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Attorneys for Plaintiff JAMES PACKES, in a Representative capacity only, and on behalf of other members of the general public similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

JAMES PACKES, in a Representative
capacity only, and on behalf of other
members of the general public similarly
situated,

Plaintiff,

v.

SCHOOL OF ROCK LLC, a Delaware
Limited Liability Company; and DOES 1-10,
inclusive

Defendants

CASE NO. 30-2021-01217507-CU-OE-CXC

**DECLARATION OF ERIC K. YAECKEL
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
CONDITIONAL CERTIFICATION OF
SETTLEMENT CLASS AND
PRELIMINARY APPROVAL OF GOOD
FAITH DETERMINATION OF CLASS
ACTION SETTLEMENT**

Date: August 26, 2022

Time: 10 :00 a.m.

Dept.: CX105

Judge: Hon. Randall J. Sherman

Reservation Number: 73777761

1 I, Eric K. Yaeckel, hereby declare as follows:

2 1. I am an attorney licensed to practice law before this Court and am an employed at the law firm
3 of Sullivan & Yaeckel Law Group, APC, attorneys of record for Plaintiff in the
4 above-captioned matter. I make this declaration regarding Plaintiff's **Unopposed** Motion for
5 PAGA Settlement Approval.

6 2. I have personal knowledge of the facts set forth in this declaration and, if called to testify as
7 a witness, I could and would do so.

8 **Background and Investigation**

9 3. This matter is a proposed wage and hour Class and PAGA Action involving California
10 Employees of Defendant School of Rock LLC and SoR V LLC ("SoR") working in California.

11 4. The original Complaint alleged six causes of action for alleged violations pursuant to
12 California's Private Attorneys General Act ("PAGA") - Labor Code section 2698 et seq. - for:
13 (1) Meal and rest period violations; (2) Minimum wage violations; (3) Overtime violations; (4)
14 Wage statement violations; (5) Failure to reimburse business expenses; and (6) Failure to pay
15 all wages to ex-employees. (See the Court's Register of Actions Entry # 2).

16 5. As a part of the settlement agreement, the parties are seeking the Court's permission for
17 Plaintiff to file a First Amended Complaint to allege Class Action Claims based on the same
18 underlying conduct of the Labor Code violations referenced above. This request will be made
19 by separate stipulation.

20 6. On October 20, 2021, Plaintiff James Packes propounded his first set of written discovery
21 requests on SoR, including requests for admission, special interrogatories, requests for
22 production of documents, and general and employment form interrogatories. Through these
23 requests, Plaintiff Packes sought, among other information and documents, the identities of
24 allegedly aggrieved employees, SoR's compensation policies, employee handbooks, wage
25 statements, payroll records, time records and reimbursement policies.

26 7. After appearing and undergoing a meet and confer process, SoR agreed to informally produce
27 information and documents responsive to Plaintiff's requests for mediation purposes. SoR
28 produced, *inter alia*, Mr. Packes's wage records, a copy of the operative employment policies,

sample payroll records for other allegedly aggrieved employees, and the contents of Mr. Packes's employee file.

8. The parties then underwent a further lengthy meet and confer process, regarding the forms of time records, compensation plans, and wage records sought for SoR's California Employees. SoR agreed to turn over a large sampling of these records for the other employee records during the operative limitations period. Plaintiff's counsel reviewed thousands of pages of documents in order to prepare a case analysis and demand that was shared at mediation.
9. My office also spoke with several putative class member during the course of the litigation.
10. On March 3, 2022, the parties attended a mediation before an experienced and well-respected wage and hour and class action mediator, Mike Young.
11. Prior to, and during, the mediation, counsel for both parties agreed to the informal exchange of information pertinent to a class-wide settlement. Such information included verification of policies and procedures of SoR, as well as the size of any potential Class and PAGA representative group.
12. Additionally, both parties submitted detailed written submissions to the Mediator. Plaintiff's brief (shared with opposing counsel) contained a detailed explanation of the claims at issue, including all prosecution theories and the results of Plaintiff's counsel's analysis of the potential Class Members' time and wage records.
13. On March 3, 2022, the parties were able to reach an agreement on the key terms of the settlement at the mediation, which became the subject of a Memorandum of Understanding. Negotiations over the final terms continued. The final long-form settlement agreement was only agreed upon and executed after extensive arms-length negotiations resulting in a unique compromise that permits all parties to move forward and bring this action to a close. In spite of a mutual desire to resolve this action, the negotiations remained at all times adversarial.
14. As of June of 2022, the parties finalized and executed a Joint Settlement re: Class Action Settlement, which contains all of the parties' agreed upon terms. A true and correct copy of the fully executed stipulation (hereinafter the "Agreement") is attached hereto as **Exhibit 1**. The Agreement also contains **Exhibit A** which is a true and correct copy of the parties' agreed

upon Class Notice. **Exhibit B** is a true and correct copy of the proposed request for exclusion form.

15. In the lawsuit, Plaintiff alleged that Defendant did not pay for “all time worked” by Defendant, specifically, for time spent preparing for lessons, and under Defendant’s control. Plaintiff contends that as a result of only paying for time spent in lessons (verses total time spent at work), Defendant failed to allow for meal and rest periods and failed to pay meal and rest period penalties.

16. Plaintiff also alleged that Defendant also failed to include on Class Member’s wage statements all hours worked, and instead listed only time spent in lessons.

17. In addition, Plaintiff contends that Defendant failed to permit and authorize off-duty rest periods and off-duty meal periods and failed to pay premium pay for missed rest and meal breaks; failed to issue accurate itemized wage statements that, in addition to the above, failed to include accurate total net and gross wages earned as a result fo failing to compensate Class Members for all hours worked; failed to pay all wages due upon termination.

18. Given my analysis directly below, our office submits this settlement provides class members with a guaranteed recovery of a large portion of their “potential” damages. The “average” recovery will be approximately \$855.17 per class member. This number was taken from subtracting all proposed contingent costs from the GSA (as detailed on page one of the memorandum) and dividing by 145 estimated class members. This is an average only, as the actual recovery will vary based on the amount of workweeks at issue for each employee as set forth in the Agreement.

Claims and Valuations

19. Plaintiff’s unpaid wages (and unpaid overtime) claims were centered around the allegation that employees were under employer control when they were preparing for lessons, and learning the SoR method of teaching (which took extra time as the SoR teaching method is distinct from traditional music schools). Plaintiff alleged this resulted in regular and overtime pay being owed where Defendant was on notice of work being performed that exceeded 8 hours in a work day or 40 hours in a workweek. Defendant was defending these claims on the

1 grounds that Plaintiff and other instructors and employees were only under employer control
2 during lesson periods and that time spent preparing for lessons was not under employer
3 “control.”

4 20. As to meal and rest period claims, Plaintiff alleged Defendant lacked any substantive written
5 meal and rest period policies and as a result, Plaintiff and other employees were improperly
6 restricted from taking legally compliant breaks. Defendants argued that employees had
7 opportunities to structure their own break schedules instructors and could take rest periods in
8 between classes. Defendant also contended individualized inquiries will abound as to why
9 individual employees may have failed to take appropriate meal or rest periods.

10 21. There are no time records showing meal periods to prove Plaintiff or other employees were
11 provided with meal periods. Additionally, no records exist to show Plaintiff or other employees
12 were provided rest periods, making this aspect of the claim much harder to prove on a class
13 wide basis.

14 22. Plaintiff contends that Defendant violated Labor Code § 2802 by failing to reimburse its
15 employees for, *inter alia*, cell phone and internet costs. Specifically, Plaintiff argues that,
16 during the pandemic, Plaintiff and other aggrieved employees were forced to incur internet and
17 cell phone expenses to teach lessons and remain in contact with SoR via cell phone, but were
18 not adequately reimbursed for such expenses. Plaintiff contends that California law requires
19 reimbursement to these employees whenever a cell phone is used in such a manner. See e.g.,
20 *Cochrane v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137. Defendant argued
21 that *Cochran* is distinguishable because the policy in this case does not require employees to
22 use their cellular phones. Defendant also argued that individualized inquiries regarding the use
23 of cellular phones and necessity of other expenses would predominate and bar class
24 certification.

25 23. As to the PAGA claims, Plaintiff is well aware that the Court would have great discretion to
26 mitigate any penalties awarded. (See Legal Analysis at Pages 6-7 of Memorandum).
27 Accordingly, our office submits the total PAGA allocation is fair reasonable, and adequate.
28

Damage Calculations

24. The following estimate damage calculations were complete by our office after review of the sampling of class member time and wage records, and after interviews with Plaintiff, and other class members.

Unpaid Compensation Violations: 35 (employee positions) x \$18.00 (average Hourly Rate) x 48 (average number of uncompensated hours, per employee, per year) x 4.5 (years in Limitations Period) = \$136,080.00

Meal Period Policy Violations: 35 (Approximate employee positions) x \$18.00 (average Hourly Rate) x 144 (average number of violations, per employee, per year) x 4.5 (years in Limitations Period) = \$408,240.00

Rest Period Policy Violations: 35 (Approximate employee positions) x \$18.00 (average Hourly Rate) x 144 (average number of violations, per employee, per year) x 4.5 (years in Limitations Period) = \$408,240.00

Labor Code section 226 Penalties: 35 (Approximate employee positions) x \$100 (violation owed per pay period) x 24 (pay periods per year) x 1.5 (years in Limitations Period) = \$126,000.00

Labor Code section 2802 Penalties: 35 (Approximate employee positions) x \$200 (approximate reimbursement owed per year) x 4.5 (years in Limitations Period) = \$31,500.00

Labor Code section 203 Penalties: \$18.00 (hourly rate) x 6.0 (hours, per day) x 30 (days, per Labor Code section 203) x 30 (number of former employees) = \$97,200.00.

“PAGA” Violations: 6 (separate Labor Code violations based on the above claims) x 35 (number of employee positions) x \$50(per violation) x 24 (pay periods in one year limitations period) = \$252,000.00. By statute, the aggrieved employees are only entitled to 25% of this amount, which is \$ 63,000.00.

25. Based on the above, a best case recovery (which would be admittedly unlikely, given the current law (see memo)) would be a total judgment of \$1,459,260.00. This number would then be discounted approximately 40% (to \$583,704.00) to account for all contingent costs, including attorneys fees and all costs of administering the judgment. On this net amount, the

1 “best case” scenario is that an average class member would recover approximately \$4,025.54.
2 A worst case scenario is a recovery of \$0, by way of a denial of class certification or a defense
3 verdict. Given all of the risks on each claim, our office submits the actual average recovery of
4 \$855.17 is a reasonable compromise and is in the best interests of the class given all the risks
5 of continued litigation.

6 **Settlement Terms and Factors Supporting Preliminary Approval**

- 7 26. The parties agreed to use CAC Services Group, LLC (“CAC”) as the “Settlement Claims
8 Administrator” for purposes of providing the Notice and Opt-Out instructions to Settlement
9 Class Members, issuing all payments pursuant to the Agreement, and to track all opt-outs and
10 objections to the settlement. I have used CAC’s services to successfully administer class action
11 settlements on numerous occasions. I am knowledgeable that CAC’s primary business has been
12 the administration of class action settlements and class action notices, an area in which it has
13 extensive experience.
- 14 27. The Plaintiff’s \$5,000 enhancement award was decided pursuant to good faith negotiations at
15 mediation and thereafter and is intended to recognize that it was Plaintiff who initiated the
16 lawsuit, provided critical documents and witnesses to his attorneys, and worked with his
17 attorneys to prepare written discovery, all in an effort to obtain moneys allegedly owed not only
18 to himself, but to all other employees. Additionally, Plaintiff could have been liable for a very
19 large award of costs, should Defendant have prevailed in this action. A declaration from the
20 Plaintiff detailing all of his involvement in the case will be provided at the time of Final
21 Approval.
- 22 28. Plaintiff has also executed a separate individual settlement agreement and release that provides
23 him an additional \$10,000 for a full release of claims. This amount being paid to Plaintiff is
24 separate and apart from the amount negotiated for the class. This individual package was
25 separately negotiated with the assistance of the mediator and provides a much broader release
26 of claims in exchange for the consideration. It is based on claims that his complaints about
27 wage and hour practices led to retaliation and an eventual constructive termination from his
28 employment. These claims would have been separately asserted had mediation failed.

- 1 29. Given the numerous claims being litigated, the parties may be required to hire up to as many
2 as three experts each. This would result in not only the production of up to six expert reports,
3 but six depositions as well. And, based on previous discussions between counsel regarding the
4 remaining claims (including the PAGA claims), the parties anticipated (at the very least) two
5 dueling motions for summary judgment / adjudication (one from each side).
- 6 30. SoR also presented significant hurdles to class certification given, inter alia, the variance in job
7 positions and responsibilities across the class. SoR was nonetheless willing to settle claims on
8 a class wide basis so that employees would be significantly compensated for any perceived
9 violations. Plaintiff therefore contends the amount of the recovery achieved (average of
10 \$2,280.00 per class member) was very significant in light of the circumstances of the case.
- 11 31. Our office has considerable experience in wage and hour and class action litigation. Trial
12 Attorney, William Sullivan has over 27 years of experience, 24 years of which has been
13 devoted to both prosecuting and defending class action litigation. I have over 11 years of
14 experience all of which have been dedicated primarily to class action and representative action
15 (PAGA) litigation. I am aware counsel for Defendant also has extensive experience handling
16 class action and representative action litigation.
- 17 32. Our office considers the Agreement to represent a fair, adequate and reasonable settlement that
18 is well within the accepted range of recoveries when compared to similar wage and hour class
19 actions.
- 20 33. The LWDA declined to prosecute the PAGA claims itself after receiving Plaintiff's initial
21 notice. Counsel for the parties believe the \$18,000 allocation to the LWDA share of PAGA
22 penalties is a fair, reasonable, and adequate allocation. The LWDA has also been served with
23 copies of the proposed settlement and all preliminary approval papers (and the hearing date)
24 for this motion and has not objected or responded. Plaintiff will update the Court if any
25 response is received.

26
27
28 ///

1 34. Prior to preliminary approval, and a notice of settlement to the class, what can be said of the
2 reaction the class members is limited. However, our office has spoken to a few Class Members
3 prior to agreeing to the proposed settlement, and all were in favor of the settlement.

4 35. Our office met and conferred with defense counsel, and also performed our own research. The
5 parties are not aware of any class, representative or other collective action in any other court
6 that asserts claims similar to those asserted in this action and proposed settlement.
7

8 I declare under penalty of perjury under the laws of the State of California that the foregoing
9 is true and correct. Executed this 8th day of June, 2022, in San Diego, California.

10 

11 _____
12 Eric K. Yaeckel
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EXHIBIT 1

1 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
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6 Attorneys for Defendant, SCHOOL OF ROCK,
7 LLC.

8 **SULLIVAN & YAECKEL LAW GROUP, APC**
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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF ORANGE

13 JAMES PACKES, in a Representative
14 capacity only, and on behalf of other members
15 of the general public similarly situated,

16 Plaintiff,

17 vs.

18 SCHOOL OF ROCK, LLC, a Delaware
Limited Liability Company; and DOES 1-10,
19 inclusive,

20 Defendants.

Case No. 30-2021-01217507-CU-OE-CXC

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

[Assigned for all purposes to: Hon. Randall J.
Sherman, Dept. CX-105]

Action Filed: August 18, 2021
Trial Date: None Set
Trial Date: None Set

21 **JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT**
22 **AND RELEASE**

23 This Joint Stipulation of Class and PAGA Action Settlement and Release (“Agreement” or
24 “Settlement Agreement”) is made and entered into by and between JAMES PACKES, (“Plaintiff”
25 or “Class Representative”), as an individual and on behalf of all others similarly situated, and
26 SCHOOL OF ROCK, LLC., (“Defendant”) (collectively, the “Parties”). In consideration of the
27 promises and mutual covenants and agreements herein contained, the Parties hereby covenant and
28

1 agree as follows:

2 **RECITALS**

3 1. On August 18, 2021, Plaintiff initiated this putative class action by filing a
4 Complaint in the California Superior Court for the County of Orange, Case No. 30-2021-
5 01217507-CU-OE-CXC (the “Action”). The action is currently proceeding on Plaintiff’s First
6 Amended Complaint, which asserts a claim under the California Labor Code’s Private Attorneys
7 General Act of 2004 (“PAGA”), Lab. Code, § 2698, *et seq.* (the “Operative Complaint”), based
8 on allegations that Defendant violated certain requirements of California wage and hour law,
9 including but not limited to: (1) failure to pay minimum wages; (2) failure to pay off-the-clock
10 wages; (3) failure to pay proper overtime compensation; (4) failure to provide meal breaks; (5)
11 failure to provide rest breaks; (6) failure to reimburse employees for necessary business expenses;
12 (7) failure to provide accurate itemized wage statements; and (8) failure to pay all wages to upon
13 termination.

14 2. Defendant denies all material allegations set forth in the Operative Complaint and
15 this Action and has asserted numerous affirmative defenses.

16 3. The Parties have investigated the facts and analyzed the relevant legal issues with
17 regard to the claims and defenses in the Action. Plaintiff’s Counsel’s investigation included,
18 *inter alia*, the exchange of information pursuant to informal discovery methods, including:
19 comprehensive review of timekeeping and payroll records of a sampling of approximately 20%
20 of the putative class; the number of pay periods and work weeks included in the class; and a
21 review of Defendant’s corporate wage and hour policies and practices. Based on their
22 investigation and analysis, Plaintiff believes the Action has merit, while Defendant believes the
23 Action has no merit.

24 4. On March 3, 2022, the Parties participated in mediation before Michael Young,
25 Esq. (the “Mediator”), a respected mediator for California wage and hour class actions. The
26 settlement discussions were conducted at arm’s-length, and the settlement is the result of an
27 informed and detailed analysis of Defendant’s potential liability of total exposure in relation to
28 the costs and risks associated with continued litigation. Based on the documents produced, as

well as Plaintiff's Counsel's own independent investigation and evaluation, and the Mediator's efforts, Plaintiff's Counsel believe that the settlement with Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate, and is in the best interest of the putative Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendant.

5. In the interest of avoiding further litigation, the Parties agree to fully and finally and forever settle and dispose of all actual or potential claims by the putative Class Members. This Settlement Agreement is made and entered into by and between Plaintiff, individually and on behalf of all others similarly situated, and Defendant, and is subject to the terms and conditions hereof, and to the Court's approval. The Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendant. If for any reason the Settlement Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to their original respective positions.

6. The Settlement Class includes all current and former hourly non-exempt persons employed by Defendant, School of Rock, LLC, and SOR Schools VI, LLC in the State of California between April 1, 2018 through the date of preliminary approval of the settlement. Defendant represents the number of putative Class Members to be approximately 145 as of the date such information was provided to Plaintiff's Counsel.

DEFINITIONS

7. The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

8. “Action” means *James Packes v. School of Rock, LLC*, filed on August 18, 2021, in Orange County Superior Court, Case No. 30-2021-01217507-CU-OE-CXC.

9. “Attorneys’ Fees and Costs” means such award of attorneys’ fees as may be approved by the Court for Class Counsel’s litigation and resolution of this Action, and all costs incurred and to be incurred by Class Counsel in the Action, including, but not limited to, costs

1 associated with documenting the Settlement, securing the Court's approval of the Settlement,
2 administering the Settlement, obtaining entry of a Judgment terminating this Action, and
3 expenses for any experts.

4 10. "Class Counsel" means Sullivan & Yaeckel Law Group, APC, which will seek to
5 be appointed counsel for the Settlement Class.

6 11. "Class List" means a complete list of all putative Class Members that Defendant
7 will diligently and in good faith compile from its records and provide to the Settlement
8 Administrator within twenty (20) calendar days after the Court's Preliminary Approval of this
9 Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet
10 and will include each putative Class Member's full name; last known address; Social Security
11 Number; and dates of employment.

12 12. "Class Member(s)" or "Settlement Class" means all current and former hourly
13 non-exempt persons employed by Defendant School of Rock, LLC and SOR Schools VI, LLC,
14 in the State of California between April 1, 2018 through the date of preliminary approval of the
15 settlement.

16 13. "Class Period" means the period from April 1, 2018 through the date of
17 preliminary approval of the settlement.

18 14. "Class Representative" means Plaintiff JAMES PACKES ("Packes"), who will
19 seek to be appointed as the representative for the Settlement Class.

20 15. "Plaintiff" means JAMES PACKES, who may also be referred to herein as the
21 Class Representative.

22 16. "Class Representative Enhancement Payment" means the amount to be paid to
23 Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of the putative
24 Class Members and negotiating the Settlement, at no additional cost to Defendant and subject to
25 Court approval.

26 17. "Defendant" means School of Rock, LLC and SOR Schools VI, LLC.

27 18. "Effective Date" means when all of the following events have occurred: (1)The
28 Stipulation for Settlement has been executed by all Parties, Class Counsel, and Defendant's

1 Counsel; (2) The Court has given preliminary approval to the Settlement; (3) The Court has held a
2 Final Settlement Approval Hearing and has entered a Final Order and Judgment, approving the
3 Settlement. It is the parties' intention that the Settlement shall be final for purposes of the
4 Effective date at the time of Final Approval, if no objections to the settlement are filed. Only in
5 the event that written objections are filed prior to the Final Settlement Approval Hearing which are
6 not later withdrawn prior to final approval, the Effective Date shall be later of: (a) the date of final
7 affirmance on an appeal of the Judgment; the expiration of the time for a petition to review the
8 Judgment; and, if review is granted, the date of final affirmance of the Judgment following review;
9 or (b) the date of final dismissal of any appeal from the Judgment or the final dismissal of any
10 proceeding to review the Judgment; or (c) if no appeal is filed, the expiration date for filing any
11 appeal from the Judgment.either (a) the date sixty (60) calendar days after the entry of Final
12 Judgment and Order Approving Settlement, if no motions for reconsideration and no appeals or
13 other efforts to obtain review have been filed, or (b) in the event a motion for reconsideration, an
14 appeal or other effort to obtain review of the Final Judgment and Order Approving Settlement, the
15 date sixty (60) calendar days after such reconsideration, appeal or review has been finally
16 concluded and is no longer subject to review, whether by appeal, petition for rehearing, petition
17 for review or otherwise.

18 19. "Individual Settlement Payment" means each Participating Class Member's share
19 of the Net Settlement Amount, to be distributed to the Participating Class Members.

20 20. "Maximum Settlement Amount" means the maximum settlement amount of Two
21 Hundred and Forty Thousand Dollars (\$240,000.00) to be paid by Defendant in full satisfaction
22 of all claims arising from the Action, which includes all attorneys' fees, costs, the enhancement
23 award, payments pursuant to PAGA, and claims administration expenses. In no event will
24 Defendant be liable for more than the Maximum Settlement Amount, unless the escalator clause,
25 described in Paragraph 45, is triggered. No portion of the Maximum Settlement Amount shall
26 revert to Defendant. Defendant's share of any employer payroll taxes to be paid in connection
27 with the settlement (e.g. FICA, FUTA, payroll taxes, and/or any similar tax or charge –
28 collectively "Employer Taxes") shall be paid in addition to the Maximum Settlement Amount.

1 The Settlement Administrator will then be responsible for making appropriate deductions,
2 reporting obligations, and issuing the individual settlement awards.

3 21. "LWDA Payment" means the amount that the Parties have agreed to pay to the
4 California Labor and Workforce Development Agency ("LWDA") for resolution of the claims
5 for civil penalties alleged pursuant to PAGA, and which are included in the Released Claims.

6 22. "Net Settlement Amount" means the portion of the Maximum Settlement Amount
7 remaining after deduction of all attorneys' fees, costs, enhancement award, the amount
8 attributable to payments pursuant to PAGA, and claims administration expenses. The Net
9 Settlement Amount will be distributed to Participating Class Members.

10 23. "Notice of Objection" means a Participating Class Member's valid and timely
11 written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must
12 include: (a) the case name and number; (b) the objector's full name, signature, address,
13 telephone number and the last four digits of the objector's Social Security number; (c) a written
14 statement of all grounds for the objection accompanied by any legal support for such objection;
15 (d) copies of any papers, briefs, or other documents upon which the objection is based; (e) the
16 identity of the objector's counsel, if the objector is represented by counsel; and (f) whether the
17 objector wishes to be heard at the Final Approval Hearing.

18 24. "Notice Packet" means the Notice of Class Action Settlement and Mailing
19 Envelope.

20 25. "Parties" means Plaintiff and Defendant, collectively, and "Party" means either
21 Plaintiff or Defendant.

22 26. "Participating Class Members" means all Class Members who do not submit a
23 Request for Exclusion.

24 27. "Preliminary Approval" means the Court order granting preliminary approval of
25 the Settlement Agreement.

26 28. "Qualified Settlement Account" means a qualified settlement fund account
27 established by the Settlement Administrator into which Defendant will make a one-time deposit
28

1 of Two Hundred and Forty Thousand Dollars (\$240,000.00) for payment of all Court-approved
2 and claimed amounts from the Maximum Settlement Amount.

3 29. “Released Claims” include all claims, debts, liabilities, demands, obligations,
4 damages, and actions or causes of action of any kind, arising under state, federal or local law,
5 whether statutory, common law, or administrative law, at any time during the Class Period, that
6 were or could have been asserted based on the factual allegations in the Operative Complaint or
7 based on any facts discovered in the course of the Action, including (without limitation), claims
8 for failure to failure to pay minimum or overtime wages, failure to provide meal and rest periods
9 or to pay meal and rest period premiums, failure to indemnify necessary business expenses, failure
10 to pay all wages due to discharged or quitting employees, failure to reimburse necessary business
11 expenses, failure to provide accurate itemized wage statements; claims under California Labor
12 Code sections 201 to 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5,
13 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, and the Wage Orders promulgated
14 thereunder, California Business and Professions Code section 17200, et seq., and the federal Fair
15 Labor Standards Act (“FLSA,” 29 U.S.C. § 201 et seq.); and claims for injunctive relief, punitive
16 damages, penalties of any nature (including PAGA civil penalties and statutory penalties), interest,
17 fees, and costs).

18 30. “Released Claims Period” means the period from April 1, 2018 through the date
19 where the Court preliminarily approves the settlement.

20 31. “Released Parties” means Defendant SCHOOL OF ROCK, LLC, and SOR
21 Schools VI, LLC, and their past, present, and future parents, subsidiaries, divisions, affiliates,
22 predecessors, successors, and assigns, and each of their past, present, and future shareholders,
23 owners, officers, directors, employees, agents, trustees, attorneys, representatives,
24 administrators, fiduciaries, beneficiaries, subrogees, executors, partners, privies, and any other
25 individual or entity which could be liable for any of the Released Claims.

26 32. “Request for Exclusion” means a timely letter submitted by a Class Member
27 indicating a request to be excluded from the settlement. The Request for Exclusion must:
28 (a) include the case name and number; (b) contain the full name, address, telephone number, and

1 the last four digits of the Social Security Number of the Class Member requesting exclusion;
2 (c) clearly state that the Class Member does not wish to be included in the settlement; (d) be
3 signed by the Class Member; (e) be returned by fax or mail to the Settlement Administrator at
4 the specified address and/or facsimile number; and (f) be postmarked or faxed on or before the
5 Response Deadline. The date of the fax or postmark on the return mailing envelope will be the
6 exclusive means to determine whether a Request for Exclusion has been timely submitted. A
7 Class Member who does not request exclusion from the settlement will be deemed a
8 Participating Class Member and will be bound by all terms of the settlement, if the settlement is
9 granted final approval by the Court.

10 33. "Response Deadline" means the deadline by which Class Members must
11 postmark to the Settlement Administrator a valid Request for Exclusion or Notice of Objection.
12 The Response Deadline will be forty-five (45) calendar days from the initial mailing of the
13 Notice Packet by the Settlement Administrator, unless the 60th falls on a Sunday or Federal
14 holiday, in which case the Response Deadline will be extended to the next day on which the
15 U.S. Postal Service is open. Under no circumstances, other than circumstances described in
16 Paragraph 57, will the Settlement Administrator have the authority to extend the deadline for
17 Class Members to submit a Request for Exclusion or Notice of Objection to the Settlement.

18 34. "Settlement Administrator" means CAC Services Group, LLC or any other third-
19 party class action settlement administrator agreed to by the Parties and approved by the Court
20 for purposes of administering this Settlement pursuant to the terms of this Agreement, the Class
21 Notice, the Preliminary Approval Order, and the Judgment, including, without limitation,
22 printing, distributing, and tracking documents for this Settlement, calculating estimated amounts
23 per Class Member, tax reporting, distributing the appropriate settlement amounts, and providing
24 necessary reports and declarations, and other duties and responsibilities set forth herein to process
25 this Settlement, and as requested by the Parties. The Settlement Administrator shall agree to
26 confidentiality terms as may be required by Defendant regarding personnel and payroll data
27 provided to the Settlement Administrator and shall work with Class Counsel and Counsel for
28 Defendant to implement and administer appropriate fraud-prevention policies. The Parties each

1 represent that they do not have any financial interest in the Settlement Administrator or
2 otherwise have a relationship with the Settlement Administrator that could create a conflict of
3 interest.

4 35. "Settlement Administration Costs" means the costs approved by the Court to be
5 paid to the Settlement Administrator for administering this Settlement. The Settlement
6 Administration Costs will be paid from the Maximum Settlement Amount, including, if necessary,
7 any such costs in excess of the amount represented by the Settlement Administrator as being the
8 maximum costs necessary to administer the settlement. The Settlement Administration Costs are
9 currently estimated to be \$2,464.00.

10 36. "Work Weeks" means the number of weeks worked by Class Members in
11 California during the Class Period, which shall be calculated by the Settlement Administrator
12 based on the start and end dates of each individual's employment during the Class Period as
13 maintained by Defendant. Class Members may dispute the number of Work Weeks they worked
14 during the Class Period by submitting a written Work Weeks dispute to the Settlement
15 Administrator, which should include the Class Member's (a) full name, signature, address,
16 telephone number, and the last four digits of the Class Member's Social Security number; (b) the
17 number of Work Weeks the Class Member contends is correct; and (c) any evidence supporting the
18 Class Member's contention.

19 37. "Work Week Value" means the value of each compensable Work Week, as
20 determined by the formula set forth herein.

21 **STIPULATION OF CLASS CERTIFICATION**

22 38. The Parties stipulate to the certification of this Settlement Class for settlement
23 purposes only. Amended Complaint: The Parties also stipulate that Plaintiff will file a first
24 amended complaint that: (a) adds SOR Schools VI, LLC as a named defendant; and that (b)
25 alleges PAGA and class action claims based on the same wage and hour theories contained in
26 Plaintiff's Complaint, against School of Rock, LLC and SOR Schools VI, LLC, and that the
27 class definition in the amended complaint will include all non-exempt hourly employees
28

1 employed by School of Rock, LLC and SOR Schools VI, LLC in the State of California from
2 April 1, 2018 through the date of preliminary approval of this settlement.

3 39. This Agreement is contingent upon preliminary and final approval by the Court,
4 and certification of the Settlement Class is only for purposes of Settlement. If, for any reason,
5 the Settlement does not become final, any certification of any Settlement Class will be vacated and
6 the Parties will be returned to their positions with respect to the Action as if the Agreement had
7 not been entered into. Should the Settlement not become final, for whatever reason, the fact that
8 the Parties were willing to stipulate provisionally to class certification as part of the Settlement
9 shall have no bearing on, and shall not be admissible in connection with, the issue of whether a
10 class should be certified in a non-settlement context. Defendant expressly reserves the right to
11 oppose class certification and/or proactively move to deny certification should this Settlement be
12 reversed on appeal or otherwise not become final. Defendant does not consent to certification of
13 the Settlement Class or any class for any purpose other than to effectuate the Settlement of this
14 Action.

15 **TERMS OF AGREEMENT**

16 40. NOW, THEREFORE, in consideration of the mutual covenants, promises and
17 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

18 41. Funding of the Settlement Amount. Within five (5) business days after the
19 Effective Date, the Settlement Administrator will provide the Parties with an accounting of the
20 amounts to be paid by Defendant pursuant to the terms of the Settlement. Within ten (10)
21 business days of the Effective Date, Defendant will make a one-time deposit of Two Hundred and
22 Forty Thousand Dollars (\$240,000.00), plus applicable payroll taxes, for payment of all Court-
23 approved and claimed amounts from the Maximum Settlement Amount into a Qualified
24 Settlement Account to be established by the Settlement Administrator. Within five (5) business
25 days of the funding of Maximum Settlement Amount, the Settlement Administrator will issue
26 payments to (a) Participating Class Members; (b) the Labor and Workforce Development
27 Agency ("LWDA"); (c) Plaintiff; and (d) Class Counsel. The Settlement Administrator will also
28 issue a payment to itself for Court-approved services performed in connection with the

1 settlement.

2 42. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any
3 application or motion by Class Counsel for Attorneys' Fees up to 33 and 1/3% of the Maximum
4 Settlement Amount, or Eighty Thousand Dollars (\$80,000) and reasonable Costs and expenses
5 not to exceed Ten Thousand Dollars (\$10,000.00), subject to Court approval. The Attorneys'
6 Fees and Costs Award shall represent payment for all claims for Class Counsel's attorneys' fees
7 and costs, past and future, incurred in the Action. The Attorneys' Fees and Costs Award shall be
8 paid from the Maximum Settlement Amount, and Defendant shall not otherwise be required to pay
9 for any portion of Plaintiff's or the Class Members' attorneys' fees, costs, or expenses. The
10 Attorneys' Fees and Costs Award shall be paid to Class Counsel following the Effective Date.
11 Any amounts of attorneys' fees and costs applied for but not awarded by the Court to Class
12 Counsel shall revert back into the Net Settlement Amount. An award by the Court of attorneys'
13 fees or costs that is less than the amounts applied for will not be grounds for Plaintiff or Class
14 Counsel to challenge or withdraw from the Settlement.

15 43. Class Representative Enhancement Payment. In exchange for a general release of
16 all claims, and in recognition of his effort and work in prosecuting the Action on behalf of Class
17 Members and negotiating the Settlement, Defendant agrees not to oppose or impede any
18 application or motion by Plaintiff for a Class Representative Enhancement Payment up to Five
19 Thousand Dollars (\$5,000), subject to Court approval. The Class Representative Enhancement
20 Payment will be in addition to Plaintiff's Individual Settlement Payment as a Participating Class
21 Member paid pursuant to the Settlement.

22 a. **Class Members' General Release.** The Settlement Class hereby fully
23 and finally releases and discharges the Released Parties from any and all
24 of the Released Claims that were or could be asserted in the lawsuit based
25 upon the facts alleged in the complaint (collectively with Released Claims,
26 "Plaintiff's Released Claims"), arising or accruing through the Released
27 Claims Period. The Settlement Class's Released Claims include, but are
28 not limited to, claims arising from or dependent on the California Labor

Code; the Wage Orders of the California Industrial Welfare Commission;
California Business and Professions Code § 17200 et seq

- b. The Settlement Administrator will issue an IRS Form 1099 for the Class Representative Enhancement Payment to the Plaintiff, and Plaintiff shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. The Plaintiff agrees to indemnify and hold Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payment. No benefit, including but not limited to 401K benefits, shall increase or accrue as a result of any payment as a result of this Settlement. Any portion of the Class Representative Enhancement Payment applied for but not awarded by the Court to Plaintiff shall be added to the Net Settlement Amount for the benefit of Participating Class Members. An award by the Court of a Class Representative Enhancement Payment that is less than the amount applied for will not be grounds for Plaintiff or Class Counsel to challenge or withdraw from the Settlement.

44. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Maximum Settlement Amount, which is currently estimated to be \$2,464.00. These costs, which will be paid from the Maximum Settlement Amount, will include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing the Notice Packet, calculating and distributing the Maximum Settlement Amount and Attorneys' Fees and Costs, and providing necessary reports and declarations.

45. Labor and Workforce Development Agency Payment. Subject to Court approval, the Parties agree that the amount of Twenty Four Thousand Dollars (\$24,000.00) from the Maximum Settlement Amount will be designated for satisfaction of Plaintiff's and Class Members' PAGA claims. Pursuant to PAGA, 75%, *i.e.*, Eighteen Thousand Dollars

1 (\$18,000.00) of this sum will be paid to the LWDA and 25%, *i.e.*, Six Thousand Dollars
2 (\$6,000.00), will be distributed to Participating Class Members as part of the Net Settlement
3 Amount. For purposes of this Settlement Agreement only, and not as an admission of liability
4 otherwise, the Parties stipulate that all Participating Class Members are “aggrieved employees”
5 for purposes of distributing the \$6,000.00.

6 46. Net Settlement Amount. The Net Settlement Amount will be used to satisfy
7 Individual Settlement Payments to Participating Class Members from the Settlement Class in
8 accordance with the terms of this Agreement.

9 47. Escalator Clause. If it is later determined that the number of workweeks is more
10 than 10% greater than the 6,942 estimated by Defendant at the time of the Parties’ exchange of
11 information for purposes of mediation, then Defendant shall, in its sole discretion, have the option
12 to either: (1) de-escalate the Settlement so that the Class Period ends on the date that the
13 workweek count totals 6,942; or (2) permit the Class Period to be increased proportionally by the
14 workweeks worked in excess of 7636 multiplied by the workweek value.

15 48. Non-reversionary Settlement. No portion of the Maximum Settlement Amount
16 will revert to Defendant.

17 49. Individual Settlement Payment Calculations. Individual Settlement Payments
18 will be calculated and apportioned from the Net Settlement Amount based on the number of
19 Work Weeks a Participating Class Member worked during the Class Period. Specific
20 calculations of Individual Settlement Payments will be made as follows:

21 a. The Settlement Administrator will calculate the number of Work Weeks
22 worked by each Participating Class Member (“Individual Work Weeks”) during the Class
23 Period, the amount to be paid per Work Week, and the individual settlement awards to eligible
24 Participating Class Members.

25 b. Defendant’s employee data will be presumed to be correct, unless a
26 particular Class Member proves otherwise to the Settlement Administrator by credible evidence.
27 All Work Week disputes will be resolved and decided by the Settlement Administrator. If the
28

1 dispute cannot be settled by the parties and the Administrator, the Court will have the power to
2 render a decision on all Work Week disputes which will be final and non-appealable.

3 c. The individual settlement awards will be determined by dividing the Net
4 Settlement Amount by the total number of Work Weeks for all Participating Class Members,
5 resulting in the Work Week Value, and then multiplying the Work Week Value by the number
6 of Work Weeks worked by each Participating Class Member.

7 50. Settlement Awards Do Not Trigger Additional Benefits. Defendant shall fully
8 discharge its obligations to Plaintiff and the Participating Class Members through the remittance
9 of the Maximum Settlement Amount to the Settlement Administrator, regardless of whether the
10 checks representing individual settlement awards are actually received and/or negotiated by
11 Participating Class Members. Once Defendant has remitted the Maximum Settlement Amount
12 in accordance with this Settlement Agreement, it will be deemed to have satisfied all terms and
13 conditions under this Agreement, shall be entitled to all protections afforded to it under this
14 Settlement Agreement, and shall have no further obligations under the terms of the Agreement,
15 regardless of what occurs with respect to the further administration of the Settlement. It is
16 expressly understood and agreed that the receipt of such individual settlement awards will not
17 entitle any Participating Class Member to additional compensation or benefits under any
18 company bonus, contest or other compensation or benefit plan or agreement in place during the
19 period covered by the Settlement, nor will it entitle any Participating Class Member to any
20 increased retirement, 401K benefits or matching benefits, or deferred compensation benefits. It
21 is the intent of this Settlement that the individual settlement awards provided for in this
22 Settlement are the sole payments to be made by Defendant to the Participating Class Members,
23 and that the Participating Class Members are not entitled to any new or additional compensation
24 or benefits as a result of having received the individual settlement awards (notwithstanding any
25 contrary language or agreement in any benefit or compensation plan document that might have
26 been in effect during the period covered by this Settlement).

27 51. Settlement Administration Process. The Parties agree to cooperate in the
28 administration of the settlement and to make all reasonable efforts to control and minimize the

1 costs and expenses incurred in administration of the Settlement. Without prejudice to any other
2 remedies, the Settlement Administrator shall hold Defendant harmless from and against all
3 liabilities, claims, causes of action, costs, and expenses (including legal fees and expenses)
4 arising out of any failure to timely or properly compensate Participating Class Members as
5 provided for in this Agreement. No person shall have any claim against any of the Released
6 Parties, Counsel for Defendant, Plaintiff, the Class Members, Class Counsel, or the Settlement
7 Administrator based on mailings, distributions, and payments made in accordance with or
8 pursuant to this Agreement.

9 52. Delivery of the Class List. Within ten (10) calendar days of Preliminary
10 Approval, Defendant will provide the Class List to the Settlement Administrator. The
11 information Defendant provides to the Settlement Administrator shall be used solely to
12 administer the terms of the Agreement as described herein, shall remain confidential, and shall
13 not be disclosed to anyone, except pursuant to the express written authorization of Defendant or
14 the individual in question, by order of the Court, or to the extent necessary to fulfill the
15 Settlement Administrator's reporting obligations hereunder.

16 53. Notice by First-Class U.S. Mail. Within ten (10) calendar days of receiving the
17 Class List, the Settlement Administrator will perform an NCOA check and shall mail a Notice
18 Packet in Spanish and English to all Class Members via regular First-Class U.S. Mail, using the
19 most current, known mailing addresses identified in the Class List. There will not be a claim
20 process requirement and, as such, Class Members will not receive nor will they be required to
21 submit a claim form to receive their individual settlements.

22 54. Confirmation of Contact Information in the Class List. Prior to mailing, the
23 Settlement Administrator will perform a search based on the National Change of Address
24 Database or any other similar services available, such as provided by Experian, for information
25 to update and correct for any known or identifiable address changes.

26 55. Time for Objections. The Class Members will then have forty-five (45) days in
27 which they must postmark and send written notice to the Settlement Administrator of their
28 decision to object in writing to the Settlement.

1 56. Notice Packets. All Class Members will be mailed a Notice Packet in English
2 and Spanish, which shall be translated into Spanish by the Settlement Administrator. Each
3 Notice Packet will provide: (a) information regarding the nature of the Action; (b) a summary of
4 the Settlement's principal terms; (c) the Settlement Class definition; (d) the total number of
5 Work Weeks each respective Class Member worked for Defendant during the Class Period; (e)
6 each Class Member's estimated Individual Settlement Payment and the formula for calculating
7 Individual Settlement Payments; (f) the dates which comprise the Class Period; (g) information
8 regarding disputing Work Weeks, Requests for Exclusion, or Notice of Objections; (h) the
9 deadlines by which the Class Member must fax or postmark dispute of Work Weeks, Requests
10 for Exclusions, or Notice of Objections to the Settlement; (i) the claims to be released, as set
11 forth herein; and (j) the date for the Final Approval Hearing. For every Class Member where the
12 Notice Packet is returned after mailing with a forwarding address, the Settlement Administrator
13 shall re-mail the Notice Packet to the forwarding address. For every Class Members where the
14 Notice Packet is returned after mailing without a forwarding address, the Settlement
15 Administrator shall perform one "skip trace" search in a consumer information database
16 comparable to Accurant in an effort to locate a current address. It shall be presumed that each
17 Class Member whose Notice Packet is not returned to the Settlement Administrator as
18 undeliverable within the 45-day notice period has actually received the Notice Packet. The
19 Response Deadline for any Settlement Class Member who is re-mailed a Notice Packet shall be
20 extended fifteen (15) calendar days from the date of the re-mailing or the original forty-five (45)
21 calendar day deadline, whichever is later. If the Response Deadline for any Class Member is later
22 than the original 45-day notice period, the Settlement Administrator shall include a letter with the
23 Notice Packet advising the Class Member of the adjustment to the Response Deadline.

24 57. Disputed Information on Notice Packets. Class Members will have an
25 opportunity to dispute the information provided in their Notice Packets. To the extent Class
26 Members dispute the number of Work Weeks to which they have been credited or the amount of
27 their Individual Settlement Payment, Class Members may produce evidence to the Settlement
28 Administrator showing that such information is inaccurate. Absent evidence rebutting

1 Defendant's records, Defendant's records will be presumed determinative. However, if a Class
2 Member produces evidence to the contrary, the Parties will evaluate the evidence submitted by
3 the Class Member and the Settlement Administrator will make the final decision as to the
4 number of eligible Work Weeks that should be applied and/or the Individual Settlement
5 Payment to which the Class Member may be entitled. Class Members shall have until the
6 Response Deadline to provide evidence to the Settlement Administrator demonstrating that the
7 number of Work Weeks to which they have been credited is incorrect.

8 58. Settlement Checks. The expiration date on the settlement checks will be one
9 hundred and eighty (180) calendar days from the date the settlement checks are issued. If a
10 Participating Class Member or PAGA Member does not cash his or her check within 180 days, the
11 check will be cancelled. Pursuant to California Code of Civil Procedure Section 384, all funds
12 associated with such cancelled checks will be transmitted to Legal Aid for Work. The Parties
13 each represent that they do not have any significant affiliation or involvement with the proposed
14 cy pres recipient. The Settlement Administrator may, as necessary, undertake amended and/or
15 supplemental tax filings and reporting, required under applicable local, state, and federal tax laws,
16 that are necessitated due to the cancellation of any Individual Settlement Payment checks. To the
17 extent that the Settlement Administrator is able to obtain or receive the return or refund of the
18 amounts that were transmitted to taxing authorities for the employer's and employees' share of
19 taxes, contributions, and/or withholding associated with cancelled Individual Settlement
20 Payments, all such amounts shall also be transmitted to Legal Aid for Work. Settlement Class
21 Members whose Individual Settlement Payment checks are cancelled shall, nevertheless, be bound
22 by this Settlement Agreement.

23 59. Request for Exclusion Procedures. Any Class Member wishing to be excluded
24 from the Settlement Agreement must sign and postmark or fax a written Request for Exclusion
25 to the Settlement Administrator within the Response Deadline. The date of fax or the postmark
26 on the return mailing envelope will be the exclusive means to determine whether a Request for
27 Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the
28 Settlement Administrator, who will certify jointly to Class Counsel and Defendant's Counsel the

1 Requests for Exclusion that were timely submitted. Any Class Member who submits a Request
2 for Exclusion is prohibited from making any objection to the Settlement Agreement.

3 60. Settlement Terms Bind All Class Members Who Do Not Request Exclusion. Any
4 Class Member who does not affirmatively Request Exclusion of the Settlement Agreement by
5 submitting a timely and valid Request for Exclusion will be bound by all of its terms, including
6 those pertaining to the Released Claims, as well as any Judgment that may be entered by the
7 Court if it grants final approval to the Settlement. The entry of a final order approving
8 settlement of this Action and Judgment which discharges Defendant and Released Parties from
9 liability for any and all of the Released Claims shall have a *res judicata* effect and bar Plaintiff
10 and Class Members who did not submit a timely and valid Request for Exclusion from bringing
11 any actions or claims asserting the Released Claims.

12 61. Individuals who fall within the definition of the Class may choose to opt-out of
13 the Class under such procedures specified in Section III, Paragraph 11(c)(iv) of this Agreement.
14 Any such persons who opt-out of the Class (“Opt-Outs”) will not receive an Individual Class
15 Payment. However, Aggrieved Employees may not opt-out of the portion of the Settlement
16 relating to the settlement of claims under PAGA. Even if a Class Member opts-out, they will
17 still receive an Individual PAGA Payment. Aggrieved Employees will be bound by the PAGA
18 portion of the release whether or not they cash this check before it becomes void. Class
19 Members who opt-out will only be bound by the release of the PAGA claims.

20 62. Written Objection Procedures. To object to the Settlement Agreement in writing,
21 a Class Member must postmark a valid Notice of Objection to the Settlement Administrator on
22 or before the Response Deadline. The Notice of Objection must be signed by the Class Member
23 and contain all information required by this Settlement Agreement. The postmark date will be
24 deemed the exclusive means for determining that the Notice of Objection is timely. Absent
25 good cause found by the Court, Class Members who fail to object in writing will be deemed to
26 have waived all written objections to the Settlement, and will be foreclosed from making written
27 objections and seeking any adjudication or review of such written objections, whether by appeal
28 or otherwise, to the Settlement Agreement. Aside from these procedures governing written

1 objections, the Court will otherwise control the acceptance of any objections prior to, or made at
2 the final approval hearing. Moreover, Class Members are not required to make written
3 objections, and can also make any other objections directly to the Court, at the Final Approval
4 Hearing. At no time will any of the Parties or their counsel seek to solicit or otherwise
5 encourage Class Members to submit written objections to the Settlement Agreement or appeal
6 from the Order and Judgment. Class Counsel will not represent any Class Members with respect
7 to any such objections to this Settlement.

8 63. Certification Reports Regarding Individual Settlement Payment Calculations. The
9 Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report
10 which certifies: (a) the number of Participating Class Members from the Settlement Class who
11 have submitted a dispute of Work Weeks; (b) the number of Class Members who have submitted
12 valid Requests for Exclusion or Notice of Objections; and (c) whether any Class Member has
13 submitted a challenge to any information contained in their Notice Packet. Additionally, the
14 Settlement Administrator will provide to counsel for both Parties any updated reports regarding
15 the administration of the Settlement Agreement as needed or requested.

16 64. Payroll Taxes. In accordance with this Settlement, the transfer of the Gross
17 Settlement approved by the Court shall, to the fullest extent possible, resolve, satisfy and
18 completely extinguish all of Defendant's liability with respect to the Settlement Class except
19 that Defendant shall solely be responsible for the employer portion of the payroll taxes. Upon
20 the transfer of funds to the Settlement Administrator, Defendant shall have no further payment
21 or defense obligation whatsoever with respect to any claims covered by this Settlement made or
22 asserted by any person or entity anywhere in the world in connection with the Settlement Class.

23 65. Certification of Completion. Upon completion of administration of the
24 Settlement, the Settlement Administrator will provide a written declaration under oath to certify
25 such completion to the Court and counsel for all Parties. Plaintiff and Class Counsel will file a
26 Satisfaction of Judgment within ten (10) calendar days of the submission of said declaration.

27 66. Treatment of Individual Settlement Payments. All Individual Settlement
28 Payments will be allocated as follows: 33.33% of each Individual Settlement Payment will be

1 allocated as alleged unpaid wages, and 66.67% will be allocated as alleged unpaid interest and
2 penalties. The portion allocated to wages will be reported on an IRS Form W-2 and the portions
3 allocated to interest and penalties will be reported on an IRS Form-1099 by the Settlement
4 Administrator.

5 67. Administration of Taxes by the Settlement Administrator. The Settlement
6 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and
7 Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid
8 pursuant to this Agreement. The Settlement Administrator will also be responsible for
9 forwarding all payroll taxes and penalties to the appropriate government authorities.

10 68. Tax Liability. Defendant makes no representation as to the tax treatment or legal
11 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are
12 not relying on any statement, representation, or calculation by Defendant or by the
13 Administrator in this regard. Plaintiff and Participating Class Members understand and agree
14 that except for Defendant's payment of the employer's portion of any payroll taxes, they will be
15 solely responsible for the payment of any taxes and penalties assessed on the payments
16 described herein.

17 69. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
18 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
19 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
20 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
21 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
22 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
23 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
24 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
25 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
26 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
27 EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
28 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS

1 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
2 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
3 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
4 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
5 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
6 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
7 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
8 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
9 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
10 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
11 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
12 AGREEMENT.

13 70. No Prior Assignments. The Parties and their counsel represent, covenant, and
14 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
15 to assign, transfer, or encumber to any person or entity any portion of any liability, claim,
16 demand, action, cause of action or right herein released and discharged.

17 71. Release of Claims by Class Members. Upon the date upon which Defendant
18 transfers the Maximum Settlement Amount to the Settlement Administrator, Plaintiff and all
19 Class Members who do not Request Exclusion will be deemed to have fully, finally and forever
20 released, settled, compromised, relinquished, and discharged with respect to all of the Released
21 Parties for any and all Released Claims that accrued during the Released Claims Period. The
22 release of Released Claims will have a *res judicata* effect against any Class Members who make
23 a claim against any of the Released Parties for any of the Released claims, file any actions,
24 claims, complaints or proceedings regarding the Released Claims with the California Division of
25 Labor Standards Enforcement, initiate any other proceedings against any of the Released Parties
26 regarding any of the Released Claims, or seek to participate in any judgment or settlement of
27 claims that are the subject of the Released Claims in any other class, collective, or representative
28 action against any of the Released Parties.

1 72. Inability to Object / Opt Out of PAGA. The Parties agree that there is no statutory
2 right for any Class Member to object to, opt out of, or otherwise exclude himself or herself from
3 the settlement of the PAGA claims. Accordingly, any timely objection or exclusion from the
4 Settlement submitted by a Class Member shall be construed as relating only to the putative class
5 action claims and shall have no effect whatsoever on the settlement of the PAGA claims.

6 73. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit
7 this Settlement Agreement to the Court in support of Plaintiff's Motion for Preliminary
8 Approval and determination by the Court as to its fairness, adequacy, and reasonableness.
9 Promptly upon execution of this Settlement Agreement, the Parties shall apply to the Court for
10 the entry of an order:

11 a. Scheduling a fairness hearing on the question of whether the proposed
12 settlement, including payment of attorneys' fees and costs, and the Class Representative's
13 enhancement payment, should be finally approved as fair, reasonable and adequate as to the
14 members of the Settlement Class;

15 b. Conditionally certifying the Settlement Class for settlement purposes only;

16 c. Approving, as to form and content, the proposed Notice of Pendency of
17 Class Action and Proposed Settlement;

18 d. Approving as to form and content the proposed Notice Packet;

19 e. Approving the manner and method for Class Members to request
20 exclusion from the Settlement as contained herein and within the Notice of Pendency of Class
21 Action and Proposed Settlement;

22 f. Directing the mailing of the Notice of Pendency of Class Action and
23 Proposed Settlement and Class Action Settlement, by first class mail to the Class Members; and

24 g. Preliminarily approving the Settlement subject only to the objections of
25 Class Members and final review by the Court.

26 74. Duties of the Parties Following Final Court Approval. Following final approval
27 by the Court of the Settlement provided for in this Settlement Agreement, Class Counsel will
28 submit a proposed final order of approval and judgment:

- 1 a. Approving the Settlement, adjudging the terms thereof to be fair,
2 reasonable and adequate, and directing consummation of its terms and provisions;
3 b. Approving Class Counsel's application for an award of attorneys' fees and
4 costs;
5 c. Approving the Class Representative Enhancement Payment to the Class
6 Representative;
7 d. Setting a date when the Parties shall report to the court the total amount
8 that was actually paid to the Class Members; and
9 e. Entering judgment in this Action encompassing Defendant and all
10 members of the Settlement Class, with a reservation of continuing jurisdiction by the Court over
11 the Settlement Agreement and its implementation.
12 f. Posting the judgment on the Settlement Administrator's website for at
13 least 90 days after entry by the Court.

14 75. Nullification of Settlement Agreement. In the event that the Settlement is barred
15 by operation of law, or invalidated, or ordered not to be carried out by a court of competent
16 jurisdiction, this Settlement Agreement, and any documents generated to bring it into effect, will
17 be null and void. Any order of judgment entered by the Court in furtherance of this Settlement
18 Agreement will likewise be treated as void from the beginning, and all Parties to this Agreement
19 shall stand in the same position, without prejudice, as if the Agreement had been neither entered
20 into nor filed with the Court. Defendant will cease to have any obligation to pay any portion of
21 the Maximum Settlement Amount to the Qualified Settlement Account, or any other party under
22 the terms of this Agreement and all previous disbursements made from Defendant to the
23 Qualified Settlement Account will immediately revert back to Defendant. Any Settlement
24 Administration Costs incurred will be split equally between the Parties.

25 76. Rescission of Settlement Agreement (by Defendant). If more than ten percent
26 (10%) of the Class Members opt out of the Settlement, Defendant may, at its election, rescind the
27 Settlement and all actions taken in furtherance of it will thereby be null and void. Defendant must
28 exercise this right of rescission, in writing, to Class Counsel and with a copy to the Settlement

1 Administrator within ten (10) business days after the Settlement Administrator notifies the Parties
2 of a greater than ten percent (10%) opt-out rate. If the option to rescind is exercised, then
3 Defendant shall be solely responsible for all costs of the claims administration accrued to that
4 point, not to exceed the amount approved by the Court in the Preliminary Approval Order. If
5 Defendant exercises this option, the Parties shall return to their respective positions that existed
6 before the execution of this Agreement, and no term of this Agreement or any draft thereof, or the
7 negotiation, documentation, or other part or aspect of the Parties' settlement discussions, shall
8 have any effect or be admissible as evidence for any purpose in the Action, or in any other
9 proceeding.

10 77. Termination of Settlement. Either Party may terminate this Settlement if the
11 Court declines to enter the Preliminary Approval Order, the Final Approval Order or final
12 judgment in substantially the form submitted by the Parties, or the Settlement Agreement as
13 agreed does not become final because of appellate court action. The terminating Party shall give
14 to the other Party (through its counsel) written notice of its decision to terminate no later than
15 ten (10) calendar days after receiving notice that one of the enumerated events has occurred.
16 Termination shall have the following effects:

- 17 a. The Settlement Agreement shall be terminated and shall have no force or
18 effect, and no Party shall be bound by any of its terms;
- 19 b. In the event the Settlement is terminated, Defendant shall have no
20 obligation to make any payments to any party, Class Member or attorney,
21 except that the terminating Party shall pay the Settlement Administrator for
22 services rendered up to the date the Settlement Administrator is notified that
23 the settlement has been terminated;
- 24 c. The Preliminary Approval Order, Final Approval Order and Judgment,
25 including any order of class certification, shall be vacated;
- 26 d. The Settlement Agreement and all negotiations, statements and proceedings
27 relating thereto shall be without prejudice to the rights of any of the Parties,
28

1 all of whom shall be restored to their respective positions in the Action prior
2 to the settlement;

3 e. Neither this Stipulated Settlement, nor any ancillary documents, actions,
4 statements or filings in furtherance of settlement (including all matters
5 associated with the mediation) shall be admissible or offered into evidence
6 in the Action or any other action for any purpose whatsoever.

7 78. Public Statements. Plaintiff and Class Counsel shall not hold any press
8 conferences or issue any press releases with respect to this Settlement at any time. Until the
9 Parties submit a request for preliminary approval from the Court, Plaintiff and Class Counsel
10 will keep the terms of this Agreement confidential. Prior to final approval of this Settlement,
11 Plaintiff and Class Counsel will not discuss this Action or the Settlement or otherwise disclose
12 the terms of this Agreement with third parties other than Class Members and the Settlement
13 Administrator, except (1) as required by the PAGA statute, (2) as necessary to effectuate this
14 Agreement, and (3) to the Parties' tax advisors. After final approval of this Settlement, Plaintiff,
15 Defendant, and their respective counsel shall not issue any public statements with respect to the
16 Action or Settlement, except as required by law. The Parties and their counsel shall not engage
17 in any publicity, including website or social media postings, of any type related to the Action,
18 Settlement, or litigation against Defendant. Notwithstanding the specific limitations to public
19 disclosure identified herein, Class Counsel shall not be precluded from disclosing the Parties to
20 the lawsuit and the fact that the matter settled to a Court or other tribunal. Furthermore, nothing
21 herein limits Plaintiff's or any Class Member's ability to communicate with any government
22 agency or otherwise cooperate in any investigation or proceeding that may be conducted by any
23 government agency.

24 79. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by
25 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
26 Judgment to the Court for its approval, pursuant to Rule 3.770 of the California Rules of Court.
27 After entry of the Judgment, the Court will have continuing jurisdiction under California Code
28 of Civil Procedure section 664.6.

1 80. Exhibits Incorporated by Reference. The terms of this Agreement include the
2 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully
3 set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

4 81. Entire Agreement. This Settlement Agreement and any attached Exhibits
5 constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous
6 written or oral agreements may be deemed binding on the Parties. The Parties expressly
7 recognize California Civil Code section 1625 and California Code of Civil Procedure section
8 1856(a), which provide that a written agreement is to be construed according to its terms and
9 may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such
10 extrinsic oral or written representations or terms will modify, vary or contradict the terms of this
11 Agreement.

12 82. Amendment or Modification. This Settlement Agreement may be amended or
13 modified only by a written instrument signed by the named Parties and counsel for all Parties or
14 their successors-in-interest.

15 83. Authorization to Enter Into Settlement Agreement. Counsel for all Parties
16 warrant and represent they are expressly authorized by the Parties whom they represent to
17 negotiate this Settlement Agreement and to take all appropriate action required or permitted to
18 be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to
19 execute any other documents required to effectuate the terms of this Settlement Agreement. The
20 Parties and their counsel will cooperate with each other and use their best efforts to effect the
21 implementation of the Settlement. If the Parties are unable to reach agreement on the form or
22 content of any document needed to implement the Settlement, or on any supplemental provisions
23 that may become necessary to effectuate the terms of this Settlement, the Parties may seek the
24 assistance of the Court to resolve such disagreement.

25 84. Signatories. It is agreed that because the members of the Class are so numerous,
26 it is impossible or impractical to have each member of the Class execute this Settlement
27 Agreement. The Notice of Pendency of Class Action and Proposed Settlement, attached hereto
28 as Exhibit "A," will advise all Class Members of the binding nature of the release, and the

1 release shall have the same force and effect as if this Settlement Agreement were executed by
2 each member of the Class.

3 85. Binding on Successors and Assigns. This Settlement Agreement will be binding
4 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
5 defined.

6 86. California Law Governs. All terms of this Settlement Agreement and Exhibits
7 hereto will be governed by and interpreted according to the laws of the State of California.

8 87. Execution and Counterparts. This Settlement Agreement is subject only to the
9 execution of all Parties. However, the Agreement may be executed in one or more counterparts.
10 All executed counterparts and each of them, including facsimile and scanned copies of the
11 signature page, will be deemed to be one and the same instrument provided that counsel for the
12 Parties will exchange among themselves original signed counterparts.

13 88. Acknowledgement that the Settlement is Fair and Reasonable. The Parties
14 believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action
15 and have arrived at this Settlement after arm's-length negotiations and in the context of
16 adversarial litigation, taking into account all relevant factors, present and potential. The Parties
17 further acknowledge that they are each represented by competent counsel and that they have had
18 an opportunity to consult with their counsel regarding the fairness and reasonableness of this
19 Agreement. In addition, the Mediator may execute a declaration supporting the Settlement and
20 the reasonableness of the Settlement and the Court may, in its discretion, contact the Mediator to
21 discuss the Settlement and whether or not the Settlement is objectively fair and reasonable.

22 89. Invalidity of Any Provision. Before declaring any provision of this Settlement
23 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest
24 extent possible consistent with applicable precedents so as to define all provisions of this
25 Settlement Agreement valid and enforceable.

26 90. Plaintiff's Waiver of Right to Be Excluded and Object. Plaintiff agrees to sign
27 this Settlement Agreement and, by signing this Settlement Agreement, is hereby bound by the
28 terms herein.

1 91. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
2 class certification for purposes of this Settlement only; and either party may appeal any court
3 order that materially alters the Settlement Agreement's terms.

4 92. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
5 dispute that has arisen between them and to avoid the burden, expense and risk of continued
6 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, it
7 has violated any state, federal, or local law; violated any regulations or guidelines promulgated
8 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
9 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
10 engaged in any other unlawful conduct with respect to its employees. Neither this Agreement,
11 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be
12 construed as an admission or concession by Defendant of any such violations or failures to
13 comply with any applicable law. Except as necessary in a proceeding to enforce the terms of
14 this Agreement, this Agreement and its terms and provisions shall not be offered or received as
15 evidence in any action or proceeding to establish any liability or admission on the part of
16 Defendant or to establish the existence of any condition constituting a violation of, or a non-
17 compliance with state, federal, local or other applicable law.

18 93. Captions. The captions and section numbers in this Agreement are inserted for
19 the reader's convenience, and in no way define, limit, construe or describe the scope or intent of
20 the provisions of this Agreement.

21 94. Waiver. No waiver of any condition or covenant contained in this Agreement or
22 failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
23 constitute a further waiver by such party of the same or any other condition, covenant, right or
24 remedy.

25 95. Enforcement Actions. In the event that one or more of the Parties institutes any
26 legal action or other proceeding against any other Party or Parties to enforce the provisions of
27 this Settlement or to declare rights and/or obligations under this Settlement, the successful Party
28 or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys'

1 fees and costs, including expert witness fees incurred in connection with any enforcement
2 actions.

3 96. Mutual Preparation. The Parties have had a full opportunity to negotiate the
4 terms and conditions of this Agreement. Accordingly, this Agreement will not be construed
5 more strictly against one party than another merely by virtue of the fact that it may have been
6 prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length
7 negotiations between the Parties, all Parties have contributed equally to the preparation of this
8 Agreement.

9 97. Representation By Counsel. The Parties acknowledge that they have been
10 represented by counsel throughout all negotiations that preceded the execution of this
11 Agreement, and that this Agreement has been executed with the consent and advice of counsel,
12 and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there are no
13 liens on the Settlement Agreement.

14 98. All Terms Subject to Final Court Approval. All amounts and procedures
15 described in this Settlement Agreement herein will be subject to final Court approval.

16 99. Cooperation and Execution of Necessary Documents. All Parties will cooperate
17 in good faith and execute all documents to the extent reasonably necessary to effectuate the
18 terms of this Settlement Agreement.

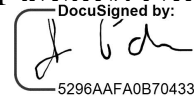
19 100. Integration Clause. This Settlement Agreement contains the entire agreement
20 between the Parties relating to the settlement and transaction contemplated hereby, and all prior
21 or contemporaneous agreements, understandings, representations, and statements, whether oral
22 or written and whether by a party or such party's legal counsel, are merged herein. No rights
23 hereunder may be waived except in writing.

24 101. Binding Agreement. The Parties warrant that they understand and have full
25 authority to enter into this Agreement, and further intend that this Agreement will be fully
26 enforceable and binding on all parties, and agree that it will be admissible and subject to
27 disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality
28 provisions that otherwise might apply under state or federal law.

1
2 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this
3 Joint Stipulation of Class Settlement and Release between Plaintiff and Defendant as of the
4 date(s) set forth below:
5

6 **SIGNATURES - READ CAREFULLY BEFORE SIGNING**

7
8 **PLAINTIFF JAMES PACKES**

DocuSigned by:

5296AAFA0B70433...

9 Dated: June 7, 2022
10 _____

Plaintiff JAMES PACKES, in a Representative
capacity only, and on behalf of other members of
the general public similarly situated

12 **DEFENDANT**
13 **SCHOOL OF ROCK, LLC**

14
15 Dated: _____

Chief Financial Officer

1 **APPROVED AS TO FORM**

2 6/7/2022

3 Dated: _____

SULLIVAN & YAECKEL LAW GROUP, APC

Eric Yaeckel

5 BY: _____

Eric K. Yaeckel, Esq.

Attorneys for Plaintiff

JAMES PACKES, in a Representative
capacity only, and on behalf of other members
of the general public similarly situated

9 Dated: _____

**LEWIS BRISBOIS BISGAARD & SMITH
LLP**

12 BY: _____

Timothy M. Keegan, Esq.

Attorneys for Defendant,

SCHOOL OF ROCK, LLC

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IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Settlement and Release between Plaintiff and Defendant as of the date(s) set forth below:

SIGNATURES - READ CAREFULLY BEFORE SIGNING

PLAINTIFF JAMES PACKES

Dated: _____

Plaintiff JAMES PACKES, in a Representative capacity only, and on behalf of other members of the general public similarly situated

**DEFENDANT
SCHOOL OF ROCK, LLC**

Dated: 5/24/2022 _____

DocuSigned by:
John Cappadona
7295BF3F68EA449
Chief Financial Officer

1 **APPROVED AS TO FORM**

2

3 Dated: _____

4

SULLIVAN & YAECKEL LAW GROUP, APC

5

BY: _____

6

Eric K. Yaeckel, Esq.

7

Attorneys for Plaintiff

8

JAMES PACKES, in a Representative
capacity only, and on behalf of other members
of the general public similarly situated

9

10 Dated: 5/24/2022

**LEWIS BRISBOIS BISGAARD & SMITH
LLP**

11

DocuSigned by:

12

BY: _____

Tim Keegan

13

Timothy M. Keegan, Esq.

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Attorneys for Defendant,

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SCHOOL OF ROCK, LLC

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EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

NOTICE OF CLASS ACTION SETTLEMENT

PLEASE READ CAREFULLY AS
THIS NOTICE MAY AFFECT YOUR RIGHTS

JAMES PACKES, individually, in a Representative capacity, and on behalf of other members of the public similarly situated,

Plaintiff,

vs.

SCHOOL OF ROCK, LLC, a Delaware corporation,
SoR SCHOOLS VI, LLC, a Delaware corporation,
and Does 1-10, inclusive,

Defendants.

CASE NO.: 30-2021-01217507-CU-OE-CXC
JUDGE: Honorable Randall J. Sherman
DEPARTMENT: CX-105

NOTICE OF CLASS ACTION SETTLEMENT

I. WHY DID I GET THIS NOTICE?

This notice explains that a settlement has been reached in the case entitled *James Packes v. School of Rock, LLC, et al.*, Case No. 30-2021-01217507-CU-OE-CXC (the “Action”).

This notice is to inform you of the proposed Settlement of the Action. The notice is also intended (i) to describe the Settlement, including how the Settlement monies will be allocated and how the Settlement may affect you; and (ii) to advise you of your rights and options with respect to the Settlement.

You are receiving this notice by order of the Court because the records of School of Rock, LLC (“SoR”), indicate that you are a current or former SoR employee who worked in California during the time period of April 1, 2018 to [the date of preliminary approval of the settlement] (the “Class”). As a result, **you are eligible to receive a portion of the settlement amount.**

This is **not** a notice of a lawsuit against you. **You are not being sued.** Your participation in the Settlement will **not** affect your employment with SoR in any way whatsoever.

II. WHAT IS THE CLASS ACTION LAWSUIT ABOUT?

In August 2021, a SoR employee in California filed a lawsuit in which he alleged violations of California wage-and-hour laws on a representative basis as to all of SoR's current and former employees in California, seeking civil penalties under the Labor Code Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698, *et seq.* (“PAGA”) for the following alleged violations: (1) meal and rest period violations; (2) minimum wage violations; (3) overtime violations; (4) wage statement violations; (5) failure to reimburse; and (6) failure to pay wages upon separation. The individual who is suing Capella is referred to in this document as “Plaintiff.” Plaintiff’s attorneys, Sullivan & Yaeckel Law Group, APC, have been litigating the Action in State Court prior to this settlement.

As part of the settlement, SoR has also agreed to allow Plaintiff to add claims to the Action on behalf of a Class of California employees since April 1, 2018 for the alleged substantive legal violations stated above.

SoR claims that the members of the Class have been paid all monies that were due to them, maintains that it has complied with California's wage-and-hour laws, and denies all wrongdoing.

The Court has not ruled on whether Plaintiff's allegations have any merit. However, in order to avoid the time and expense of further litigation, the ultimate outcome of which is uncertain, and to provide a fair and reasonable resolution of this legal dispute, Plaintiff and SoR have negotiated a settlement whereby SoR has agreed to pay **\$240,000.00** to resolve the matter. As a Class Member, you are eligible to receive a portion of this amount.

This settlement is **not** an admission by SoR of any liability.

III. WHO IS INCLUDED IN THIS CLASS ACTION?

All persons who were employed by and worked for SoR in California at any time during the time period of April 1, 2018 to **[the date of preliminary approval of the settlement]** (the "Class Period").

IV. WHAT DOES THE PROPOSED SETTLEMENT OFFER?

Under the terms of the parties' proposed settlement, the following will occur if the settlement is given final approval by the Court:

A. SoR will pay **Two Hundred Forty Thousand Dollars** (\$240,000.00) to settle the claims of all Class Members.

B. A claims administrator has been appointed by the Court to administer the settlement. The claims administrator will pay from the \$240,000.00: (1) Plaintiff's counsel's attorneys' fees, up to one-third of the settlement value (or \$80,000.00); (2) Plaintiff's costs of litigation, up to the amount of \$10,000.00; (3) The expenses of administering the settlement, up to the amount of \$3,000.00; (4) An enhancement award of up to \$5,000.00 for Plaintiff's role in pursuing the litigation; and (5) A payment of \$18,000.00 to the California Labor & Workforce Development Agency, representing 75% of the \$24,000.00 allocated to the settlement of Plaintiff's claim for civil penalties under PAGA. The remainder of the \$240,000.00 will be paid to the Class Members in settlement of their individual claims (the "Class Payment"). Please Note: separate and aside from the \$240,000.00 total settlement that will be paid to settle the claims of all Class Members, an additional \$10,000.00 will also be paid by SoR to Plaintiff in exchange for a complete release of all of Plaintiff's individual claims.

C. The Class Payment will be divided among all Class Members based on the estimated number of weeks worked for SoR in California by each Class Member. That is, the Class Payment will be divided by the number of aggregate qualified weeks worked by all Class Members during the Class Period to produce a "Weekly Settlement Value." A "qualified week" is any week in which a Class Member was employed by and worked for SoR in California during the Class Period. If you do not opt out of the settlement, you will be eligible to receive a settlement payment in the amount of the total number of qualified weeks you worked for SoR during the Class Period multiplied by the Weekly Settlement Value, less applicable withholdings.

D. According to SoR's records, you worked for SoR in the State of California for approximately **[INSERT NUMBER OF WEEKS]** weeks during the Class Period, which runs from April 1, 2018 through **[the date of preliminary approval of the settlement]**.

Your portion of the Settlement Payment will be based on the above information. If you believe the information above is incorrect, you may dispute this information by sending your corrections and any supporting documentation to the Claims Administrator via U.S. Mail, at [REDACTED]. Please be advised that the information listed above is presumed to be correct unless you prove otherwise.

The estimated value of each workweek for purposes of calculating Settlement Payments to all Class Members is approximately: [REDACTED]. Your settlement amount will be calculated by multiplying this amount by your number of weeks you worked for SoR during the Class Period. Your estimated settlement amount is [REDACTED]. This is only an estimate. Your actual share may change depending on the Court's final ruling and the final number of participating Class Members.

E. If the Court grants final approval of the settlement agreement and you do not opt out of the settlement, then you will release SoR and their past, present, and future parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and each of their past, present, and future shareholders, owners, officers, directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, privies that from all claims that were or could have been asserted based on the factual allegations in the Operative Complaint or based on any facts discovered in the course of the Action, including (without limitation), claims for failure to pay minimum or overtime wages, failure to provide meal and rest periods or to pay meal and rest period premiums, failure to indemnify necessary business expenses, failure to pay all wages due to discharged or quitting employees, failure to reimburse necessary business expenses, failure to provide accurate itemized wage statements; claims under California Labor Code sections 201 to 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, and the Wage Orders promulgated thereunder, California Business and Professions Code section 17200, et seq., and the federal Fair Labor Standards Act ("FLSA," 29 U.S.C. § 201 et seq.); and claims for injunctive relief, punitive damages, penalties of any nature (including PAGA civil penalties and statutory penalties), interest, fees, and costs). for the time period from April 1, 2018 up to and including the last date of the Class Period. You will be barred from prosecuting any of the Released Class Claims against the Released Parties.

F. Please Note: Individuals who fall within the definition of the Class may choose to request exclusion or "opt-out" of the Class under such procedures specified herein. Any such persons who opt-out of the Class ("Opt-Outs") will not receive an Individual Class Payment. However, you may not opt-out of the portion of the Settlement relating to the settlement of claims under PAGA. Even if a Class Member opts-out, they will still receive an Individual PAGA Payment. You will be bound by the PAGA portion of the release whether or not you cash the check for your portion of the PAGA penalties before it becomes void. Class Members who opt-out will only be bound by the release of the PAGA claims and will retain all other rights in their individual capacity.

V. WHAT ARE MY OPTIONS?

A. *You may accept your share of the \$240,000.00 settlement and be bound by the release of all claims described above.* Settlement awards will be paid by check after the settlement is given final approval by the Court. The checks will be mailed to you by the claims administrator. Your check will remain valid and negotiable for one hundred eighty (180) days from the date on which it is issued. After those one hundred eighty (180) days expire, the check will become void; *or*

B. *You may exclude yourself from the settlement, in which case you will not receive your share of the settlement and you will not be bound by the settlement.* If you choose to be excluded, by no later than _____ (45 calendar days after mailing of this Notice), you must send a written request for exclusion, by mail, to the claims administrator, _____, located at _____. In order to be considered valid, your request for exclusion *must* include your name, your address, a request for exclusion, and your signature.

C. *You may object to the settlement.* The procedures for objecting to the settlement are described below in Section VIII of this form.

VI. WHAT ARE THE PROCEDURES FOR PAYMENT?

A. The claims administrator will calculate your share of the settlement and will issue you a check.

B. Thirty-three percent (33%) of your share of the settlement will be considered wages from which ordinary tax withholdings will be deducted. No tax deductions shall be made from the remaining sixty-seven percent (67%). You will be given IRS tax forms for each of these amounts. You are responsible for paying the correct amount of taxes on each portion of your share of the settlement.

C. It is important for the parties to have your current address in order to be able to send you other mailings regarding the Action. You should contact the claims administrator to report any change of your address after you receive this Notice. Failure to report a change of address may result in you not receiving your share of the settlement money.

VII. HEARING ON PROPOSED SETTLEMENT

A final fairness hearing will be held before the Court on [REDACTED], 2022, at [REDACTED] a.m., in Department CX-105 of the Orange County Superior Court, located at the Central Justice Center, 700 Civic Center Drive West, Santa Ana, California 92701, to decide whether or not the proposed settlement is fair, reasonable, and adequate. The Court may adjourn or continue the hearing without further notice to you. You are not required to attend the hearing. Sullivan Law Group, APC (contact information below), counsel for Plaintiff and the Class, will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. Procedures for making remote appearances at the hearing are allowed, but are subject to change. However, those procedures are posted on the Court's website at <https://www.occourts.org/media-relations/remotehearings.html>. You should check the Court website for up to date information before attempting to make a remote appearance.

VIII. PROCEDURES FOR OBJECTING TO SETTLEMENT

You have the option of objecting to the Settlement and telling the Court that you don't agree with the Settlement or some part of it. The Court will consider your views. To object, you may send a letter, which you must sign, saying that you object to the settlement of *James Packes v. School of Rock, LLC, et al.*, Case No. 30-2021-01217507-CU-OE-CXC. Be sure to include the case name and case number (as shown in the preceding sentence), your name, the last four digits of your Social Security Number and/or your SoR employee ID number, your address, the specific reasons you object to the terms of the Settlement, and your signature. Mail the objection to the Settlement Administrator address at [REDACTED] or fax to [REDACTED] on or before [REDACTED], 2022 (45 calendar days after mailing of this Notice). A written objection is optional. You may also appear the Final Approval Hearing, as described in Section VII, above, to have any objections heard by the Court.

IX. EXAMINATION OF COURT PAPERS AND QUESTIONS

This Notice summarizes the Settlement. For more detailed information, you may view a complete copy of the settlement agreement, and any papers filed in the Action, which are on file with the Clerk of the Court, case number 30-2021-01217507-CU-OE-CXC. The pleadings and all other records from this litigation may be examined by inspecting the Court file in the at the filing department of the Orange County Superior Court, located at Complex Justice Center, 751 West Santa Ana Blvd., Santa Ana, California 92701. You may also review the settlement agreement, along with other court records regarding this case, on the Court's website, <https://www.occourts.org>, through the link on the home page to "Online Case Access."

If you have any questions, you can call the Claims Administrator at [REDACTED] or any of Class Counsel (see below for phone numbers.)

ATTORNEYS REPRESENTING PLAINTIFF AND THE CLASS

SULLIVAN & YAECKEL LAW GROUP, APC

William B. Sullivan [helen@sullivanlawgroupapc.com]

Eric K. Yaeckel [yaeckel@sullivanlawgroupapc.com]

Ryan T. Kuhn [ryan@sullivanlawgroupapc.com]

2330 Third Avenue

San Diego, California 92101

(619) 702-6760 * (619) 702-6761 FAX

ATTORNEYS REPRESENTING SOR

Lewis Brisbois Bisgaard & Smith, LLP.

Katherine C. Den Bleykey

Timothy Keegan

633 West 5th St. Suit 4000

Los Angeles, California 90071

**PLEASE DO NOT CALL THE COURT, SCHOOL OF ROCK, SCHOOL OF
ROCK'S CORPORATE OFFICE AND MANAGERS, OR SCHOOL OF ROCK'S
ATTORNEYS REGARDING THIS SETTLEMENT.**

EXHIBIT B

REQUEST FOR EXCLUSION FROM CLASS ACTION SETTLEMENT

[CLAIMS ADMINISTRATOR CONTACT INFORMATION]

[COMPLETE THIS FORM ONLY IF YOU CHOOSE TO
NOT PARTICIPATE IN THIS SETTLEMENT]

In The Matter of
James Packes v. School of Rock, LLC
Orange County Superior Court, Case No. 30-2021-01217507-CU-OE-CXC

Please fill in the following information (type or print):

NAME (First, Middle, Last): _____
STREET ADDRESS: _____
CITY, STATE, ZIP CODE: _____
FORMER NAMES (if any): _____
SOCIAL SECURITY NUMBER: _____
TELEPHONE NUMBER: _____

INSTRUCTIONS

If you do not want to participate in this Class Action and the Settlement described in the accompanying *Notice of Class Action Settlement*, you may exclude yourself from the Settlement,. A request for exclusion is also referred to as an “opt-out.” If you opt out of this Class Action and the Settlement, (a) you will not receive any money to which you may otherwise have been entitled under the Settlement, (b) you will not be bound by the terms of the Settlement, and (c) you will have no right to object to the Settlement and be heard at the fairness hearing.

To opt out, you must sign and return this Request for Exclusion Form to the Claims Administrator at the address listed above. To be timely, your Request for Exclusion Form must be postmarked **no later than [45 days from date of mailing], 2022.** Do not use a postage meter because that may not result in a postmark appearing on the envelope containing your Request for Exclusion Form.

OPT OUT SIGNATURE

By signing this Request for Exclusion Form, I hereby opt out of this Class Action and the Settlement. By signing this Request for Exclusion Form, I understand that I will not receive any money to which I may otherwise have been entitled under the Settlement, and I will have no right to object to the Settlement and be heard at the fairness hearing.

I declare under penalty of perjury that the forgoing is true and correct.

Signed: _____ Date: _____

Print Name: _____

Questions? Call the Settlement Administrator Toll-Free: (800) _____