

SETTLEMENT AGREEMENT

This Settlement Agreement (this “Settlement” or “Agreement”) is made by and between plaintiff Pele Henderson (“Plaintiff”) and defendant Scopely, Inc. (“Scopely”). Plaintiff and Scopely collectively are referred to in this Agreement each as a “Party” and collectively as the “Parties.”

I. RECITALS

- A. On August 9, 2021, Plaintiff filed a complaint against Scopely in the Superior Court of the State of California, for the County of Los Angeles (the “Superior Court”), entitled “*PELE HENDERSON, on behalf of himself and all others similarly situated, Plaintiff, vs. SCOPELY, INC., a Delaware corporation; and Does 1 through 50, Inclusive, Defendants*” (the “Action” or the “Complaint”), No. 21STCV29152. The Action asserted putative class claims against Scopely for alleged failure to furnish accurate itemized wage statements, furnish paper copies of wage statements, reimburse for necessary business expenses, pay all wages due (including minimum and overtime wages), provide meal and rest periods, pay meal and rest period premiums at the regular rate of pay, and pay all wages due to discharged and quitting employees, and asserted a claim under the California Labor Code Private Attorneys General Act, Cal. Lab. Code section 2698 *et seq.*, (“PAGA”) based on the same allegations.
- B. On August 5, 2021, Plaintiff submitted to the Labor and Workforce Development Agency of the State of California (the “LWDA”) notice of claims under PAGA against Scopely.
- C. On February 24, 2022, the Parties participated in a mediation presided over by Antonio Piazza of Mediated Negotiations. During the mediation, each side, represented by its respective counsel, recognized the substantial risk of an adverse result in the Action and agreed to settle the Action and all other matters covered by this Agreement pursuant to the terms and conditions of this Agreement. This Agreement replaces and supersedes the Memorandum of Agreement entered into at the mediation and any other agreements, understandings, or representations between the Parties.
- D. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Scopely that Plaintiff’s claims in the Actions have merit or that it has any liability to Plaintiff or the Class on those claims, or as an admission by Plaintiff that Scopely’s defenses in the Actions have merit.

Based on these Recitals, incorporated by reference in this Agreement, the Parties agree as follows:

II. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- A. “Action” means the civil action titled “*PELE HENDERSON, on behalf of himself and all others similarly situated, Plaintiff, vs. SCOPELY, INC., a Delaware corporation; and Does 1 through 50, Inclusive, Defendants*” (the “Action”), No. 21STCV29152, currently pending in the Superior Court of the State of California, for the County of Los Angeles.
- B. “Class” means, collectively:
 - 1. All current and former employees who worked for Scopely in California at any time during the Class Period (the “California Class”), who will be referred to collectively as “California Class Members”; and
 - 2. All current and former employees who worked for Scopely in an exempt position in California and received a salary less than two-times state minimum wage at any time during the Class Period or who worked for Scopely as an exempt QA Lead or exempt Senior QA Tester in California at any time during the Class Period (the “Salary/Exempt QA Class”), who will be referred to collectively as “Salary/Exempt QA Class Members.”
- C. “Class Counsel” means Shaun Setareh, Thomas Segal, Farrah Grant and Tyson Gibb of Setareh Law Group.
- D. “Class Counsel Fees and Expenses Payment” means the amount awarded to Class Counsel by the Superior Court to compensate them for their fees and expenses in connection with the Action, including their pre-filing investigation, their commencement of the Action and all related litigation activities, this Settlement, and all post-Settlement compliance procedures.
- E. “Class Members” means all members of the Class.
- F. “Class Notice” means the Notice of Proposed Settlement, Conditional Certification of Settlement Class, Preliminary Approval of Settlement, and Hearing Date for Final Court Approval as evidenced by Exhibit A to this Agreement and incorporated by reference into this Agreement.
- G. “Class Notice Packet” means the Class Notice (Exhibit A to this Agreement) and the Notice of Estimated Settlement Share (Exhibit B to this Agreement).
- H. “Class Period” means the period of time from August 9, 2017 through March 31, 2022.
- I. “Class Representative” means Plaintiff Pele Henderson.
- J. “Class Representative Payment” means the special payment made to Plaintiff in his capacity as Class Representative to compensate him for initiating and pursuing

the Action, undertaking the risk of liability for attorneys' fees and expenses in the event he was unsuccessful in the prosecution of the Actions, and granting the release described in section III.H.1 of the Settlement.

- K. "Effective Date" means the date by which all of the following have occurred:
1. Scopely has not voided this Settlement pursuant to section III.G.6;
 2. the Superior Court enters the Judgment; and
 3. the Judgment becomes Final.
- L. "Final" means the last of the following dates, as applicable.
1. The last date on which a notice of appeal from the Judgment may be filed, and none is filed.
 2. If a timely appeal from the Judgment is filed, the last of the following dates:
 - a. the last date by which a petition for review by the California Supreme Court of the California Court of Appeal's decision affirming the Judgment may be filed, and none is filed;
 - b. the last date by which a petition for a writ of *certiorari* to the United States Supreme Court of a decision by the California Court of Appeal or the California Supreme Court affirming the Judgment may be filed, and none is filed;
 - c. if a petition for review by the California Supreme Court, or a petition for a writ of *certiorari* to the U.S. Supreme Court, seeking review of the Judgment or of the California Court of Appeal's decision on an appeal from the Judgment is timely filed, the date on which the highest reviewing court renders its decision denying the petition (where the immediately lower court affirmed the Judgment) or affirming the Judgment.
- M. "Final Approval Hearing" means the hearing to be conducted by the Superior Court to determine whether to approve finally and implement the terms of this Agreement.
- N. "Scopely's Counsel" means Zachary P. Hutton, Jarryd Cooper and Anna M. Skaggs of Paul Hastings LLP.
- O. "Judgment" means the Order Granting Final Approval of Class Action Settlement and the Final Judgment entered by the Superior Court in substantially the same forms evidenced by Exhibits D-1 and D-2, respectively, to this Agreement and incorporated by reference into this Agreement.

- P. “LWDA Payment” means the 75% of the PAGA Civil Penalties payable to the LWDA for its share of the settlement of claims for civil penalties under PAGA, as specified in section III.E.3 of this Agreement.
- Q. “Net Settlement Amount” means the amount from the Total Settlement Amount that is available for distribution as the Class Payment portion of Settlement Shares to Class Members after deductions for (a) the PAGA Civil Penalties; (b) the Class Representative Payment; (c) the Class Counsel Fees and Expenses Payment; and (d) the Settlement Administrator’s fees and expenses. The entire Net Settlement Amount will be distributed to Class Members. If any Settlement Share check is not timely cashed by a Class Member, that share will be sent to the California State Controller’s Office, Unclaimed Property Fund, in the name of the Class Member, where the Class Member can later claim their funds.
- R. “Notice of Estimated Settlement Share” means the form that Class Members will receive that describes their estimated Settlement Shares, as evidenced by Exhibit B to this Agreement and incorporated by reference into this Agreement.
- S. “PAGA Amount” means the 25% of the PAGA Civil Penalties payable to PAGA Settlement Group Members under PAGA, as specified in section III.D.3 of this Agreement.
- T. “PAGA Civil Penalties” means the amount set aside from the Total Settlement Amount for settlement of claims for civil penalties under PAGA, as specified in section III.B of this Agreement. Per Labor Code § 2699(i), 75% of such penalties will be payable to the LWDA as the LWDA Payment, and the remaining 25% will be payable to PAGA Settlement Group Members as the PAGA Amount.
- U. “PAGA Period” means the period of time from August 9, 2020 through March 31, 2022.
- V. “PAGA Settlement Group” means all Class Members who worked for Scopely during the PAGA Period. The PAGA Settlement Group is a subset of the Class.
- W. “PAGA Settlement Group Members” means all members of the PAGA Settlement Group.
- X. “Participating Class Member” means any Class Member who does not submit a timely and valid Request for Exclusion.
- Y. “Participating California Class Member” means any California Class Member who does not submit a timely and valid Request for Exclusion.
- Z. “Participating Salary/Exempt QA Class Member” means any Salary/Exempt QA Class Member who does not submit a timely and valid Request for Exclusion.
- AA. “Preliminary Approval of the Settlement” means the Superior Court’s preliminary approval of the Settlement without material change, or with material changes to

the Settlement to which the Parties both agree. An award by the Superior Court of lesser amounts than sought for the Class Representative Payment or Class Counsel Fees and Expenses Payment will not be considered a material change to the Settlement.

- BB. “Settlement Administrator” means the administrator proposed by the Parties and appointed by the Superior Court to administer the Settlement.
- CC. “Settlement Share” means the portion of the Net Settlement Amount and PAGA Amount allocable to each Class Member as provided by this Agreement.
- DD. “Superior Court” means the Superior Court of the State of California in and for the County of Los Angeles.
- EE. “Total Settlement Amount” means the total amount to be paid by Scopely as provided by this Agreement. The Total Settlement Amount is \$850,000 (Eight Hundred Fifty Thousand Dollars) without reversion to Scopely. The Total Settlement Amount will cover (a) all Settlement Shares paid to Class Members pursuant to the Settlement; (b) the PAGA Civil Penalties (75% of which will constitute the LWDA Payment and 25% of which will constitute the PAGA Amount); (c) Plaintiff’s Class Representative Payment; (d) the Class Counsel Fees and Expenses Payment (which includes all attorneys’ fees and expenses incurred to date and to be incurred in documenting the Settlement, securing court approval of the Settlement, attending to the administration of the Settlement, and obtaining dismissal of the Actions); and (e) the Settlement Administrator’s fees and expenses.

III. SETTLEMENT TERMS AND CONDITIONS

- A. **Amended Complaint.** Prior to seeking the Superior Court’s approval of the Settlement, Plaintiff will file a Second Amended Complaint (“SAC”) in the Action that encompasses all claims to be released through the Settlement. Scopely will stipulate to the filing of the SAC, subject to the Superior Court’s approval.
- B. **Total Settlement Amount.** Subject to the terms and conditions of this Agreement, including but not limited to section III.G.6, the Total Settlement Amount is \$850,000 (Eight Hundred Fifty Thousand Dollars). The Total Settlement Amount will cover (a) all Settlement Shares paid to Class Members pursuant to the Settlement; (b) the PAGA Civil Penalties of \$20,000 (75% of which will constitute the LWDA Payment and 25% of which will constitute the PAGA Amount); (c) Plaintiff’s Class Representative Payment; (d) the Class Counsel Fees and Expenses Payment (which includes all attorneys’ fees and expenses incurred to date and to be incurred in documenting the Settlement, securing court approval of the Settlement, attending to the administration of the Settlement, and obtaining dismissal of the Actions); and (e) the Settlement Administrator’s fees and expenses. All of the Total Settlement Amount will be

disbursed pursuant to this Agreement without the need to submit a claim form and none of the Total Settlement Amount will revert to Scopely.

- C. **Employer's-Side Payroll Taxes.** Scopely's share of payroll taxes on the Wage Portions of the Settlement Shares paid to the Class shall be paid by Scopely separately from, and in addition to, the Total Settlement Amount.
- D. **Settlement Shares.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will allocate Settlement Shares to Class Members, and will report such payments to taxing authorities, as follows:

1. **Calculation of Class Payments.**

- a. **California Class.** 40% (Forty Percent) of the Net Settlement Amount will be allocated to the California Class (the "California Class Allocation"), and the California Class Allocation will be attributed to each Participating California Class Member based on the number of pay periods that he or she worked in a position covered by the Settlement during the Class Period ("California Pay Periods").
- b. **Salary/Exempt QA Class.** 60% (Sixty Percent) of the Net Settlement Amount will be allocated to the Salary/Exempt QA Class (the "Salary/Exempt QA Class Allocation"), and the Salary/Exempt QA Class Allocation will be attributed to each Participating Salary/Exempt QA Class Member based on the number of pay periods that he or she worked in a position covered by the Salary/Exempt QA Class during the Class Period ("Salary/Exempt QA Pay Periods"). However, to the extent that any Salary/Exempt QA Class Member was paid a salary less than two times the minimum wage while employed in an exempt QA Lead or exempt QA Tester position, that pay period will not be double-counted, and will be treated as a single pay period in the Salary/Exempt QA Class.

The payments described in sections III.D.1.a and III.D.1.b shall be referred to as the "Class Payments."

- 2. **Treatment of Class Payments.** The Class Payment portion of Class Members' Settlement Shares shall be reported to taxing authorities as follows:
 - a. The Class Payment portion of Settlement Shares of Participating Class Members who are members of the California Class, but who are not members of the Salary/Exempt QA Class, are intended to settle claims for penalties and business expenses. Accordingly, the Settlement Administrator will issue a Form 1099 for the Class Payment portion of their Settlement Shares.

- b. For Participating Class Members who are members of the Salary/Exempt QA Class, 1/3 (One-Third) of the Class Payment portion of each Settlement Share (the “Wage Portion”) is intended to settle claims for unpaid wages. Accordingly, the Wage Portion will be reduced by applicable payroll tax withholding and deductions, and the Settlement Administrator will issue a Form W-2 with respect to the Wage Portion.
 - c. For Participating Class Members who are members of the Salary/QA Class, 2/3 (Two-Thirds) of the Class Payment portion of each Settlement Share (the “Non-Wage Portion”) is intended to settle each Participating Class Member’s claims for all interest and penalties. Accordingly, the Non-Wage Portion will not be reduced by payroll tax withholding and deductions; and, instead, the Settlement Administrator will issue a Form 1099 with respect to the Non-Wage Portion.
- 3. **Calculation and Treatment of PAGA Amount Payments.** In addition to the Net Settlement Amount, \$5,000 (25% of the PAGA Civil Penalties) has been designated as the PAGA Amount. Each PAGA Settlement Group Member shall receive a “PAGA Amount Payment” equal to the PAGA Amount times the ratio of (i) the number of pay periods worked by the PAGA Settlement Group Member for Scopely in a position covered by the Settlement during the PAGA Period (“PAGA Pay Periods”) to (ii) the total number of PAGA Pay Periods worked by all such PAGA Settlement Group Members. All PAGA Settlement Group Members, including those who opt out of the Settlement, will receive a PAGA Amount Payment. One hundred percent (100%) of the PAGA Amount Payment is in settlement of claims for civil penalties under PAGA and thus shall not be subject to payroll tax withholdings or wage deductions and shall be reported on IRS Form 1099.
- 4. **Effect of Class Members Who Opt Out of Settlement.** A Class Member who timely and validly opts out of the Settlement by submitting a Request for Exclusion to the Settlement Administrator will not participate in or be bound by the Settlement; will not receive the Class Payment portion of his or her Settlement Share; and will not be included with those other Class Members counted for purposes of the calculation of the Class Payment portion of Settlement Shares, except that all PAGA Settlement Group Members will release the Released PAGA Claims as described in section III.H.4, and will receive a PAGA Amount Payment regardless of whether they opt out. The Class Payment portion of the Settlement Share that otherwise would have been payable to a Class Member who opts out of the Settlement will be retained in the Net Settlement Amount for distribution to all other Class Members.

E. **Payments to Plaintiff, Class Counsel, LWDA, and Settlement Administrator.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Total Settlement Amount as follows:

1. **To Plaintiff.** In addition to Plaintiff's Settlement Share (which includes the Class Payment and the PAGA Amount Payment), Plaintiff will apply to the Superior Court for an award of not more than \$5,000 as Plaintiff's Class Representative Payment in consideration of initiating and pursuing the Actions, undertaking the risk of liability for attorneys' fees and expenses in the event he was unsuccessful in the prosecution of the Actions, and granting the release provided for in section III.H.1 of the Settlement. Scopely will not oppose a Class Representative Payment of \$5,000 to Plaintiff. The Settlement Administrator will pay the Class Representative Payment approved by the Superior Court (but not more than \$5,000) out of the Total Settlement Amount. If the Superior Court approves a Class Representative Payment of less than \$5,000, the remainder will be retained in the Net Settlement Amount. Tax deductions and withholdings will not be taken from the Class Representative Payment, and instead a Form 1099 will be issued to Plaintiff with respect to this payment.
2. **To Class Counsel.** Class Counsel will apply to the Superior Court for an award of not more than \$283,333.33 for attorneys' fees (one-third (1/3) of the Total Settlement Amount of \$850,000) and the actual amount incurred but not to exceed \$19,000 for actual expenses, as their Class Counsel Fees and Expenses Payment, and Scopely will not oppose their request. If the Superior Court approves a Class Counsel Fees and Expenses Payment of less than the amount authorized to be sought under this Agreement, the remainder will be retained in the Net Settlement Amount. A Form 1099 will be issued to Class Counsel with respect to the awarded attorneys' fees and costs, and Class Counsel beforehand will furnish a completed Form W-9.
3. **To LWDA and PAGA Settlement Group Members.** The Parties will apply to the Superior Court for approval of the PAGA Civil Penalties payment of \$20,000, which shall consist of the LWDA Payment of \$15,000 (75% of the PAGA Civil Penalties) as the LWDA's share of the settlement of civil penalties paid under this Agreement pursuant to PAGA and the PAGA Amount of \$5,000 (25% of the PAGA Civil Penalties) to be distributed to the PAGA Settlement Group Members as described in section III.D.3. If the Superior Court approves PAGA Civil Penalties of less than \$20,000, the remainder will be retained in the Net Settlement Amount. If the Superior Court orders PAGA Civil Penalties in excess of \$20,000, the excess amount shall be taken from the Net Settlement Amount.

4. **To the Settlement Administrator.** The Settlement Administrator will pay to itself out of the Total Settlement Amount its reasonable fees and expenses as approved by the Superior Court. It is projected that these fees and expenses shall not exceed \$20,000.

F. **Appointment of Settlement Administrator.** The Parties will ask the Superior Court to appoint a Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. Plaintiff will obtain three bids, and absent compelling reasons otherwise, the Parties will use the lowest bidding Settlement Administrator. The Settlement Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to the Class Members; conducting a National Change of Address search and using Accurant and other reasonable and cost-effective skip trace methods to locate any Class Member whose Class Notice Packet was returned by the U.S. Postal Service as non-deliverable, and re-mailing the Class Notice Packet to the Class Member's new address; receiving Class Member opt-outs from the Settlement; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Class Member opt-outs from the Settlement; calculating Settlement Shares; issuing the checks to effectuate the payments due under the Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator will have the final authority to resolve all disputes concerning the calculation of a Class Member's Settlement Share, subject to the dollar limitations set forth in this Agreement. The Settlement Administrator's reasonable fees and expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Total Settlement Amount.

G. **Procedure for Approving Settlement.**

1. **Motion for Preliminary Approval.**

- a. Promptly after Plaintiff files the SAC, the Parties jointly will file a motion (the "Motion for Preliminary Approval") with the Superior Court for an order granting Preliminary Approval of the Settlement; conditionally certifying the Class; appointing the Class Representative, Class Counsel, and Settlement Administrator; setting a date for the Final Approval Hearing; and approving the Class Notice and the Notice of Estimated Settlement Share.
- b. Pursuant to PAGA, on the date the Parties file the Motion for Preliminary Approval with the Superior Court, Plaintiff will submit to the LWDA the Motion for Preliminary Approval and the Settlement. The Parties intend and believe that providing notice of this Settlement to the LWDA pursuant to the procedures described in this section complies with the requirements of PAGA, and will request the Superior Court to adjudicate the validity of the PAGA

Notice in the Motion for Final Approval of the Settlement and bar any claim to void the Settlement under PAGA.

- c. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit an order granting the motion in the form evidenced by Exhibit C to this Agreement.
- d. Should the Superior Court decline to preliminarily approve all material aspects of the Settlement, or order material changes to the Settlement to which the Parties do not agree, the Settlement will be null and void and the Parties will have no further obligations under it. An award by the Superior Court of lesser amounts than sought for the Class Representative Payment or Class Counsel Fees and Expenses Payment will not be considered a material change to the Settlement.

2. **Notice to Class Members.** After the Superior Court enters its order granting the Motion for Preliminary Approval of the Settlement, every Class Member will be provided with the Class Notice Packet (which will include the Class Notice completed to reflect the order granting preliminary approval of the Settlement, and the Notice of Estimated Settlement Share) as follows:

- a. Within thirty (30) days after the Superior Court enters its order granting Preliminary Approval of the Settlement, Scopely will provide to the Settlement Administrator an electronic database for the Class Members, containing each Class Member's name, last-known mailing address, last-known telephone number, Social Security number, and his or her number of California Pay Periods and Salary/Exempt QA Pay Periods (the "Class Member Information"). If any or all of the Class Member Information is unavailable to Scopely, Scopely will use best efforts to deduce or reconstruct the Class Member Information prior to when it must be submitted to the Settlement Administrator. This information will otherwise remain confidential and will not be disclosed to anyone, except in order to carry out the reasonable efforts described in section III.G.2, or pursuant to Scopely's express written authorization or by order of the Superior Court.
- b. Within fifteen (15) days after receiving the Class Member Information from Scopely, the Settlement Administrator will (i) search for updated addresses for all Class Members using the National Change of Address ("NCOA") database; (ii) update any Class Member addresses found through the NCOA search; (iii) calculate each Class Member's estimated Settlement Share; (iv) send to counsel for the Parties its payment calculations for

Class Members and obtain approval from counsel of the calculations; and (v) send a Class Notice Packet to each Class Member. The Settlement Administrator will mail this information to all identified Class Members. In the event of returned or non-deliverable notices, the Settlement Administrator will make reasonable efforts to locate Class Members and re-send the notices.

- c. If a Class Notice Packet is returned because of an incorrect address and no forwarding address is affixed thereto, the Settlement Administrator will promptly, and not later than five (5) business days from receipt of the returned packet, search for a more current address for the Class Member using a skip trace, and re-mail the Class Notice Packet to the Class Member. The Settlement Administrator will use the Class Member Information and otherwise work with Scopely to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, as agreed to with Class Counsel and according to the deadlines set forth in this Agreement, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps will include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address using available telephone numbers and Social Security numbers; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the Settlement Administrator will note the address for its own records and notify Class Counsel and Scopely's Counsel of the date of each such re-mailing as part of a weekly status report provided to the Parties.
- d. Each week, the Settlement Administrator will provide to Class Counsel and Scopely's Counsel a report showing whether any Class Notice Packets have been returned and re-mailed and the receipt of any opt-outs from the Settlement.
- e. In connection with the filing of the Parties' Motion for Final Approval of the Settlement, the Settlement Administrator will prepare, and the Parties will file with the Superior Court, a declaration of due diligence setting forth its compliance with its obligations under this Agreement. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

3. **Objections to Settlement; Opt-outs from Settlement.** Class Members may submit objections to the Settlement or opt out of the Settlement pursuant to the following procedures:

- a. **Objections to Settlement.** Class Members who wish to object to any term of the Settlement must submit an objection to the Settlement Administrator, postmarked no later than forty-five (45) days after the Settlement Administrator mails the Class Notice Packets. The Settlement Administrator shall, within two (2) business days of receipt, serve any objection(s) as received on Class Counsel and Scopely's Counsel, who shall then promptly file all such objections with the Superior Court. Scopely's Counsel and Class Counsel shall file and serve any responses to objections no later than five (5) calendar days prior to the Final Approval Hearing. To be valid, any objection must: (1) contain the objecting Class Member's full name, current address, and telephone number, as well as contact information for any attorney representing the objecting Class Member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence supporting the objection; and (4) be postmarked no later than forty-five (45) days after the Settlement Administrator mails the Class Notice Packets. The objection also will indicate whether the Class Member intends to appear at the Final Approval Hearing. Alternatively, Class Members shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) to orally object to the Settlement.
- b. **Request for Exclusion.** The Class Notice will provide that Class Members may exclude themselves from the Settlement by mailing to the Settlement Administrator a written Request for Exclusion letter, postmarked no later than forty-five (45) days after the Settlement Administrator mails the Class Notice Packets. The "Request for Exclusion" is a letter prepared by the Class Member containing: (1) the Class Member's name, address, telephone number, and the last four digits of his or her Social Security number; (2) a statement that the Class Member wishes to exclude himself or herself from the Settlement; and (3) the Class Member's signature. If a question is raised about the authenticity of a signed Request for Exclusion, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Class Member who timely submits a valid Request for Exclusion will not participate in or be bound by the Settlement and the Judgment, except that all Class Members who worked for Scopely during the PAGA Period will release the Released PAGA Claims as described in section III.H.4 and will receive a portion of the

PAGA Amount regardless of whether they opt out. A Class Member who does not complete and mail a valid Request for Exclusion in the manner and by the deadline specified above will automatically be bound by all terms and conditions of the Settlement, including its release of claims, if the Settlement is approved by the Superior Court, and by the Judgment. Any Class Members who timely submits a valid Request for Exclusion shall not be permitted to file objections to the Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement.

- c. **Report.** Not later than ten (10) days after the deadline for submission of opt-outs to the Settlement, the Settlement Administrator will provide the Parties with a complete and accurate list of objections and opt-outs submitted by Class Members.
4. **Resolution of Disputes.** If a Class Member disputes the information shown on his or her Notice of Estimated Settlement Share, the Class Member must ask the Settlement Administrator to resolve the matter by returning the Notice of Estimated Settlement Share with the information that he or she contends is correct and including with the sheet any documentation the Class Member has to support his or her contention. In the event of such a dispute, Scopely will have the right to review its payroll and personnel records to verify the correct information. After consultation with Class Counsel, the Class Member, and Scopely, the Settlement Administrator will make a determination of the correct information, and that determination will be final, binding on the Parties and the Class Member, and non-appellable.
5. **No Solicitation of Objection, Appeal, or Opt-Out.** Neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, appeal from the Judgment, or opt out of the Settlement.
6. **Right of Scopely to Reject Settlement.** If five percent (5%) or more of Class Members, or a number of Class Members whose Settlement Shares would be worth five percent (5%) or more of the Net Settlement Amount as calculated, timely submit valid Requests for Exclusion, Scopely will have the right to rescind the Settlement, and the Settlement and all actions taken in furtherance of it will be null and void. Scopely must exercise this right within fifteen (15) days after the Settlement Administrator notifies the Parties of the number of opt-outs, which the Settlement Administrator will do within ten (10) days after the deadline for submission of Requests for Exclusion. If Scopely exercises the right to rescind, it will be responsible for the costs of administration of the Settlement incurred through that time. If Scopely does not exercise the right to rescind, the Parties jointly will move for final approval of the Settlement and for an

award of the Class Representative Payment and the Class Counsel Fees and Expenses Payment pursuant to the Settlement, which Scopely will not oppose.

7. Additional Briefing and Final Approval.

- a. Not later than sixteen (16) court days before the Final Approval Hearing, the Parties jointly will file with the Superior Court a Motion for Final Approval of the Settlement, the LWDA Payment, payment of the Settlement Administrator's reasonable fees and expenses, and for awards of the Class Representative Payment and the Class Counsel Fees and Expenses Payment pursuant to this Settlement (the "Motion for Final Approval"); and a declaration prepared by the Settlement Administrator listing the employee identification numbers of all Class Members who timely submitted a valid Request for Exclusion.
- b. Not later than five (5) days before the Final Approval Hearing, Plaintiff and/or the Parties jointly may file a reply in support of the Motion for Final Approval of the Settlement to the extent that any opposition to the motion is filed.
- c. If the Superior Court does not grant final approval of the Settlement, or if the Superior Court's final approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will be null and void; if that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Scopely to pay the Total Settlement Amount, except that Scopely will pay the Settlement Administrator's reasonable fees and expenses incurred as of the date that the Settlement is deemed null and void. An award by the Superior Court of lesser amounts than sought for the Class Representative Payment or Class Counsel Fees and Expenses Payment will not constitute a material modification of the Settlement; although Plaintiff maintains the right to appeal any such reduction.
- d. Together with the Motion for Final Approval, the Parties will present a proposed Judgment to the Superior Court for its approval and entry, in substantially the form evidenced by Exhibit D-2 to this Agreement. After entry of the Judgment, the Superior Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (1) enforcing this Agreement, (2) addressing settlement administration matters, and (3) addressing such post-judgment matters as may be appropriate under court rules or applicable law.

8. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the material terms of this Agreement, Plaintiff, Class Members who did not timely submit an objection to the Settlement and intervene in the Action, Scopely, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a motion for new trial, and any extraordinary writ, and the Judgment therefore will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings, or to file a cross-appeal. This paragraph does not preclude Plaintiff or Class Counsel from appealing from a refusal by the Superior Court to award the full Class Representative Payment or the Class Counsel Fees and Expenses Payment sought by them. If an appeal is taken from the Judgment, the time for consummating the Settlement (including making payments under the Settlement) will be suspended until such time as their appeal is finally resolved and the Judgment becomes Final, as defined in this Agreement.

9. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal or a petition for *certiorari* or review, or any other motion, petition, or application, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material change to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then either Plaintiff or Scopely will have the right to void the Settlement, which the Party must do by giving written notice to the other Parties, the reviewing court, and the Superior Court not later than thirty (30) days after the reviewing court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Superior Court's award of the Class Representative Payment or the Class Counsel Fees and Expenses Payment will not constitute a vacating, reversal, or material modification of the Judgment within the meaning of this paragraph.

10. **Timing of Settlement Payments.** Three (3) days after the Settlement becomes Final, as defined in this Agreement, the Settlement Administrator will provide Scopely with wire transfer information. Within twenty (20) days after the Settlement Administrator provides Scopely with wire transfer information, Scopely will transfer the Total Settlement Amount to the Settlement Administrator via wire transfer. Within fifteen (15) days thereafter, the Settlement Administrator will pay to Class Members the Settlement Shares; to Plaintiff, the Class Representative Payment; to the LWDA, the LWDA Payment; to Class Counsel, the Class Counsel Fees and Expenses Payment; and to the Settlement Administrator, its reasonable fees and expenses.

11. **Uncashed Settlement Share Checks.** A Class Member must cash his or her Settlement Share check within one hundred and eighty (180) calendar days after it is mailed to him or her. If a check is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the Class Member at his or her correct address. If any Class Member's Settlement Share check is not cashed within one hundred and twenty (120) days after its last mailing to the Class Member, the Settlement Administrator will send the Class Member a letter or postcard informing him or her that unless the check is cashed in the next sixty (60) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If a Class Member fails to cash the check for his or her Settlement Share within one hundred and eighty (180) days after it is mailed to him or her, the Settlement Administrator will distribute the funds to the California State Controller's Office, Unclaimed Property Division, in the name of the Class Member. The Parties agree that this disposition results in no "unpaid residue" within the meaning of California Code of Civil Procedure section 384, as the entire Net Settlement Amount will be paid out to Class Members, whether or not they cash their Settlement Share checks. Any amounts paid to PAGA Settlement Group Members for PAGA Amount Payments shall be treated in the same manner.

H. **Release and Waiver of Claims.**

1. **Plaintiff.** In consideration of Plaintiff's awarded Class Representative Payment, Plaintiff's Settlement Share, and the other terms and conditions of the Settlement, as of the date the Settlement becomes Final, with the sole exception of the individual claims for disability discrimination, wrongful termination in violation of public policy, negligent and intentional infliction of emotional distress, and violation of California Business and Professions Code section 17200 *et seq.* already asserted in the pending action entitled "*PELE HENDERSON, an individual, Plaintiff, vs. Scopely, Inc., a Delaware Corporation; JOE ZANETTI, an individual; ROSIE [SURNAME UNKNOWN]; and DOES 1 through 50, inclusive, Defendants*" (the "Individual Action"), pending before the Superior Court, No. 21STCV29370 (the "Excluded Claims"), Plaintiff releases any and all known and unknown claims against Scopely and any present and former parents, subsidiaries and affiliated companies or entities, and their respective officers, directors, employees, partners, shareholders and agents, and any other successors, assigns and legal representatives and its related persons and entities ("Released Parties") that exist as of the execution of this agreement, and waives the protection of California Civil Code section 1542, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if

known by him or her, would have materially affected his or her settlement with the debtor or released party.

(“Plaintiff’s Released Claims”). Expressly excluded from Plaintiff’s Released Claims are the Excluded Claims and any claims for workers’ compensation benefits, unemployment insurance benefits, claims outside the Class Period, and any other claims that cannot be waived by law.

2. **California Class Members.** In consideration for their awarded Class Payment portions of their Settlement Shares, as of the date the Settlement becomes Final, all California Class Members (other than those Class Members who timely and validly requested to be excluded from the Settlement) release any and all known and unknown claims against Scopely and the Released Parties that arise out of or reasonably relate to the claims alleged in the Complaint or any amendments thereto or that could have been alleged based on the allegations in the Complaint that, from August 9, 2017 through the date upon which the Settlement Administrator mails notice of the Settlement, Scopely failed to furnish accurate itemized wage statements; furnish paper copies of wage statements; or reimburse for necessary business expenses. The released claims include but are not limited to claims brought under California Labor Code sections 226, 226.3, and 2802, California Business and Professions Code sections 17200-17208, and the Industrial Welfare Commission Wage Order. Such claims include claims for unreimbursed expenses, statutory penalties, civil penalties, or other relief under the California Labor Code, PAGA, relief from unfair competition under California Business and Professions Code section 17200 *et seq.*; attorneys’ fees and costs; and interest (the “California Class Members’ Released Claims”). Additionally, all California Class Members who worked for Scopely during the PAGA Period will release such claims for civil penalties under PAGA, and will receive a portion of the amount set aside as PAGA penalties, regardless of whether they elect not to participate in the Settlement.
3. **Salary/Exempt QA Class Members.** In consideration for their awarded Class Payment portions of their Settlement Shares, as of the date the Settlement becomes Final, all Salary/Exempt QA Class Members (other than those Class Members who timely and validly requested to be excluded from the Settlement) release any and all known and unknown claims against Scopely and the Released Parties that arise out of or reasonably relate to the claims alleged in the Complaint or any amendments thereto or that could have been alleged based on the allegations in the Complaint that, from August 9, 2017 through the date upon which the Settlement Administrator mails notice of the Settlement, Scopely failed to pay all wages due, including minimum wages and overtime; provide meal and rest periods; pay meal and rest period premiums at the regular rate of pay; furnish accurate itemized wage

statements; furnish paper copies of wage statements; reimburse for necessary business expenses; or pay all wages due to discharged and quitting employees. The released claims include but are not limited to claims brought under California Labor Code sections 201-204, 210, 212, 215, 216, 218.6, 223, 225, 225.5, 226, 226.3, 226.6, 226.7, 256, 354, 408, 510, 512, 553, 558, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, and 2802, California Business and Professions Code sections 17200-17208, and the Industrial Welfare Commission Wage Order. Such claims include claims for wages, statutory penalties, civil penalties, or other relief under the California Labor Code, PAGA, relief from unfair competition under California Business and Professions Code section 17200 *et seq.*; attorneys' fees and costs; and interest (the "Salary/Exempt QA Class Members' Released Claims"). Additionally, all Salary/Exempt QA Class Members who worked for Scopely during the PAGA Period will release such claims for civil penalties under PAGA, and will receive a portion of the amount set aside as PAGA penalties, regardless whether they elect not to participate in the Settlement.

4. **PAGA Settlement Group Members.** In consideration for their awarded portions of the PAGA Civil Penalties, upon the Effective Date, the State of California and all PAGA Settlement Group Members release any and all claims under PAGA for civil penalties against Scopely and the other Released Parties that arise out of or reasonably relate to the claims alleged in the Complaint or any amendments thereto or notices submitted by Plaintiff to the LWDA pursuant to PAGA that occurred during the PAGA Period (the "Released PAGA Claims"). All PAGA Settlement Group Members will release the Released PAGA Claims, and will receive a PAGA Amount Payment, regardless of whether they request to be excluded from the Settlement.
5. **Class Counsel.** Class Counsel will not seek or be entitled to any attorneys' fees and/or expenses in this Action, other than those specified in this Agreement.
- I. **No Effect on Other Benefits.** The Settlement will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiff or Class Members, and Class Members will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement.
- J. **Confidentiality Preceding Preliminary Approval.** Plaintiff and his attorneys agree not to issue any press or other media releases or talk to the press or media regarding the Settlement, and Plaintiff's attorneys agree not to publicize the Settlement on their website or social media. In addition, prior to filing of the Motion for Preliminary Approval, Plaintiff and his attorneys will not have any communication regarding the Settlement with anyone other than family members, clients, Class Members, financial advisors, retained experts, and vendors related

to settlement administration, except as needed to inform the Court of the status of the case.

K. **Unanticipated Increase in Covered Workweeks.** It is estimated that there are approximately 976 California Class Members who worked 88,630 workweeks from the start of the Class Period through January 31, 2022. It is estimated that there are approximately 33 Salary/Exempt QA Class Members who worked 2,506 workweeks from the start of the Class Period through January 31, 2022. Scopely will provide final confirmation of the number of California Class Members, the number of Salary/Exempt QA Class Members, and the number of workweeks they worked through January 31, 2022. The Total Settlement Amount will increase proportionally with added workweeks if the number is more than five percent (5%) of the estimated workweeks of California Class Members stated herein.

L. **Miscellaneous Terms.**

1. **No Admission of Liability.**

- a. Scopely denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Scopely, or an admission by Plaintiff that any of his claims were non-meritorious or any defense asserted by Scopely was meritorious. This Settlement and the fact that Plaintiff and Scopely were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with the Settlement).
- b. The Parties agree that the Motion for Preliminary Approval seeking, *inter alia*, certification of a class is for purposes of the Settlement only and if, for any reason, the Settlement is not approved, the certification will have no force or effect and will be immediately revoked. The Parties further agree that certification for purposes of the Settlement is in no way an admission that class certification is proper under the more stringent standard applied for litigation purposes and that this Settlement will not be admissible in this or any other proceeding as evidence that (a) a class should be certified or (b) Scopely is liable to Plaintiff or the Class.
- c. Whether or not the Judgment becomes Final, nothing in the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, or any

reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Scopely or the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against Scopely or any of the Released Parties, in any further proceeding in the Actions, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.

- d. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Agreement, or in defense of any claims released or barred by this Agreement.
2. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
3. **Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their successors-in-interest.
4. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
5. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
6. **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.
7. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-

length negotiations, taking into account all relevant factors, current and potential.

8. **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.
9. **Notice.** All notices, demands or other communications given under 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, addressed as follows:

To Plaintiff and the Class:

SETAREH LAW GROUP
Shaun Setareh
Thomas Segal
Farrah Grant
Tyson Gibb
9665 Wilshire Boulevard, Suite 430
Beverly Hills, California 90212
Telephone: (310) 888-7771
Facsimile: (310) 888-0109
shaun@setarehlaw.com
thomas@setarehlaw.com
farrah@setarehlaw.com
tyson@setarehlaw.com

To Scopely:

PAUL HASTINGS LLP
Zachary P. Hutton
Jarryd Cooper
Anna M. Skaggs
101 California Street, 48th Floor
San Francisco, California 94111
Telephone: (415) 856-7000
Facsimile: (415) 856-7100
zachhutton@paulhastings.com
jarrydcooper@paulhastings.com
annaskaggs@paulhastings.com

10. **Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures will be accepted if the original signature is provided within seven days. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

[Intentionally Left Blank]

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: May 31st, 2022.

PELE HENDERSON

Pele Henderson

Dated: May 31, 2022.

SETAREH LAW GROUP

By: 
Shaun Setareh
Attorneys for Plaintiff Pele Henderson

Dated: 6/6/2022

SCOPELY, INC.

By: 
Roy Rosenthal
Scopely, Inc.

Dated: 6/6/2022

PAUL HASTINGS LLP

By: 
Zachary P. Hutton
Attorneys for Defendant Scopely, Inc.

EXHIBIT A

**[NOTICE OF PROPOSED SETTLEMENT, CONDITIONAL CERTIFICATION OF
SETTLEMENT CLASS, PRELIMINARY APPROVAL OF SETTLEMENT, AND
HEARING DATE FOR FINAL COURT APPROVAL]**

Exhibit A**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
AND FINAL APPROVAL HEARING**

- To:** (1) All current and former employees who worked for Scopely in California at any time from August 9, 2017 through March 31, 2022; **and**
- (2) All current and former employees who worked for Scopely in an exempt position in California and received a salary less than two-times state minimum wage, or who worked for Scopely as an exempt QA Lead or exempt Senior QA Tester in California, at any time from August 9, 2017 through March 31, 2022.

PLEASE READ THIS NOTICE CAREFULLY

IT MAY AFFECT YOUR LEGAL RIGHTS TO MONEY YOU MAY BE OWED IN CONNECTION WITH YOUR EMPLOYMENT BY SCOPELY. IF YOU WISH TO RECEIVE A SHARE OF THE SETTLEMENT PROCEEDS, READ THE ENCLOSED NOTICE OF ESTIMATED SETTLEMENT SHARE AND CONFIRM THAT YOUR IDENTIFYING INFORMATION AND THE INFORMATION ABOUT YOUR EMPLOYMENT WITH SCOPELY IS CORRECT. IF THE INFORMATION IS NOT CORRECT, RETURN IT TO THE SETTLEMENT ADMINISTRATOR FOLLOWING THE INSTRUCTIONS IN THIS NOTICE.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Do Nothing and Receive a Payment	To receive a payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is set forth in the Notice of Estimated Settlement Share enclosed with this Class Notice. After final approval by the Court, the payment will be mailed to you at the same address as this notice. In exchange for the settlement payment, you will release claims as detailed in Section 7 below. If your address has changed, you must notify the Settlement Administrator as explained in the Notice of Estimated Settlement Share.
Exclude Yourself	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will not receive a Class Payment and you will not release the California Class Members' Released Claims or the Salary/Exempt QA Class Members' Released Claims. However, if you are a PAGA Settlement Group Member, you will still receive a PAGA Amount Payment and be bound by the release of the Released PAGA Claims. Instructions are provided in Section 5 below.
Object	Write to the Court about why you do not agree with the Settlement or appear at the Final Approval Hearing to make an oral objection. Instructions are provided in Section 8 below.

Exhibit A

PURSUANT TO THE ORDER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES (THE “COURT”) ENTERED ON [DATE OF PRELIMINARY APPROVAL], YOU ARE HEREBY NOTIFIED AS FOLLOWS:

1. WHAT IS THIS NOTICE ABOUT?

A proposed settlement (the “Settlement”) has been reached between plaintiff Pele Henderson (“Plaintiff”) and defendant Scopely, Inc. (“Scopely”), in the class action pending in the Court (the “Action”).

The Court has preliminarily approved the Settlement and conditionally certified the Class for purposes of the Settlement only. You have received this notice because Scopely’s records indicate that you are a member of the Class. This notice is designed to inform you of the terms of the Settlement and how you can object to the Settlement, opt out of the Settlement, or provide corrected information to the Settlement Administrator. Unless you opt out of the Settlement, the Settlement if finally approved by the Court will be binding upon you.

2. WHAT IS THIS LAWSUIT ABOUT?

The Action, which is currently pending in the Superior Court of California, County of Los Angeles, is titled “*Pele Henderson v. Scopely, Inc.*,” No. 21STCV29152 (the “Action”).

In this Action, Plaintiff alleges that Scopely failed to pay all wages due, including minimum wages and overtime; provide meal and rest periods; pay meal and rest period premiums at the regular rate of pay; furnish accurate itemized wage statements; furnish paper copies of wage statements; reimburse for necessary business expenses; and pay all wages due to discharged and quitting employees.

Scopely denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, or has any liability to anyone under the claims.

After good-faith negotiations, in which both sides recognized the risk of an uncertain outcome, Plaintiff and Scopely agreed to settle the Action pursuant to the terms and conditions of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Scopely that Plaintiff’s claims in the Action have merit or that it has any liability to Plaintiff or the proposed class on those claims. On the contrary, Scopely denies any and all such liability, and maintains that it complied with all applicable laws.

The parties and their counsel have concluded that the Settlement is advantageous, considering the risks and uncertainties to each side of continued litigation. The parties and their counsel have determined that the Settlement is fair, reasonable, and adequate and is in the best interests of the members of the Class.

Exhibit A

SUMMARY OF THE SETTLEMENT

3. WHAT IS THIS LAWSUIT ABOUT?

The “**Class Period**” means the period of time from August 9, 2017 through March 31, 2022. You are a “Class Member” included in the Settlement if you fall within one or both of the following definitions:

“**California Class**”: All current and former employees who worked for Scopely in California at any time during the Class Period.

“**Salary/Exempt QA Class**”: All current and former employees who worked for Scopely in an exempt position in California and received a salary less than two-times state minimum wage, or who worked for Scopely as an exempt QA Lead or exempt Senior QA Tester in California, at any time during the Class Period.

The “**PAGA Period**” means the period of time from August 9, 2020 through March 31, 2022. Class Members who worked for Scopely in California at any time during the PAGA Period are also “**PAGA Settlement Group Members.**”

4. WHAT IS THIS LAWSUIT ABOUT?

- a. Scopely will pay \$850,000 as the Total Settlement Amount. The Total Settlement Amount will fund all payments to be made under the Settlement.
- b. The “Net Settlement Amount” is the amount from the Total Settlement Amount that is available for distribution as the Class Payment portion of Settlement Shares to Class Members after deductions for PAGA Civil Penalties to be paid pursuant to the Labor Code Private Attorneys General Act (“PAGA”), the Class Representative Payment, the Class Counsel Fees and Expenses Payment, and the Settlement Administrator’s reasonable fees and expenses.
- c. The Class Payment portion of the Settlement Share shall be paid to each Class Member who does not timely opt out of the Settlement by timely submitting a valid Request for Exclusion. However, as described below, all Class Members who are also PAGA Settlement Group Members will receive the PAGA Amount Payment portion of their Settlement Share.
- d. The Settlement Share for a Class Member will depend on the number of pay periods the Class Member worked in a position covered by the Settlement during the Class Period, the number of pay periods the Class Member worked in a position covered by the Settlement during the PAGA Period (if any), and the amounts awarded by the Court for the PAGA Civil Penalties and the payments to Plaintiff, Class Counsel, and the Settlement Administrator.
- e. “Settlement Share” means the portion of the Net Settlement Amount and the PAGA Amount that will be allocated to each Class Member under the Settlement. The

Exhibit A

Settlement Administrator will calculate each Class Member's Settlement Share as follows:

- i. **Class Payments to California Class Members.** Each California Class Member who does not opt out of the Settlement will receive a Class Payment equal to 40% of the Net Settlement Amount times the ratio of (i) the number of pay periods worked by the Class Member for Scopely in a position covered by the Settlement during the Class Period ("California Pay Periods") to (ii) the total number of California Pay Periods worked by all such California Class Members for Scopely in a position covered by the Settlement during the Class Period.
- ii. **Class Payments to Salary/Exempt QA Class Members.** Each Salary/Exempt QA Class Member who does not opt out of the Settlement will receive a Class Payment equal to 60% of the Net Settlement Amount times the ratio of (i) the number of pay periods worked by the Class Member for Scopely in a position covered by the Salary/Exempt QA Class during the Class Period ("Salary/Exempt QA Pay Periods") to (ii) the total number of Salary/Exempt QA Pay Periods worked by all such Salary/Exempt QA Class Members for Scopely in a position covered by the Salary/Exempt QA Class during the Class Period. However, to the extent that any Salary/Exempt QA Class Member was paid a salary less than two times the minimum wage while employed in an exempt QA Lead or exempt QA Tester position, that pay period will not be double-counted, and it will be treated as a single pay period in the Salary/Exempt QA Class.
- iii. **PAGA Amount Payments.** In addition to the Net Settlement Amount, \$5,000 of the Total Settlement Amount has been designated as the "PAGA Amount." Each PAGA Settlement Group Member will receive a "PAGA Amount Payment" equal to the PAGA Amount times the ratio of (i) the number of pay periods worked by the PAGA Settlement Group Member for Scopely in a position covered by the Settlement during the PAGA Period ("PAGA Pay Periods") to (ii) the total number of PAGA Pay Periods worked by all such PAGA Settlement Group Members. All PAGA Settlement Group Members, including those who opt out of the Settlement, will receive a PAGA Amount Payment.
- f. An approximation of your Settlement Share appears on your Notice of Estimated Settlement Share accompanying this Notice. Your actual Settlement Share may be more or less once awarded. The Settlement Shares and other amounts awarded by the Court will be paid after final court approval of the Settlement, entry of the final judgment, and the exhaustion of all rights to appeal or review, or after any appeal or review has been resolved in favor of the Settlement.

5. **HOW DO I EXCLUDE MYSELF FROM THE SETTLEMENT?**

You will be included in the Settlement and receive the Class Payment portion of your Settlement Share (if any) unless you opt out of the Settlement, by mailing to the Settlement Administrator a signed "Request for Exclusion" letter, **postmarked no later than [45 days after mailing of**

Exhibit A

class notice]. The Request for Exclusion must include your name, address, telephone number, and the last four digits of your Social Security number, and should state, in substance:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE HENDERSON V. SCOPELY, INC. LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE THE CLASS PAYMENT PORTION OF MY SETTLEMENT SHARE.”

In addition, the Request for Exclusion must include your signature.

If you request to be excluded from the Settlement by the deadline, you will be excluded from the Settlement and will not receive a Class Payment. You will retain the right you may have, if any, to pursue a claim against Scopely. However, all PAGA Settlement Group Members (defined above) will be bound by the release of PAGA claims, and will receive a PAGA Amount Payment, regardless of whether they opt out of the Settlement.

6. WHAT IF THE INFORMATION ON THE ENCLOSED NOTICE OF ESTIMATED SETTLEMENT AWARD IS INACCURATE?

The Court has appointed [REDACTED] to act as an independent Settlement Administrator and to resolve any disputes concerning the calculation of Class Members' Settlement Shares and their entitlement to Settlement Shares.

If you dispute the accuracy of any of the information used to calculate your California Pay Periods, Salary/Exempt QA Pay Periods and/or PAGA Pay Periods shown on your enclosed Notice of Estimated Settlement Share, you must ask the Settlement Administrator to resolve the matter. In order to do so, you must return your Notice of Estimated Settlement Share to the Settlement Administrator **postmarked no later than [45 days after mailing of class notice].** You should submit any documentary evidence that you have along with the form. After consulting with you, Class Counsel, and Scopely, the Settlement Administrator will make a determination of the number of your California Pay Periods, Salary/Exempt QA Pay Periods and PAGA Pay Periods, and that determination will be final, binding on you and Scopely, and non-appealable.

7. WHAT CLAIMS ARE BEING RELEASED AS PART OF THE SETTLEMENT?

- a. **California Class Members.** In consideration for their awarded Class Payment portions of their Settlement Shares, as of the date the Settlement becomes Final, all California Class Members (other than those Class Members who timely and validly requested to be excluded from the Settlement) release any and all known and unknown claims against Scopely and any present and former parents, subsidiaries and affiliated companies or entities, and their respective officers, directors, employees, partners, shareholders and agents, and any other successors, assigns and legal representatives and its related persons and entities (the “Released Parties”) that arise out of or reasonably relate to the claims alleged in the Complaint or any amendments thereto or that could have been alleged based on the allegations in the Complaint that, from August 9, 2017 through [date

Exhibit A

Settlement Administrator to mail Class Notice, Scopely failed to furnish accurate itemized wage statements; furnish paper copies of wage statements; or reimburse for necessary business expenses. The released claims include but are not limited to claims brought under California Labor Code sections 226, 226.3, and 2802, California Business and Professions Code sections 17200-17208, and the Industrial Welfare Commission Wage Order. Such claims include claims for unreimbursed expenses, statutory penalties, civil penalties, or other relief under the California Labor Code, PAGA, relief from unfair competition under California Business and Professions Code section 17200 *et seq.*; attorneys' fees and costs; and interest (the "California Class Members' Released Claims").

Additionally, all California Class Members who worked for Scopely during the PAGA Period will release such claims for civil penalties under PAGA, and will receive a portion of the amount set aside as PAGA penalties, regardless of whether they elect not to participate in the Settlement.

- b. **Salary/Exempt QA Class Members.** In consideration for their awarded Class Payment portions of their Settlement Shares, as of the date the Settlement becomes Final, all Salary/Exempt QA Class Members (other than those Class Members who timely and validly requested to be excluded from the Settlement) release any and all known and unknown claims against Scopely and the Released Parties that arise out of or reasonably relate to the claims alleged in the Complaint or any amendments thereto or that could have been alleged based on the allegations in the Complaint that, from August 9, 2017 through **[date Settlement Administrator to mail Class Notice]**, Scopely failed to pay all wages due, including minimum wages and overtime; provide meal and rest periods; pay meal and rest period premiums at the regular rate of pay; furnish accurate itemized wage statements; furnish paper copies of wage statements; reimburse for necessary business expenses; or pay all wages due to discharged and quitting employees. The released claims include but are not limited to claims brought under California Labor Code sections 201-204, 210, 212, 215, 216, 218.6, 223, 225, 225.5, 226, 226.3, 226.6, 226.7, 256, 354, 408, 510, 512, 553, 558, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, and 2802, California Business and Professions Code sections 17200-17208, and the Industrial Welfare Commission Wage Order. Such claims include claims for wages, statutory penalties, civil penalties, or other relief under the California Labor Code, PAGA, relief from unfair competition under California Business and Professions Code section 17200 *et seq.*; attorneys' fees and costs; and interest (the "Salary/Exempt QA Class Members' Released Claims").

Additionally, all Salary/Exempt QA Class Members who worked for Scopely during the PAGA Period will release such claims for civil penalties under PAGA, and will receive a portion of the amount set aside as PAGA penalties, regardless whether they elect not to participate in the Settlement.

- c. **PAGA Settlement Group Members.** In consideration for their awarded portions of the PAGA Civil Penalties, upon the Effective Date, the State of California and all PAGA Settlement Group Members release any and all claims under PAGA for civil penalties against Scopely and the other Released Parties that arise out of or reasonably relate to the

Exhibit A

claims alleged in the Complaint or any amendments thereto or notices submitted by Plaintiff to the LWDA pursuant to PAGA that occurred during the PAGA Period (the “Released PAGA Claims”). All PAGA Settlement Group Members will release the Released PAGA Claims, and will receive a PAGA Amount Payment, regardless of whether they opt out of the Settlement.

- d. **Class Representative Payment.** Plaintiff will seek approval from the Court for a payment of \$5,000 in consideration of initiating and pursuing the Action, undertaking the risk of liability for attorneys’ fees and expenses in the event he was unsuccessful in the prosecution of the Action, and granting the general release as part of the Settlement. This payment, which will be paid in addition to Plaintiff’s Settlement Share, will be made out of the Total Settlement Amount.
- e. **Class Counsel Fees and Expenses Payment.** As part of the final approval hearing, Class Counsel will request up to \$283,333.33 for attorneys’ fees (one-third (1/3) of the Total Settlement Amount of \$850,000) and \$[REDACTED] for their expenses incurred in connection with their work in this case. Scopely does not oppose these payments. These amounts constitute full and complete compensation for all legal fees, costs, and expenses of all Class Counsel, including costs and expenses resulting from experts and other vendors retained by Class Counsel in connection with the litigation and all work done through the completion of the litigation, whatever date that may be. Class Members will not be required to pay Class Counsel for any other attorneys’ fees, costs or expenses out of their own pockets if the Settlement Agreement and the attorneys’ fees and expenses payment is finally approved by the Court. Class Counsel’s attorneys’ fees and expenses as approved by the Court will be paid out of the Total Settlement Amount.
- f. **Payment to LWDA.** Because PAGA Settlement Group Members are also releasing their claims for civil penalties under PAGA, the parties have agreed that the LWDA, which is entitled to share in any recovery of civil penalties under PAGA, will be paid \$15,000 out of the Total Settlement Amount as the LWDA’s share of the settlement of civil penalties. This amount is subject to the Court’s approval.
- g. **Costs of Administration.** The reasonable costs of administering the Settlement, including the Settlement Administrator’s fees and expenses, estimated to be no more than \$[REDACTED], will be paid out of the Total Settlement Amount.
- h. **Plaintiff and Class Counsel’s Support of the Settlement.** Plaintiff as Class Representative and Class Counsel support the Settlement. Their reasons include the risk of a trial on the merits, the inherent delays and uncertainties associated with litigation, and the possibility that the Class is not entitled to any recovery. Based on their experience litigating similar cases, Class Counsel believe that further proceedings in this case, including a trial and probable appeals, would be very expensive and protracted. No one can confidently predict how the various legal questions at issue, including the amount of damages, would ultimately be resolved. Therefore, upon careful consideration of all of the facts and circumstances of this case, Class Counsel believe that the Settlement is fair, reasonable, and adequate.

Exhibit A

8. WHAT ARE MY RIGHTS AS A CLASS MEMBER?

- a. **Participating in the Settlement.** Plaintiff as Class Representative and Class Counsel represent your interests as a Class Member. Unless you opt out of the Settlement, you are a part of the Class, you will be bound by the terms of the Settlement and any final judgment that may be entered by the Court, and you will be deemed to have released the claims against Scopely and the other Released Parties described above. As a member of the Class, you will not be responsible for the payment of attorneys' fees or reimbursement of litigation expenses unless you retain your own counsel, in which event you will be responsible for your own attorneys' fees and expenses.
- b. **Notice of Estimated Settlement Share.** The enclosed Notice of Estimated Settlement Share provides the information based on which your Settlement Share will be calculated and an estimate of your Settlement Share if all Class Members participate and all payment amounts are awarded; your actual Settlement Share may be more or less. If the information in the Notice of Estimated Settlement Share (including your mailing address) is correct, you do not need to return the form. Any correction to the Notice of Estimated Settlement Share must be completed, signed by you, and returned to the Settlement Administrator, **postmarked by not later than 45 days after mailing of class notice**. It is your obligation to keep the Settlement Administrator informed of any changes to your mailing address until your Settlement Share is received, should final approval of the Settlement be granted. Failing to provide the Settlement Administrator with any change of your mailing address may prevent you from receiving your Settlement Share.
- c. **Excluding yourself from the Settlement.** If you do not wish to participate in the Settlement, you must mail a written "Request for Exclusion" letter (described above), **postmarked no later than 45 days after mailing of class notice**. Any person who timely and properly requests to be excluded from the Settlement will no longer be a member of the Settlement Class, will not be eligible to receive a Settlement Share, and will not be included in calculating the Class Payment portion of the Settlement Share of any other Class Member. Any such person will retain the right, if any, to pursue at his or her own expense a claim against Scopely, except that all PAGA Settlement Group Members (defined above) will release the Released PAGA Claims described above, and will receive a PAGA Amount Payment regardless of whether they request to be excluded from the Settlement. An incomplete or unsigned Request for Exclusion will be deemed invalid.

Consistent with Scopely policies, there will be no retaliation or adverse action taken against any Class Member who participates in the Settlement or requests to be excluded from the Settlement.

- d. **Objecting to the Settlement.** If you do not submit a Request for Exclusion, you may object to the terms of the Settlement before final approval.

Any written objection must state your full name, current address, and current telephone number; contact information for any attorney representing you for purposes of your objection; all of your objections and their factual and legal bases; and whether you intend

Exhibit A

to appear at the final approval hearing; and must include any and all papers, briefs, written evidence, declarations, and/or other evidence supporting your objection. Written objections to the Settlement must be mailed and postmarked by not later than **[45 days after mailing of class notice]**.

MAIL YOUR OBJECTION TO:

Henderson v. Scopely Settlement Administrator
c/o [redacted]
[settlement administrator address]

If you choose to object to the Settlement, you may also appear or appear through counsel of your choice, paid at your own expense, and be heard at the time of the final approval hearing, if you wish to do so. Any attorney who intends to appear on behalf of an objecting Class Member must file a Notice of Appearance with the Court no later than **[45 DAYS AFTER NOTICE MAILING]**.

If the Court overrules your objection, you will be bound by the terms of the Settlement and will still be sent your Settlement Share.

9. THE LAWYERS FOR THE PARTIES

CLASS COUNSEL

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Thomas Segal
Farrah Grant
Tyson Gibb
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Beverly Hills, California 90212
Telephone: (310) 888-7771
Facsimile: (310) 888-0109

SCOPELY'S COUNSEL

PAUL HASTINGS LLP
Zachary P. Hutton
Jarryd Cooper
Anna M. Skaggs
Paul Hastings LLP
101 California Street, 48th Floor
San Francisco, California 94111

DO NOT TELEPHONE THE COURT OR SCOPELY'S COUNSEL.

10. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a final approval hearing on [redacted], 2022, at [redacted]:[redacted] a.m., in Department [redacted] of the Superior Court of California, County of Los Angeles, 312 North Spring Street, Los Angeles, CA 90012, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve the requests for the Class Representative Payment and the Class Counsel Fees and Expenses Payment.

The hearing may be postponed without further notice to the Class. **It is not necessary for you to appear at this hearing.** If you have submitted an objection and indicated that you intend to appear in the manner set forth above, you may appear at the hearing and be heard.

Exhibit A

11. GETTING MORE INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which will be on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined at the Office of the Clerk, County of Los Angeles, 312 North Spring Street, Room 255, Los Angeles, CA 90012, during the Clerk's normal business hours; or you may contact Class Counsel or the Settlement Administrator. Reference the *Henderson v. Scopely* Wage and Hour Settlement.

**PLEASE DO NOT TELEPHONE THE COURT OR SCOPELY'S
COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT.
YOU MAY, HOWEVER, CALL ANY OF THE CLASS COUNSEL LISTED
ABOVE OR THE SETTLEMENT ADMINISTRATOR AT [INSERT
NUMBER].**

EXHIBIT B

[NOTICE OF ESTIMATED SETTLEMENT SHARE]

Exhibit B

NOTICE OF ESTIMATED SETTLEMENT SHARE

**PELE HENDERSON V. SCOPELY, INC.,
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 21STCV29152**

Please complete, sign, date and return this Form to **<<ADMINISTRATOR CONTACT INFO>>** **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Type or print your name (First, Middle, Last): _____

(II) Type or print the following identifying information if your contact information has changed:

Former Names (if any): _____

New Street Address: _____

City: _____ State: _____ Zip Code: _____

(III) Information Used to Calculate Your Estimated Settlement Share:

According to Scopely records:

- (a)** you worked [] pay periods for Scopely in California at any time between August 9, 2017 and March 31, 2022;
- (b)** you worked [] pay periods for Scopely in an exempt position in California and received a salary less than two-times state minimum wage, or as an exempt QA Lead or exempt Senior QA Tester in California, at any time between August 9, 2017 and March 31, 2022;*
- (c)** you worked [] pay periods for Scopely in California at any time between August 9, 2020 and March 31, 2022.

Based on the above, your Class Payment is estimated at \$[] and your PAGA Amount Payment (your share of penalties under the Labor Code Private Attorneys General Act ("PAGA")) is estimated at \$[].

(IV) If you disagree with items (a)-(c) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this form:

If you dispute the above information from Scopely's records, Scopely's records will control unless you are able to provide documentation that establishes otherwise and that Scopely's records are mistaken. If there is a dispute about whether Scopely's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator.

Date: _____ **Signature:** _____

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<45 DAYS AFTER MAILING OF CLASS NOTICE>>.**

* To the extent that you are a Salary/Exempt QA Class Member and worked a pay period during which you were paid a salary less than two times the minimum wage while employed in an exempt QA Lead or exempt QA Tester position, that pay period will not be double-counted, and will be treated as a single pay period.

EXHIBIT C

[PROPOSED ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT]

Exhibit C

1 *[Counsel listed on next page]*

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF LOS ANGELES**

10

11 PELE HENDERSON, on behalf of himself and
12 all others similarly situated,

13 Plaintiff,

14 vs.

15 SCOPELY, INC., a Delaware corporation; and
16 DOES 1 through 50, inclusive,

17 Defendants.

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Case No. 21STCV29152

[PROPOSED] ORDER:

**(1) PRELIMINARILY APPROVING
PROPOSED SETTLEMENT;**

**(2) CONDITIONALLY CERTIFYING
SETTLEMENT CLASS;**

**(3) APPOINTING CLASS
REPRESENTATIVE, CLASS COUNSEL,
AND SETTLEMENT ADMINISTRATOR;**

**(4) APPROVING CLASS NOTICE AND
RELATED MATERIALS; AND**

**(5) SETTING HEARING FOR FINAL
APPROVAL OF SETTLEMENT**

Judge: Hon. Amy D. Hogue

Dept.: [REDACTED]

Complaint filed: August 9, 2021

SAC filed: [REDACTED], 2022

Trial date: None set

Exhibit C

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19 Attorneys for Defendant Scopely, Inc.
20
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Exhibit C

1 The joint motion of plaintiff Pele Henderson (“Plaintiff”) and defendant Scopely, Inc.
2 (“Defendant” or “Scopely”) (together, the “Parties”) for Preliminary Approval of Class Action
3 Settlement (the “Motion”) came on regularly for hearing before this Court on
4 _____, 2022 at ____:____ a.m. / p.m. The Court, having considered the
5 proposed Settlement Agreement (the “Settlement”), attached as Exhibit 1 to the Declaration of
6 _____ filed concurrently with the Motion; having considered the Motion, Memorandum of
7 Points and Authorities in support thereof, and supporting declarations filed therewith, and any
8 argument presented at the hearing on the Motion; and good cause appearing, HEREBY
9 ORDERS THE FOLLOWING:

10 1. The Court GRANTS preliminary approval of the class action settlement as set
11 forth in the Settlement and finds its terms to be within the range of reasonableness of a
12 settlement that ultimately could be granted approval by the Court at a Final Approval Hearing.
13 For purposes of the Settlement only, the Court finds that the proposed Class is ascertainable and
14 that there is a sufficiently well-defined community of interest among the members of the Class in
15 questions of law and fact. Therefore, for settlement purposes only, the Court grants conditional
16 certification of the Class, which is defined as follows:

17 All current and former employees who worked for Scopely in California at
18 any time from August 9, 2017 through March 31, 2022 (the “California
Class”); and

19 All current and former employees who worked for Scopely in an exempt
20 position in California and received a salary less than two-times state
21 minimum wage at any time from August 9, 2017 through March 31, 2022
22 or who worked for Scopely as an exempt QA Lead or exempt Senior QA
Tester in California at any time from August 9, 2017 through March 31,
2022 (the “Salary/Exempt QA Class”).

23 2. For purposes of the Settlement, the Court designates Plaintiff Pele Henderson as
24 Class Representative, and designates Shaun Setareh, Thomas Segal, Farrah Grant and Tyson
25 Gibb of Setareh Law Group as Class Counsel.

26 3. The Court designates _____ as the third-party Settlement Administrator for
27 mailing notices.
28

Exhibit C

1 4. The Court approves, as to form and content, the Notice of Proposed Settlement,
2 Conditional Certification of Settlement Class, Preliminary Approval of Settlement, and Hearing
3 Date for Final Court Approval (“Class Notice”), and the Notice of Estimated Settlement Share,
4 attached as Exhibit A and Exhibit B, respectively, to the Settlement (collectively, the “Class
5 Notice Packet”).

6 5. The Court finds that the form of notice to the Class Members regarding the
7 pendency of the action and of the Settlement, and the methods of giving notice to Class
8 Members, constitute the best notice practicable under the circumstances, and constitute valid,
9 due, and sufficient notice to all Settlement Class members. The form and method of giving
10 notice complies fully with the requirements of California Code of Civil Procedure section 382,
11 California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and
12 other applicable law.

13 6. The Court further approves the procedures for Class Members to opt out of or
14 object to the Settlement, as set forth in the Notice.

15 7. The procedures and requirements for filing objections in connection with the
16 Final Approval Hearing are intended to ensure the efficient administration of justice and the
17 orderly presentation of any Class Member’s objection to the Settlement, in accordance with the
18 due process rights of all Settlement Class members.

19 8. The Court directs the Settlement Administrator to mail the Class Notice Packet to
20 the Class Members in accordance with the terms of the Settlement.

21 9. The Notice shall provide at least 45 calendar days’ notice from the date of initial
22 mailing for Class Members to opt out of, or object to, the Settlement.

23 10. The Final Approval Hearing on the question of whether the Settlement should be
24 finally approved as fair, reasonable, and adequate is scheduled in Department [REDACTED] of this Court,
25 located at 312 North Spring Street, Los Angeles, CA 90012, on _____, 2022 at
26 ____:____ a.m. / p.m.

27 11. At the Final Approval Hearing, the Court will consider: (a) whether the
28 Settlement should be finally approved as fair, reasonable, and adequate for the Class; (b) whether

Exhibit C

a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiff's application for reasonable attorneys' fees, reimbursement of litigation expenses, representative payment to Plaintiff, and settlement administration costs should be granted.

12. Counsel for the Parties shall file memoranda, declarations, or other statements and materials in support of their request for final approval of the Settlement, attorneys' fees, litigation expenses, Plaintiff's representative payment, and settlement administration costs prior to the Final Approval Hearing according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

13. An implementation schedule is below:

Event	Date
Scopely to provide Class Data to Settlement Administrator no later than [30 days after preliminary approval]:	_____, 2022
Settlement Administrator to mail Class Notice Packets to Class Members no later than [15 days after receiving Class Data]:	_____, 2022
Deadline for Class Members to opt out, or object to, the Settlement, or submit disputes to the Settlement Administrator [45 days after mailing of Class Notice Packets]:	_____, 2022
Deadline for Parties to jointly file Motion for Final Approval of Class Action Settlement:	_____, 2022
Final Approval Hearing	_____, 2022

14. Pending the Final Approval Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed.

15. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement.

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Exhibit C

IT IS SO ORDERED.

Dated: _____, 2022

Hon. Amy D. Hogue
Judge of the Superior Court

EXHIBITS D-1 AND D-2

**[PROPOSED ORDER GRANTING FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND PROPOSED FINAL JUDGMENT]**

Exhibit D-1

[Counsel listed on next page]

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

PELE HENDERSON, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

SCOPELY, INC., a Delaware corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 21STCV29152

**[PROPOSED] ORDER GRANTING
JOINT MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Judge: Hon. Amy D. Hogue

Dept.: [REDACTED]

Complaint filed: August 9, 2021

SAC filed: [REDACTED], 2022

Trial date: None set

Exhibit D-1

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12 Attorneys for Plaintiff
13 PELE HENDERSON and the putative class

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Attorneys for Defendant Scopely, Inc.

Exhibit D-1

On [REDACTED], 2022, a hearing was held on the joint motion of plaintiff Pele Henderson (“Plaintiff”) and defendant Scopely, Inc. (“Defendant” or “Scopely”), for final approval of their class settlement (the “Settlement”) and payments to the Labor and Workforce Development Agency (“LWDA”) and the Settlement Administrator. [REDACTED] of Setareh Law Group LLP appeared for Plaintiff, and Zachary P. Hutton of Paul Hastings LLP appeared for Scopely.

The parties have submitted their Settlement, which this Court preliminarily approved by its [REDACTED], 2022, order (“Preliminary Approval Order”). In accordance with the Preliminary Approval Order, Class Members have been given notice of the terms of the Settlement and the opportunity to comment on or object to it or to exclude themselves from its provisions.

Having received and considered the Settlement, the supporting papers filed by the parties, and the evidence and argument received by the Court at the hearing before it entered the Preliminary Approval Order and the final approval hearing on [REDACTED], 2022, the Court grants final approval of the Settlement, and HEREBY ORDERS and MAKES DETERMINATIONS as follows:

1. The certification of the following Class is confirmed for the purpose of entering a settlement in this matter:

All current and former employees who worked for Scopely in California at any time from August 9, 2017 through March 31, 2022 (the “California Class”); and

All current and former employees who worked for Scopely in an exempt position in California and received a salary less than two-times state minimum wage at any time from August 9, 2017 through March 31, 2022 or who worked for Scopely as an exempt QA Lead or exempt Senior QA Tester in California at any time from August 9, 2017 through March 31, 2022 (the “Salary/Exempt QA Class”).

2. The Settlement Administrator received [REDACTED] valid requests for exclusion from the Class. The employee identification numbers of the individuals who timely submitted valid

Exhibit D-1

1 requests for exclusion are listed in Exhibit [redacted] to the Declaration of [Settlement Administrator]
2 filed on [date].

3 3. The Court confirms the appointment of Plaintiff Pele Henderson as Class
4 Representative, and Shaun Setareh, Thomas Segal, Farrah Grant and Tyson Gibb of Setareh Law
5 Group as Class Counsel.

6 4. Pursuant to the Preliminary Approval Order, a Notice of Proposed Settlement and
7 Final Approval Hearing, and Notice of Estimated Settlement Share were sent to each Class
8 Member by first-class mail. These papers informed Class Members of the terms of the
9 Settlement, their right to receive a Settlement Share, their right to comment on or object to the
10 Settlement or to opt out of the Settlement and pursue their own remedies, and their right to
11 appear in person or by counsel at the final approval hearing and be heard regarding approval of
12 the Settlement. Adequate periods of time were provided by each of these procedures. No Class
13 Members objected to the Settlement as part of this notice process or stated an intent to appear at
14 the final approval hearing.

15 5. The Court finds and determines that this notice procedure afforded adequate
16 protections to Class Members and provides the basis for the Court to make an informed decision
17 regarding approval of the Settlement based on the responses of Class Members. The Court finds
18 and determines that the notice provided in this case was the best notice practicable, which
19 satisfied the requirements of law and due process.

20 6. For the reasons stated in the Preliminary Approval Order, the Court finds and
21 determines that the proposed class, as defined in the definitions section of the Settlement, meets
22 all of the legal requirements for class certification, and it is hereby ordered that the Class is
23 finally approved and certified as a class for purposes of the Settlement.

24 7. [The Court overrules the objections raised by objecting Class Members.]

25 8. The Court further finds and determines that the terms of the Settlement are fair,
26 reasonable, and adequate to the Class and to each Class Member. The Class Members who have
27 not opted out will be bound by the Settlement, except that PAGA Settlement Group Members (as
28 defined in the Settlement, those who worked for Scopely during the applicable PAGA period

Exhibit D-1

(August 9, 2020 through March 31, 2022)) will release the PAGA claims released in the Settlement, and will receive a portion of the amount set aside as PAGA penalties, regardless of whether they opt out of the Settlement. The Settlement is ordered finally approved, and that all terms and provisions of the Settlement should be and hereby are ordered to be consummated.

9. The Court finds and determines that the Settlement Shares to be paid to the Class Members (including the Class Payments to be paid to Class Members who did not timely submit a valid Request for Exclusion and PAGA Amount Payments to be paid to all PAGA Settlement Group Members), as provided for by the Settlement, are fair and reasonable. The Court hereby grants final approval to and orders the payment of those amounts to be made to the Class Members out of the Net Settlement Amount and PAGA Amount in accordance with the Settlement.

10. Pursuant to the Labor Code Private Attorneys General Act ("PAGA"), Cal. Lab. Code §§ 2699(l)(2), (l)(4), the LWDA has been given notice of the Settlement. Pursuant to PAGA, on the date the parties filed the motion seeking approval of the Settlement with the Court, Plaintiff submitted to the LWDA a notice of the Settlement enclosing a copy of the Settlement. The Court finds and determines that the notice of the Settlement complied with the statutory requirements of PAGA.

11. The Court finds and determines that the resolution of the Released PAGA Claims and the PAGA Civil Penalties, which includes the payment to the LWDA of \$15,000 as its share of the settlement of civil penalties, in this case is fair, reasonable, and appropriate. The Court hereby gives final approval to and orders that the payment of the PAGA Civil Penalties be paid out of the Total Settlement Amount in accordance with the Settlement.

12. The Court finds and determines that the fees and expenses of [REDACTED] in administering the settlement, in the amount of \$ [REDACTED], are fair and reasonable. The Court hereby grants final approval to and orders that the payment of approximately that amount be paid out of the Total Settlement Amount in accordance with the Settlement.

13. In addition to any recovery that Plaintiff may receive from the Net Settlement Amount and PAGA Amount, and in recognition of the Plaintiff's efforts on behalf of the

Exhibit D-1

1 Settlement Class, the Court hereby approves the payment of an incentive award to Plaintiff in the
2 amount of \$5,000. This shall be paid from the Total Settlement Amount.

3 14. Pursuant to the authorities and argument presented to the Court, the Court
4 approves the payment of attorneys' fees to Class Counsel in the sum of \$283,333.33, plus costs
5 and expenses in the amount of \$[REDACTED]. This shall be paid from the Total Settlement Amount.

6 15. The parties are hereby ordered to comply with the terms of the Settlement.

7 16. Without affecting the finality of this order in any way, pursuant to California
8 Code of Civil Procedure section 664.6 the Court retains jurisdiction of all matters relating to the
9 interpretation, administration, implementation, effectuation, and enforcement of this order and
10 the Settlement.

11 **IT IS SO ORDERED.**

12 Dated: _____, 2022

13 _____
14 The Honorable Amy D. Hogue
15 Judge of the Superior Court
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Exhibit D-2

[Counsel listed on next page]

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

PELE HENDERSON, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

SCOPELY, INC., a Delaware corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 21STCV29152

[PROPOSED] FINAL JUDGMENT

Judge: Hon. Amy D. Hogue

Dept.: [REDACTED]

Complaint filed: August 9, 2021

SAC filed: [REDACTED], 2022

Trial date: None set

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1 The parties having settled this action and the Court having entered an Order Granting
2 Final Approval of Settlement and good cause appearing therefor,

3 IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:

4 1. Except as set forth in the Settlement Agreement and the Order Granting Final
5 Approval of Settlement, Plaintiff Pele Henderson ("Plaintiff"), and all members of the Class,
6 shall take nothing by their complaint in this Action.

7 2. Without affecting the finality of this judgment in any way, pursuant to California
8 Code of Civil Procedure section 664.6 the Court retains jurisdiction of all matters relating to the
9 interpretation, administration, implementation, effectuation, and enforcement of this order and
10 the Settlement.

11 3. Upon completion of administration of the settlement, the Settlement
12 Administrator will provide written certification of such completion to the Court and counsel for
13 the parties. The Court sets a compliance hearing date of _____, at
14 _____ a.m. / p.m., and the written certification of the Settlement Administrator shall be
15 filed no later than fourteen (14) days before this hearing.

16 4. The Court finds that in consideration of Plaintiff's awarded Class Representative
17 Payment, Plaintiff's Settlement Share, and the other terms and conditions of the Settlement, as of
18 the date the Settlement becomes Final and is fully funded, except as provided below, Plaintiff
19 releases any and all known and unknown claims against Scopely and any present and former
20 parents, subsidiaries and affiliated companies or entities, and their respective officers, directors,
21 employees, partners, shareholders and agents, and any other successors, assigns and legal
22 representatives and its related persons and entities ("Released Parties") that existed as of the
23 execution of the Settlement Agreement, and waives the protection of California Civil Code
24 section 1542, which provides: "A general release does not extend to claims that the creditor or
25 releasing party does not know or suspect to exist in his or her favor at the time of executing the
26 release and that, if known by him or her, would have materially affected his or her settlement
27 with the debtor or released party." ("Plaintiff's Released Claims.") Expressly excluded from
28 Plaintiff's Released Claims are Plaintiff's individual claims for disability discrimination,

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wrongful termination in violation of public policy, negligent and intentional infliction of emotional distress, and violation of California Business and Professions Code section 17200 *et seq.* asserted in the separate action entitled “*PELE HENDERSON, an individual, Plaintiff, vs. Scopely, Inc., a Delaware Corporation; JOE ZANETTI, an individual; ROSIE [SURNAME UNKNOWN]; and DOES 1 through 50, inclusive, Defendants*” (the “Individual Action”), Los Angeles County Superior Court, No. 21STCV29370, and dismissed with prejudice following the execution of a separate settlement agreement; any claims for workers compensation benefits or unemployment insurance benefits; claims outside the Class Period; and any other claims that cannot be waived by law.

5. The Court finds that in consideration for their awarded Class Payment portions of their Settlement Shares, as of the date the Settlement becomes Final, all California Class Members (other than those Class Members who timely and validly requested to be excluded from the Settlement) release any and all known and unknown claims against Scopely and the other Released Parties that arise out of or reasonably relate to the claims alleged in the original Complaint or any amendments thereto or that could have been alleged based on the allegations in the Complaint that, from August 9, 2017 through [date on which Settlement Administrator mails Class Notice], Scopely failed to furnish accurate itemized wage statements; furnish paper copies of wage statements; or reimburse for necessary business expenses. The released claims include but are not limited to claims brought under California Labor Code sections 226, 226.3, and 2802, California Business and Professions Code sections 17200-17208, and the Industrial Welfare Commission Wage Order. Such claims include claims for unreimbursed expenses, statutory penalties, civil penalties, or other relief under the California Labor Code, PAGA, relief from unfair competition under California Business and Professions Code section 17200 *et seq.*; attorneys’ fees and costs; and interest (the “California Class Members’ Released Claims”). Additionally, all California Class Members who worked for Scopely during the PAGA Period will release such claims for civil penalties under PAGA, and will receive a portion of the amount set aside as PAGA penalties, regardless of whether they elect not to participate in the Settlement.

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1 6. In consideration for their awarded Class Payment portions of their Settlement
2 Shares, as of the date the Settlement becomes Final, all Salary/Exempt QA Class Members
3 (other than those Class Members who timely and validly requested to be excluded from the
4 Settlement) release any and all known and unknown claims against Scopely and the Released
5 Parties that arise out of or reasonably relate to the claims alleged in the original Complaint or
6 any amendments thereto or that could have been alleged based on the allegations in the
7 Complaint that, from August 9, 2017 through [date on which Settlement Administrator mails
8 Class Notice], Scopely failed to pay all wages due, including minimum wages and overtime;
9 provide meal and rest periods; pay meal and rest period premiums at the regular rate of pay;
10 furnish accurate itemized wage statements; furnish paper copies of wage statements; reimburse
11 for necessary business expenses; or pay all wages due to discharged and quitting employees.
12 The released claims include but are not limited to claims brought under California Labor Code
13 sections 201-204, 210, 212, 215, 216, 218.6, 223, 225, 225.5, 226, 226.3, 226.6, 226.7, 256, 354,
14 408, 510, 512, 553, 558, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, and 2802,
15 California Business and Professions Code sections 17200-17208, and the Industrial Welfare
16 Commission Wage Order. Such claims include claims for wages, statutory penalties, civil
17 penalties, or other relief under the California Labor Code, PAGA, relief from unfair competition
18 under California Business and Professions Code section 17200 *et seq.*; attorneys' fees and costs;
19 and interest (the "Salary/Exempt QA Class Members' Released Claims"). Additionally, all
20 Salary/Exempt QA Class Members who worked for Scopely during the PAGA Period will
21 release such claims for civil penalties under PAGA, and will receive a portion of the amount set
22 aside as PAGA penalties, regardless whether they elect not to participate in the Settlement.

23 7. The Court finds that in consideration for its awarded share of the PAGA Civil
24 Penalties, as of the Effective Date of the Settlement, the State of California releases any and all
25 claims under PAGA for civil penalties against Scopely and the other Released Parties that arise
26 out of or reasonably relate to the claims alleged in the original Complaint or any amendments
27 thereto or notices submitted by Plaintiff to the LWDA pursuant to PAGA that occurred during
28 the PAGA Period.

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1 8. The Court finds that in consideration for their awarded PAGA Amount Payment
2 portions of their Settlement Shares, as of the Effective Date of the Settlement, all PAGA
3 Settlement Group Members release any and all claims under PAGA for civil penalties against
4 Scopely and the other Released Parties that arise out of or reasonably relate to the claims alleged
5 in the original Complaint or any amendments thereto or notices submitted by Plaintiff to the
6 LWDA pursuant to PAGA that occurred during the PAGA Period. All PAGA Settlement Group
7 Members will release the Released PAGA Claims, and will receive a PAGA Amount Payment,
8 regardless of whether they request to be excluded from the Settlement.

9 9. The parties shall bear his, her, its or their own respective attorneys' fees and costs
10 except as otherwise provided in the Settlement, the Order Granting Final Approval of
11 Settlement, and this Judgment.

12 The Court enters final judgment in the Action in accordance with the Settlement and this
13 Order, subject to the Court's retention of continuing jurisdiction over the Action and the
14 Settlement, including jurisdiction pursuant to California Rule of Court 3.769(h), solely for
15 purposes of (a) enforcing the Agreement, (b) addressing settlement administration matters, and
16 (c) addressing such post-Judgment matters as may be appropriate under court rules or applicable
17 law.

18 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY.**

19 Dated: _____, 2022

The Honorable Amy D. Hogue
Judge of the Superior Court