaints, and the PAGA letter, and deny that they have any liability to Plaintiff, the Class or any allegedly aggrieved current or former employees, and deny that Plaintiff or the Class or any allegedly aggrieved employee is entitled to any relief.

38. Class Counsel and Defense Counsel have extensive experience in litigating wage and hour class actions in California, and they have vigorously litigated the Actions since their inception.

39. On December 22, 2021, Plaintiff and Defendant engaged in mediation before Mediator Jeffrey Krivis, an experienced mediator in this area of law. The Parties reached an agreement on the key terms of a class action settlement, which was memorialized in a Memorandum of Understanding and fully executed by the Parties on December 23, 2021.

1 40. This Agreement further memorializes the Parties' settlement and is made in
2 compromise of and embraces all claims against the Released Parties as enumerated in this
3 Agreement.

4 41. Because the settled case is a class action, this Agreement must receive preliminary
5 and final approval by the Court. Accordingly, Plaintiff and Defendant enters into this Agreement
6 on a conditional basis. Should the Court, or any other court taking jurisdiction of this matter,
7 decline to approve all material aspects of the Settlement or make any ruling substantially altering
8 the material terms of the Settlement, the Settlement shall be voidable and unenforceable as to
9 Plaintiff and Defendant, at the option of any party. Any party may exercise their or its option to
10 void this Settlement by giving notice, in writing, to the other parties and to the Court at any time
11 before final approval by the Court of this Settlement. In the event that the Effective Date does not
12 occur, this Agreement shall be deemed null and void *ab initio* and shall be of no force or effect
13 whatsoever, and shall not be referred to or utilized for any purpose. Defendant denies all of
14 Plaintiff's and all class and representative claims as to liability and damages. Defendant expressly
15 reserves all rights to challenge any and all such claims and allegations upon all procedural and
16 factual grounds, including the assertion of all defenses, if the Effective Date of the Settlement does
17 not occur. Likewise, Plaintiff expressly reserve all rights to pursue, amend, dismiss or otherwise
18 dispose of the claims covered under this Settlement in the event the Effective Date of the Settlement
19 does not occur.

20 42. Plaintiff and Class Counsel have concluded, after taking into account the sharply
21 disputed factual and legal issues involved in the action, the risks attending further prosecution, and
22 the substantial benefits to be received pursuant to settlement as set forth in this Agreement, that
23 settlement on the terms set forth herein is in the best interest of Plaintiff and the Class, and is fair
24 and reasonable.

25 43. Similarly, Defendant has concluded, after taking into account the sharply disputed
26 factual and legal issues involved in the action, the risks and expense attending further litigation, and
27 their desire to put the controversy to rest, that settlement on the terms set forth herein is in their best
28 interests and is fair and reasonable.

1 44. This Settlement contemplates: (i) entry of an order preliminarily approving the
2 Settlement; (ii) distribution of the Notice of Class Settlement to the Class Members; and (iii) entry
3 of a Final Order and Judgment of the Settlement. The Court shall retain jurisdiction over the Action
4 and Parties for purposes of enforcing the Settlement and resolving any disputes relating to the
5 Settlement.

6 **SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

7 **Preliminary Approval of Settlement**

8 45. As soon as practicable, Class Counsel shall submit this Agreement to the Court for
9 its preliminary approval. Plaintiff shall also move the Court to enter a preliminary approval order
10 and to conditionally certify the Wage Statement, FCRA and UCL Classes for purposes of this
11 Settlement only. The submission shall also include admissible evidence as may be required for the
12 Court to determine that this Settlement is fair, adequate and reasonable, as required by Section 382
13 of the California Code of Civil Procedure and Rule 3.769 of the California Rules of Court. The
14 submission shall also include a proposed Notice of Class Settlement in the form attached hereto as
15 Exhibit 1 and a proposed order granting preliminary approval of Settlement, which shall, among
16 other things, set a Final Fairness and Approval Hearing date. The Parties agree that the conditional
17 certification of the FCRA, Wage Statement, and UCL Classes, and Classes generally, for settlement
18 purposes only is in no way an admission by any of the Released Parties that class certification
19 would otherwise be proper.

20 **Cooperation**

21 46. The Parties agree to cooperate with each other to accomplish the terms of this
22 Settlement, including, but not limited to, the timely execution of such documents and such other
23 acts as may be reasonably necessary to implement the terms of this Settlement. Neither the Parties
24 nor any of their attorneys or agents shall solicit or encourage any Class Members to exclude
25 themselves from the Settlement or to object to the Settlement. The Parties to the Settlement shall
26 use their best efforts, including all efforts contemplated by this Agreement and any other efforts that
27 may become necessary by Court order, or otherwise, to effectuate this Settlement and the terms set
28 forth herein.

1 **Work Week Verification**

2 47. Within thirty (30) calendar days of Preliminary Approval, Defendant will provide
3 the Class List to the Settlement Administrator.

4 48. Defendant has represented that as of the date of mediation the UCL Class contained
5 316 Class Members who worked 20,392 pay periods through December 31, 2021. The Settlement
6 Administrator shall inform the Parties of the number of Class Members and Qualifying Workweeks
7 within seven (7) days of receiving the class list.

8 **Notice of Class Settlement**

9 49. The Settlement Administrator shall, within twenty-eight (28) days of the date of
10 preliminary approval of this Settlement, send by First-Class United States mail the Notice of Class
11 Settlement to each Class Member using the most recent address available to the Settlement
12 Administrator for mail delivery. Prior to mailing, the Settlement Administrator will perform a search
13 based on the National Change of Address Database for information to update and correct for any
14 known or identifiable address changes. Any returned mail with a forwarding address from the U.S.
15 postal service shall be promptly re-mailed to the new addresses. The Settlement Administrator shall
16 perform a reasonable search using a skip-trace, or other search using the name, address and/or Social
17 Security number of the Class Member involved, and will then perform a single re-mailing for a new
18 address for any mail returned without a forwarding address. The Settlement Administrator shall re-
19 mail such notices within five (5) business days after receiving notice that the initial mail has been
20 returned as undeliverable. Those Class Members who receive a re-mailed Notice, whether by skip-
21 trace or by request, will have between the later of (a) an additional fifteen (15) calendar days or (b)
22 the Response Deadline to postmark a Request for Exclusion, or an objection to the Settlement. In
23 addition, the Settlement Administrator shall, within twenty-eight (28) days of the date of preliminary
24 approval of this Settlement, send by electronic mail ("email") the Electronic Notice of Class
25 Settlement to each Class Member whose electronic mail address is known to the parties and provided
26 to the Settlement Administrator.

26 **Opt-Out Request**

27 50. Any Class Member seeking to be excluded from the Class and this Settlement shall
28 submit a written Request for Exclusion in the manner described herein.

1 51. The Notice of Class Settlement will provide that Class Members who wish to
2 exclude themselves from the Settlement must mail (physically or electronically) to the Settlement
3 Administrator a written Request for Exclusion. The written Request for Exclusion must (a) state
4 the Class Member's name, address, telephone number, and social security number and/or Employee
5 ID number; (b) state the Class Member's request to exclude himself or herself from the Settlement
6 and to opt out of the Settlement as to one or more subclasses; (c) be signed by the Class Member or
7 his or her lawful representative; and (d) be addressed and sent to the Settlement Administrator and
8 postmarked no later than sixty (60) days after the date of mailing of the Notice of Class Settlement.
9 Class Members may also request exclusion by returning a form with the same information to the
10 Settlement Administrator at the electronic mail address provided for receiving such requests by the
11 Class Administrator. Any Class Member, who submits a complete, signed and timely Request for
12 Exclusion shall no longer be a member of the applicable sub-classes, shall be barred from
13 participating in this Settlement with respect to any excluded claims, shall be barred from objecting
14 to this Settlement with respect to any excluded claims, and shall receive no benefit from this
15 Settlement with respect to any excluded claims; however, PAGA Members shall nonetheless release
16 all claims arising under PAGA and receive their portion of the PAGA penalty payment. Any
17 untimely or incomplete Request for Exclusion shall be considered null and void. The Settlement
18 Administrator shall notify Class Counsel and Defense Counsel of the number, and the first and last
19 name, of timely opt outs, if any, within seven (7) days after the close of the Response Deadline.

20 52. If a Class Member's Request for Exclusion is defective as to the requirements listed
21 herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement
22 Administrator will mail and email (if available) the Class Member a cure letter within three (3)
23 business days of receiving the defective submission to advise the Class Member that his or her
24 submission is defective and that the defect must be cured to render the Request for Exclusion valid.
25 The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15) calendar
26 days from the date of the cure letter, whichever date is later, to postmark or email a revised Request
27 for Exclusion. If a Class Member responds to a cure letter by filing a defective claim, then the
28 Settlement Administrator will have no further obligation to give notice of a need to cure. If the revised

1 Request for Exclusion is not postmarked or emailed within that period, it will be deemed untimely.

2 53. If more than Ten Percent (10%) of the members of either the FCRA Class or the
3 UCL Class timely opt out of the Settlement in the manner described herein, then Defendant shall
4 have the right in their sole discretion to rescind and void this Settlement by giving written notice to
5 Class Counsel within seven (7) business days after the end of the Response Deadline. In the event
6 that Defendant exercises this option, Defendant shall solely bear the Administrative costs incurred
7 up to the date it elects to revoke this Settlement.

8 **Declaration of Compliance**

9 54. As soon as practicable, but no later than ten (10) calendar days following the close of
10 the Response Deadline, the Settlement Administrator shall provide Class Counsel and Defense
11 Counsel with a declaration attesting to completion of the notice process set forth in this Agreement,
12 the number and names of any opt outs, and a summary of any disputes raised by any Class
13 Members. This declaration shall be filed with the Court by Class Counsel along with a motion
14 requesting final approval of the Settlement.

15 **Sufficient Notice**

16 55. The Parties agree that compliance with the procedures described in this Agreement
17 constitutes due and sufficient notice to Class Members of this Settlement and the Final Fairness and
18 Approval Hearing, and satisfies the requirements of due process, and that nothing else shall be
19 required of Plaintiffs, Class Counsel, Defendants, Defense Counsel, or the Settlement Administrator
20 to provide notice to Class Members of the Settlement and the Final Fairness and Approval Hearing.

21 **Objections to the Settlement**

22 56. Any Participating Class Member wishing to object to this Settlement shall mail
23 (physically or electronically) a written objection to the Settlement Administrator, including the
24 employees' full name, address, telephone number, the last four digits of their social security number
25 and/or Employee ID number, and the specific reason including any legal grounds for the
26 Participating Class Members objection, no later than sixty (60) days after the mailing of the Notice
27 of Class Settlement. The postmark/email send date will be deemed the exclusive means for
28 determining that the Notice of Objection is timely.

1 57. Any Class Member who fails to submit a timely written objection shall be foreclosed
2 from submitting a written objection as to excluded claims, but may still attend the Final Fairness
3 and Approval Hearing and make an objection at this time. At no time will any of the Parties or their
4 counsel seek to solicit or otherwise encourage Participating Class Members to object to the
5 Settlement or appeal from the Order and Judgment. Class Counsel will not represent any Class
6 Members with respect to any objections to this Settlement.

7 **Final Fairness and Approval Hearing**

8 58. On the date set forth by the Court for the Final Fairness and Approval Hearing in the
9 Order granting preliminary approval of the Settlement, a Final Fairness and Approval Hearing shall
10 be held before the Court in order to consider and determine: (i) whether the Court should give this
11 Settlement final approval; (ii) whether the Court should approve Class Counsel's application for
12 attorneys' fees and costs and any Enhancement Awards to Plaintiffs; and (iii) to hear any timely
13 written objections to the Settlement. At the Final Fairness and Approval Hearing, Plaintiff, Class
14 Counsel, Defendant, and Defense Counsel shall ask the Court to give final approval to this
15 Settlement.

16 **Settlement Payment Procedures**

17 Payments under this Agreement shall be made by the Settlement Administrator as follows:

18 59. Participating Class Members/PAGA Members shall be paid exclusively from the Net
19 Settlement Amount.

20 60. Plaintiff and Defendant recognize and agree that the asserted claims in the Action are
21 extremely difficult to quantify with any certainty for any given year, or at all, and are subject to a
22 myriad of differing calculations and formulas. Plaintiff and Defendant agree that the formula for
23 allocating Settlement Payments to Participating Class Members provided herein is reasonable and
24 that the Settlement Payments are designed to provide a fair settlement, despite the uncertainties of
25 the amounts alleged to be owed to Participating Class Members and the calculation of them.
26 Plaintiff and Defendant have agreed that the distribution to each Participating Class Member shall
27 be determined as set forth in paragraph 61 below.
28

61. Fifty Thousand Dollars and No Cents (\$50,000.00) of the Net Settlement Amount shall be allocated to the calculation of Settlement Payments to Participating Class Members from the FCRA Class (“FCRA Allocation”). Fifty Thousand Dollars and No Cents (\$50,000.00) of the Net Settlement Amount shall be allocated to the calculation of Settlement Payments to Participating Class Members from the Wage Statement Class (“Wage Statement Allocation”). Sixty-five Thousand Dollars and No Cents (\$65,000.00) of the Net Settlement Amount shall be allocated to the calculation of Settlement Payments to Participating Class Members from the Unfair Competition Law Class (“UCL Allocation”). Two Thousand Five Hundred Dollars and No Cents (\$2,500.00) of the Net Settlement Amount shall be allocated to the calculation of Settlement Payments to PAGA Members, which constitutes the Twenty-Five Percent (25%) portion allocated for employees from the PAGA Payment (“PAGA Allocation”). The remaining balance of the Net Settlement Amount shall be allocated equally among the UCL, FCRA and Wage Statement Class Allocations and distributed as directed towards each of those Classes and Allocations by this Agreement.

a. To determine the portion of individual Settlement Payments to Participating Class Members from the FCRA Class, the FCRA Allocation shall be divided evenly amongst all Participating Class Members from the FCRA Class.

b. To determine the portion of the individual Settlement Payments allocated to individual PAGA Members, the Settlement Administrator will calculate the total Qualifying Workweeks for all PAGA Members by adding the number of Qualifying Workweeks worked by each PAGA Member during the PAGA Period. The respective Qualifying Workweeks for each PAGA Member will be divided by the total Qualifying Workweeks for all PAGA Members, resulting in the Payment Ratio for each PAGA Member. Each PAGA Member’s Payment Ratio will then be multiplied by the PAGA Allocation to calculate each PAGA Member’s estimated share of the PAGA Payment. PAGA Members shall receive this portion of their individual Settlement Payment regardless of whether they opt out of the participation regarding the class claims.

c. To determine the portion of individual Settlement Payments allocated to UCL Class Members, the Settlement Administrator will calculate the total Qualifying Workweeks

1 for all Participating UCL Class Members by adding the number of Qualifying Workweeks worked
2 by each Participating UCL Class Member during the Class Period. The respective Qualifying
3 Workweeks for each Participating UCL Class Member will be divided by the total Qualifying
4 Workweeks for all Participating UCL Class Members, resulting in the Payment Ratio for each
5 Participating UCL Class Member. Each Participating UCL Class Member's Payment Ratio will
6 then be multiplied by the UCL Allocation to calculate each UCL Class Member's estimated share
7 of the Net Settlement Amount.

8 d. To determine the portion of individual Settlement Payments allocated to
9 Wage Statement Class Members, the Settlement Administrator will calculate the total Qualifying
10 Workweeks for all Participating Wage Statement Class Members by adding the number of
11 Qualifying Workweeks worked by each Participating Wage Statement Class Member during the
12 Class Period. The respective Qualifying Workweeks for each Participating Wage Statement Class
13 Member will be divided by the total Qualifying Workweeks for all Participating Wage Statement
14 Class Members, resulting in the Payment Ratio for each Participating Wage Statement Class
15 Member. Each Participating Wage Statement Class Member's Payment Ratio will then be
16 multiplied by the Wage Statement Allocation to calculate each Wage Statement Class Member's
17 estimated share of the Net Settlement Amount.

18 e. The combined total of the Wage Statement Allocation, FCRA Allocation,
19 PAGA Allocation, and UCL Allocation shall be the total payment under the settlement Participating
20 Class/PAGA Members are eligible to receive.

21 f. The portion of the UCL Allocation paid to each Participating UCL Class
22 Member shall be allocated fifty percent (50%) to alleged unreimbursed expenses and fifty percent
23 (50%) to alleged penalties and interest. The portion of the Wage Statement Allocation, PAGA
24 Allocation and FCRA Allocation of the Settlement Payment to each PAGA Member and
25 Participating FCRA Class Member shall be allocated one-hundred percent (100%) to alleged
26 penalties and interest, which shall not be subject to withholding.

27 62. Within twenty-one (21) days after the Effective Date, Defendant shall transmit the
28 Gross Settlement Amount to the Settlement Administrator. Within seven (7) days after the receipt

1 of these funds, the Settlement Administrator shall transmit to Class Counsel the attorneys' fees,
2 costs, and expenses approved by the Court, shall transmit to the Class Representative their
3 Enhancement Awards approved by the Court, shall transmit to the LWDA the payment pursuant to
4 PAGA, and shall mail a Settlement Payment to each Participating Class Member and all PAGA
5 Members.

6 63. The Settlement Payments are payments for all Released Claims for the Class
7 Members. The Settlement Administrator shall be authorized to establish a Qualified Settlement
8 Fund ("QSF") pursuant to Internal Revenue Service ("IRS") rules and regulations in which the
9 Gross Settlement Amount shall be placed and from which payments required by the Settlement
10 shall be made. The Settlement Administrator will calculate the Settlement Payments and allocation
11 of those payments as to unpaid wages, penalties, and/or interest as set forth above. The amount of
12 each Settlement Payment to each Participating Class Member that is allocated to alleged unpaid
13 wage claims shall be paid net of all applicable employee portions of employment taxes, including
14 any federal, state, and/or local laws in issue tax withholding requirements and the employee share
15 of FICA taxes.

16 64. The Released Parties shall not be required to provide any additional form of
17 compensation to any Participating Class Member as a result of his or her receipt of a Settlement
18 Payment. Each Participating Class Member and the Class Representative shall be responsible for
19 remitting to state and/or federal taxing authorities any applicable taxes which may be owed on the
20 portion of any payment received pursuant to this Agreement, except as provided by this Agreement.

21 65. It is expressly understood and agreed that the receipt of a Settlement Payment shall
22 not entitle any Class Member to additional compensation or benefits under any company bonus,
23 contest or other compensation or benefit plan or agreement, nor shall it entitle any Class Member to
24 any increased retirement, 401(k) or matching benefits, or deferred compensation benefits. The
25 Parties agree that any Settlement Payments made to Participating Class Members under the terms of
26 this Agreement shall not represent any modification of previously credited length of service or other
27 eligibility criteria under any bonus plan, employee pension benefit plan or employee welfare plan
28 sponsored by any of the Released Parties, or to which any of the Released Parties are required to

1 make contributions. Further, any Settlement Payments made under this Agreement shall not be
2 considered compensation in any year for purposes of determining eligibility for, or benefit accrual
3 within, any employee pension benefit plan or employee welfare benefit plan sponsored by any of
4 the Released Parties or to which any of the Released Parties are required to make contributions. It
5 is the Parties' intent that the Settlement Payments provided for in this Agreement are the sole
6 payments to be made by Defendant to the Class Members, and that the Class Members are not
7 entitled to any new or additional compensation or benefits as a result of having received the
8 Settlement Payments, notwithstanding any contrary terms in any agreement, contract, benefit or
9 compensation plan document that might have been in effect during the Class Period.

10 66. Any Settlement Payment that remains uncashed after one hundred eighty (180) days
11 of disbursement shall be void and the Court may require a second distribution. Thereafter, the
12 Settlement Administrator shall pay the funds represented by such un-redeemed checks to The Legal
13 Aid Foundation of Los Angeles pursuant to California Code of Civil Procedure section 384, subject
14 to Court approval of any *cy pres* recipient. In the event a Class Member fails to cash their
15 settlement payment, the Class Member nonetheless shall be bound by the terms of this Agreement.

16 **The Settlement Administrator**

17 67. The Settlement Administrator shall administer the Settlement, including, but not
18 limited to: (i) printing, mailing and re-mailing (if necessary) the Notices of Class Settlement, and
19 receiving Requests for Exclusion from Class Members; (ii) preparing and submitting to
20 Participating Class Members and government entities all appropriate tax filings and forms; (iii)
21 computing the amount of and distributing Settlement Payments, the Enhancement Award, and Class
22 Counsel attorneys' fees and costs; (iv) processing and validating Requests for Exclusion; (v)
23 establishing a QSF, as defined by the Internal Revenue Code; and (vi) calculating and remitting to
24 the appropriate government agencies all employee payroll tax obligations arising from the
25 Settlement and preparing and submitting filings required by law in connection with the payments
26 required by the Settlement.

27 68. Settlement administration fees in a reasonable amount shall be paid to the Settlement
28 Administrator from the Gross Settlement Amount. Settlement administration fees are not expected

1 to exceed Eight Thousand Dollars and No Cents (\$8,000.00). If the actual cost of settlement
2 administration approved by the Court is more or less than this amount, those funds shall be added or
3 subtracted to the Net Settlement Amount for allocation to Class Members. All costs associated with
4 settlement administration shall come out of the Gross Settlement Amount.

5 69. Defendant shall provide the names, last known physical and electronic addresses,
6 social security numbers and, if applicable, Qualifying Workweeks and Employee ID numbers, for
7 Class Members (“Class Data”) to the Settlement Administrator only no later than thirty (30)
8 calendar days after the Court grants preliminary approval of the Settlement. Class Data shall only
9 be used by the Settlement Administrator for the purpose of calculating Settlement Payments and
10 notifying Class Members of the Settlement. Class Data shall not be disclosed to Class Counsel, the
11 Class Representatives, or any other Class Members without the written consent of Defendant or by
12 order of the Court, except that the Settlement Administrator shall provide Class Counsel (1) a
13 unique numeric identifier, to be generated by the settlement administrator; (2) employment start
14 date; (3) termination or end date used in calculation; and (4) workweeks as calculated by settlement
15 administrator for the UCL Class for the purpose of verifying settlement payments. The Settlement
16 Administrator shall not disclose the Class Data to third parties, shall keep the Class Data
17 confidential to the fullest extent possible, and shall be responsible for following all privacy laws
18 and taking appropriate steps to ensure that Class Members’ personal information is safeguarded and
19 protected from improper disclosure or use. The Settlement Administrator shall run the Class Data
20 list through the National Change of Address database, and shall use the most recent address for each
21 Class Member – either from Defendant’s records or the National Change of Address database –
22 before mailing the Notice of Class Settlement. The Settlement Administrator shall also take
23 reasonable steps to locate any Class Member whose Notice of Class Settlement is thereafter
24 returned as undeliverable. Class Data shall be provided in a secure format to be determined by the
25 Settlement Administrator and Defendants. The Settlement Administrator shall establish a toll-free
26 telephone number to receive calls from Class Members.

**Resolution of Disputes Over Qualifying Workweeks or
Settlement Payment Calculations**

70. In calculating Settlement Payments for each Class Member, Defendant's records regarding Qualifying Workweeks of Class Members shall be presumed to be correct. Any Class Member who disagrees with Defendant's determination of his or her Qualifying Workweeks as indicated on his or her Notice of Class Settlement may dispute that calculation to the Settlement Administrator as explained on the Notice of Class Settlement. Defendant's determination shall be presumed accurate unless clear and compelling documentary evidence is provided by the Class Member to the Settlement Administrator that establishes that a mistake was made by Defendant. The Settlement Administrator shall investigate the dispute, requesting information from Defendant as necessary. If a Class Member produces evidence to the contrary by the Response Deadline, the Parties will evaluate the evidence submitted by the Class Member and the Settlement Administrator will make the final decision as to the number of eligible Workweeks that should be applied and/or the Individual Settlement Payment to which the Class Member may be entitled.

71. All such challenges must be received within the 60-day Response Deadline. In no case shall a dispute result in a payment by Defendants in excess of the Gross Settlement Amount.

Enhancement Award

72. From the Gross Settlement Amount, the Class Representative may seek approval from the Court of an Enhancement Award not to exceed Five Thousand Dollars and No Cents (\$5,000.00) for the Class Representative, which Defendant shall not oppose.

Payment of Class Counsel Attorneys' Fees and Costs

73. Class Counsel shall apply to the Court at the Final Fairness and Approval Hearing for an award of attorneys' fees not to exceed the amount of One Hundred Thousand Dollars and No Cents (\$100,000.00), which is Thirty-Three Percent (33%) of the Gross Settlement Amount, and a reasonable award of litigation costs in an amount not to exceed Twelve Thousand Dollars and No Cents (\$12,000.00), both of which shall be paid out of the Gross Settlement Amount and neither of which Defendant will oppose. Class Counsel and Defendant agrees that such awards of attorneys'

1 fees and costs are reasonable under the circumstances. Any order relating to the award of attorneys'
2 fees, costs or the Class Representative Enhancement Award, or any appeal from any order relating
3 thereto or reversal or modification thereof, will not operate to terminate or cancel this Agreement.
4 If the amount of Enhancement Award, attorneys' fees and/or costs awarded by the Court is less than
5 the requested amounts, the difference shall serve to increase the Net Settlement Amount to be
6 distributed to Class Members as part of their Settlement Payments. Nothing in this Agreement will
7 require Defendant to pay more than the Gross Settlement Amount under any circumstances, except
8 that Defendant is responsible for paying the employer's share of any payroll taxes owed on the
9 Settlement Payments.

10 **Taxes and Withholding and Indemnification**

11 74. The Settlement Administrator shall be responsible for ensuring that all tax
12 obligations associated with the Settlement are timely paid to the appropriate governmental taxing
13 authorities. The Settlement Administrator's responsibilities include the following:

- 14 (i) filing all federal, state and local employment tax returns, income tax returns,
15 and any other tax returns associated with the taxes,
- 16 (ii) timely and proper filing of all required federal, state and local information
17 returns (*e.g.*, 1099s, W-2s, etc.), and
- 18 (iii) completion of any other steps necessary for compliance with any tax
19 obligations applicable to Settlement Payments under federal, state and/or
20 local law.

21 75. The Settlement Administrator shall determine the amount of any tax withholding to
22 be deducted from each Participating Class Member's Settlement Payments. All such tax
23 withholdings shall be remitted by the Settlement Administrator to the proper governmental taxing
24 authorities.

25 76. The Parties and Participating Class Members acknowledge and agree that:

- 26 (i) No provision of this Agreement and no written communication or disclosure
27 between or among the Parties or their attorneys and other advisers is or was
28 intended to be, nor shall any such communication or disclosure constitute or

1 be construed or be relied upon as, tax advice within the meaning of United
2 State Treasury Department Circular 230 (31 CFR Part 10, as amended);

3 (ii) Each Party and Participating Class Member (a) has relied exclusively upon
4 their own, independent legal and tax advisers for advice (including tax
5 advice) in connection with this Agreement, (b) has not entered into this
6 Agreement based upon the recommendation of any other party or any
7 attorney or advisor to any other party, and (c) is not entitled to rely upon any
8 communication or disclosure by any attorney or adviser to any other party to
9 avoid any tax penalty that may be imposed on him or her; and

10 (iii) No attorney or adviser to any other party has imposed any limitation that
11 protects the confidentiality of any such attorney's or adviser's tax strategies
12 (regardless of whether such limitation is legally binding) upon disclosure by
13 him or her of the tax treatment or tax structure of any transaction, including
14 any transaction contemplated by this Agreement.

15 77. The Settlement Payments received by Participating Class Members/PAGA Members
16 shall be reported by the Settlement Administrator, as required, to the state and federal taxing
17 authorities on IRS forms 1099 and W-2 or similar forms. Each Participating Class Member shall be
18 responsible for paying all applicable state, local, and federal income taxes on all amounts the
19 Participating Class Member receives pursuant to this Agreement. Each Participating Class Member
20 is advised to obtain independent tax advice in connection with this Agreement.

21 **RELEASED CLAIMS**

22 78. Upon the funding of the Gross Settlement Amount, all members of the FCRA Class
23 who do not timely opt-out shall, individually and on behalf of all their respective successors,
24 assigns, agents, attorneys, executors, heirs and personal representatives, fully and finally release and
25 discharge the Released Parties, and each of them, from the "Released FCRA Claims" defined as: all
26 claims that were or could have been alleged in the Complaints filed in this action arising in any way
27 from the requesting, procuring, providing, or relying upon background checks or consumer reports,
28 including those arising from the disclosure, accuracy, or clarity of information contained in,

provided to, or otherwise furnished to FCRA class members during the FCRA Class Period. The Released FCRA Claims include all claims, rights, demands, liabilities, causes of action, and theories of liability of every nature and description, whether known or unknown, that were alleged against Defendant and/or any of the Released Parties, or which could have been alleged based on the facts pled against them based on the Complaints in the action. The Released FCRA claims include, but are not limited to, claims for penalties (regardless of the recipients), damages, interest, costs or attorneys' fees relating to claims accrued during the applicable FCRA Class Period, including, but not limited to, claims under any common laws, contract, the Fair Credit Reporting Act, the California Consumer Credit Reporting Agencies Act, or any other federal, state, or local law governing the procurement or use of background/credit checks, including laws regarding background check disclosures and authorizations.

79. Upon the funding of the Gross Settlement Amount, all members of the UCL Class who do not timely opt-out shall, individually and on behalf of all their respective successors, assigns, agents, attorneys, executors, heirs and personal representatives, fully and finally release and discharge the Released Parties, and each of them, from the "Released UCL Claims" defined as: all claims that were or could have been alleged in the PAGA Letter and/or Complaints filed in this action arising in any way from the alleged for failure to reimburse necessary business expenses during the Class Period. The Released UCL Claims include all claims, rights, demands, liabilities, causes of action, and theories of liability of every nature and description, whether known or unknown, that were alleged against Defendant and/or any of the Released Parties, or which could have been alleged based on the facts pled against them based within the PAGA Letters or the Complaints in this action. The Released UCL claims also include, but are not limited to, claims for unreimbursed necessary business expenses, damages, interest, costs or attorneys' fees relating to claims accrued during the applicable UCL Class Period including, but not limited to, claims made pursuant to California Business & Professions Code Section 17200, *et seq.* ("UCL") predicated on violations of any state and/or federal law, including Cal. Code of Regulations, Title 8, Sections 11000, *et seq.*, Wage Order 4 or any other applicable Wage Order, the California Labor Code, or the California Private Attorneys General Act of 2004, Labor Code Section 2698, *et seq.*, based on

1 the claims alleged or that could have been alleged in the PAGA Letters or the Complaints in this
2 action. Notwithstanding the foregoing, the Released Claims do not include any individual claims
3 under Section 16(b) of the FLSA, 29 U.S.C. § 216(b), as to a UCL Class Member who does not opt-
4 in to the Settlement by cashing, depositing, or endorsing his or her Settlement Payment check, to
5 the extent that opting-in is required to release such FLSA claims.

6 80. Upon the funding of the Gross Settlement Amount, all members of the Wage
7 Statement Class who do not timely opt-out shall individually and on behalf of all their respective
8 successors, assigns, agents, attorneys, executors, heirs and personal representatives, fully and finally
9 release and discharge the Released Parties, and each of them, from the “Released Wage Statement
10 Claims” defined as: all claims that were or could have been alleged in the PAGA Letter and/or
11 Complaints filed in this action arising in any way from the alleged for failure to provide legally
12 compliant wage statements during the Class Period. The Released Wage Statement Claims include
13 all claims, rights, demands, liabilities, causes of action, and theories of liability of every nature and
14 description, whether known or unknown, that were alleged against Defendant and/or any of the
15 Released Parties, or which could have been alleged based on the facts pled against them based
16 within the PAGA Letters or the Complaints in this action. The Released Wage Statement claims
17 also include, but are not limited to, claims for failure to provide or maintain copies of accurate
18 itemized wage statements, damages, interest, costs or attorneys’ fees relating to claims accrued
19 during the applicable Class Period, including but not limited to, claims under any common laws,
20 contract, the California Business & Professions Code Section 17200, *et seq.* (“UCL”), the FLSA,
21 Cal. Code of Regulations, Title 8, Sections 11000, *et seq.*, Wage Order 4 or any other applicable
22 Wage Order, the California Labor Code, and the California Private Attorneys General Act of 2004,
23 Labor Code Section 2698, *et seq.*, based on the claims alleged or that could have been alleged in the
24 PAGA Letters or the Complaints and/or Amended Complaints in the Actions. Notwithstanding the
25 foregoing, the Released Claims does not include any individual claims under Section 16(b) of the
26 FLSA, 29 U.S.C. § 216(b), as to a Wage Statement Class Member who does not opt-in to the
27 Settlement by cashing, depositing, or endorsing his or her Settlement Payment check, to the extent
28 that opting-in is required to release such FLSA claims.

1 **Releases by Plaintiff Dharni**

2 81. Upon funding of the Gross Settlement Amount, Plaintiff Dharni, for herself, and her
3 successors, assigns, agents, executors, heirs and personal representatives, spouse and attorneys, and
4 any and all of them, voluntarily and with the advice of counsel, waives and releases any and all
5 claims, obligations, demands, actions, rights, causes of action, and liabilities against Defendant and
6 any of the Released Parties, including, without limitation, all claims that were or could have been
7 alleged in the PAGA Letters and the Complaints in the action under any state law, federal law,
8 common law, equity or other theory arising in any way out of their former employment with
9 Defendant or any of the Released Parties. As part of these releases, Plaintiff further releases all
10 unknown claims against Defendant and Released Parties, covered by the California Civil Code
11 Section 1542, which states: “**A general release does not extend to claims that the creditor or**
12 **releasing party does not know or suspect to exist in his or her favor at the time of executing**
13 **the release and that, if known by him or her, would have materially affected his or her**
14 **settlement with the debtor or released party.**” Plaintiff understands that she is a “creditor” or
15 “releasing party” within the meaning of California Civil Code Section 1542, and thereby expressly
16 waives and relinquishes any and all rights and benefits under Section 1542 of the Civil Code of the
17 State of California and under any statute, rule, or principle of common law or equity, of any
18 jurisdiction, that is similar to Section 1542.

19 **LIMITATIONS ON USE OF THIS SETTLEMENT AND AGREEMENT**

20 **No Admission**

21 82. The acceptance, performance and/or negotiation of the terms of this Agreement or
22 proceedings shall not be claimed to be, construed as, or deemed a precedent or an admission by
23 Defendant of the truth of any allegations in the Complaints, Amended Complaints, or the PAGA
24 Letters. Defendant expressly denies any wrongdoing or liability to Plaintiff, any Class Members, or
25 any of their other current and former employees.

26 **Non-Evidentiary Use**

27 83. Defendant denies that it has failed to comply with any law in any respect, or has any
28 liability to anyone based on the claims asserted in the action. Defendant expressly denies any

1 wrongdoing or liability to Plaintiff, any of the Class Members, or any of its other current or former
2 employers, and further denies that the action is appropriate for class certification. Plaintiff
3 expressly acknowledges that this Agreement is entered into for the purpose of compromising highly
4 disputed claims and that nothing herein is an admission of liability, wrongdoing, or the propriety of
5 class or representative treatment by Defendant. Neither the Agreement nor any document prepared
6 in connection with the Settlement may be admitted in any proceeding as an admission by
7 Defendant. Notwithstanding this paragraph, any and all provisions of this Agreement may be
8 admitted in evidence and used in any proceeding to enforce the terms of this Agreement, or in
9 defense of any claims released or barred by this Agreement.

10 **Nullification**

11 84. If the Court for any reason does not approve this Settlement, this Agreement shall be
12 considered null and void and the Parties to this Agreement shall stand in the same position, without
13 prejudice, as if the Agreement had been neither entered into nor filed with the Court.

14 85. Invalidation of any material portion of this Agreement shall invalidate this
15 Agreement in its entirety unless the Parties agree in writing that the remaining provisions shall
16 remain in full force and effect.

17 **MISCELLANEOUS PROVISIONS**

18 **No Inducements**

19 86. Plaintiff and Defendant acknowledge that they are entering into this Settlement as a
20 free and voluntary act without duress or undue pressure or influence of any kind or nature
21 whatsoever, and that neither Plaintiff nor Defendant have relied on any promises, representations,
22 or warranties regarding the subject matter hereof other than as set forth in this Agreement.

23 **No Prior Assignment**

24 87. The Parties represent, covenant, and warrant that they have not directly or indirectly
25 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
26 entity any portion of any liability, claim, demand, action, cause of action or rights herein released
27 and discharged except as set forth herein.

1 **Construction**

2 88. The Parties agree that the terms and conditions of this Agreement are the result of
3 lengthy, intensive arm's-length negotiations between the Parties and their counsel, and this
4 Agreement shall not be construed in favor of or against any Party by reason of the extent to which
5 any Party or its counsel participated in the drafting of this Agreement.

6 **California Law**

7 89. All terms of this Agreement and its exhibits shall be governed and interpreted by and
8 according to the laws of the State of California, without giving effect to any conflict of law
9 principles or choice of law principles.

10 **Captions and Interpretations**

11 90. Paragraph titles or captions contained herein are inserted as a matter of convenience
12 and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or
13 any provision hereof.

14 **Incorporation of Exhibits**

15 91. All exhibits to this Agreement are incorporated by reference and are a material part
16 of this Agreement. Any notice, order, judgment, or other exhibit that requires approval of the Court
17 must be approved without material alteration from its current form for this Agreement to be
18 enforceable.

19 **Modification**

20 92. This Agreement may not be changed, altered, or modified, except in a writing signed
21 by the Parties or their representatives, and approved by the Court. This Agreement may not be
22 discharged except by performance in accordance with its terms or by a writing signed by the
23 Parties.

24 **Reasonableness of Settlement**

25 93. Plaintiff represents that this is a fair, reasonable, and adequate settlement and that the
26 Parties arrived at this settlement through arm's-length negotiations, taking into account all relevant
27 factors.

1 **Integration Clause**

2 94. This Agreement contains the entire agreement between the Parties relating to the
3 Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements,
4 understandings, representations, and statements, whether oral or written and whether by a party or
5 such party's legal counsel, are merged herein. No rights hereunder may be waived except in
6 writing.

7 **Binding On Assigns**

8 95. This Agreement shall be binding upon and inure to the benefit of the Parties and
9 their respective heirs, trustees, executors, administrators, successors and assigns.

10 **No Prevailing Party**

11 96. No Party shall be considered a prevailing party for any purpose. Except as otherwise
12 provided for in this Agreement, each Party shall bear their own attorneys' fees and costs.

13 **Non-Signatories to Agreement**

14 97. The Parties agree that because the members of the Class are numerous, it is
15 impossible or impractical to have each member of the Class execute this Agreement. The Notice of
16 Class Settlement shall advise all Class Members of the binding nature of the Agreement, and the
17 Agreement shall have the same force and effect as if this Agreement were executed by each
18 member of the Class.

19 **Counterparts**

20 98. This Agreement, and any amendments hereto, may be executed in any number of
21 counterparts, each of which when executed and delivered shall be deemed to be an original and all
22 of which taken together shall constitute but one and the same instrument. Fax, electronic, and PDF
23 signatures shall be as valid as original signatures.

24
25 **Plaintiff's Agreement To Be Bound and Attorney Authorization**

26 99. By signing this Agreement, Plaintiff, on behalf of the Class, aggrieved employees
27 and themselves, agrees to be bound by its terms and further agrees not to request to be excluded
28 from the Class or Settlement, and agrees not to object to any of the terms of the Agreement. Any

requests for exclusion from the Settlement by Plaintiff or any objections by Plaintiff shall be void and of no force and effect. The Parties and their counsel agree to fully cooperate with each other and use their best efforts to effectuate the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Mediator Jeffrey Krivis, or any mediator available within sixty (60) days of notice, for resolution.

Administration Costs if Settlement Fails

100. If the Settlement is not finally approved by the Court, any costs incurred by the Settlement Administrator shall be paid equally by both Parties. In the event Defendant voids the Settlement due to the number of individuals who have opted out of the Settlement, pursuant to the opt-out procedure set out in paragraph 53, Defendant shall bear all costs of settlement administration incurred to date.

Final Order and Judgment

101. Upon final approval of the Settlement, a Final Order and Judgment shall be entered by the Court which shall, among other things:

- (i) Grant final approval to the Settlement as fair, reasonable, adequate, in good faith and in the best interests of the Class as a whole, and order the Parties to carry out the provisions of this Agreement.
- (ii) Adjudge that the Participating Class Members and those Class Members who have failed to Opt Out of the settlement are conclusively deemed to have released Defendant and the Released Parties from the Released Claims, as more specifically set forth above.
- (iii) Prohibit and permanently enjoin each Class Member from pursuing in any fashion or forum against Defendant or the other Released Parties any and all of the Released Claims.
- (iv) Enter judgment in the Action.
- (v) Reserve continuing jurisdiction as provided herein.

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DEFENDANT DENTSU MCGARRY BOWEN
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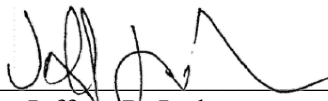
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Its Authorized Agent

APPROVED AS TO FORM AND CONTENT

Dated: _____

FINKELSTEIN & KRINSK LLP

By  _____

Jeffrey P. Jackson
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