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Attorneys for Plaintiff Aurora Agum,
individually and on behalf of all others similarly situated.

[Additional counsel listed on following page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

AURORA AGUM, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

ABACUS BUSINESS CAPITAL, INC.; and
DOES 1 through 20, inclusive,

Defendants.

Case No. 21STCV17554

*Assigned For All Purposes To:
Yvette M. Palazuelos
Dept. 9*

**STIPULATION AND SETTLEMENT
OF CLASS ACTION CLAIMS**

1 SUREN N. WEERASURIYA (SBN 278521)

2 **GONZALEZ WEERASURIYA, APC**

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8 Attorneys for Defendant Abacus Business Capital, Inc.

1 This Class Action Settlement Agreement (“Agreement”) is made by and between Plaintiff
2 Aurora Agum (“Plaintiff”) and Defendant Abacus Business Capital, Inc. (“Defendant”). The
3 Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

4 **I. DEFINITIONS**

5 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
6 Defendant captioned *Aurora Agum, individually and on behalf of all others similarly situated v.*
7 *Abacus Business Capital, Inc.; and DOES 1 through 20, inclusive*, Case No. 21STCV17554, initiated
8 on May 10, 2021 and pending in Superior Court of the State of California, County of Los Angeles.

9 1.2. “Administrator” means Phoenix Settlement Administrators, the neutral entity the
10 Parties have agreed to appoint to administer the Settlement.

11 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
12 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with
13 the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary
14 Approval of the Settlement.

15 1.4. “Class” means all current and former non-exempt employees who are or were
16 employed by Defendant in California at any time during the Class Period.

17 1.5. “Class Counsel” means:

18 AEGIS LAW FIRM, PC
19 Samuel A. Wong
Kashif Haque
20 Jessica L. Campbell
Joseph M. Szilagyi
21 9811 Irvine Center Drive, Suite 100
Irvine, California 92618
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Facsimile: (949) 379-6251

23 1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
24 mean the amounts allocated to Class Counsel for reasonable attorneys’ fees, subject to Court approval
25 and in an amount that is not more than thirty-five percent of the Gross Settlement Fund and expenses,
26 respectively, incurred to prosecute the Action.
27
28

1.7. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks.

1.8. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member.

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

1.10. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.11. “Class Period” means the period from November 13, 2017, through November 2, 2022.

1.12. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.13. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.14. “Court” means the Superior Court of California, County of Los Angeles.

1.15. “Defendant” means named Defendant Abacus Business Capital, Inc.

1.16. “Defense Counsel” means

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1.17. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.18. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.19. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.20. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.21. “Gross Settlement Amount” means \$1,700,000 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, the PAGA Settlement Amount, and the Administration Expenses Payment.

1.22. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period and after reduction for the employee share of taxes and withholdings with respect to the portion of the share that is allocated toward wages.

1.23. “Judgment” means the judgment entered by the Court based upon the Final Approval.

1.24. “LWDA” means The State of California Labor and Workforce Development Agency.

1.25. “LWDA Payment” means 75% of the \$100,000 PAGA Settlement Amount (as defined below), which subject to Court approval, will be paid to the LWDA pursuant to Paragraph 3.2.5 of this Agreement, as provided for below.

1.26. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Class Representative Service Payment, Class

Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the LWDA Payment, employee-side taxes, and the Administration Expenses Payment.

1.27. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.28. “PAGA” means the California Private Attorneys General Act of 2004, which is codified in California Labor Code §§ 2698 et seq.

1.29. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties have agreed that the PAGA Settlement Amount is One Hundred Thousand Dollars (\$100,000), subject to Court approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the remaining 25% will be included within the Net Settlement Amount and distributed to PAGA Group Members.

1.30. “PAGA Group Members” means all Class Members employed by Defendant at any time between May 10, 2020, through November 2, 2022 (“PAGA Period”).

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

1.32. “Plaintiff” means Aurora Agum, the named plaintiff in the Action.

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

1.34. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval.

1.35. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.36. “Released Parties” means: Defendant, its predecessors, successors, assigns, parent, subsidiaries, and affiliates and all of their respective former and present directors, officers, shareholders, owners (direct or indirect), general partners, limited partners, representatives, members, attorneys, and insurers.

1.37. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.38. "Response Deadline" means 45 calendar days after the Administrator mails Notice to Class Members, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.39. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.40. "Workweek" means any week during which a Class Member worked for Defendant for at least one day as a non-exempt employee in California, during the Class Period.

II. RECITALS

2.1. On May 10, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for failure to pay minimum wages; failure to pay overtime wages; failure to provide meal periods; failure to permit rest breaks; failure to provide accurate itemized wage statements; failure to pay all wages due upon the separation of employment; and violations of the Business and Professions Code section 17200, *et seq.* Pursuant to this Settlement, the Parties have stipulated to allow Plaintiff to file a First Amended Complaint to additionally allege violations of PAGA based on the same allegations in the complaint filed to commence this Action. The First Amended Complaint will be the operative complaint in the Action (the "Operative Complaint.") Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged. Defendant further contends that its policies, procedures, and practices relating to the claims alleged or that could have been alleged, were compliant and lawful at all times.

2.2. On July 5, 2022, the Parties participated in an all-day mediation presided over by the Hon. Carl J. West (ret.) which led to this Agreement to settle the Action.

2.3. Prior to mediation, Plaintiff obtained, through formal and informal discovery and following meet and confer discussions between the Parties' counsel, time-punch and pay records from Plaintiff and Class Members; data points related to Plaintiff's and Class Members' employment for purposes of calculating estimated damages; and Defendant's relevant written policies. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("Dunk/Kullar").

2.4. The Court has not granted class certification.

III. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$1,700,000 as the Gross Settlement Amount and to separately pay any and all employer-side payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The

1 Administrator will issue Plaintiff an IRS Form 1099 reflecting payment of the Class
2 Representative Service Payment. Plaintiff assumes full responsibility and liability for
3 employee taxes owed on the Class Representative Service Payment.

4 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%,
5 which is currently estimated to be \$595,000.00, and a Class Counsel Litigation Expenses
6 Payment of not more than \$25,000.00. Defendant will not oppose requests for these payments
7 provided that the requests do not exceed these amounts. Plaintiff and/or Class Counsel will
8 file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later
9 than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel
10 Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts
11 requested, the Administrator will allocate the remainder to the Net Settlement Amount.
12 Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel
13 arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel
14 Litigation Expenses Payment. The Administrator will issue IRS 1099 Forms as required by
15 law reflecting the Class Counsel Fees Payment and Class Counsel Expenses Payment. Class
16 Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees
17 Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless,
18 and indemnifies Defendant, from any dispute or controversy regarding any division or sharing
19 of any of these Payments.

20 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
21 \$26,000.00 except for a showing of good cause and as approved by the Court. To the extent
22 the Administration Expenses are less or the Court approves payment less than \$26,000.00,
23 the Administrator will retain the remainder in the Net Settlement Amount.

24 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated
25 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all
26 Participating Class Members during the Class Period and (b) multiplying the result by each
27 Participating Class Member's Workweeks.

1 3.2.4.1. Tax Allocation of Individual Class Payments. 72% of each
2 Participating Class Member's Individual Class Payment will be allocated to
3 settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to
4 tax withholding and will be reported on an IRS W-2 Form. 5% of each Participating
5 Class Member's Individual Class Payment will be allocated to settlement of claims
6 for penalties, and 23% will be allocated to interest (together, the "Non-Wage
7 Portions"). The Non-Wage Portions are not subject to wage withholdings and will be
8 reported on IRS 1099 Forms. Participating Class Members assume full responsibility
9 and liability for any employee taxes owed on their Individual Class Payment.

10 3.2.4.2. Non-Participating Class Members Not Eligible For Individual
11 Class Payments. Non-Participating Class Members will not receive any Individual
12 Class Payments. The Administrator will retain amounts equal to their Individual Class
13 Payments in the Net Settlement Amount for distribution to Participating Class
14 Members on a pro rata basis.

15 3.2.5. To the Labor and Workforce Development Agency And PAGA Group
16 Members. In consideration of claims made under PAGA, Class Counsel will request
17 that the Court approve allocation of One Hundred Thousand Dollars (\$100,000) of
18 the Gross Settlement Amount to these claims. Seventy-five percent (75%) of this
19 payment will be paid by Administrator to the California Labor and Workforce
20 Development Agency ("LWDA Payment"), and twenty-five percent (25%) will be
21 included within the Net Settlement Amount for distribution to PAGA Group
22 Members. Defendant will not oppose this request. The entire PAGA Settlement
23 Amount will be paid out of the Gross Settlement Amount. The Court's adjustment, if
24 any, of the amount allocated to Named Plaintiff's PAGA claim in the Action, will not
25 invalidate this Agreement.
26
27
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1 **IV. SETTLEMENT FUNDING AND PAYMENTS**

2 4.1. Class Workweeks. Based on a review of its records to date, Defendant estimates there
3 are 2,848 Class Members who collectively worked a total of 192,050 Workweeks as of November 2,
4 2022.

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

16 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross
17 Settlement Amount by transmitting the funds to the Administrator as follows: (1) \$850,000.00 to be
18 paid 20 calendar days after the Effective Date; and (2) \$850,000.00 to be paid on the later of the
19 Effective Date or January 5, 2024.

20 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds
21 the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments,
22 all payments to PAGA Group Members, the LWDA Payment, the Administration Expenses Payment,
23 the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class
24 Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class
25 Counsel Litigation Expenses Payment, and the Class Representative Service Payment shall not
26 precede disbursement of Individual Class Payments.

27 4.4.1. The Administrator will issue checks for the Individual Class Payments and
28 send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each

1 check shall prominently state the date (not less than 180 days after the date of mailing) when
2 the check will be voided. The Administrator will cancel all checks not cashed by the void
3 date. The Administrator will send checks for Individual Settlement Payments to all
4 Participating Class Members (including those for whom Class Notice was returned
5 undelivered). Before mailing any checks, the Settlement Administrator must update the
6 recipients' mailing addresses using the National Change of Address Database.

7 4.4.2. The Administrator must conduct a Class Member Address Search for all other
8 Class Members whose checks are returned undelivered without USPS forwarding address.
9 Within 5 business days of receiving a returned check the Administrator must re-mail checks
10 to the USPS forwarding address provided or to an address ascertained through the Class
11 Member Address Search. The Administrator need not take further steps to deliver checks to
12 Class Members whose re-mailed checks are returned as undelivered. The Administrator shall
13 promptly send a replacement check to any Class Member whose original check was lost or
14 misplaced, requested by the Class Member prior to the void date.

15 4.4.3. For any Class Member whose Individual Class Payment check is uncashed
16 and cancelled after the void date, the Administrator shall transmit the funds represented by
17 such checks to the California Controller's Unclaimed Property Fund in the name of the Class
18 Member thereby leaving no "unpaid residue" subject to the requirements of California Code
19 of Civil Procedure Section 384, subd. (b). The Parties, Class Counsel, and Defense Counsel
20 represent that they have no interest or relationship, financial or otherwise, with the intended
21 Cy Pres Recipient.

22 4.4.4. The payment of Individual Class Payments shall not obligate Defendant to
23 confer any additional benefits or make any additional payments to Class Members (such as
24 401(k) contributions or bonuses) beyond those specified in this Agreement.

25 4.5. Default on Payment. Defendant's failure to fund the Gross Settlement Amount within
26 60 days after the later of January 5, 2024 or the Effective Date, shall be considered a default. In the
27 event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will
28 provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed

1 payment. Thereafter, Defendant will have seven (7) days to cure the default and tender payment to
2 the Settlement Administrator. In the event Defendant fails to cure the default within the times set
3 forth herein, Named Plaintiff may elect to seek an order entering judgment against Defendant via
4 regularly noticed motion, for the balance of the unpaid Gross Settlement Amount to date, and Named
5 Plaintiff will be entitled to recover interest at ten percent (10%) per year from the due date for such
6 payment and reasonable attorneys' fees and costs.

7 **V. RELEASES OF CLAIMS**

8 Effective on the date when Defendant fully funds the entire Gross Settlement Amount,
9 Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as
10 follows:

11 5.1. Plaintiff's Release. Plaintiff and her respective former and present spouses,
12 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
13 and discharge Released Parties from all claims, transactions, or occurrences that occurred during the
14 Class Period, including, but not limited to: all claims that were, or reasonably could have been,
15 alleged, based on the facts contained, in the Operative Complaint (or ascertained during the Action
16 and released under 5.2, below). ("Plaintiff's Release.") Plaintiff's Release does not extend to any
17 claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment
18 benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any
19 time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may
20 discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or
21 believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in
22 all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

23 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
24 purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,
25 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads: A
26 general release does not extend to claims that the creditor or releasing party does not know
27 or suspect to exist in his or her favor at the time of executing the release, and that if known
28

1 by him or her would have materially affected his or her settlement with the debtor or Released
2 Party.

3 5.2. Release by Participating Class Members: All Participating Class Members, on behalf
4 of themselves and their respective former and present representatives, agents, attorneys, heirs,
5 administrators, successors, and assigns, release Released Parties from all claims that were alleged,
6 or reasonably could have been alleged, based on the Class Period facts stated in the Operative
7 Complaint and ascertained in the course of the Action including, without limitation, all individual
8 and class claims for violations of Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 512,
9 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198. Participating Class Members do
10 not release any other claims, including claims for vested benefits, wrongful termination, violation of
11 the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers'
12 compensation, or claims based on facts occurring outside the Class Period.

13 5.3. Release by PAGA Group Members. The State of California and PAGA Group
14 Members release the Released Parties from all claims exhausted in Plaintiff's notice(s) sent to the
15 LWDA and/or alleged in the operative complaint for violations of Labor Code sections 201-204, 210,
16 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198,
17 which arose during the PAGA Period, regardless of whether PAGA Group Members opt out of the
18 Class Settlement.

19 **VI. MOTION FOR PRELIMINARY APPROVAL**

20 Plaintiff will prepare and file a motion for preliminary approval ("Motion for Preliminary
21 Approval") that complies with the Court's current checklist for Preliminary Approvals.

22 6.1. Defendant's Declaration in Support of Preliminary Approval. Within 14 days of the
23 full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
24 Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or
25 potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations,
26 Defense Counsel and Defendant shall aver that they are not aware of any other pending matter or
27 action asserting claims that will be extinguished or adversely affected by the Settlement.
28

1 6.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
2 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
3 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
4 Settlement under Dunk/Kullar; (ii) a draft proposed Order Granting Preliminary Approval; (iii) a
5 draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to
6 exceed" bid for administering the Settlement and attesting to its willingness to serve; competency;
7 operative procedures for protecting the security of Class Data; amounts of insurance coverage for
8 any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential
9 conflicts of interest with Class Members; and the nature and extent of any financial relationship with
10 Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming
11 willingness and competency to serve and disclosing all facts relevant to any actual or potential
12 conflicts of interest with Class Members, and the Administrator; (v) a signed declaration from each
13 Class Counsel firm attesting to its competency to represent the Class Members; and all facts relevant
14 to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy
15 Pres Recipient; (vi) a redlined version of the parties' Agreement showing all modifications made to
16 the Model Agreement ready for filing with the Court. In their Declarations, Plaintiff and Class
17 Counsel Declaration shall identify any other pending matter or action asserting claims that will be
18 extinguished or adversely affected by the Settlement.

19 6.3. Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing
20 and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this
21 Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for
22 appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is
23 responsible for delivering the Court's Preliminary Approval to the Administrator.

24 6.4. Duty to Cooperate. If the Court does not grant Preliminary Approval or conditions
25 Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel
26 will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and
27 in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.
28

1 **VII. SETTLEMENT ADMINISTRATION**

2 Plaintiff will prepare and file a motion for preliminary approval (“Motion for Preliminary
3 Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

4 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement
5 Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix
6 Settlement Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all
7 duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties
8 and their Counsel represent that they have no interest or relationship, financial or otherwise, with the
9 Administrator other than a professional relationship arising out of prior experiences administering
10 settlements.

11 7.2. Employer Identification Number. The Administrator shall have and use its own
12 Employer Identification Number for purposes of calculating applicable payroll tax withholdings and
13 providing reports to state and federal tax authorities.

14 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that
15 meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation
16 section 468B-1.

17 7.4. Notice to Class Members.

18 7.4.1. No later than three (3) business days after receipt of the Class Data, the
19 Administrator shall notify Class Counsel that the list has been received and state the number
20 of Class Members and Workweeks in the Class Data.

21 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 10
22 business days after receiving the Class Data, the Administrator will send to all Class Members
23 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the
24 Class Notice with Spanish translation substantially in the form attached to this Agreement as
25 Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts
26 of any Individual Class Payment payable to the Class Member, and the number of Workweeks
27 used to calculate these amounts. Before mailing Class Notices, the Administrator shall update
28 Class Member addresses using the National Change of Address database.

1 7.4.3. Not later than 5 business days after the Administrator's receipt of any Class
2 Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
3 using any forwarding address provided by the USPS. If the USPS does not provide a
4 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-
5 mail the Class Notice to the most current address obtained. The Administrator has no
6 obligation to make further attempts to locate or send Class Notice to Class Members whose
7 Class Notice is returned by the USPS a second time.

8 7.4.4. The deadlines for Class Members' written objections, Challenges to
9 Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional
10 14 calendar days beyond the 45 days otherwise provided in the Class Notice for all Class
11 Members whose notice is re-mailed. The Administrator will inform the Class Member of the
12 extended deadline with the re-mailed Class Notice.

13 7.5. Requests for Exclusion (Opt-Outs).

14 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class
15 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
16 Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an
17 additional 14 days for Class Members whose Class Notice is re-mailed). A Request for
18 Exclusion is a letter from a Class Member or his/her representative that reasonably
19 communicates the Class Member's election to be excluded from the Settlement and includes
20 the Class Member's name, address, and email address or telephone number. To be valid, a
21 Request for Exclusion must be timely faxed, emailed, or postmarked by the Response
22 Deadline.

23 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because
24 it fails to contain all the information specified in the Class Notice. The Administrator shall
25 accept any Request for Exclusion as valid if it is timely submitted and the Administrator can
26 reasonably ascertain the identity of the person as a Class Member and the Class Member's
27 desire to be excluded. The Administrator's determination shall be final and not appealable or
28 otherwise susceptible to challenge. If the Administrator has reason to question the

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

4 7.5.3. Every Class Member who does not submit a timely and valid Request for
5 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
6 benefits and bound by all terms and conditions of the Settlement, including the Participating
7 Class Members' Releases under Paragraph 5.2 of this Agreement, regardless whether the
8 Participating Class Member actually receives the Class Notice or objects to the Settlement.

9 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is
10 a Non-Participating Class Member and shall not receive an Individual Class Payment or have
11 the right to object to the class action components of the Settlement.

12 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
13 the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class
14 Notice is re-mailed) to challenge the number of Class Workweeks allocated to the Class Member in
15 the Class Notice. The Class Member may challenge the allocation by communicating with the
16 Administrator via fax, email, or mail. The Administrator must encourage the challenging Class
17 Member to submit supporting documentation. In the absence of any contrary documentation, the
18 Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so
19 long as they are consistent with the Class Data. The Administrator's determination of each Class
20 Member's allocation of Workweeks shall be final and not appealable or otherwise susceptible to
21 challenge. The Administrator shall promptly provide copies of all challenges to calculation of
22 Workweeks to Defense Counsel and Class Counsel and the Administrator's determination the
23 challenges.

24 7.7. Objections to Settlement.

25 7.7.1. Only Participating Class Members may object to the class action components
26 of the Settlement and/or this Agreement, including contesting the fairness of the Settlement,
27 and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation
28 Expenses Payment and/or Class Representative Service Payment.

1 7.7.2. Participating Class Members may send written objections to the
2 Administrator, by fax, email, or mail. In the alternative, Participating Class Members may
3 appear in Court (or hire an attorney to appear in Court) to present verbal objections at the
4 Final Approval Hearing. A Participating Class Member who elects to send a written objection
5 to the Administrator must do so not later than 45 days after the Administrator’s mailing of
6 the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-
7 mailed).

8 7.7.3. Non-Participating Class Members have no right to object to any of the class
9 action components of the Settlement.

10 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to
11 be performed or observed by the Administrator contained in this Agreement or otherwise.

12 7.8.1. Website, Email Address, and Toll-Free Number. The Administrator will
13 establish and maintain and use an internet website to post information of interest to Class
14 Members including the date, time, and location for the Final Approval Hearing and copies of
15 the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the
16 Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
17 Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the
18 Final Approval and the Judgment. The Administrator will also maintain and monitor an email
19 address and a toll-free telephone number to receive Class Member calls, faxes, and emails.

20 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
21 promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later
22 than 5 business days after the expiration of the deadline for submitting Requests for
23 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
24 containing (a) the names and other identifying information of Class Members who have
25 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other
26 identifying information of Class Members who have submitted invalid Requests for
27 Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid
28 or invalid).

1 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
2 reports to Class Counsel and Defense Counsel that, among other things, tally the number of:
3 Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
4 Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks
5 received and/or resolved, and checks mailed for Individual Class Payments (“Weekly
6 Report”). The Weekly Reports must include provide the Administrator’s assessment of the
7 validity of Requests for Exclusion and attach copies of all Requests for Exclusion and
8 objections received.

9 7.8.4. Workweek Challenges. The Administrator has the authority to address and
10 make final decisions consistent with the terms of this Agreement on all Class Member
11 challenges over the calculation of Workweeks. The Administrator’s decision shall be final
12 and not appealable or otherwise susceptible to challenge.

13 7.8.5. Administrator’s Declaration. Not later than 10 business days before the date
14 by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
15 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration
16 suitable for filing in Court attesting to its due diligence and compliance with all of its
17 obligations under this Agreement, including, but not limited to, its mailing of Class Notice,
18 the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate
19 Class Members, the total number of Requests for Exclusion from Settlement it received (both
20 valid or invalid), the number of written objections and attach the Exclusion list. the
21 Administrator will supplement its declaration as needed or requested by the Parties and/or the
22 Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

23 7.8.6. Final Report by Settlement Administrator. Within 10 business days after the
24 Administrator disburses all funds in the Gross Settlement Amount, the Administrator will
25 provide Class Counsel and Defense Counsel with a final report detailing its disbursements by
26 employee identification number only of all payments made under this Agreement. At least 15
27 days before any deadline set by the Court, the Administrator will prepare, and submit to Class
28 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its

1 disbursement of all payments required under this Agreement. Class Counsel is responsible
2 for filing the Administrator's declaration in Court.

3 **VIII. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

4 8. Based on its records, Defendant estimates that, as of the date of this Settlement
5 Agreement, (1) there are 2,848 Class Members and 192,050 Total Workweeks during the Class
6 Period. If either (i) the actual number of Class Members exceeds 2,848 by more than ten percent
7 (10%); or (ii) the total number of Workweeks exceeds 192,050 weeks by more than ten percent
8 (10%), then the Gross Settlement Amount will increase pro rata based on either (i) the number of
9 additional Class Members (beyond the 10% threshold) or (ii) the number of additional Workweeks
10 (beyond the 10% threshold), whichever is greater.

11 **IX. DEFENDANT'S RIGHT TO WITHDRAW**

12 9. If the number of valid Requests for Exclusion identified in the Exclusion List is 25%
13 or greater of the total number of all Class Members, Defendant may, but is not obligated, elect to
14 withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall
15 be void *ab initio*, have no force or effect whatsoever, and that neither Party will have any further
16 obligation to perform under this Agreement; provided, however, Defendant will remain responsible
17 for paying all Settlement Administration Expenses incurred to that point. Defendant must notify
18 Class Counsel and the Court of its election to withdraw not later than fifteen (15) calendar days after
19 the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no
20 effect.

21 **X. MOTION FOR FINAL APPROVAL**

22 Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file
23 in Court, a motion for final approval of the Settlement that includes a Proposed Final Approval Order
24 and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts
25 of these documents to Defense Counsel not later than five calendar days prior to filing the Motion
26 for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person
27 or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final
28 Approval.

1 10.1. Response to Objections. Each Party retains the right to respond to any objection raised
2 by a Participating Class Member, including the right to file responsive documents in Court no later
3 than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the
4 Court.

5 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
6 Approval on any material change to the Settlement (including, but not limited to, the scope of release
7 to be granted by Class Members), the Parties will expeditiously work together in good faith to address
8 the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's
9 decision to award less than the amounts requested for the Class Representative Service Payment,
10 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Settlement
11 Amount, and/or Administration Expenses Payment shall not constitute a material modification to the
12 Agreement within the meaning of this paragraph.

13 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment,
14 the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
15 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and
16 (iii) addressing such post-Judgment matters as are permitted by law.

17 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
18 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
19 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
20 respective counsel, and all Participating Class Members who did not object to the Settlement as
21 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-
22 judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new
23 trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right
24 to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations
25 to perform under this Agreement will be suspended until such time as the appeal is finally resolved
26 and the Judgment becomes final, except as to matters that do not affect the amount of the Net
27 Settlement Amount.

28 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the

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

XI. AMENDED JUDGMENT

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

XII. ADDITIONAL PROVISIONS

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

12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement

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

16 12.3. No Solicitation. The Parties separately agree that they and their respective counsel
17 and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
18 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability
19 to communicate with Class Members in accordance with Class Counsel's ethical obligations owed
20 to Class Members.

21 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this
22 Agreement together with its attached exhibits shall constitute the entire agreement between the
23 Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants,
24 or inducements made to or by any Party.

25 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
26 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
27 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its
28

terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

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

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

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

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

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

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

12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

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

12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

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

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

12.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

AEGIS LAW FIRM, PC
Samuel A. Wong
Kashif Haque
Jessica L. Campbell
Joseph M. Szilagyi
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251

To Defendant:

GONZALEZ WEERASURIYA, APC
 Suren N. Weerasuriya
 206 West 4th Street, Suite 340
 Santa Ana, California 92701
 P: (714) 367-6944
 F: (714) 242-1597

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

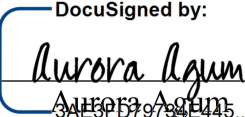
12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a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

EXECUTION BY PARTIES AND COUNSEL

The Parties hereby execute this Agreement.

Dated: 5/11/2023

AURORA AGUM

By:  _____
DocuSigned by:
 Aurora Agum
 3A23F57978E415...

Dated: _____

ABACUS BUSINESS CAPITAL, INC.

By: _____
 (Signature)

 (Printed Name)

 (Title)

To Defendant:

GONZALEZ WEERASURIYA, APC
Suren N. Weerasuriya
206 West 4th Street, Suite 340
Santa Ana, California 92701
P: (714) 367-6944
F: (714) 242-1597

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

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

EXECUTION BY PARTIES AND COUNSEL

The Parties hereby execute this Agreement.

Dated: _____

AURORA AGUM

By: _____

Aurora Agum

Dated: 05/03/23

ABACUS BUSINESS CAPITAL, INC.

By: Herman S. Chiu
(Signature)

Herman S. Chiu
(Printed Name)

Chief Financial Officer
(Title)

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Approved as to form:

Dated: May 11, 2023

AEGIS LAW FIRM, PC

By: 
Samuel Wong
Joseph M. Szilagyi
Attorneys for Plaintiff Aurora Agum

Dated: _____

GONZALEZ WEERASURIYA, APC

By: _____
Suren N. Weerasuriya
Attorneys for Defendant
Abacus Business Capital, Inc.

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Approved as to form:

Dated: _____

AEGIS LAW FIRM, PC

By: _____
Samuel Wong
Joseph M. Szilagyi
Attorneys for Plaintiff Aurora Agum

Dated: May 08, 2023

GONZALEZ WEERASURIYA, APC

By: _____

Suren N. Weerasuriya
Attorneys for Defendant
Abacus Business Capital, Inc.

EXHIBIT A

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE
FOR FINAL COURT APPROVAL**

**AGUM V. ABACUS BUSINESS CAPITAL, INC.
CASE NO. 21STCV17554; FILED MAY 10, 2021**

***THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA AUTHORIZED THIS NOTICE. READ IT
CAREFULLY!***

***IT'S NOT JUNK MAIL, SPAM, AN ADVERTISEMENT, OR SOLICITATION BY A LAWYER. YOU ARE NOT BEING
SUED.***

You may be eligible to receive money from an employee class action lawsuit ("Action") against Abacus Business Capital, Inc. ("ABACUS") for alleged wage and hour violations. The Action was filed by a former ABACUS employee Aurora Agum ("Plaintiff") and seeks payment of back wages and other relief for a class of non-exempt employees ("Class Members") who worked for ABACUS during the Class Period (from November 13, 2017, through November 2, 2022).

The proposed Settlement is a Class Settlement requiring ABACUS to fund Individual Class Payments.

Based on ABACUS' records, and the Parties' current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding). The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on ABACUS' records showing that you worked [REDACTED] workweeks during the Class Period. If you believe that you worked more workweeks during this period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires ABACUS to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against ABACUS.

If you worked for ABACUS during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) Do Nothing. You don't have to do anything to participate in the proposed settlement and be eligible for an Individual Class Payment. As a Participating Class Member, though, you will give up your right to assert wage claims against ABACUS.
- (2) Opt-Out of the Class Settlement. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against ABACUS

ABACUS will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment. In exchange, you will give up your right to assert the wage claims against ABACUS that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement The Opt-out Deadline is <u> </u>	If you don't want to fully participate in the proposed Settlement, you can opt out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.
Participating Class Members Can Object to the Class Settlement Written Objections Must be Submitted by <u> </u>	All Class Members who do not opt out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision on whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the <u> </u> Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on <u> </u> . You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone, or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks Written Challenges Must be Submitted by <u> </u>	The amount of your Individual Class Payment depends on how many workweeks you worked at least one day during the Class Period. The number of Class Period Workweeks you worked according to ABACUS' records is stated on the first page of this Notice. If you disagree with this number, you must challenge it by <u> </u> . See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former ABACUS employee. The Action alleges that ABACUS violated California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination, and failing to provide meal periods, rest breaks and accurate itemized wage statements. Plaintiff is represented by attorneys in the Action: Aegis Law Firm, PC (“Class Counsel.”)

ABACUS strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether ABACUS or Plaintiff is correct on the merits. In the meantime, Plaintiff and ABACUS hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and ABACUS have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, ABACUS does not admit any violations or wrongdoing, or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) ABACUS has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. ABACUS Will Pay \$1,700,000 as the Gross Settlement Amount (Gross Settlement). ABACUS has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, and the Administrator’s expenses. Assuming the Court grants Final Approval, ABACUS will fund the Gross Settlement in full no later than January 5, 2024, after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - a. Up to \$595,000.00 (35% of the Gross Settlement) to Class Counsel for attorneys fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

- b. Up to \$10,000 as a Class Representative Award for filing the Action, working with Class Counsel, and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
- c. Up to \$ [REDACTED] to the Administrator for services administering the Settlement.
- d. Up to \$100,000 allocated to the settlement of PAGA claims, 25% of which will be added to the Net Settlement Amount and distributed to PAGA Group Members.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

- 3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
- 4. Taxes Owed on Payments to Class Members. Plaintiff and ABACUS are asking the Court to approve an allocation of 72% of each Individual Class Payment to taxable wages ("Wage Portion") and 5% to penalties and 23% to interest ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. ABACUS will separately pay employer payroll taxes it owes on the Wage Portion. The Administrator will report the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and ABACUS have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

- 5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

- 6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [REDACTED] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class

Payments, but will preserve their rights to personally pursue wage and hour claims against ABACUS.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and ABACUS have agreed that, in either case, the Settlement will be void: ABACUS will not pay any money and Class Members will not release any claims against ABACUS.
8. Administrator. The Court has appointed a neutral company, [REDACTED] (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and ABACUS has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against ABACUS or related entities for wages based on the Class Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release “Released Parties” (defined as ABACUS “and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates”) from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action including, *e.g.*, all individual and class claims for violations of Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

In addition, if the Court grants final approval of the Settlement and you are a PAGA Group Member, you will be deemed to have released the Released Parties from all PAGA claims. The State of California and PAGA Group Members release the Released Parties from all claims exhausted in Plaintiff’s notice(s) sent to the LWDA and alleged in the operative complaint for violations of Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198, which arose during the PAGA Period (from May 10, 2020, through November 2, 2022), regardless of whether PAGA Group Members opt out of the Class Settlement.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Workweek Challenges. The number of Class Workweeks you worked during the Class Period, as recorded in ABACUS' records, are stated on the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept ABACUS' calculation of Workweeks based on ABACUS' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and ABACUS' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Agum v. Abacus Business Capital, Inc.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and ABACUS are asking the Court to approve. At least 16 court days before the [REDACTED] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed

Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [REDACTED] or the Court's website [REDACTED].

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses, and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is [REDACTED]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Agum v. Abacus Business Capital, Inc.* and include your name, current address, telephone number, and approximate dates of employment for ABACUS and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [REDACTED] at [REDACTED] in Department 9 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [REDACTED] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything ABACUS and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment, or any other Settlement documents is to go to the Administrator's website at [REDACTED]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV17554. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Settlement Administrator:

[Phoenix Settlement Administrators]

Address

Phone: (***) ***-****

Facsimile: (***) ***-****

Class Counsel:

Samuel A. Wong

Kashif Haque

Jessica L. Campbell

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Telephone: (949) 379-6250

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jszilagyi@aegislawfirm.com

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.