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AVA, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

ANDRII BLYZENKO, AUBRIELA
GARCIA, and RANDY ST. PIERRE
individually, and on behalf of all
others similarly situated,

Plaintiffs,

v.

AVA Inc., a California Corporation, dba
Reliable Roofing; and DOES 1 through 50,
inclusive,

Defendant.

CASE NO.: CGC-21-594279 (lead) and CGC-
21-595923

[Unlimited Jurisdiction]

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

*Assigned for all purposes to the
Honorable Hon. Ethan P. Schulman, Dept. 302*

Complaint Filed: August 3, 2021
FAC Filed: November 12, 2021
SAC Filed: October 7, 2022

IT IS HEREBY STIPULATED, by and between Plaintiffs ANDRII BLYZENKO (“Blyzenko”) and AUBRIELA GARCIA (“Garcia”) as representatives of all Class Members and Aggrieved Employees, defined below, and Defendant AVA Inc. (“Defendant”) and Personal Guarantor Vahe Kalashyan (“Kalashyan”) (Plaintiffs and Defendant are referred to collectively herein, as the “Parties”), and subject to the approval of the Court, that the lawsuits filed in San Francisco Superior Court entitled *Andrii Blyzenko v. AVA Inc., a California Corporation, et al.*, Case No. CGC21594279 and *Andrii Blyzenko v. AVA Inc., a California corporation, et al.*, Case No. CGC-21-595923 (collectively, the “Action”) are hereby compromised and settled pursuant to the terms and conditions set forth in this Joint Stipulation of Class Action and PAGA Settlement and Release (“Agreement,” “Settlement,” or “Stipulation of Settlement”), and that the Court shall make and enter judgment, subject to the continuing jurisdiction of the Court as set forth below, and subject to the definitions, recitals, and terms set forth herein which by this reference become an integral part of this Stipulation of Settlement.

1. DEFINITIONS.

1.1. The “Action” means the consolidated cases entitled *Andrii Blyzenko, et al. v. Ava Inc.*, Case No. CGS-21-594279 and *Andrii Blyzenko, et al. v. Ava Inc.*, Case No. CGS-21-595923, pending in the Superior Court of California, County of San Francisco.

1.2. “Administrator” means CPT Group the neutral entity the Parties have agreed to appoint to administer the Settlement.

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

1.4. “Aggrieved Employees” means all current and former non-exempt employees and PAGA Contractors (as defined below) of Defendant who worked for Defendant in the State of California at any time during the PAGA Period.

1.5. “Class” means all current and former non-exempt employees and Class

Contractors of Defendant who worked for Defendant in the State of California at any time during the Class Period.

1.6 “Class Contractor” means all current and former individuals or entities who worked in the state of California at any time between August 3, 2017, and August 31, 2021, and who were contracted by Defendant as independent contractors to conduct sales-related or customer service-related tasks including, but not limited to, individuals who held the following positions: sales, quality assurance, and estimator.

1.7. “Class Counsel” means Ilya Filmus and Paul Pfeilschifter of Infinity Law Group LLP.

1.8. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.9. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods during the applicable Class Periods or PAGA Periods and/or dates of employment.

1.10. “Class Hourly Employees” means all current and former non-exempt hourly employees of Defendant who worked in the state of California at any time between August 3, 2017, and July 5, 2023.

1.11 “Class Member” or “Settlement Class Member” means a member of the Class (Class Hourly Employees or Class Contractors), as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

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

1.13. “Class Notice” means the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, to be mailed to Class Members in English in the form, without material variation (or as modified by subsequent agreement of the Parties or order of the Court), which is attached as Exhibit A and incorporated by reference in this Agreement.

1.14. “Class Period” means the period from August 3, 2017 to July 5, 2023 for Class Hourly Employees and August 3, 2017, to August 31, 2021 for Class Contractors.

1.15. “Class Representatives” means the named Plaintiffs Andrii Blyzenko and Aubriela Garcia, whom are seeking Court approval to serve as Class Representatives.

1.16. “Class Representative Service Payments” means the payments to the Class Representatives for initiating the Action and providing services in support of the Action. The Class Representative Service Payment is in addition to separate consideration that Plaintiffs Andri Blyzenko and Aubriela Garcia may be entitled for any individual claims not asserted on a classwide or representative basis in the Action. Subject to the Court granting final approval of this Settlement Agreement and subject to the exhaustion of any and all appeals, Class Counsel will request Court approval of Class Representative Service Payments of up to Ten Thousand Dollars (\$10,000) to each Plaintiff. Defendant will not oppose such request made by Plaintiffs. The Class Representative Service Payments will be paid in the amount approved by the Court from the Gross Settlement Amount. Should the Court reduce the Class Representative Service Payments to either Plaintiff, any such reduction shall revert to the Net Settlement Amount distributed to Class Members.

1.17. “Court” means the Superior Court of California, County of San Francisco.

1.18. “Defendant” means named Defendant Ava, Inc.

1.19. “Defense Counsel” means Krystal N. Weaver and Brittany L. McCarthy of Littler Mendelson, P.C.

1.20. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no

1 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
2 one or more Participating Class Members objects to the Settlement, the day after the deadline for
3 filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed,
4 the day after the appellate court affirms the Judgment and issues a remittitur.

5 1.21. “Final Approval” means the Court’s order granting final approval of the
6 Settlement.

7 1.22. “Final Approval Hearing” means the Court’s hearing on the Motion for Final
8 Approval of the Settlement.

9 1.23. “Final Judgment” means the Judgment Entered by the Court upon Granting Final
10 Approval of the Settlement.

11 1.24. “Gross Settlement Amount” or “Gross Fund” means Five Hundred Fifty
12 Thousand Dollars and Zero Cents (\$550,000.00), which is the total amount Defendant agrees to
13 pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount
14 will be used to pay Individual Class Payments (including employee owed taxes on the Wage
15 Portion of the Individual Class Payments), Individual PAGA Payments, the LWDA PAGA
16 Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments,
17 and the Administrator’s Expenses. The Gross Settlement Amount is the maximum amount that
18 Defendant will pay for any reason in connection with this Settlement, except for employer side
19 payroll taxes, which will be paid separate and apart from the Gross Settlement Amount. This
20 Gross Settlement Amount has been agreed to by Plaintiffs and Defendant based on the
21 aggregation of the agreed-upon settlement value of individual claims of the potential Class
22 Members in the Action, the scope of the agreed-upon release, Defendant’s financial condition
23 impacting an ability to pay, and the inclusion of all of the amounts above in the single Gross
24 Settlement Amount.

25 1.25. “Individual Class Payment” means the Participating Class Member’s pro rata
26 share of the Net Settlement Amount calculated according to the number of Workweeks worked
27 during the Class Period.
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1.26. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties (\$5,000), calculated according to the number of PAGA pay periods worked during the applicable PAGA Period.

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

1.28. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.29. “LWDA PAGA Payment” means the 75% or \$15,000 of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.30. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments (up to \$10,000 each), Class Counsel Fees Payment (up to \$183,333), Class Counsel Litigation Expenses Payment (up to \$25,000), and the Administration Expenses Payment (not to exceed \$14,500). The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.31. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion. For the Request for Exclusion to be valid, it must include: (i) the objector’s full name, signature, address, and telephone number; (ii) a written statement of all grounds for the objection accompanied by any legal support for such objection; (iii) copies of any papers, briefs, or other documents upon which the objection is based, if any documents are a basis of the objection; and (iv) if the objector wishes to have an opportunity to speak at the Final Approval Hearing, a notice of the objector’s intention to request to speak at that hearing. A Request for Exclusion must be submitted within sixty (60) days from the postmark date of the Notice of Settlement.

1.32. “PAGA Contractor” means all current and former individuals or entities who worked in the state of California at any time between December 17, 2020 and August 31, 2021, and who were contracted by Defendant as independent contractors to conduct sales-related or

customer service-related tasks including, but not limited to, individuals who held the following positions: sales, quality assurance, and estimator.

1.33. “PAGA Hourly Employee” means all current and former non-exempt hourly employees of Defendant who worked in the state of California at any time between December 17, 2020 and September 1, 2023.

1.34. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.35. “PAGA Period” means the period from December 17, 2020 to September 1, 2023 for PAGA Hourly Employees and December 17, 2020 to August 31, 2021 for PAGA Contractors.

1.36. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.37. “PAGA Notice” means Plaintiff Blyzenko’s December 16, 2019 letter to Defendant and the LWDA and Plaintiff Garcia’s August 12, 2021 letter to Defendant and the LWDA, providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.38. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount. The Parties have agreed that Twenty Thousand Dollars (\$20,000) of the Gross Fund will be allocated to the resolution of the claims arising under PAGA. Pursuant to PAGA, Seventy-Five Percent (75%), or Fifteen Thousand Dollars (\$15,000), will be paid to the LWDA, and Twenty-Five Percent (25%), or Five Thousand Dollars (\$5,000), will be for a PAGA Distribution Fund to be paid to Aggrieved Employees. In the event the Court requires additional amounts allocated to PAGA, the Parties agree that up to Sixty-Five Thousand Dollars (\$65,000) from the Gross Fund will not result in voiding the Agreement.

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

1.40. “Plaintiffs” means Andrii Blyzenko and Aubriela Garcia, the named plaintiffs in the Action.

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

1 1.42. “Preliminary Approval Order” means the proposed Order Granting Preliminary
2 Approval and Approval of PAGA Settlement.

3 1.43. “Released Class Claims” means any and all claims, debts, rights, demands,
4 obligations or liabilities of every nature and description, for damages, premiums, penalties,
5 liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or
6 equitable relief against the Released Parties that were actually alleged or that reasonably could
7 have been pleaded based on the factual or legal allegations asserted in Plaintiffs’ operative
8 Complaints in the Action on behalf of Plaintiffs or the Class Members for the entire Class Period,
9 including: (a) failure to provide all legally required meal periods or pay a premium in lieu thereof;
10 (b) failure to authorize and permit legally required rest periods or pay a premium in lieu thereof;
11 (c) failure to timely furnish accurate wage statements; (d) failure to timely pay final wages; (e)
12 failure to pay for all hours worked (at either the minimum wage or overtime rate); (f) failure to
13 indemnify for losses and expenditures incurred as part of employment (business expenses); (g)
14 failure to timely pay wages during employment; (h) unfair business practices (Business and
15 Professions Code section 17200 et seq.); (j) claims for violation of the provisions of the
16 applicable Wage Order(s) related to payment of compensation for all hours worked, payment of
17 daily weekly and seventh-day overtime compensation, payment of minimum and double-time
18 compensation, and payment of all expense reimbursement, the maintenance of accurate records
19 of hours worked, the provision of legally complaint meal and rest breaks, provision of sick leave,
20 the timely payment of wages during employment and at termination, and the itemized pay
21 statement requirements; (k) claims for attorney’s fees and costs incurred in the prosecution of
22 this Action on behalf of the Class Members; (l) any other claims, remedies, penalties, or interest
23 that reasonably could have been plead based on the facts alleged in the operative complaints in
24 the Action; and (m) all claims that Plaintiffs or the Class Members may have against the Released
25 Parties relating to: (i) the payment, taxation, and allocation of attorney’s fees and costs to
26 Plaintiffs’ Counsel pursuant to this Settlement Agreement; and (ii) the payment, taxation, and
27 allocation of Plaintiffs’ Payment pursuant to this Settlement Agreement. The release of the
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Released Claims shall be effective as to the entire Class Period, defined in this Agreement, and expressly excludes all other claims, debts, rights, demands, obligations or liabilities, including claims for vested benefits, breach of this Settlement Agreement, wrongful termination, violation of the Fair Employment and Housing Act (“FEHA”) or FEHA regulations, hostile work environment, harassment, retaliation, failure to prevent discrimination, harassment, or retaliation, unemployment insurance, disability, social security and workers’ compensation.

1.44. “Released PAGA Claims” means any and all claims, debts, rights, demands, obligations or liabilities of every nature and description, for damages, premiums, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief against the Released Parties that were actually alleged or that reasonably could have been pleaded based on the factual or legal allegations asserted in Plaintiffs’ operative Complaints in the Action on behalf of Plaintiffs, the State of California (acting through Plaintiffs as its authorized PAGA representative), and the PAGA Members for the entire PAGA Period, as well as any and all wage and hour claims that were asserted or reasonably could have been asserted based on the factual or legal allegations contained in Plaintiffs’ PAGA Letters and Plaintiffs’ operative Complaints in the Action, arising at any time during the PAGA Period, including: (a) penalties under PAGA for alleged violations of Labor Code sections 200-204, 205, 210, 218.6, 226, 226.3, 226.7, 226.8, 246, 248.5, 256, 510, 512, 558, 558.1, 1174, 1194, 1194.2, 2698 et. seq., 2750.3, 2802; (b) claims for violation of the provisions of the applicable Wage Order(s) related to payment of compensation for all hours worked, payment of daily weekly and seventh-day overtime compensation, payment of minimum and double-time compensation, and payment of all expense reimbursement, the maintenance of accurate records of hours worked, the provision of legally complaint meal and rest breaks, provision of sick leave, the timely payment of wages during employment and at termination, and the itemized pay statement requirements; (c) claims for attorney’s fees and costs incurred in the prosecution of this Action on behalf of the PAGA Members; (d) any other claims, remedies, penalties, or interest that reasonably could have been plead based on the facts alleged in the operative Complaints in the Action; and (e) all claims

that Plaintiffs and/or the PAGA Members may have against the Released Parties relating to: (i) the payment, taxation, and allocation of attorney's fees and costs to Plaintiffs' Counsel pursuant to this Settlement Agreement; and (ii) the payment, taxation, and allocation of Plaintiffs' Payment pursuant to this Settlement Agreement. The release of the Released Claims shall be effective as to the entire PAGA Period, defined in this Agreement, and expressly excludes all other claims, including claims for vested benefits, wrongful termination, breach of this Settlement Agreement, violation of FEHA or FEHA regulations, hostile work environment, harassment, retaliation, failure to prevent discrimination, harassment, or retaliation, unemployment insurance, disability, social security, and workers' compensation.

1.45. "Released Parties" means Defendant, personal guarantor Vahe Kalashyan, as well as Defendant's current or former parents, subsidiaries, affiliated organizations, owners, members, officers, directors, employees, attorneys, insurers, agents, and representatives.

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

1.47. "Response Deadline" means sixty (60) calendar days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond when the Response Deadline has expired.

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

1.49. "Workweek" means any week during which a Class Member worked for Defendant for at least one day during the Class Period.

2. RECITALS.

2.1. On October 3, 2021, Plaintiff Andrii Blyzenko filed his initial class action complaint commencing the Action in Court ("Class Action"). A First Amended Class Action

Complaint was filed on November 12, 2021 (adding Plaintiff Aubriela Garcia), and a Second Amended Class Action Complaint was filed on October 7, 2021 (adding Plaintiff Randy St. Pierre).

2.2 On October 12, 2021, Plaintiff Andrii Blyzenko filed his initial PAGA Complaint, after providing notice to the LWDA on August 2, 2021 (“PAGA Action”). An amended PAGA Complaint was filed on December 17, 2021, which added Plaintiff Aubriela Garcia, who provided notice to the LWDA on October 13, 2021. On May 6, 2023, Plaintiff Andrii Blyzenko sent an amended Notice to the LWDA and properly served Defendant.

2.3 On January 28, 2022, Defendant filed a Notice of Related Case in the Class Action identifying the PAGA Action. On April 27, 2022, the Court consolidated the Class Action and the PAGA Action.

2.4 On March 20, 2023, Plaintiffs’ counsel informed counsel for Defendant that Plaintiff Randy St. Pierre (“St. Pierre”) had passed away and, as a result, they would seek to amend the operative Class Action Complaint and PAGA Action Complaint to remove claims by Plaintiff Randy St. Pierre or alleged on his behalf.

2.5. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.6. On June 1, 2023, the Parties participated in an all-day mediation presided over by Marc J. Feder, which led to this Agreement to settle the Action.

2.7. Prior to mediation, Plaintiffs obtained, through informal discovery, information, documents and sampling data with respect to the alleged Class and aggrieved employees. Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.8. The Court has not granted class certification.

2.9. Defendant denies the allegations in the Operative Complaints, denies any failure to comply with the laws identified in in the Operative Complaints and denies any and all liability

1 for the causes of action alleged therein.

2 2.10. This Agreement represents a compromise and settlement of highly disputed
3 claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant
4 that the claims in the Actions of Plaintiffs or the Class have merit or that Defendant bears any
5 liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by
6 Plaintiffs that Defendant's defenses in the Actions have merit. The Parties agree to certification
7 of the Class for purposes of this Settlement only. If for any reason the Settlement does not
8 become effective, Defendant reserves the right to contest certification of any class for any reason
9 and reserves all available defenses to the claims in the Actions.

10 2.11. The Parties, Class Counsel and Defense Counsel represent that they are not aware
11 of any other pending class action asserting claims that will be extinguished or affected by the
12 Settlement.

13 2.12. Class Counsel will file an Amended Consolidated Class/PAGA Complaint, which
14 removes Plaintiff Randy St. Pierre and any claims asserted on his behalf and includes the
15 allegations in the separate Class Action and PAGA Complaints. Plaintiffs' counsel will provide
16 a draft consolidated Class/PAGA Complaint to counsel for Defendant as well as a proposed
17 stipulation and proposed order regarding the filing of same. Counsel for Defendant will have 5
18 business days to respond with any proposed changes. Once finalized, Plaintiffs' counsel will file
19 with the Court. Defendant is not required to file a response to the Amended Complaint.

20 2.13. Plaintiffs will provide notice of this Settlement to the LWDA at the same time
21 this Settlement Agreement is filed with the Court. Plaintiffs will provide copies of the
22 Preliminary Approval Order, Final Approval Order, and Judgment to the LWDA within ten (10)
23 calendar days after entry of the judgment or order.

24 **3. MONETARY TERMS.**

25 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
26 Defendant and Personal Guarantor Vahe Kalashyan, jointly and severally, promise to pay Five
27 Hundred and Fifty Thousand Dollars (\$550,000.00) and no more as the Gross Settlement Amount
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1 and to separately pay any and all employer payroll taxes owed on the Wage Portions of the
2 Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or
3 any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The
4 Administrator will disburse the entire Gross Settlement Amount without asking or requiring
5 Participating Class Members or Aggrieved Employees to submit any claim as a condition of
6 payment. None of the Gross Settlement Amount will revert to Defendant.

7 3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions
8 of this Agreement, the Administrator will make and deduct the following payments from the
9 Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

10 3.2.1. To Plaintiffs: Class Representative Service Payments to the Class
11 Representatives of not more than Ten Thousand Dollars and Zero Cents (\$10,000) each (in
12 addition to any Individual Class Payments and any Individual PAGA Payments the Class
13 Representatives are entitled to receive as Participating Class Members). Defendant will not
14 oppose Plaintiffs' requests for Class Representative Service Payments that do not exceed these
15 amounts. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses
16 Payment, Plaintiffs will seek Court approval of the Class Representative Service Payments no
17 later than 16 court days prior to the Final Approval Hearing. If the Court approves Class
18 Representative Service Payments that are less than the amounts requested, the Administrator will
19 retain the remainder in the Net Settlement Amount. A reduction in the Class Representative
20 Service Payment amounts is not grounds to void the Agreement. The Administrator will pay the
21 Class Representative Service Payments using IRS Forms 1099. Plaintiffs assume full
22 responsibility and liability for employee taxes owed on the Class Representative Service
23 Payments and hold Defendant harmless, and indemnify Defendant, from any dispute or
24 controversy regarding any division or sharing of any of these Payments.

25 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-
26 third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$183,333.33, and
27 a Class Counsel Litigation Expenses Payment of not more than \$25,000.00. Defendant will not
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1 oppose requests for these payments provided that it does not exceed these amounts. Plaintiffs
2 and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation
3 Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court
4 approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment
5 less than the amounts requested, the Administrator will allocate the remainder to the Net
6 Settlement Amount. Released Parties shall have no liability to Class Counsel or any other
7 Plaintiffs' Counsel arising from any claim to any portion of any Class Counsel Fee Payment
8 and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class
9 Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms.
10 Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees
11 Payment and the Class Counsel Litigation Expenses Payment and hold Defendant harmless, and
12 indemnify Defendant, from any dispute or controversy regarding any division or sharing of any
13 of these Payments.

14 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
15 \$14,500, except for a showing of good cause and as approved by the Court. To the extent the
16 Administration Expenses are less or the Court approves payment less than \$14,500, the
17 Administrator will retain the remainder in the Net Settlement Amount. Plaintiffs agree that they
18 will not appeal any such award of a lesser amount of the Administration Expenses Payment.

19 3.2.4. To Each Participating Class Member: An Individual Class Payment
20 calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked
21 by all Participating Class Members during the Class Period (either as a Class Contractor or Class
22 Hourly Employee) and (b) multiplying the result by each Participating Class Member's
23 Workweeks during the relevant period. All Participating Class Members will be deemed to have
24 worked during at least one Workweek during the Class Period. Workweeks for Participating
25 Class Members will be determined by the Class Member's hire and termination date (or
26 beginning or end of the relevant Class Period—Class Hourly Employee or Class Contractor).

27 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each
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1 Participating Class Member's Individual Class Payment will be allocated to settlement of wage
2 claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be
3 reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class
4 Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage
5 Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on
6 IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any
7 employee taxes owed on their Individual Class Payment and will hold Defendant harmless, and
8 indemnify Defendant, from any dispute or controversy regarding any division or sharing of any
9 of these Payments.

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

14 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount
15 of \$20,000 to be paid from the Gross Settlement Amount, with 75% (\$15,000) allocated to the
16 LWDA PAGA Payment and 25% (\$5,000) allocated to the Individual PAGA Payments.

17 3.2.5.1. The Administrator will calculate each Individual PAGA Payment
18 by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000)
19 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during
20 the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay
21 Periods during the relevant period. Aggrieved Employees assume full responsibility and liability
22 for any taxes owed on their Individual PAGA Payment and will hold Defendant harmless, and
23 indemnify Defendant, from any dispute or controversy regarding any division or sharing of any
24 of these Payments. All Aggrieved Employees will be deemed to have worked during at least one
25 PAGA Period Pay Period during the PAGA Period. Pay Periods for Aggrieved Employees will
26 be determined by the individual's hire and termination date (or beginning or end of the relevant
27 PAGA Period—PAGA Hourly Employee or PAGA Contractor).

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Number of Class Contractors. Based on a review of its records to date before mediation, Defendant estimated that through May 31, 2023, there were approximately 7,612 Workweeks worked by Class Hourly Employees and approximately 120 Class Contractors.

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

4.3. Funding of Gross Settlement Amount. Defendant shall fund half the Gross Settlement Amount (Two Hundred and Seventy-Five Thousand Dollars (\$275,000.00)), and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 60 calendar days after the Effective Date. The remaining Two Hundred and Seventy-Five Thousand Dollars (\$275,000.00) shall be paid in twelve (12) equal monthly installments to begin one month after payment of the first half of the Gross Settlement Amount. Vahe Kalashyan will sign a personal guarantee personally guaranteeing

1 payment of the full Gross Settlement Amount.

2 4.4. Payments from the Gross Settlement Amount. Within 15 days after Defendant funds the
3 first half of the Gross Settlement Amount, the Administrator will mail checks for half of the following
4 amounts: all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment,
5 the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation
6 Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel
7 Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service
8 Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
9 Within 15 days after Defendant funds 75% of the Gross Settlement Amount, the Administrator will mail
10 checks for 25% of the following amounts: all Individual Class Payments, all Individual PAGA Payments,
11 the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment,
12 the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments.
13 Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and
14 the Class Representative Service Payments shall not precede disbursement of Individual Class Payments
15 and Individual PAGA Payments. Within 15 days after Defendant fully funds the Gross Settlement
16 Amount, the Administrator will mail checks for remaining 25% of the following amounts: all Individual
17 Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
18 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment,
19 and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the
20 Class Counsel Litigation Expenses Payment and the Class Representative Service Payments shall not
21 precede disbursement of Individual Class Payments and Individual PAGA Payments.

22 4.4.1. The Administrator will issue checks for the Individual Class Payments
23 and/or Individual PAGA Payments and send them to the Class Members and/or Aggrieved
24 Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently
25 state the date (not less than 180 days after the date of mailing) when the check will be voided.
26 The Administrator will cancel all checks not cashed by the void date. The Administrator will
27 send checks for Individual Settlement Payments to all Participating Class Members (including
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1 those for whom Class Notice was returned undelivered). The Administrator will also send checks
2 for Individual PAGA Payments to all Aggrieved Employees, including Non-Participating Class
3 Members who qualify as Aggrieved Employees (including those for whom Class Notice was
4 returned undelivered). The Administrator may send Participating Class Members a single check
5 combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any
6 checks, the Settlement Administrator must update the recipients' mailing addresses using the
7 National Change of Address Database. Uncashed checks will be handled in accordance with
8 Paragraph 4.4.3 below.

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

17 4.4.3. For any Class Member whose Individual Class Payment check or
18 Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator
19 shall transmit the funds represented by such checks to the National Stuttering Association ("Cy
20 Pres Recipient") consistent with Code of Civil Procedure Section 384, subd. (b). The Parties,
21 Class Counsel and Defense Counsel represent that they have no interest or relationship, financial
22 or otherwise, with the intended Cy Pres Recipient. Class Members who fail to negotiate their
23 check(s) in a timely fashion shall, like all Class Members who did not validly opt out of the
24 Settlement, remain subject to the terms of the Settlement and the Final Judgment, including the
25 release of claims set forth in this Agreement.

26 4.4.4. The payment of Individual Class Payments and Individual PAGA
27 Payments, as well as any other payments made pursuant to this Settlement, will not be utilized
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1 to calculate any additional benefits under any benefit plans to which any Class Members or
2 Aggrieved Employees may be eligible, including, but not limited to profit-sharing plans, bonus
3 plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any
4 other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not
5 affect any rights, contributions, or amounts to which any Class Members or Aggrieved
6 Employees may be entitled under any benefit plans.

7 **5. RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the
8 entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion
9 of the Individual Class Payments, Plaintiffs, Participating Class Members, Class Counsel,
10 Aggrieved Employees and the LWDA, will release claims against all Released Parties as follows:

11 5.1 Plaintiffs' Releases. Plaintiffs and their respective former and present spouses,
12 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
13 and discharge Released Parties from Released Class Claims and Released PAGA Claims.
14 Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any
15 claims for vested benefits, unemployment benefits, disability benefits, social security benefits,
16 workers' compensation benefits that arose at any time, or based on occurrences outside the Class
17 Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in
18 addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless,
19 that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such
20 different or additional facts or Plaintiffs' discovery of them.

21 5.1.1 Plaintiffs' Waiver of Rights Under California Civil Code Section 1542.
22 For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions,
23 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

24 A general release does not extend to claims that the creditor or releasing
25 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.

26 5.2 Release by Participating Class Members: All Participating Class Members, on
27 behalf of themselves and their respective former and present representatives, agents, attorneys,
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heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

5.3 Release by Aggrieved Employees: All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from Released PAGA Claims. The Parties agree there is no statutory right for any PAGA Employee to object, opt out or otherwise exclude himself or herself from the PAGA part of the Settlement. The Parties further agree there is no right or opportunity for any PAGA Employee to appeal the approval of the Settlement by the Court.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s procedures and instructions.

6.1 Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) signed declarations from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and the Administrator and/or the proposed Cy Pres; (vi) a signed declaration from Class Counsel attesting to their competency

1 to represent the Class Members; their timely transmission to the LWDA of all necessary PAGA
2 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
3 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,
4 subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class
5 Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiffs and
6 Class Counsel shall aver that they are not aware of any other pending matter or action asserting
7 claims that will be extinguished or adversely affected by the Settlement.

8 6.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
9 responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later
10 than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the
11 Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion
12 for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary
13 Approval to the Administrator.

14 6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
15 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
16 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
17 or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
18 Preliminary Approval or conditions Preliminary Approval on any material change to this
19 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of
20 the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and
21 otherwise satisfy the Court's concerns.

22 **7. SETTLEMENT ADMINISTRATION.**

23 7.1 Selection of Administrator. The Parties have jointly selected CPT Group to serve
24 as the Administrator and verified that, as a condition of appointment, CPT Group agrees to be
25 bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in
26 exchange for payment of Administration Expenses. The Parties and their Counsel represent that
27 they have no interest or relationship, financial or otherwise, with the Administrator other than a
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professional relationship arising out of prior experiences administering settlements. The Administrator's duties will include preparing, printing, and mailing the Class Notice to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice; re-mailing Class Notices that are returned to the Class Member's new address; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

7.4 Notice to Class Members.

7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members (specifying the number of Class Hourly Employees and Class Contractors), PAGA Members (specifying the number of PAGA Hourly Employees and PAGA Contractors), Workweeks (worked by Class Hourly Employees and Class Contractors), and Pay Periods (worked by PAGA Hourly Employees and PAGA Contractors) in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members

identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice approved by the Court. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

1 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class
2 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
3 Exclusion not later the Response Deadline. A Request for Exclusion is a letter from a Class
4 Member or his/her representative that reasonably communicates the Class Member's election to
5 be excluded from the Settlement and includes the Class Member's name, address and email
6 address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed,
7 or postmarked by the Response Deadline. Aggrieved Employees may not opt out of the PAGA
8 Settlement.

9 7.5.2 The Administrator may not reject a Request for Exclusion as invalid
10 because it fails to contain all the information specified in the Class Notice. The Administrator
11 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
12 identity of the person as a Class Member and the Class Member's desire to be excluded. The
13 Administrator's determination shall be final and not appealable or otherwise susceptible to
14 challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion,
15 the Administrator may demand additional proof of the Class Member's identity. The
16 Administrator's determination of authenticity shall be final and not appealable or otherwise
17 susceptible to challenge.

18 7.5.3 Every Class Member who does not submit a timely and valid Request for
19 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
20 benefits and bound by all terms and conditions of the Settlement, including the Participating
21 Class Members' Releases under Article 5 of this Agreement, regardless of whether the
22 Participating Class Member actually receives the Class Notice or objects to the Settlement.

23 7.5.4 Every Class Member who submits a valid and timely Request for
24 Exclusion is a Non-Participating Class Member and shall not receive an Individual Class
25 Payment or have the right to object to the class action components of the Settlement. Because
26 future PAGA claims are subject to claim preclusion upon entry of the Judgment, Aggrieved
27 Employees are deemed to release the claims identified in Article 5 of this Agreement and are
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1 eligible for an Individual PAGA Payment. If a Class Member submits both a Request for
2 Exclusion and an objection, only the Request for Exclusion will be accepted and the objection
3 will be void.

4 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have until the
5 Response Deadline to challenge the number of Class Workweeks and PAGA Pay Periods (if any)
6 allocated to the Class Member in the Class Notice. The Class Member may challenge the
7 allocation by communicating with the Administrator via fax, email or mail. The Administrator
8 must encourage the challenging Class Member to submit supporting documentation. In the
9 absence of any contrary documentation, the Administrator is entitled to presume that the
10 Workweeks contained in the Class Notice are correct so long as they are consistent with the Class
11 Data. The Administrator's determination of each Class Member's allocation of Workweeks
12 and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The
13 Administrator shall promptly provide copies of all challenges to calculation of Workweeks
14 and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination
15 the challenges.

16 7.7 Objections to Settlement.

17 7.7.1 Only Participating Class Members may object to the class action
18 components of the Settlement and/or this Agreement, including contesting the fairness of the
19 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel
20 Litigation Expenses Payment and/or Class Representative Service Payment.

21 7.7.2 Participating Class Members may send written objections to the
22 Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear
23 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
24 Hearing. A Participating Class Member who elects to send a written objection to the
25 Administrator must do so no later than the Response Deadline.

26 7.7.3 Non-Participating Class Members have no right to object to any of the
27 class action components of the Settlement. If a Class Member submits both a Request for
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1 Exclusion and an objection, only the Request for Exclusion will be accepted and the objection
2 will be void.

3 7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks
4 to be performed or observed by the Administrator contained in this Agreement or otherwise.

5 7.8.1 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
6 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
7 later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the
8 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
9 and other identifying information of Class Members who have timely submitted valid Requests
10 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
11 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
12 Exclusion from Settlement submitted (whether valid or invalid).

13 7.8.2 Weekly Reports. The Administrator must, on a weekly basis, provide
14 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
15 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
16 Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks
17 and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments
18 and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the
19 Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all
20 Requests for Exclusion and objections received.

21 7.8.3 Workweek and/or Pay Period Challenges. The Administrator has the
22 authority to address and make final decisions consistent with the terms of this Agreement on all
23 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
24 Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

25 7.8.4 Administrator’s Declaration. Not later than 14 days before the date by
26 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
27 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
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for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.5 Final Report by Settlement Administrator. Within 10 days after each disbursement, the Administrator will provide Class Counsel and Defense Counsel with a report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE

This settlement is based on Defendant's representation that as of May 31, 2023, there were approximately 7,612 workweeks worked by Class Hourly Employees during the Class Period and 120 Class Contractors during the Class Period. If the total number of workweeks through the end of the Class Period and if the total number of Class Contractors through the end of Class Period, exceeds 10% of the total above, the Defendant may, in its sole discretion, either increase the Gross Settlement Amount on a pro-rata basis for every workweek and/or every Class Contractor added, or adjust the liability period to stay under the 10% cushion. Between August 3, 2017 (beginning of the Class Period for Class Hourly Employees) and September 1, 2023 (proposed closure of the Class Period for Class Hourly Employees), Class Hourly Employees worked 8,571 workweeks. That exceeds the 10% cushion (which is 8,373 workweeks) by 198 workweeks. Defendant elects to adjust the closure of the Class Period and PAGA Period from September 1, 2023, to July 5, 2023, to stay under the 10% cushion as the workweek count.

1 **9. DEFENDANT’S RIGHT TO WITHDRAW.** If the number of valid Requests
2 for Exclusion identified in the exclusion list exceeds 10% of the total of all Class Members,
3 Defendant may, but is not obligated, elect to withdraw from the Settlement. The parties agree
4 that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect
5 whatsoever, and that neither party will have any further obligation to perform under this
6 Agreement; provided, however, Defendant will remain responsible for paying all Costs of
7 Administration incurred to that point. Defendant must notify Class Counsel and the Court of its
8 election to withdraw not later than 10 business days after the Administrator sends the final
9 exclusion list to Defense Counsel; late elections or invalid requests for exclusion will have no
10 effect.

11 **10. MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court,
12 no later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in
13 Court, a motion for final approval of the Settlement that includes a request for approval of the
14 PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order
15 and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs shall provide
16 drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for
17 Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person
18 or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final
19 Approval.

20 10.1 Response to Objections. Each Party retains the right to respond to any objection
21 raised by a Participating Class Member, including the right to file responsive documents in Court
22 no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
23 by the Court.

24 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
25 Approval on any material change to the Settlement (including, but not limited to, the scope of
26 release to be granted by Class Members), the Parties will expeditiously work together in good
27 faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final
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1 Approval. The Court's decision to award less than the amounts requested for a Class
2 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
3 Expenses Payment and/or Administration Expenses Payment shall not constitute a material
4 modification to the Agreement within the meaning of this paragraph.

5 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of
6 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under
7 CCP section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii)
8 addressing settlement administration matters, and (iii) addressing such post-Judgment matters as
9 are permitted by law.

10 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
11 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
12 Class Counsel Litigation Expenses Payment reflected in this Settlement (otherwise Class Counsel
13 reserve the right to appeal a reduction to the amounts requested), the Parties, their respective
14 counsel, and all Participating Class Members who did not object to the Settlement as provided in
15 this Agreement, waive all rights to appeal from the Judgment, including all rights to post-
16 judgment and appellate proceedings, the right to file motions to vacate judgment, motions for
17 new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of
18 the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
19 Parties' obligations to perform under this Agreement will be suspended until such time as the
20 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
21 the amount of the Net Settlement Amount.

22 10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If
23 the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
24 material modification of this Agreement (including, but not limited to, the scope of release to be
25 granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
26 expeditiously work together in good faith to address the appellate court's concerns and to obtain
27 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
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Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12. ADDITIONAL PROVISIONS.

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

12.2 Confidentiality Prior to Preliminary Approval. Neither Plaintiffs nor Class counsel will publicize this settlement by Defendant's name, through a press release, posting on Class Counsel's website, in social media or by any other public means, other than necessary court filings and proceedings associated with the Settlement. Notwithstanding the foregoing, Class Counsel may publicize this settlement in any medium so long as Defendant's name is not

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

17 This paragraph does not restrict Class Counsel's communications with Class Members in
18 accordance with Class Counsel's ethical obligations owed to Class Members.

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

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

1 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant
2 and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all
3 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
4 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
5 terms of this Agreement including any amendments to this Agreement.

6 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use
7 their best efforts, in good faith, to implement the Settlement by, among other things, modifying
8 the Settlement Agreement, submitting supplemental evidence and supplementing points and
9 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
10 or content of any document necessary to implement the Settlement, or on any modification of the
11 Agreement that may become necessary to implement the Settlement, the Parties will seek the
12 assistance of a mediator and/or the Court for resolution.

13 12.7 No Prior Assignments. The Parties separately represent and warrant that they have
14 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
15 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
16 action, or right released and discharged by the Party in this Settlement.

17 12.8 No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense
18 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
19 Settlement be relied upon as such within the meaning of United States Treasury Department
20 Circular 230 (31 CFR Part 10, as amended) or otherwise.

21 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended,
22 modified, changed, or waived only by an express written instrument signed by all Parties or their
23 representatives, and approved by the Court.

24 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and
25 inure to the benefit of, the successors of each of the Parties.

26 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will
27 be governed by and interpreted according to the internal laws of the state of California, without
28

1 regard to conflict of law principles.

2 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and
3 preparation of this Agreement. This Agreement will not be construed against any Party on the
4 basis that the Party was the drafter or participated in the drafting.

5 12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders
6 entered during Action and in this Agreement relating to the confidentiality of information shall
7 survive the execution of this Agreement.

8 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to
9 Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel
10 by Defendant in connection with the mediation, other settlement negotiations, or in connection
11 with the Settlement, may be used only with respect to this Settlement, and no other purpose, and
12 may not be used in any way that violates any existing contractual agreement, statute, or rule of
13 court. Not later than 90 days after the date when the Court discharges the Administrator's
14 obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs
15 shall destroy, all paper and electronic versions of Class Data received from Defendant unless,
16 prior to the Court's discharge of the Administrator's obligation, Defendant makes a written
17 request to Class Counsel for the return, rather than the destructions, of Class Data.

18 12.15 Headings. The descriptive heading of any section or paragraph of this Agreement
19 is inserted for convenience of reference only and does not constitute a part of this Agreement.

20 12.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement
21 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
22 weekend or federal legal holiday, such date or deadline shall be on the first business day
23 thereafter.

24 12.17 Notice. All notices, demands or other communications between the Parties in
25 connection with this Agreement will be in writing and deemed to have been duly given as of the
26 third business day after mailing by United States mail, or the day sent by email or messenger,
27 addressed as follows:
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To Plaintiffs:
INFINITY LAW GROUP LLP
ILYA FILMUS (SBN: 251512)
PAUL PFEILSCHIEFTER (SBN: 301463)
1020 Aileen Street
Lafayette, CA 94549
Telephone: (925) 732-1188
Facsimile: (925) 732-1189
ifilmus@infinitylawca.com
ppfeilschiefter@infinitylawca.com

To Defendant:
LITTLER MENDELSON, P.C.
KRISTAL N. WEAVER, Bar No. 286930
kweaver@littler.com
BRITTANY L. MCCARTHY, Bar No. 285947
blmccarthy@littler.com
501 W. Broadway, Suite 900 San Diego, California 92101.3577
Telephone: 619.232.0441
Fax No.: 619.232.4302

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

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

12.20. Fair Settlement. The Parties, Class Counsel and Defense 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, both current and potential

12.21. Personal Guaranty. Vahe Kalashyan ("Kalashyan") has executed a guaranty

1 agreement covering the Gross Settlement Amount (“Guaranty Agreement”) attached hereto as
2 Exhibit B and incorporated herein by this reference. Kalashyan hereby unconditionally and
3 irrevocably guarantees and agrees to be responsible for the payment and performance of all of
4 Defendant's obligations hereunder. At its sole option, in the event of a default by Defendant of
5 this Agreement and Kalashyan’s failure to make payment within the time set forth in Exhibit B,
6 Plaintiffs alternatively may, with notice to Defendant and Kalashyan, rescind this Agreement and
7 pursue the Action for the claims that would otherwise be covered by Plaintiffs’ Release provided
8 in this Agreement. In the event that Plaintiffs opt to rescind this Agreement, Defendant and
9 Kalashyan agree that all statutes of limitations shall be tolled between June 1, 2023 and 30 days
10 after the date Plaintiffs opt to rescind the agreement, and agree not to plead, argue, or otherwise
11 raise any defenses of statute of limitations, laches, estoppel or similar theories that were not
12 available to Defendant or Kalashyan on or before June 1, 2023 (“Defenses”). Further, Defendant
13 and Kalashyan agree that in the event Plaintiffs opt to rescind this Agreement, Plaintiffs will not
14 be prejudiced in application of Defenses by virtue of the tolling period.

15 12.22. Bankruptcy. In the event Defendant and/or Kalashyan files for protection under
16 bankruptcy laws, makes an assignment for the benefit of creditors, appoints or suffers
17 appointment of a receiver or trustee over its property, files a petition under any bankruptcy or
18 insolvency act or has any such petition filed against it, then Defendant and/or Kalashyan, as
19 applicable, must include, to the extent it is in their ability to do so, Plaintiffs’ Released Class and
20 PAGA Claims among the top twenty unsecured claims and the Released Class Claims and PAGA
21 Claims shall be liquidated at the Gross Settlement Amount (or what is remaining on the Gross
22 Settlement Amount), in compliance with the bankruptcy code.

DATE: 2/29/2024

INFINITY LAW GROUP LLP

By: 
ILYA FILMUS
PAUL PFEILSCHIEFTER
Attorneys for Plaintiffs,
ANDRII BLYZENKO, AUBRIELA GARCIA and
the putative class

DATE: February __, 2024
02/29/24

LITTLER MENDELSON, P.C.

By: 
KRYSTAL N. WEAVER
BRITTANY L. MCCARTHY
Attorneys for Defendant
AVA, INC.

DATE: February __, 2024
02/29/2024

AVA INC.

By: 
Vahe Kalashyan (Feb 29, 2024 21:58 PST)
Vahe Kalashyan, CEO

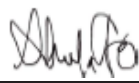
DATE: February __, 2024
2/29/2024

Vahe Kalashyan

By: 
Vahe Kalashyan (Feb 29, 2024 21:58 PST)

Aubriela Garcia

DATE: 2/29/2024

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DATE: February 29 2024

Andrii Blyzenko

By:  _____