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24 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

25 **FOR COUNTY OF PLACER**

26 Monica Denton and Paul Nguyen, an  
27 individual, on behalf of all persons similarly  
28 situated on behalf of the State of California, as  
a private attorney general, and on behalf of all  
Aggrieved Employees,

Plaintiff,

vs.

SAMUEL MERRITT UNIVERSITY, a  
California non-profit institution of higher  
education

Defendant.

Case No. S-CV-0048133

**CLASS ACTION SETTLEMENT  
AGREEMENT**

1        THIS CLASS ACTION SETTLEMENT AGREEMENT (“Agreement”) is made and entered into  
2 between Plaintiff MONICA DENTON, and Plaintiff PAUL NGUYEN (“Plaintiffs” or “Class  
3 Representatives”), on the one hand and Defendant SAMUEL MERRITT UNIVERSITY (“Defendant” or  
4 “University”), on the other hand, subject to the approval of the Court as provided below. This Agreement  
5 is intended by Plaintiffs and Defendant to fully, finally, and forever resolve, discharge, and settle the  
6 Action (as defined below) and Released Claims (as defined below), upon and subject to the following  
7 terms and conditions:

8        **1. Definitions.**

9        As used herein, for the purposes of this Agreement only, the following terms will be defined as set  
10 forth below:

11        **1.1** “Action” refers to the civil action entitled *Monica Denton, et al. v. Samuel Merritt University*  
12 (Placer County Superior Court, Case No.S-CV-0048133).

13        **1.2** “Aggrieved Employees” refers to all individuals who are or were employed by Defendant  
14 Samuel Merritt University in California as adjunct professors and/or instructors and/or in any similar  
15 capacity during the PAGA Period and who had or may have had any claims under PAGA and not  
16 otherwise qualified as exempt (1) as a salaried professional who earned a monthly salary equivalent to no  
17 less than two times the state minimum wage for employment in which the employee was employed for at  
18 least 40 hours per week or (2) as a salaried professional employed on a course or laboratory basis who  
19 earned a salary calculated on the basis of classroom hours as allowed by California law.

20        **1.3** “Class Counsel” refers to the attorneys of record for the Class Representative,  
21 *i.e.*, Ackermann & Tilajef, P.C. and Employment Rights Law Group, APC.

22        **1.4** “Class Member” refers to (1) all individuals who are or were employed by Defendant Samuel  
23 Merritt University in California as adjunct professors and/or instructors and/or in any similar capacity,  
24 from September 20, 2017 to and including January 4, 2022; and (2) not otherwise qualified as exempt (a)  
25 as a salaried professional who earned a monthly salary equivalent to no less than two times the state  
26 minimum wage for employment in which the employee was employed for at least 40 hours per week or  
27 (b) as a salaried professional employed on a course or laboratory basis who earned a salary calculated on  
28 the basis of classroom hours as allowed by California law as a salaried professional earning the minimum

1 compensation to be considered exempt. Defendant represents that there were 566 class members who  
2 worked 12,738 pay periods as of February 3, 2022.

3 **1.5** "Class Notice" refers to the form of direct-mail notices substantially in the form attached as  
4 **"Exhibit A"** to this Agreement as may be modified by the Court.

5 **1.6** "Class Period" means September 17, 2017 until and including January 4, 2022.

6 **1.7** "Class Representatives" refers to Monica Denton and Paul Nguyen.

7 **1.8** "Complaint" refers to the operative Complaint in this Action, and any Complaints  
8 subsequently filed in this Action.

9 **1.9** "Court" refers to the California Superior Court for the County of Placer.

10 **1.10** "D and E Subclass Member" refers to a Class Member who received compensation following  
11 a pay period during which his or her assigned course load included courses designated as Course Type D,  
12 D2, E, or E2 in the Course Taxonomy found in Defendant's Faculty Handbook and who, during the  
13 preceding pay period, was assigned to work a D, D2, E, or E2 shift listed as exceeding seven hours and  
14 thirty minutes or listed as unknown.

15 **1.11** "Defendant" means Samuel Merritt University ("University").

16 **1.12** "Enhancement Award" refers to a monetary award to the Plaintiffs, in an amount not to  
17 exceed Seventeen Thousand Five Hundred Dollars (\$17,500) each, total of \$35,000.00 or other lesser  
18 amount as approved by the Court, for their service as Class Representatives as described in Section 6,  
19 below and for their agreement to a general to be paid for from the Gross Settlement Amount, subject to  
20 approval by the Court, as described below.

21 **1.13** "Final Approval Hearing" refers to the hearing at which the Court will make a final  
22 determination whether the terms of the Settlement Agreement are fair, reasonable, and adequate for the  
23 Class and meet all applicable requirements for approval.

24 **1.14** "Final Approval Order" refers to the final order by the Court approving the Settlement  
25 Agreement following the Final Approval Hearing and entering final judgment.

26 **1.15** "Final Effective Date" refers to the date the Final Approval Order is entered if no objections  
27 to the Settlement Agreement are filed. If objections are filed and overruled, and no appeal of the Final  
28 Approval Order is filed, then the Final Effective Date will be sixty (60) calendar days following the date

1 the Final Approval Order is signed. If an appeal is taken from the Final Approval Order, then the Final  
2 Effective Date will be twenty (20) calendar days after the appeal is withdrawn or after an appellate  
3 decision affirming the Final Approval Order becomes final.

4 **1.16** "Gross Settlement Amount" ("GSA") refers to the maximum payment of Seven Hundred  
5 Twenty-Five Thousand Dollars and no cents (\$725,000.00) Defendant will be obligated to make. The  
6 GSA includes all payments made to Settlement Class Members, Service Award payment to the Class  
7 Representative, all Settlement Administration Costs, the PAGA Award, as well as attorneys' fees,  
8 litigation costs, and expenses to Class Counsel, as approved by the Court.

9 **1.17** "Net Settlement Amount" (also referred to herein as "NSA") is the GSA minus Court-  
10 approved attorney's fees, litigation costs, and expenses, Settlement Administration Costs, Court-approved  
11 Enhancement Award, and the PAGA Award. The NSA is the maximum amount that will be available for  
12 distribution to the Settlement Class Members.

13 **1.18** "PAGA Award" refers to the Forty Thousand Dollars and no cents (\$40,000) that will be set  
14 aside for the PAGA penalty, with Thirty Thousand Dollars and no cents (\$30,000) paid to the LWDA the  
15 remaining Ten Thousand Dollars and no cents (\$10,000) payable to the Settlement Class Members who  
16 worked during the PAGA Period.

17 **1.19** "PAGA Period" means September 20, 2020 to and including January 4, 2022.

18 **1.20** "Parties" are Plaintiffs and Defendant.

19 **1.21** "Released Claims" are those defined in Section 17, below.

20 **1.22** "Released Claims Period" means September 20, 2017 to and including January 4, 2022.

21 **1.23** "Released Parties" include Defendant and any parent, subsidiary, affiliate, predecessor or  
22 successor, and all of their agents, trustees, employees, officers, directors, regents, and attorneys.

23 **1.24** "Request for Exclusion" refers to a request to be excluded from the settlement, which must  
24 be made in writing in conformity with the requirements set forth in the Class Notice, the Court's order  
25 granting preliminary approval, and this Agreement, and be mailed to the Administrator and postmarked  
26 on or before the Response Deadline.

1       **1.25** “Response Deadline” refers to a date that is sixty (60) calendar days after the date that the  
2 Class Notice is mailed to Class Members and is the deadline by which Class Members’ Requests for  
3 Exclusion, disputes regarding Credits, and/or objections must be postmarked to be timely.

4       **1.26** “Settlement Administrator” refers to the third-party administrator mutually selected by the  
5 parties, subject to approval by the Court, to perform the notice, claims administration, and distribution  
6 functions further described in this Settlement Agreement.

7       **1.27** “Settlement Administration Costs” refers to the costs and expenses of the administrator, to  
8 perform its tasks and duties as provided by this Settlement Agreement. These costs will be paid out of the  
9 GSA.

10       **1.28** “Settlement Class Member” refers to Class Members, including D&E Subclass Members,  
11 who do not request exclusion from the settlement pursuant to Section 13, below.

12       **1.29** “Settlement Payment” refers to the amount paid to Settlement Class Member.

13       **2.    Procedural History and Recitals.**

14       **2.1** On September 20, 2021, Plaintiffs filed a PAGA Notice alleging putative class claims against  
15 Defendant for (a) failure to furnish accurate wage statements in violation of Cal. Labor Code § 226; (b)  
16 failure to timely pay wages in violation of Labor Code §§ 204 and 210; (c) failure to pay overtime wages  
17 in violation of Labor Code § 510 and Industrial Wage Commission Order No, 4, § 3; (d) failure to pay  
18 minimum wages in violation of Labor Code §§ 1194, 1197, and 1198, (e) unfair competition in violation  
19 of Business and Professions Code § 17200, and (f) Violation of the Private Attorneys General Act  
20 (“PAGA”), Cal. Labor Code §§ 2698 *et seq.*, based on the foregoing Labor Code violations.

21       **2.2** The Parties exchanged documents and information before engaging in mediation of the  
22 Action. After reviewing the documents and information, Class Counsel was able to evaluate the  
23 probability of class certification, success on the merits, and the factual and legal defenses available to  
24 Defendant, among other matter evaluations.

25       **2.3** The Parties jointly represent that this is a fair, reasonable, and adequate settlement and have  
26 arrived at this Agreement through arms-length negotiations, taking into account all relevant factors,  
27 present and potential.

28       **2.4** This Agreement is entered into solely for the purpose of compromising highly disputed

1 claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of  
2 liability or wrongdoing. Defendant makes no admission of liability or wrongdoing by virtue of entering  
3 into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class  
4 certification and liability if the Agreement is not approved. Defendant denies that it has engaged in any  
5 unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the  
6 claims asserted in the Action, or that but for the Agreement, a Class should be certified in the Action. This  
7 Agreement, and Plaintiffs' and Defendant's willingness to settle the Action will have no bearing on, and  
8 will not be admissible in connection with, any litigation between the parties (other than in connection with  
9 this Agreement).

10 **2.5** Class Counsel represent that they have thoroughly investigated the claims alleged against  
11 Defendant in the Action. Class Counsel represent that they have conducted their own investigation into  
12 the underlying facts, events, and issues related to the subject matter of this Action. Class Counsel represent  
13 that they have further undertaken an extensive analysis of the legal principles applicable to the claims  
14 asserted against Defendant, and the potential defenses thereto. Both the Class Representatives and  
15 Defendant have had an opportunity to evaluate their respective positions on the merits of the claims  
16 asserted.

17 **2.6** Class Counsel has also engaged in intensive arm's-length negotiations with counsel for  
18 Defendant with a view toward achieving substantial benefits for the Class while avoiding the cost, delay  
19 and uncertainty of further litigation, trial, and appellate review.

20 **2.7** As a consequence of said negotiations, and of Class Counsel's investigation, analysis and  
21 discovery, Plaintiffs and Class Counsel determined to enter into this Agreement on the terms and  
22 conditions hereinafter set forth, believing it to be fair, reasonable and adequate and in the best interests of  
23 Plaintiffs and the other members of the Class. Plaintiffs and Class Counsel have determined to execute  
24 this Agreement and urge approval by the Court of the Agreement after considering (a) the substantial  
25 factual and legal defenses available to Defendant to the claims asserted in the Action, which render the  
26 outcome of the Action substantially uncertain; (b) the potential difficulties Plaintiffs and Class Members  
27 would encounter in establishing the elements of their claims; (c) the substantial benefits made available  
28 to Class Members pursuant to the Agreement; (d) the fact that the Agreement ensures that Class Members

1 will receive relief in the most expeditious and efficient manner practicable, and thus much sooner than  
2 would be possible were the claims to be litigated successfully through trial and appeal; and (e) the fact  
3 that the Agreement allows persons who would otherwise fall within the definition of the Class, if they so  
4 desire, to opt out of the Action and individually pursue any Release Claims that he or she may have.

5       **2.8** As set forth above, without admitting any wrongdoing or liability, Defendant is willing to  
6 agree to the terms of the Agreement to settle, compromise, and fully resolve the Action and Released  
7 Claims (as defined below).

8       **3. Limitation on Effect of Agreement.**

9       This Agreement will not constitute, in this or any other proceeding, an admission of any kind by  
10 Defendant, including without limitation, that certification of a class is appropriate or proper or that  
11 Plaintiffs could establish any of the requisite elements for class treatment of any of the claims in the  
12 Action. If the Agreement is not finally approved, or is otherwise terminated, any class and representative  
13 action, which were certified for settlement purposes only, shall be vacated, shall be of no force or effect  
14 whatsoever, shall not be admissible nor construed as an admission or concession of any kind by the Parties,  
15 in whole or part, and Defendant expressly reserves all rights to challenge certification of a class on all  
16 available grounds.

17       **4. Establishment of the GSA.**

18       This Agreement will be made on a non-claims-made basis and will be non-reversionary. Under no  
19 circumstances will any of the GSA revert to Defendant. Defendant shall pay a total of no more than the  
20 GSA, which will cover payment by Defendant pursuant to this Settlement Agreement, to Settlement Class  
21 Members, to Aggrieved Employees, Settlement Administration Costs, Plaintiffs' attorneys' fees,  
22 Plaintiffs' litigation costs, the Class Representative Service Awards, and the PAGA Award. Defendant  
23 will deposit into an account, through the Settlement Administrator, an amount equal to the GSA, in  
24 addition to Defendant's portion of payroll taxes in connection with the wages portion of the NSA, if any.

25       **5. Attorneys' Fees and Costs.**

26       Class Counsel shall request attorneys' fees up to 1/3 of the GSA (i.e., \$241,666.66) for attorneys'  
27 fees; and up to \$16,000 for reimbursement of litigation costs and expenses. Defendant agrees to not oppose  
28 Class Counsel's request for attorneys' fees and costs in these amounts. The terms of this Agreement will

not be abrogated and will continue in full force even if the Court awards a lower amount of attorneys' fees or costs than requested by Class Counsel. Any unapproved amount of attorneys' fees and litigation costs will be added to the NSA and be distributed to the Settlement Class Members.

**6. Enhancement Award.**

Class Counsel shall request an Enhancement Award of up to Seventeen Thousand Five Hundred Dollars (\$17,500) for each Class Representative and a total of \$35,000.00 for both. Any unapproved amounts will be added to the NSA and be distributed to the Settlement Class Members.

**7. PAGA Award.**

Subject to Court approval, \$40,000 shall be attributed to Plaintiffs' claims under PAGA. The Settlement Administrator shall apportion and distribute the \$40,000 payment as follows: (a) \$30,000 shall be paid to the LWDA as its 75% share of the settlement of civil penalties for PAGA claims; and (b) \$10,000 shall be added to the NSA and distributed to the Settlement Class Members as their 25% share of the settlement of civil penalties for PAGA claims.

**8. Costs of Settlement Administration.**

The Parties have mutually agreed to the selection of CPT Inc. ("Settlement Administrator"), to undertake the administration of the Settlement in this Action. CPT, Inc. has provided a capped bid that the costs and expenses of administration of the settlement will not exceed \$10,000.

**9. Calculation of the NSA and Distribution of Settlement Proceeds.**

**9.1** This settlement is a "non-claims-made" settlement. Each Settlement Class Member will be entitled to a share of the NSA in accordance with the formula set forth below. Payments will be made from the NSA only to Settlement Class Members, as set forth herein.

**9.2** The NSA will be allocated among Settlement Class Members on a pro rata basis based on the number of pay periods worked by each Settlement Class Member out of the total amount of pay periods worked by all Class Members. For purposes of allocation, the pay periods of D and E Subclass Members whose shifts were listed as exceeding seven hours and thirty minutes or whose shifts were unknown shall be considered equal to 200% of one pay period. The pay periods of all other Class Members shall be considered equal to 100% of one pay period.

**9.3** The payments from the NSA to D and E Subclass Members shall be allocated as 15% wages

1 and 85% penalties and interest. The employer shall pay the employer-side payroll taxes associated with  
2 these wage payments. All other payments from the NSA to Class Members will be allocated 100% as  
3 penalties and interest.

4 **9.4** The portion of the PAGA Award allocated to the Class Members will be allocated on a pro  
5 rata basis based on the number of pay periods worked by each Class Member out of the total amount of  
6 pay periods worked by all Class Members. For purposes of settlement, the payments from the PAGA  
7 Award will be allocated 100% as penalties and interest.

8 **9.5** The amount distributed to Settlement Class Members, in addition to all required  
9 withholdings, shall not exceed the NSA.

10 **9.6** If a Class Member timely and validly submits a Request for Exclusion, as set forth herein,  
11 his or her share will return to the NSA and will be distributed to the remaining Settlement Class Members.

12 **9.7** Payments to Class Members pursuant to this Agreement will not be construed as  
13 compensation for purposes of determining eligibility for or benefit calculations of any health and welfare  
14 benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, including,  
15 without limitation, all plans, subject to Employee Retirement Income Security Act ("ERISA").  
16 The Parties agree these payments do not represent any modification of any employee's previously-  
17 credited hours of service or other eligibility criteria under any employee pension benefit plan, employee  
18 welfare benefit plan, or other program or policy.

19 **9.8** Within 30 days of the court entering the Final Approval Order, Defendant will deposit  
20 through the Settlement Administrator an amount equal to the GSA in addition to Defendant's portion of  
21 payroll taxes in connection with the wages portion of the NSA, if any.

22 **9.9** Within twenty-five (25) calendar days of Defendant depositing the GSA and its portion of  
23 payroll taxes in connection with the wages portion of the NSA, if any, the Settlement Administrator will  
24 pay all Class Members' settlement shares, and attorney's fees, costs, enhancement payment, and  
25 administration costs, as approved by the Court. Before Class Member Payment Checks are mailed, the  
26 Settlement Administrator will update addresses of the recipients using the National Change of Address  
27 Database. The Settlement Administrator will use reasonable search methods for any Class Member  
28 Payment Checks returned as undeliverable. The Settlement Administrator will then re-mail Class Member

1 Payment Checks to new addresses ascertained within three business days of the return of the Class  
2 Member Payment Check. Class Member Payment Checks will include the expiration date.

3 **9.10** Class Member Payment Checks that are not cashed within one hundred and eighty (180)  
4 calendar days from the date of issuance by the Settlement Administrator, will be cancelled. Class Members  
5 whose Class Member Payment checks are not timely cashed and which are cancelled, will be deemed to  
6 have irrevocably waived any right in or claim to any payment under the Agreement, but the settlement  
7 and their release of Released Claims will remain binding upon them. The value of the cancelled Class  
8 Member Payment checks and any other unclaimed funds will be transmitted in conformity with California  
9 Civil Procedure Code section 384, to a *cy pres* agreed upon by the Parties and approved by the Court.

10 **9.11** Neither Plaintiffs nor Defendant shall bear any liability for lost or stolen checks, forged  
11 signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of  
12 omission or commission, the same is true for the Settlement Administrator.

13 **10. Tax Treatment.**

14 **10.1 Tax Treatment of Class Member Payments:** Of the amounts paid to individual D&E  
15 Subclass Members, 15% shall be allocated as wages and reported on a Form W-2 and 85% shall be  
16 allocated as penalties and interest and reported on an IRS Form 1099. All other payments from the NSA  
17 to Settlement Class Members shall be designated as penalties and interest and reported on IRS Form 1099.  
18 All Class Members will be responsible for paying any applicable taxes associated with their settlement  
19 shares.

20 **10.2 Tax Treatment of Service Award:** Plaintiffs will receive an IRS Form 1099 for their  
21 individual Service Awards and will be responsible for payment of any taxes owing on said amount.

22 **10.3 Tax Treatment of Attorneys' Fees and Cost Award:** Class Counsel will receive an IRS  
23 Form 1099 for any amount awarded to Class Counsel in the form of attorneys' fees or costs and will be  
24 responsible for payment of any taxes owing on said amount.

25 **10.4 No Tax Advice:** Neither Plaintiffs nor Defendant, nor the Parties' attorneys, shall give or  
26 are giving any tax advice in connection with the settlement or any payments to be made pursuant to this  
27 settlement.

28 **11. Notice Administration.**

1           **11.1** Within twenty (20) calendar days of the later of the Preliminary Approval Order or court  
2 approval of the settlement notice to the class, Defendant shall provide only the Settlement Administrator  
3 with the following information (“Class Data List”):

4                   (a)    the names, employment identification number, last known addresses, last known  
5 telephone numbers, and Social Security numbers of each Class Member;

6                   (b)    the number of pay periods being attributed to each Class Member.

7           **11.2** Upon its receipt of the Class Data List, the Settlement Administrator shall access the National  
8 Change of Address (“NCOA”) Database, and update the addresses contained therein.

9           **11.3** Within thirty-five (35) days of the later of the Preliminary Approval Order or court approval  
10 of settlement notice to the class, the Settlement Administrator shall provide the Class Notice by bulk first  
11 class mail, forwarding requested, to the Class Members at the addresses identified through the process  
12 described above.

13           **11.4** As to any Class Notices that are returned as undeliverable, or where the NCOA Database  
14 indicates that the last known address of any Class Member is invalid or otherwise undeliverable, the  
15 Settlement Administrator will perform a skip trace procedure and re-mail all returned, undelivered mail  
16 within five (5) calendar days of the date on which the Settlement Administrator is informed that a Class  
17 Notice is undeliverable or otherwise invalid. For those re-mailed Class Notices, Class Members shall have  
18 an additional fourteen (14) calendar days from the date of re-mailing to object to the settlement, dispute  
19 their pay period information, or request exclusion from the settlement.

20           **11.5** Other than the obligations set forth in this Agreement, Parties will have no additional  
21 obligation to identify or locate any Class Member.

22           **11.6** Parties will not be responsible for nor have any liability in connection with the provision of  
23 Class Member data to the Settlement Administrator, outside of the obligations set forth in this Agreement.  
24 The Settlement Administrator and all those working through, in concert with, or on behalf of the  
25 Settlement Administrator, shall be obligated to take all reasonable steps to maintain the confidentiality of  
26 Class Member information and to carry out the other duties enumerated in this Agreement, including  
27 calculating each Class Member’s potential share of the settlement.

28           **11.7** The Settlement Administrator shall provide Defendant’s counsel and Class Counsel with

1 weekly summary reports, including the total number of Class Notices that were returned as undeliverable,  
2 the total number of objections, and disputes regarding pay periods, and/or Requests for Exclusion. The  
3 Settlement Administrator shall maintain records of its work, which will be available for inspection upon  
4 request by Defendant's counsel.

5 **12. Class Notice and Notification of Credits.**

6 **12.1** The Class Notice will be a pre-printed notice, in substantially the form attached hereto as  
7 **Exhibit A** and to be approved by the Court. In addition to other information contained on the Class  
8 Notice, the Class Notice will state the number of pay periods that the Class Member worked as an Adjunct  
9 Instructor in California during the Class Period for Defendant, according to Defendant's records.

10 **13. Request for Exclusion.**

11 **13.1** Any Class Member may elect to opt out of the settlement by submitting a written Request  
12 for Exclusion from the Agreement to the Settlement Administrator, postmarked no later than the Response  
13 Deadline. Class Members may also submit a Request for Exclusion to the Settlement Administrator by  
14 fax, email, or other forms of electronic transmission by the Response Deadline. The Request for Exclusion  
15 must contain the following: the Class Member's full name, signature, address and last four digits of his or  
16 her social security number, and a clear statement that he or she seeks to be excluded from the settlement.  
17 The Settlement Administrator shall immediately send all Requests for Exclusion to Defendant's counsel  
18 and Class Counsel. A Class Member who fails to comply with the opt out procedure set forth herein on or  
19 before the Response Deadline will not be excluded and will instead be bound by all provisions of this  
20 Agreement and all orders issued pursuant to it.

21 **13.2** Any Class Member who elects to opt out of the Class in the manner and within the time limits  
22 specified above and in the Class Notice: (1) will not have any rights under this Agreement; (2) will not be  
23 entitled to receive any compensation under this Agreement, except for their portion of the PAGA Award;  
24 (3) will not have standing to submit any objection to this Agreement; and (4) will not be bound by this  
25 Agreement except for the release of the PAGA claim.

26 **13.3** Except for persons who elect to opt out of the settlement in the manner and within the time  
27 limits specified above, in the Preliminary Approval Order, and in the Class Notice, all Class Members,  
28 will be deemed to be within the Class for all purposes under this Agreement, will be bound by the terms

1 and conditions of this Agreement, including all orders issued pursuant to it.

2       **13.4** If this Agreement is given final approval, it will operate as a full, complete, and final release  
3 of all the Released Claims of the Class Representative and all Settlement Class Members, and as an  
4 effective covenant not to sue.

5       **14. Objections.**

6       Any Class Member who does not request exclusion from the settlement may object to this  
7 Agreement by sending the Settlement Administrator, not later than the Response Deadline, a written  
8 statement objecting to the settlement. Written objections may also be made by fax, email or other forms  
9 of electronic transmission to the Settlement Administrator, no later than the Response Deadline. The  
10 written objection must contain: the Class Member's full name, address, last four digits of his or her social  
11 security number, the case name and number of the Action, and a clear statement of the basis for his or her  
12 objection. The Settlement Administrator shall immediately send all objections to counsel for Defendant  
13 and Class Counsel. The Court will hear from any Class Member who attends the Final Approval Hearing  
14 and asks to speak regarding his or her objection, they do not need to file a written objection. But objection,  
15 if in writing, need to be submitted by the Response Deadline.

16       Counsel for the Parties shall file any responses to any objections at the time the Motion for Final  
17 Approval is filed. Class Members may, prior to the Final Approval Hearing, withdraw their objections or  
18 opt out requests in a writing to the Settlement Administrator, which may then be filed with the Court.

19       All Parties and their counsel will not seek to solicit any Class Member to submit an opt out request  
20 or objection, nor encourage any Class Member to appeal from the final judgment.

21       **15. Resolution of Disputes.**

22       If a Class Member timely disputes the number of pay periods listed on his or her Class Notice, the  
23 dispute will be submitted to the Settlement Administrator, who will examine the records and either verify  
24 the calculation or provide a corrected calculation. Disputes must be in writing that is submitted to the  
25 Settlement Administrator, postmarked on or before the Response Deadline. Pay period disputes may also  
26 be made by fax, email, or other forms of electronic transmission to the Settlement Administrator, no later  
27 than the Response Deadline. The dispute must contain: Class Member's full name, address, signature, and  
28 last four digits of his or her Social Security number; and any facts supporting the Class Member's dispute,

1 along with any supporting materials confirming that the pay periods attributed to him or her are incorrect.  
2 The Settlement Administrator's determination of disputes will be final and non-appealable.

3 **16. Non-Materiality of Attorneys' Fees, Costs and Enhancement Awards.**

4 Any denial or reduction in amount by the Court of the application for attorneys' fees and litigation  
5 costs, Enhancement Awards, and/or Settlement Administration Costs will in no way affect the validity the  
6 remainder of this Agreement or give rise to a right to rescind this Agreement.

7 **17. Released Claims.**

8 **17.1** The Released Claims Period shall be the Class Period. No other claims are released other  
9 than those claims specifically pleaded in the Complaint and those potential claims reasonably arising out  
10 of the same set of operative facts pleaded in the Complaint.

11 **17.2 Settlement Class Member Release.** Plaintiffs and all other Settlement Class Members will  
12 release the Released Parties from those claims alleged in the Complaint and all potential claims reasonably  
13 arising out of the same set of operative facts pleaded in the Complaint, including claims under Labor Code  
14 sections, 201, 202, 203, 204, 210, 226(a), 226(e), 226.3, 226.7, 510, 512, 515, 515.7, 1194, 1197, 1197.1,  
15 1198, 2802, IWC Wage Order No. 4 sections 3, 4, 10, 11, and 12. The Settlement Class Member Release  
16 is effective upon the payment in full of the amounts required under Paragraph 4 of this Agreement.

17 **17.3 Aggrieved Employees Release.** Plaintiffs and all other Aggrieved Employees will release  
18 the Released Parties from those claims, including civil penalty claims, alleged in the Complaint under  
19 PAGA and all potential claims, including potential civil penalty claims, under PAGA reasonably arising  
20 out of the same set of operative facts pleaded in the Complaint. The Aggrieved Employee Release is  
21 effective upon the payment in full of the amounts required under Paragraph 4 of this Agreement.

22 **17.4 Plaintiffs' General Release:**

23 In addition to the Released Claims, Plaintiffs shall be bound by a complete and general release of  
24 all claims under any and all applicable federal and state laws and/or regulations as to Released Parties,  
25 and shall also be bound by a California Civil Code section 1542 release and waiver of all claims known  
26 and unknown, without exception, except as a release or waiver may be prohibited by law, such as claims  
27 for workers' compensation benefits. California Civil Code section 1542 reads as follows:

28 **"A general release does not extend to claims that the creditor or releasing party**

1 does not know or suspect to exist in his or her favor at the time of executing the  
2 release and that, if known by him or her, would have materially affected his or  
3 her settlement with the debtor or released party.”

4 **18. Application for Preliminary Approval.**

5 **18.1** Within 30 business days after the Parties’ execution of this Agreement, Plaintiffs shall file a  
6 motion for preliminary approval of the settlement, requesting a Preliminary Approval Order that contains  
7 the following provisions:

8 **18.1.1** preliminarily approving this Agreement and its terms;

9 **18.1.2** preliminarily approving and certifying the Class for settlement purposes only;

10 **18.1.3** approving the form of the Class Notice, and finding that the proposed method  
11 of disseminating the Class Notice meets the requirements of due process and is the best notice  
12 practicable under the circumstances;

13 **18.1.4** establishing the procedures and the deadline by which Settlement Class  
14 Members may assert objections to the settlement, seek exclusion from the settlement, and/or  
15 dispute their settlement shares; and

16 **18.1.5** setting a date for the Final Approval Hearing.

17 **18.2** Counsel for Defendant will be given an opportunity to review and comment on the motion  
18 for preliminary approval of the settlement prior to its being filed with the Court, and such comments will  
19 be implemented to the extent reasonable.

20 **19. Final Approval Order and Final Judgment.**

21 **19.1** If this Agreement is preliminarily approved by the Court, the Parties shall thereafter request  
22 that the Court enter an order granting final approval of this Agreement and judgment based thereon  
23 (“Final Approval Order and Judgment”), which includes the following provisions:

24 **19.1.1** confirming certification of the Class for settlement purposes only;

25 **19.1.2** finding that the dissemination of the Class Notice in the form and manner  
26 ordered by the Court was accomplished as directed, met the requirements of due process; and

27 **19.1.3** finally approving this Agreement and the settlement as fair, reasonable and  
28 adequate and directing consummation of the settlement in accordance with its terms and

provisions;

**19.1.4** directing the Parties to implement the terms of this Agreement;

**19.1.5** releasing and discharging the Released Parties from any and all liability with respect to the Released Claims as hereinabove provided;

**19.1.6** resolving and settling all the Released Claims by the Class Representative and all Settlement Class Members, as herein above provided, with the release precluding them from instituting, commencing, or continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf of himself or herself, or in any other capacity of any kind whatsoever, any action in this Court, any other state court, or any arbitration or mediation proceeding or any other similar proceeding, against any of the Released Parties, that asserts any Released Claims.

**19.1.7** awarding reasonable attorneys' fees and litigation costs to Class Counsel as determined by the Court;

**19.1.8** awarding an Enhancement Award to Class Representative as determined by the Court;

**19.1.9** awarding Settlement Administration Costs to the Settlement Administrator as determined by the Court and other administration costs as provided herein;

**19.1.10** approving the allocation of PAGA Penalties to the LWDA;

**19.1.11** entering final judgment on the Complaint; and

**19.1.12** preserving continuing and exclusive jurisdiction over all matters related to the administration and consummation of the terms of this Agreement and enforcement of the Judgment.

**19.2** Counsel for Defendant will be given an opportunity to comment on the motion for final approval of the Settlement Agreement prior to its being filed with the Court, and such comments will be implemented to the extent reasonable.

**20. Effect of Settlement Not Being Final.**

If the settlement does not become final, then this Agreement will become null and void, and all negotiations, proceedings, and statements relating thereto will be without prejudice as to the rights of any

1 and all Parties hereto, and all Parties and their respective predecessors and successors will be deemed to  
2 have reverted to their respective positions in the Action as of the date and time immediately prior to the  
3 execution of this Agreement. If the Court does not approve either preliminarily or finally any material  
4 term or condition of this Agreement, or if the Court effects a material change to the Parties' settlement  
5 (including but not limited to the scope of release to be granted by Class Members or the binding effect of  
6 the settlement on Class Members), the Parties shall work together in good faith to address any concerns  
7 raised by the Court and propose a revised Agreement for the Court's approval.

8 **21. Withdrawal From Settlement Based on Requests for Exclusion.**

9 Defendant shall retain the right, in the exercise of its sole discretion, to nullify the settlement in  
10 the event that 15 or more Class Members opt out. Defendant must provide written notice to Class Counsel  
11 of its withdrawal within thirty (30) calendar days of the Response Deadline. Class Counsel and Defendant  
12 specifically agree not to solicit opt-outs, directly or indirectly, through any means. If Defendant exercises  
13 this right, it shall be solely responsible for the costs incurred for settlement administration up to the date  
14 of nullification.

15 **22. Mutual Cooperation.** The Parties agree to cooperate fully with each other to accomplish the  
16 terms of this Agreement, including but not limited to, execution of all necessary documents and to take  
17 such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties  
18 shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that  
19 may become necessary by order of the Court, or otherwise, to effectuate the terms of this Agreement. As  
20 soon as practicable after execution of this Agreement, Class Counsel shall, with the assistance and  
21 cooperation of Defendant and its counsel, take all necessary steps to secure entry of the Final Judgment.

22 **23. Escalator Clause.**

23 The parties agree that if the pay periods worked by the Class Members during the Class Period is  
24 greater than 13,000, then the Gross Settlement Amount shall increase proportionally for each pay period  
25 over 13,000.

26 **24. No Admissions.**

27 The Parties understand and agree that this Agreement is the result of a good faith compromise  
28 settlement of disputed claims and, regardless of whether the settlement is finally approved and/or

1 consummated, that no part of this Agreement, or any conduct or written or oral statements made in  
2 connection with this settlement and/or this Agreement, including the Memorandum of Understanding  
3 fully-executed by the parties on February 4, 2022, or the negotiations leading to this Agreement, or any  
4 document filed in support thereof, should be construed as an admission or concession of any kind by  
5 Defendant or any of the Released Parties.

6 **25. Avoidance of Undue Publicity.**

7 Except as required to obtain preliminary or final approval in this case, Plaintiffs and Class Counsel  
8 agree not to publicize the amount or other terms of this Agreement to any person. Nothing herein will  
9 restrict Class Counsel from including publicly available information regarding this Agreement in future  
10 judicial submissions regarding Class Counsel's qualifications and experience.

11 **26. Construction.**

12 This Agreement was entered into after substantial good faith, arm's-length negotiations between  
13 the Parties. This Agreement has been entered into without any coercion and under no duress. The Parties  
14 acknowledge and agree that all Parties had an equal hand in drafting this Agreement so that it will not be  
15 deemed to have been prepared or drafted by one party or another.

16 **27. Due Authority of Attorneys.**

17 Each of the attorneys executing this Agreement on behalf of one or more Parties warrants and  
18 represents that he or she has been duly authorized and empowered to execute this Agreement on behalf of  
19 each such respective Party and to bind them to its terms. The parties also warrant that this Agreement is  
20 entered into knowingly and willingly and there is no fraud, duress, or undue influence.

21 **28. Entire Agreement.**

22 This Agreement (including exhibits) sets forth the entire agreement of the Parties with respect to  
23 its subject matter and supersedes any and all other prior agreements and all negotiations leading up to the  
24 execution of this Agreement, whether oral or written, regarding the subjects covered herein. The Parties  
25 acknowledge that no representations, inducements, warranties, promises, or statements relating to the  
26 subjects covered herein, oral or otherwise, have been made by any of the Parties that are not embodied or  
27 incorporated by reference herein. Except as otherwise set forth in this Agreement, any notice, order,  
28 judgment, or other exhibit that requires approval of the Court must be approved without material alteration

1 that substantially changes or increases the cost of compliance with this Agreement for this Agreement to  
2 become effective. Before invoking this provision to challenge the effectiveness of this Agreement, the  
3 invoking party shall consult with, and if necessary mediate in good faith with, the other party in an effort  
4 to resolve any such challenge.

5 **29. Modification or Amendment.**

6 This Agreement may not be modified or amended except in a writing signed by all signatories  
7 hereto or their attorneys or their successors in interest and approved by the Court.

8 **30. Successors.**

9 This Agreement will be binding upon and inure to the benefit of the Parties and their respective  
10 heirs, executors, administrators, successors and assigns, and upon any corporation, partnership or other  
11 entity into or with which any Party hereto may merge, combine, or consolidate.

12 **31. Counterparts.**

13 This Agreement may be executed in counterparts, each of which will be deemed an original, and  
14 all of which together will constitute one and the same instrument.

15 **32. Waivers.**

16 The waiver by any Party of any breach of this Agreement will not be deemed or construed as a  
17 waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

18 **33. Governing Law.**

19 This Settlement Agreement will be governed by and construed, enforced, and administered in  
20 accordance with the internal laws of the State of California.

21 **34. Headings.**

22 The headings contained in this Agreement are for convenience and reference purposes only and  
23 will not be given weight in its construction.

24 **35. Notices.**

25 Any notices, requests, demands, or other communications required or permitted to be given  
26 pursuant to this Agreement, other than the contemplated Class Notice to the Class Members, must be in  
27 writing and mailed as follows:

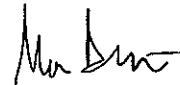
28 **35.1** To Class Counsel: to the attention of Craig Ackerman, Esq., Ackermann & Tilajef, P.C.,

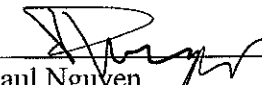
1 1180 South Beverly Drive Suite 610, Los Angeles, CA 90035, and to Amir Seyedfarshi, Employment  
2 Rights Law Group, APC, 1180 South Beverly Drive, Suite 610, Los Angeles, California 90035.

3 **35.2** To Defendant and counsel for Defendant: to the attention of Natasha J. Baker, Esq., Novus  
4 Law Firm. Inc., 1450 Maria Lane, Suite 330, Walnut Creek, California 94596.

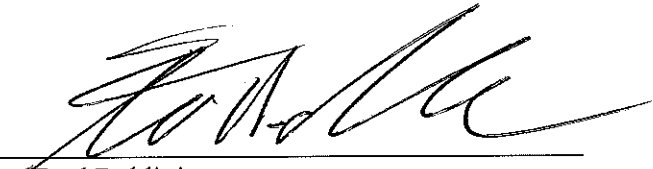
5 **IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on**  
6 **behalf of the Parties, as follows:**

7 **Plaintiffs and Proposed Class Representatives**

8 Dated: 03/09/2022, 2022 By:   
9 Monica Denton

10 Dated: 03/08/2022, 2022 By:   
11 Paul Nguyen

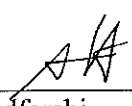
12 **Defendant**  
13 **Samuel Merritt University**

14 Dated: 03/16/2022, 2022 By:   
15 Fred Baldini  
16 Provost and V.P. of Academic Affairs  
17 On behalf of Defendant

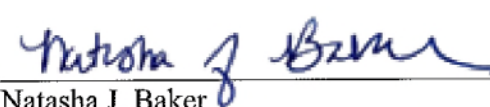
18 **APPROVED AS TO FORM:**

19 **Counsel for Plaintiffs and**  
20 **Proposed Class Counsel**

21 Dated: 03/08/2022, 2022 By:   
22 Craig J. Ackermann  
23 Ackerman & Tilajef, P.C.

24 Dated: 03/08/2022, 2022 By:   
25 Amir Seyedfarshi  
26 Employment Rights Law Group, APC

27 **Counsel for Defendant**

28 Dated: 03/17/2022, 2022 By:   
Natasha J. Baker  
Matthew W. Burris  
Novus Law Firm, Inc.

|                         |                                                                                          |
|-------------------------|------------------------------------------------------------------------------------------|
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| DOCUMENT ID             | 618d93625804f9fc25e79719752514f5e1ba4892                                                 |
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IP: 76.167.87.96



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SIGNED

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05:35:13 UTC

Signed by Paul N. Nguyen (tripangu@gmail.com)

IP: 24.4.175.119



SIGNED

**03 / 09 / 2022**

20:04:20 UTC

Signed by Monica Ysela Denton (monicaydenton@hotmail.com)

IP: 162.211.55.194



COMPLETED

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