

1 **SETTLEMENT AGREEMENT OF CLASS ACTION AND PRIVATE ATTORNEYS**

2 **GENERAL ACT CLAIMS**

3 This Settlement Agreement of Class Action and Private Attorneys General Act Claims
4 (“Settlement” or “Settlement Agreement”) is made between Ekaterina Netsvetayeva and Valerie
5 Butler (“Plaintiffs”), as individuals and on behalf of all other similarly situated and alleged
6 aggrieved employees, on the one hand, and Defendant Autodesk, Inc. (“Defendant” or
7 “Autodesk”) on the other hand (collectively, the “Parties” and individually, a “Party”). This
8 Settlement was reached pursuant to lengthy negotiations between the Parties over the course of
9 several months.

10 **I. DEFINITIONS**

11 **A.** “Lawsuit” means the lawsuit entitled *Ekaterina Netsvetayeva and Valerie Butler v.*
12 *Autodesk, Inc.*.

13 **B.** “Class Counsel” means Craig Ackermann and Avi Kreitenberg of Ackermann &
14 Tilajef, P.C., 1180 South Beverly Drive, Suite 610, Los Angeles, California 90035 and India Lin
15 Bodien of India Lin Bodien, Attorney at Law, 2522 North Proctor Street, No. 387, Tacoma,
16 Washington 98406.

17 **C.** “Class Member Payments” means the amount payable from the Net Distribution
18 Fund to each Settlement Class Member, 90% of which shall be allocated to penalties and 10% of
19 which shall be allocated to wages. Class Member Payments are separate and distinct from PAGA
20 Payments (defined below) that will be paid to PAGA Aggrieved Employees.

21 **D.** “Class Payout Fund” means all funds remaining from the Gross Settlement Amount
22 after deducting the Court-awarded Named Plaintiff Enhancement Payments, Fees Award, Costs
23 Award, Settlement Administration Costs, and PAGA Payments.

24 **E.** “Class Settlement” means the non-PAGA portion of the settlement embodied in
25 this Settlement Agreement.

26 **F.** “Costs Award” means costs of litigation approved by the Court for Class Counsel’s
27 costs incurred in investigation, litigation, and resolution of the Lawsuit, and administration of the
28 Settlement, including anticipated costs incurred through Final Approval and disbursement of

1 payments under this Settlement Agreement and obtaining entry of the judgment terminating the
2 Lawsuit.

3 **G.** “Court” means Marin County Superior Court, located at 3501 Civic Center Drive
4 San Rafael, California 94903.

5 **H.** “Defendant’s Counsel” means Paul Cowie and Luis Arias of Sheppard, Mullin,
6 Richter & Hampton LLP, Four Embarcadero Center, 17th Floor, San Francisco, CA 94111.

7 **I.** “Effective Date” means the date by which the final judgment becomes final. For
8 purposes of this Settlement Agreement, the final judgment “becomes final” only after the Court
9 grants the motion for final approval of the settlement and upon the latter of (i) the period for filing
10 any appeal, writ, or other appellate proceeding challenging or opposing the Settlement has elapsed
11 without any appeal, writ, or other appellate proceeding having been filed; (ii) any appeal, writ or
12 other appellate proceeding challenging or opposing the Settlement has been dismissed finally and
13 conclusively with no right to pursue further remedies or relief and without impacting this
14 Settlement; or (iii) any appeal, writ or other appellate proceeding has upheld the Court’s final
15 order with no right to pursue further remedies or relief. In this regard, it is the intention of the
16 parties that the Settlement shall not become effective, and Defendant will not be obligated to fund
17 this Settlement, until the Court’s order approving the Settlement is completely final, and there is
18 no further recourse by an appellant, objector, intervenor, or otherwise by anyone who seeks to
19 contest the Settlement.

20 **J.** “Fees Award” means attorneys’ fees approved by the Court for Class Counsel’s
21 fees incurred in investigation, litigation, and resolution of the Lawsuit, and administration of the
22 Settlement, including anticipated fees incurred through Final Approval and disbursement of
23 payments under this Settlement Agreement and obtaining entry of the judgment terminating the
24 Lawsuit, and which shall not exceed one third (1/3) of the Gross Settlement Amount, i.e. up to
25 \$158,333.33.

26 **K.** “Final Approval” means the Court’s order granting final approval of the Settlement
27 Agreement.

1 **L.** “Gross Settlement Amount” means a non-reversionary common fund that shall
2 have a total all-in value of \$475,000.00 and includes without limitation any and all payments
3 Defendant may be responsible for under the Settlement, including any Fees Award and Costs
4 Award to Class Counsel, Named Plaintiff Enhancement Payments, the Class Member Payments,
5 the PAGA Payments (which includes payments to the LWDA), and Settlement Administration
6 Costs, and all payroll taxes (inclusive of employer-side payroll taxes) due and owing as a result of
7 the Settlement. The total amount that Defendant shall pay for any and all purposes under this
8 Settlement Agreement is the Gross Settlement Amount.

9 **M.** “LWDA” means the California Labor and Workforce Development Agency.

10 **N.** “Named Plaintiffs” means Ekaterina Netsvetayeva and Valerie Butler.

11 **O.** “Named Plaintiff Enhancement Payments” means the amount to be paid to each
12 Named Plaintiff for their time and effort spent pursuing the Lawsuit; for the risks associated with
13 suing Defendant; and for their agreement to enter into a general release of all claims, not to exceed
14 \$5,000 for Ekaterina Netsvetayeva and \$7,500 for Valerie Butler, for a total of \$12,500.

15 **P.** “PAGA” means the California Private Attorneys General Act, California Labor
16 Code §§ 2699 *et seq.*

17 **Q.** “PAGA Aggrieved Employees” means all current and former employees of
18 Autodesk employed in California during the PAGA Period who were subject to stay-at-home
19 orders and/or whose offices were closed due to COVID-19 for at least one pay period during the
20 PAGA period and did not receive a fully paid wireless internet device for work purposes.

21 **R.** “PAGA Aggrieved Employee List” means the list of all PAGA Aggrieved
22 Employees that Defendant will diligently and in good faith compile from its records to accurately
23 reflect employees’ names, last known mailing address, telephone number, Social Security number,
24 date of birth, and pay periods worked by the PAGA Aggrieved Employees during the PAGA
25 Period.

26 **S.** “PAGA Payment” means the payment to the State of California LWDA and the
27 PAGA Aggrieved Employees in settlement of all claims for PAGA penalties as defined in this
28 Settlement Agreement.

1 **T.** “PAGA Period” means the time period beginning March 17, 2020 through March
2 5, 2022.

3 **U.** “PAGA Settlement” means the PAGA portion of the settlement embodied in this
4 Settlement Agreement.

5 **V.** “Qualified Settlement Account” means the account established by the Settlement
6 Administrator pursuant to Internal Revenue Code section 1.468B-1.

7 **W.** “Released Parties” means Defendant, and each of its past, present and future
8 agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders,
9 stockholders, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations
10 and/or partnerships (defined as a company/corporation and/or partnership that is, directly or
11 indirectly, under common control with Defendant or any of its parents and/or affiliates), divisions,
12 assigns, predecessors, successors, insurers, consultants, joint ventures, any actual or alleged joint
13 employers, affiliates, and alter-egos, and all of their respective past, present and future employees,
14 directors, officers, agents, attorneys, insurers, stockholders, fiduciaries, parents, subsidiaries, and
15 assigns.

16 **X.** “Settlement Administration Costs” means the costs payable from the Gross
17 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
18 but not limited to, the Settlement Administrator’s responsibilities outlined in this Settlement
19 Agreement.

20 **Y.** “Settlement Administrator” means CPT Group, Inc., whom the Parties mutually
21 agree shall be responsible for the administration of the Settlement, distribution of amounts owed
22 under this Settlement, and matters necessarily related thereto, pursuant to the terms of this
23 Settlement Agreement.

24 **Z.** “Settlement Class” means all current and former employees of Autodesk employed
25 in California during the Settlement Class Period who were subject to stay-at-home orders and/or
26 whose offices were closed due to COVID-19 for at least one pay period during the Settlement
27 Class Period and did not receive a fully paid wireless internet device for work purposes.
28

1 **AA.** “Settlement Class Members” means individuals in the Settlement Class who do not
2 submit a timely and valid request for exclusion from the Settlement Class.

3 **BB.** “Settlement Class List” means the list of all Settlement Class employees that
4 Defendant will diligently and in good faith compile from its records to accurately reflect
5 employees’ names, last known mailing address, telephone number, Social Security number, date
6 of birth, and pay periods worked during the Settlement Class Period.

7 **CC.** “Settlement Class Period” means the time period from March 17, 2020 through
8 March 5, 2022.

9 **II. RECITALS**

10 **A. Background and Procedural History**

11 1. On September 2, 2021, Plaintiffs Ekaterina Netsvetayeva and Valerie Butler
12 (collectively, the “Plaintiffs”) submitted a PAGA notice to the LWDA in accordance with the
13 requirements of Labor Code section 2699.3(a). The PAGA notice alleges that Defendant violated
14 California Labor Code section 2802 for failure to reimburse its employees a reasonable portion of
15 their work-related home office expenses, including reasonable percentage of their cell phone and
16 home internet expenses incurred on behalf of Defendant during the COVID-19 pandemic. The
17 LWDA declined to investigate the alleged violations, permitting the Plaintiffs to assert a claim
18 under PAGA.

19 2. The Parties engaged in prolonged informal settlement discussions,
20 informally exchanged information, and ultimately reached a settlement.

21 **B.** Named Plaintiffs have fully investigated the factual and legal bases for the causes
22 of action asserted in the Lawsuit. As a result of their investigation, Named Plaintiffs continue to
23 believe their claims are viable and that Defendant violated the California Labor Code. Defendant
24 has denied all allegations and contends that the claims asserted in the Lawsuit have no merit and
25 cannot give rise to liability on behalf of Defendant. Given the disagreement between the Parties as
26 to the viability of these claims, the Parties believe the Settlement provided for herein is a fair,
27 adequate and reasonable settlement.

1 **C.** Named Plaintiffs recognize the expense and length of continued proceedings
2 necessary to continue the litigation against Defendant through trial and through any possible
3 appeals. Named Plaintiffs have also taken into account the uncertainty and risk of the outcome of
4 further litigation, the difficulties and delays inherent in such litigation, and Defendant's
5 contentions regarding its policies and defenses. Named Plaintiffs are also aware of the burdens of
6 proof necessary to establish liability for the claims asserted in the Lawsuit, Defendant's defenses
7 thereto, and the difficulties in establishing damages for the Settlement Class and PAGA Aggrieved
8 Employees. Named Plaintiffs have also taken into account the documents and information
9 produced and settlement negotiations conducted, which negotiations resulted in the material
10 settlement terms set forth herein. Based on the foregoing, Named Plaintiffs have determined that
11 the Settlement set forth in this Settlement Agreement is a fair, adequate and reasonable settlement,
12 and is in the best interests of the Settlement Class and PAGA Aggrieved Employees.

13 **D.** Defendant has concluded that defense of this litigation would be protracted and
14 expensive for all Parties. Defendant has devoted substantial amounts of time, energy and
15 resources to the investigation and defense of the claims asserted in the Lawsuit and, unless this
16 Settlement is made, will continue to do so for the foreseeable future (likely years). For these
17 reasons, Defendant has agreed to settle the matter upon the terms set forth in this Settlement
18 Agreement, to put to rest the claims as set forth in the Lawsuit.

19 **E.** Defendant has denied and continues to deny each of the claims and contentions
20 alleged in the Lawsuit. Defendant has repeatedly asserted and continues to assert defenses thereto,
21 and has expressly denied and continues to deny any wrongdoing or legal liability arising out of
22 any of the facts or conduct alleged in the Lawsuit. Defendant also has denied and continues to
23 deny, *inter alia*, the allegations that the Settlement Class and PAGA Aggrieved Employees have
24 suffered damages; that Defendant improperly failed to pay the Settlement Class and PAGA
25 Aggrieved Employees all wages owed; that Defendant failed to properly provide meal and rest
26 periods; that Defendant provided the Settlement Class and PAGA Aggrieved Employees with
27 inaccurate wage statements; that Defendant failed to timely pay all wages due during employment
28 or at the separation of employment; that Defendant failed to reimburse business expenses; that

1 Defendant violated any provisions of the California Labor Code or any IWC Wage Order; that
2 Defendant engaged in any unlawful, unfair or fraudulent business practices; that Defendant
3 engaged in any other wrongful conduct alleged in the Lawsuit; or that the Settlement Class and
4 PAGA Aggrieved Employees were harmed by the conduct alleged in the Lawsuit. Neither this
5 Settlement Agreement, nor any document referred to or contemplated herein, nor any action taken
6 to carry out this Settlement Agreement, is, may be construed as, or may be used as, an admission,
7 concession or indication by or against Defendant of any fault, wrongdoing or liability whatsoever.

8 **F.** Named Plaintiffs claim and continue to claim that the claims released by this
9 Settlement Agreement have merit and give rise to liability on the part of Defendant. Neither this
10 Settlement Agreement nor any documents referred to herein, or any action taken to carry out this
11 Settlement Agreement is, may be construed as, or may be used as an admission, by or against the
12 Settlement Class, PAGA Aggrieved Employees, or Class Counsel as to the merits or lack thereof
13 of the claims asserted.

14 **I.** The Parties stipulate, subject to the approval of the Court, that the Lawsuit is being
15 compromised and settled pursuant to the terms and conditions set forth in this Settlement
16 Agreement. Upon Final Approval of the Settlement by the Court at or after the Final Approval
17 hearing, the Parties shall present a Proposed Final Judgment (attached as Exhibit 3 hereto) to the
18 Court for its approval, requesting that the Court enter judgment and retain jurisdiction with respect
19 to the interpretation, implementation, and enforcement of the terms of this Settlement Agreement
20 and all orders and judgments entered in connection therewith.

21 **III. SETTLEMENT TERMS**

22 **A. Pleadings**

23 1. As part of this Settlement, and in connection with the preliminary approval
24 of this Settlement, Named Plaintiffs shall file within five (5) days of the execution of this
25 Settlement Agreement an amended LWDA Letter alleging the same allegations as in Plaintiffs'
26 September 2, 2021 PAGA Letter to the LWDA, as well as additional claims for off-the-clock
27 work, meal and rest period violations, and derivative claims for failure to provide accurate
28 itemized wage statements and failure to timely pay all wages due at the time of separation, as

1 alleged by Plaintiffs in the draft Class Action Complaint attached as **Exhibit 1** (the “Complaint”).
2 Plaintiffs shall also file their Complaint within five (5) days of the execution of this Settlement
3 Agreement. Plaintiffs shall file the Complaint in Marin County Superior Court, entitled *Ekaterina*
4 *Netsvetayeva and Valeire Butler v. Autodesk, Inc.*.

5 2. Because the Parties have preliminarily settled this matter, Autodesk shall
6 not be required to file a responsive pleading to Plaintiffs’ Complaint. In the event that the Court
7 does not enter an order granting Final Approval, Autodesk shall have 30 days from the date of
8 notice that final approval is not granted to file a responsive pleading.

9 **B. Funding and Allocation of Settlement**

10 1. Gross Settlement Amount. Provided the Court approves the Settlement and
11 the Effective Date occurs, Autodesk will pay the Gross Settlement Amount, which is the
12 maximum monetary amount payable by Autodesk and which shall not exceed the all-inclusive
13 sum of \$475,000.00.

14 2. Settlement Accounting. No more than fourteen (14) days after the Effective
15 Date, or at a reasonable time thereafter if not reasonably practicable, the Settlement Administrator
16 will provide the Parties with an accounting of all anticipated payments from the Qualified
17 Settlement Account, including: (a) Class Member Payments, (b) the PAGA Payments; (c) the
18 Named Plaintiff Enhancement Payments; (d) the Fees Award and Costs Award to Class Counsel,
19 and (f) Settlement Administration Expenses, all as specified in this Settlement Agreement and
20 approved by the Court.

21 3. Funding the Settlement. Within thirty (30) days after receipt of the
22 Settlement Accounting from the Settlement Administrator, and solely for purposes of this
23 Settlement, Defendant shall wire the Gross Settlement Amount into the Qualified Settlement
24 Account, for distribution in accordance with the terms of this Settlement Agreement. At no time
25 shall Defendant have the obligation to segregate the funds comprising the Gross Settlement
26 Amount from other assets and will retain exclusive authority over, and responsibility for, those
27 funds until the date those amounts are required to be funded pursuant to this Settlement
28 Agreement.

1 **C. Payments from the Gross Settlement Amount.**

2 1. Named Plaintiff Enhancement Payments. The Settlement Administrator
3 shall pay any Named Plaintiff Enhancement Payments within sixty (60) days of the Effective Date
4 either by check or wire to an account(s) designated by Class Counsel. Named Plaintiffs agree to
5 provide the Settlement Administrator with an executed IRS Form W-9 within five days after the
6 Effective Date and before the Named Plaintiff Enhancement Payments are issued. The Settlement
7 Administrator shall issue an IRS Form 1099 to Named Plaintiffs for these payments. Named
8 Plaintiffs shall be solely and legally responsible for paying any and all applicable taxes on their
9 Named Plaintiff Enhancement Payments and shall hold Released Parties harmless from any claim
10 or liability for taxes, penalties or interest arising as a result of the Named Plaintiff Enhancement
11 Payments. The Named Plaintiff Enhancement Payments shall be in addition to any Class Member
12 Payments or PAGA Payments the Named Plaintiffs receive as Settlement Class Members and
13 PAGA Aggrieved Employees. If the Court awards Named Plaintiff Enhancement Payments less
14 than the amount specified, the unawarded amounts shall remain in the Class Payout Fund and be
15 distributed to Settlement Class Members.

16 2. Class Counsel's Attorneys' Fees and Costs. Class Counsel may request a
17 Fees Award of up to \$158,333.33, which constitutes one-third of the Gross Settlement Amount
18 and will seek a Costs Award of up to \$10,000.00 for reimbursement of Class Counsel's out-of-
19 pocket costs incurred pursuing the Lawsuit.

20 a. The Settlement Administrator shall pay any Fees Award and/or
21 Costs Award within sixty (60) days of the Effective Date either by check or wire to an account
22 designated by Class Counsel. Class Counsel agrees to provide the Settlement Administrator with
23 an executed IRS Form W-9 within five days after the Effective Date and before payments for
24 Class Counsel's Fees Award and Costs Award are issued. The Settlement Administrator shall
25 issue an IRS Form 1099 to Class Counsel for the payments made pursuant to this section. Class
26 Counsel shall be solely and legally responsible for paying any and all applicable taxes on their
27 Fees Award or Costs Award and shall hold Released Parties harmless from any claim or liability
28 for taxes, penalties or interest arising as a result of any payments received by Class Counsel

1 pursuant to this Agreement. If the Court awards a Fees Award or a Costs Award less than the
2 amount requested by Class Counsel, the unawarded amounts shall remain in the Class Payout
3 Fund and be distributed to Settlement Class Members. This Settlement is not contingent upon the
4 Court awarding Class Counsel any particular amount in attorneys' fees and costs.

5 b. Neither Class Counsel nor any other current or past counsel for
6 Named Plaintiffs shall be permitted to petition the Court for, or accept, any additional payments
7 for fees, costs, or interest, and the Fees Award and Costs Award shall be for all claims for
8 attorneys' fees and costs whenever incurred, including past, present and future fees and costs
9 incurred in the Lawsuit to date and through and including the Effective Date, as well as final
10 distribution of all payments under this Settlement Agreement and through and after final
11 judgment. Upon the Effective Date, payment of the Fees Award and Costs Award to Class
12 Counsel as set forth herein shall constitute full satisfaction of the obligation to pay any amounts to
13 any person, attorney or law firm for attorneys' fees, expenses or costs arising out of and/or in
14 connection with the Lawsuit incurred by any attorney on behalf of Named Plaintiffs and/or any of
15 the Settlement Class or PAGA Aggrieved Employees, and shall relieve the Settlement Class,
16 PAGA Aggrieved Employees, Released Parties, the Settlement Administrator, the Qualified
17 Settlement Account, and Defendant's Counsel of any other claims or liability to any other attorney
18 or law firm for any attorneys' fees, expenses and/or costs to which any of them may claim to be
19 entitled on behalf of Named Plaintiffs and/or any of the Settlement Class or PAGA Aggrieved
20 Employees in connection with the claims released in this Settlement.

21 3. PAGA Payment. The PAGA Payment amount is \$47,500, which the Parties
22 have agreed is to be paid in settlement of all PAGA claims released in this Settlement Agreement,
23 which shall be allocated as follows:

24 a. Within sixty (60) days of the Effective Date, the Settlement
25 Administrator shall pay from the Qualified Settlement Account \$35,625 to the State of California
26 LWDA. This amount is 75% of the \$47,500 PAGA Payment.

27 b. The remaining 25% of the PAGA Payment (\$11,875) shall be
28 distributed to all PAGA Aggrieved Employees, with each receiving a pro rata share based on the

1 number of pay periods worked during the PAGA Period. To establish the pay period value, the
2 Settlement Administrator will first determine the total number of pay periods worked by the
3 PAGA Aggrieved Employees during the PAGA Period. The pay period value will be equal to
4 25% of the PAGA Payment divided by the total number of pay periods worked by PAGA
5 Aggrieved Employees during the PAGA Period. The pay period value will be rounded to the
6 nearest cent. The amount of the PAGA Payment to be paid to each PAGA Aggrieved Employee
7 will be determined by multiplying the pay period value by the total number of pay periods each
8 PAGA Aggrieved Employee worked during the PAGA Period.

9 c. The portion of the PAGA Payment paid to the PAGA Aggrieved
10 Employees shall be treated entirely as penalties. In the event that the Court awards less than the
11 full amount requested for the PAGA Payment, the un-awarded amount shall remain in the Class
12 Payout Fund and be distributed to Settlement Class Members. If for any reason additional funds
13 are allocated to the PAGA Payment, such monies shall be drawn from other amounts in this
14 Settlement with the other components of the Gross Settlement Amount being reduced
15 proportionately, including the Fees Award and the Class Payout Fund, but the Gross Settlement
16 Amount will not exceed \$475,000.00.

17 4. Settlement Administration Costs. The Settlement Administrator shall pay
18 from the Qualified Settlement Account the Court-approved Settlement Administration Costs,
19 within sixty (60) days of the Effective Date, in an amount not to exceed \$18,500. In the event that
20 the Court awards less than the full amount requested for Settlement Administration Costs, the
21 unawarded amounts shall remain in the Class Payout Fund and shall be distributed to Settlement
22 Class Members.

23 5. Calculation of Settlement Class Member Payments. All Settlement Class
24 Members will receive a Class Member Payment, paid from the Class Payout Fund without the
25 need to make a claim. The Parties agree that 90% of the Class Member Payments shall be
26 allocated to penalties and 10% of the Class Member Payments shall be allocated to wages.

27 a. The amount of each Class Member Payment will be calculated on a
28 pro rata basis, based on the number of pay periods each Settlement Class Member worked during

1 the Settlement Class Period. To establish the pay period value, the Settlement Administrator will
2 first determine the total number of pay periods worked by the Settlement Class Members during
3 the Settlement Period. The pay period value will be equal to the Class Payout Fund divided by the
4 total number of pay periods worked by Settlement Class Members during the Settlement Period.
5 The pay period value will be rounded to the nearest cent. The Class Member Payment to each
6 Settlement Class Member will be determined by multiplying the pay period value by the total
7 number of pay periods each Settlement Class Member worked during the Settlement Class Period.
8 The total of all Class Member Payments to all Settlement Class Members shall equal the Class
9 Payout Fund. There is no need for a Settlement Class Member to submit a claim form in order to
10 be eligible for and to receive a Class Member Payment. Any partial pay period will be rounded up
11 to the nearest full pay period. Class Member Payments will be reduced by any required
12 deductions for each Settlement Class Member.

13 6. Method and Timing of Payments to Settlement Class Members and PAGA
14 Aggrieved Employees.

15 a. Class Member Payments and the PAGA Aggrieved Employees'
16 portion of the PAGA Payment will be mailed by the Settlement Administrator by First Class U.S.
17 Mail within sixty (60) calendar days following the Effective Date.

18 b. Checks paid to PAGA Aggrieved Employees and Settlement Class
19 Members shall remain valid and negotiable for 180 days from the date of their issuance. After
20 one-hundred eighty (180) calendar days from the date of mailing, the checks shall become null and
21 void, and any monies remaining in the distribution account shall be distributed to the Controller of
22 the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code
23 §§ 1500 *et seq.*, for the benefit of those Settlement Class Members and PAGA Aggrieved
24 Employees who did not cash their checks until such time that they claim their property. The
25 Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure
26 Code § 384, as the entire Class Payout Fund will be paid out to Class Members, whether or not
27 they all cash their Class Member Payments. Therefore, Defendant will not be required to pay any
28 interest on said amount.

1 7. No Effect on Employee Benefits. The Named Plaintiff Enhancement
2 Awards, Class Member Payments, and PAGA Payments paid to Named Plaintiffs, PAGA
3 Aggrieved Employees, and Settlement Class Members shall be deemed not to be pensionable
4 earnings and shall not have any effect on the eligibility for, or calculation of, any employee
5 benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the respective Named Plaintiffs,
6 PAGA Aggrieved Employees, or Settlement Class Members. The Parties agree that any Named
7 Plaintiff Enhancement Awards, Class Member Payments, and PAGA Payments paid to Named
8 Plaintiffs, PAGA Aggrieved Employees, and Settlement Class Members under the terms of this
9 Settlement Agreement do not represent any modification of Named Plaintiffs', PAGA Aggrieved
10 Employees', or Settlement Class Members' previously credited hours of service or other eligibility
11 criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by
12 Defendant or any of the Released Parties. Further, any Named Plaintiff Enhancement Awards,
13 Class Member Payments, or PAGA Payments shall not be considered "compensation" in any year
14 for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit
15 plan or employee welfare benefit plan sponsored by Defendant or any of the Released Parties.

16 **D. Taxation**

17 1. Tax Treatment of Class Member Payments. Each Class Member Payment
18 shall be allocated between taxable and non-taxable consideration as follows: 10% will be
19 allocated to alleged unpaid wages for which an IRS Form W-2 will issue, and 90% will be
20 allocated to alleged penalties, reimbursement of expenses and interest for which an IRS Form
21 1099 will issue, if required by law. The Settlement Administrator will be responsible for
22 calculating the employer-side and employee-side taxes owed on the wage portion of each Class
23 Member Payment and deducting and paying these amounts to the appropriate state and federal
24 agencies, within the timing required by applicable state and federal law. Each Settlement Class
25 Member shall be responsible for ensuring that any employee-side taxes due on his or her
26 settlement are paid.

1 2. Tax Treatment of PAGA Payments. The PAGA Payment distributed to each
2 PAGA Aggrieved Employee will be treated entirely as civil penalties, and will be reported as such
3 to each PAGA Aggrieved Employee on an IRS Form 1099 misc., if required.

4 3. Tax Liability. The Parties make no representation as to the tax treatment or
5 legal effect of the payments called for hereunder, and the Parties, Settlement Class Members, and
6 PAGA Aggrieved Employees are not relying on any statement, representation, or calculation by
7 any of the Parties or by the Settlement Administrator in this regard. Named Plaintiffs, Settlement
8 Class Members, and PAGA Aggrieved Employees understand and agree that except for the
9 employer's portion of any payroll taxes, Named Plaintiffs, Settlement Class Members, and PAGA
10 Aggrieved Employees will be solely responsible for the payment of any taxes and penalties
11 assessed on the payments described herein and will hold Named Plaintiffs, Class Counsel,
12 Defendant, the Released Parties, Defendant's Counsel and the Settlement Administrator free and
13 harmless from and against any claims resulting from treatment of such payments as non-taxable
14 damages. Each Party to this Settlement Agreement (for purposes of this section, the
15 "acknowledging party" and each party to this agreement other than the acknowledging party, an
16 "other party") acknowledges and agrees that (1) no provision of this Settlement Agreement, and
17 no written communication or disclosure between or among the Parties or their attorneys and other
18 advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be
19 construed or be relied upon as, tax advice within the meaning of United States Treasury
20 Department Circular 230 (31 C.F.R. Part 10, as amended); (2) the acknowledging party (a) has
21 relied exclusively upon their own, independent legal and tax counsel for advice (including tax
22 advice) in connection with this Settlement Agreement, (b) has not entered into this Settlement
23 Agreement based upon the recommendation of any other party or any attorney or advisor to any
24 other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or
25 adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging
26 party; and (3) no attorney or adviser to any other Party has imposed any limitation that protects the
27 confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such
28 limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or

1 tax structure of any transaction, including any transaction contemplated by this Settlement
2 Agreement.

3 **E. Conditional Certification**

4 For the purposes of this Settlement Agreement only, the Parties agree to the certification of
5 the Settlement Class Members. If, for any reason, the Settlement Agreement is not approved, the
6 stipulation to certification will be void. Should the Settlement Agreement not become final, for
7 whatever reason, the fact that the Parties were willing to stipulate to class certification as part of
8 the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue
9 of whether a class should be certified in a non-settlement context in the Lawsuit, and shall have no
10 bearing on, and shall not be admissible in connection with, the issue of whether a class should be
11 certified in any other lawsuit.

12 **F. Injunctive Relief**

13 As part of this Settlement, Defendant shall not be required to enter into any consent decree,
14 nor shall Defendant be required to agree to any provision for injunctive relief, or to modify or
15 eliminate any of its personnel, compensation, or payroll practices or policies, or adopt any new
16 personnel, compensation, or payroll practices or policies.

17 **G. Release of Claims**

18 1. Class Member Release. As of the Effective Date, all Settlement Class
19 Members, fully and finally release the Released Parties from any and all claims that arose during
20 the Settlement Class Period based on the facts, theories, and primary rights alleged in the Lawsuit
21 including without limitation for unpaid wages, including, but not limited to, failure to pay
22 minimum wages, failure to pay straight time compensation, overtime compensation, double-time
23 compensation, and/or interest; missed, late, short or interrupted meal and/or rest periods or any
24 allegation that meal or rest periods were not provided, including any claim for any alleged failure
25 to pay premiums for missed, late, short or interrupted meal or rest periods, or to pay such
26 premiums at the regular rate of compensation; reimbursement for business expenses or any other
27 claim that Defendant allowed or required employees to bear any of the costs associated with the
28 operation of Defendant's business, including without limitation the use of personal cell phones,

1 home internet, equipment, home electricity, home office infrastructure or other costs incurred;
2 inaccurate or otherwise improper wage statements and/or failure to keep or maintain accurate
3 records; unlawful deductions; any claim for unfair business practices arising out of or related to
4 any or all of the aforementioned claims; any claim for penalties arising out of or related to any or
5 all of the aforementioned claims, including, but not limited to, recordkeeping penalties, wage
6 statement penalties, minimum wage penalties, liquidated damages, and waiting time penalties; and
7 attorneys' fees and costs. The claims released by the Settlement Class Members also include any
8 and all claims that arise out of or arise in connection with the claims and facts alleged in the
9 Lawsuit, and any claims which could have been asserted in the Lawsuit arising from the alleged
10 facts, theories, and/or primary rights alleged to have been invaded to the fullest extent permitted
11 by law. This release includes claims alleging a violation of the Wage Orders of the California
12 Industrial Welfare Commission; California Business and Professions Code section 17200, *et seq.*;
13 the California Civil Code sections 3287, 3289, 3336, and 3294; California Code of Civil
14 Procedure section 1021.5; and/or alleging a violation of California Labor Code §§ 200, 201, 201.3,
15 202, 203, 204, 210, 212, 216, 218, 218.5, 218.6, 221, 222.5, 223, 224, 225, 225.5, 226, 226.7, 510,
16 511, 512, 516, 558, 1021.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2800, 2802,
17 and 2804.

18 2. Release of PAGA Claims. As of the Effective Date, PAGA Aggrieved
19 Employees and the LWDA fully and finally release the Released Parties from all claims under the
20 PAGA associated with any and all claims that arose during the PAGA Period based on the facts,
21 theories, and primary rights alleged in the Lawsuit including without limitation for unpaid wages,
22 including, but not limited to, failure to pay minimum wages; failure to pay straight time
23 compensation, overtime compensation, double-time compensation, and/or interest; missed, late,
24 short or interrupted meal and/or rest periods or any allegation that meal or rest periods were not
25 provided, including any claim for any alleged failure to pay premiums for missed, late, short or
26 interrupted meal or rest periods, or to pay such premiums at the regular rate of compensation;
27 reimbursement for business expenses or any other claim that Defendant allowed or required
28 employees to bear any of the costs associated with the operation of Defendant's business,

1 including without limitation the use of personal cell phones, home internet, equipment, home
2 electricity, home office infrastructure or other costs incurred; inaccurate or otherwise improper
3 wage statements and/or failure to keep or maintain accurate records; unlawful deductions; any
4 claim for unfair business practices arising out of or related to any or all of the aforementioned
5 claims; any claim for penalties arising out of or related to any or all of the aforementioned claims,
6 including, but not limited to, recordkeeping penalties, wage statement penalties, minimum wage
7 penalties, liquidated damages, and waiting time penalties; and attorneys' fees and costs. The
8 claims released by the PAGA Aggrieved Employees also include any and all claims under the
9 California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* that arise out of
10 or arise in connection with the claims and facts alleged in the Lawsuit, and any claims which could
11 have been asserted in the Lawsuit arising from the alleged facts, theories, and/or primary rights
12 alleged to have been invaded to the fullest extent permitted by law. This release includes claims
13 under the California Private Attorneys General Act of 2004 alleging a violation of the Wage
14 Orders of the California Industrial Welfare Commission; and/or alleging a violation of California
15 Labor Code §§ 200, 201, 201.3, 202, 203, 204, 210, 212, 216, 218, 218.5, 218.6, 221, 222.5, 223,
16 224, 225, 225.5, 226, 226.7, 510, 511, 512, 516, 558, 1021.5, 1174, 1174.5, 1194, 1194.2, 1197,
17 1197.1, 1197.2, 1198, 2698 *et seq.*, 2800, 2802, and 2804.

18 3. General Release By Named Plaintiffs Only. As of the Effective Date,
19 Named Plaintiffs fully and finally release the Released Parties from any and all claims, known and
20 unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or
21 other source of law, including but not limited to claims arising from or related to Named
22 Plaintiffs' employment with Defendant and/or the termination of Named Plaintiffs' employment
23 ("Named Plaintiffs' Released Claims"). The Named Plaintiffs' Released Claims include, but are
24 not limited to, all claims asserted in, arising in connection with, or related in any way to the
25 Lawsuit, including without limitation any and all claims that could have been asserted as part of
26 the Lawsuit based on the facts alleged. Named Plaintiffs' Released Claims include all claims for
27 unpaid wages, including, but not limited to, failure to pay minimum wages; failure to pay straight
28 time compensation, overtime compensation, double-time compensation, vacation or PTO, sick

1 pay, reporting time compensation, and/or interest; missed, late, short or interrupted meal and/or
2 rest periods or any allegation that meal or rest periods were not provided, including any claim for
3 any alleged failure to pay premiums for missed, late, short or interrupted meal or rest periods, or to
4 pay such premiums at the regular rate of compensation; reimbursement for business expenses or
5 any other claim that Defendant allowed or required employees to bear any of the costs associated
6 with the operation of Defendant's business, including without limitation the use of personal cell
7 phones, home internet, equipment, home electricity, home office infrastructure or other costs
8 incurred; inaccurate or otherwise improper wage statements and/or failure to keep or maintain
9 accurate records; unlawful deductions; secret underpayment of wages; unlawful payment
10 instruments; any claim for unfair business practices arising out of or related to any or all of the
11 aforementioned claims; any claim for penalties arising out of or related to any or all of the
12 aforementioned claims, including, but not limited to, recordkeeping penalties, wage statement
13 penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs.
14 Named Plaintiffs' Released Claims include all claims arising under the California Labor Code
15 (including, but not limited to, sections 200, 201, 201.3, 202, 203, 204, 210, 212, 216, 218.5, 218.6,
16 221, 222.5, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 227.3, 245, 246, 247, 248, 249, 450,
17 510, 511, 512, 558, 1021.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*,
18 2802, and 2804); all claims arising under the Wage Orders of the California Industrial Welfare
19 Commission, including but not limited to Wage Order 7-2001, Section 14(A) and (B); California
20 Business and Professions Code section 17200, *et seq.*; the California Labor Code; California
21 Government Code; the California Civil Code, including but not limited to, sections 3287, 3289,
22 3336 and 3294; California Code of Civil Procedure § 1021.5; the California common law of
23 contract; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*; federal common law; and the
24 Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* Named Plaintiffs' Released
25 Claims include any and all claims under the Private Attorneys General Act, Cal. Lab. Code § 2698
26 *et seq.* ("PAGA"), of any kind, including but not limited to the PAGA claims asserted in the
27 Lawsuit. Named Plaintiffs' Released Claims also include all claims for lost wages and benefits,
28 emotional distress, punitive damages, and attorneys' fees and costs arising under federal, state, or

1 local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way
2 of example only, (as amended) 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964,
3 the Americans With Disabilities Act, the Age Discrimination in Employment Act, and the
4 California Fair Employment and Housing Act; and the law of contract and tort. This release
5 excludes the release of claims not permitted by law. Named Plaintiffs' Released Claims include
6 all claims, whether known or unknown. Even if Named Plaintiffs discover facts in addition to or
7 different from those that Named Plaintiffs now know or believe to be true with respect to the
8 subject matter of Named Plaintiffs' Released Claims, those claims will remain released and
9 forever barred. Thus, Named Plaintiffs expressly waive and relinquish the provisions, rights and
10 benefits of section 1542 of the California Civil Code, which reads:

11 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
12 **THAT THE CREDITOR OR RELEASING PARTY DOES**
13 **NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
14 **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.

15 4. Notwithstanding the foregoing, Named Plaintiffs do not waive or release
16 any claim which cannot be waived or released by private agreement. Further, nothing in this
17 Agreement shall prevent Named Plaintiffs from filing a charge or complaint with, or from
18 participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, DFEH,
19 NLRB or any other federal, state or local agency charged with the enforcement of any
20 employment or other applicable laws. Named Plaintiffs, however, understand that by signing this
21 Agreement, Named Plaintiffs waive the right to recover any damages or to receive other relief in
22 any claim or suit brought by or through the EEOC, the DFEH or any other state or local deferral
23 agency on Named Plaintiffs' behalf to the fullest extent permitted by law, but expressly excluding
24 any monetary award or other relief available from the SEC/OSHA, including an SEC/OSHA
25 whistleblower award, or other awards or relief that may not lawfully be waived.

26 **H. Settlement Administrator Responsibilities**

27 1. The Settlement Administrator shall be responsible for preparing, printing
28 and mailing to the Settlement Class and the PAGA Aggrieved Employees the Notice of Proposed

1 Settlement of Class Action attached as Exhibit 2 hereto (the “Class Notice”) as directed by the
2 Court; calculating Class Member Payments and PAGA Payments; calculating and withholding all
3 required state and federal taxes owed by the Settlement Class Members, PAGA Aggrieved
4 Employees, and Defendant; keeping track of opt-outs and objections; drafting and mailing checks
5 to Settlement Class Members and PAGA Aggrieved Employees; distributing Named Plaintiff
6 Enhancement Payments, the Fees Award, the Costs Award, 75% of the PAGA Payment to the
7 LWDA, and Settlement Administration Costs; issuing and reporting on all necessary W-2s and
8 1099s as identified within this Settlement Agreement and relating to distributions of funds made
9 hereunder; providing weekly status reports to counsel for the Parties; providing a due diligence
10 declaration for submission to the Court prior to the Final Approval hearing and as otherwise
11 required by the Court; and for such other tasks as the Parties mutually agree or the Court orders
12 the Settlement Administrator to perform. The Parties each represent they do not have any
13 financial interest in the Settlement Administrator or otherwise have a relationship with the
14 Settlement Administrator that could create a conflict of interest.

15 2. The Settlement Administrator’s determination of eligibility for, and the
16 amounts of, any Class Member Payment and share of the PAGA Payment shall be conclusive,
17 final and binding on all Parties, including all Settlement Class Members and PAGA Aggrieved
18 Employees. The Settlement Administrator has no power or ability to increase the amount of the
19 Gross Settlement Amount.

20 3. To the extent any tax returns must be filed for the Gross Settlement Amount
21 pursuant to this Settlement Agreement, the Settlement Administrator shall cause to be timely and
22 properly filed all informational and other tax returns, if any, necessary with respect to the Gross
23 Settlement Amount. Such returns shall be consistent with this paragraph. Any expenses and/or
24 costs incurred in connection with the operation and implementation of this paragraph (including,
25 without limitation, reasonable expenses of tax attorneys, accountants or other designees retained
26 by the Settlement Administrator as required for the preparation and filing of tax returns described
27 in this paragraph) shall be treated as, and considered to be, a cost of administration of the
28 Settlement and shall be paid from the Settlement Administration Costs.

1 4. No person shall have any claim against Defendant, the Released Parties,
2 Defendant's Counsel, Named Plaintiffs, Plaintiffs, Class Counsel or the Settlement Administrator
3 based on distributions and payments made in accordance with this Settlement Agreement.

4 **I. Notice/Approval of Settlement and Settlement Implementation.** As part of this
5 Settlement, the Parties agree to the following procedures for obtaining preliminary approval of the
6 Settlement, notifying the Settlement Class and PAGA Aggrieved Employees, obtaining final Court
7 approval of the Settlement, and processing the settlement payments:

8 1. Preliminary Approval of Settlement

9 a. Named Plaintiffs shall file a motion for preliminary approval of the
10 Settlement in the Lawsuit within sixty five (65) days after the filing of Plaintiffs' Complaint.
11 Named Plaintiffs shall schedule the motion for hearing on the earliest date the Court has available
12 that complies with notice requirements, but no earlier than 65 days after the date of the filing of
13 Plaintiffs' Complaint. Named Plaintiffs shall seek the entry of a Preliminary Approval Order for:
14 (a) conditional certification of the Settlement Class Members for settlement purposes only, (b)
15 Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final
16 Approval hearing.

17 b. In conjunction with the Preliminary Approval Hearing, Named
18 Plaintiffs will submit this Settlement Agreement, which sets forth the terms of this Settlement, and
19 will include proposed forms of all notices and other documents as attached hereto necessary to
20 implement the Settlement. Simultaneous with the filing of the Stipulation of Settlement and solely
21 for purposes of this Settlement, Named Plaintiffs will request the Court to enter the Preliminary
22 Approval Order ("Preliminary Approval Order" or "Order") (attached as Exhibit 3 hereto),
23 preliminarily approving the proposed Settlement, and setting a hearing date to determine final
24 approval of the Settlement. The Order shall provide for notice of the Settlement and related
25 matters to be sent to Settlement Class and PAGA Aggrieved Employees as specified herein. Class
26 Counsel will be responsible for drafting all documents necessary to obtain Preliminary Approval,
27 subject to review and comment by Defendant's counsel who shall be provided a minimum of
28 seven (7) days to review prior to filing.

1 2. LWDA Notice. Pursuant to the PAGA, concurrently with the filing of the
2 motion for Preliminary Approval, Plaintiff will, pursuant to California Labor Code § 2699(I),
3 provide notice of the proposed Settlement to the LWDA. The Parties intend and believe that the
4 notice pursuant to the procedures described in this section complies with the requirements of the
5 PAGA.

6 3. Notice to Settlement Class.

7 a. Notice By First-Class Mail. Within twenty-one (21) days after
8 receipt of the Settlement Class List, the Settlement Administrator shall mail a class notice to the
9 Settlement Class via first-class regular U.S. mail ("Class Notice"). The Settlement Class will have
10 forty-five (45) days from the mailing of the Class Notice to opt-out of or object to the Class
11 Settlement ("Opt Out/Objection Period"). Prior to mailing, the Settlement Administrator will
12 perform a search based on the National Change of Address Database information to update and
13 correct for any known or identifiable address changes and, if necessary, perform reasonable skip-
14 tracing efforts to locate employees. If a new address is obtained by way of a returned Class
15 Notice, the Settlement Administrator shall promptly forward the original Class Notice to the
16 updated address via first-class regular U.S. mail indicating on the original Class Notice the date of
17 such re-mailing.

18 b. Delivery of the Settlement Class Member and PAGA Aggrieved
19 Employee Lists. Within thirty (30) days of entry of the Preliminary Approval Order of this
20 Settlement, Defendant will provide the Settlement Class List and PAGA Aggrieved Employee
21 Lists (collectively, "Employee Lists") to the Settlement Administrator, which shall be used solely
22 for the administration of this Settlement and for no other purpose, and shall not be shared with any
23 persons or entity not employed by the Settlement Administrator and working on the administration
24 of this Settlement. Because sensitive personal information is included in the Employee Lists, the
25 Settlement Administrator shall maintain the Employee Lists securely and in confidence. Access to
26 such Employee Lists shall be limited to employees of the Settlement Administrator with a need to
27 use the Employee Lists for administration of the Settlement. In the event that the Settlement
28 Agreement is not finally approved by the Court, or if it is in any way altered or disapproved on

1 appeal, the Settlement Administrator shall not thereafter use the Employee Lists, and shall destroy
2 any and all copies or versions of it (including any in electronic form).

3 c. Notice Satisfies Due Process. Compliance with the notice
4 procedures specified in this Settlement Agreement shall constitute due and sufficient notice to the
5 Settlement Class and PAGA Aggrieved Employees of this Settlement and shall satisfy the
6 requirements of due process. Nothing else shall be required of, or done by, the Parties, Class
7 Counsel or Defendant's Counsel to provide notice of the proposed Settlement. In the event that
8 the procedures in this Settlement Agreement are followed and the intended recipient of a Notice of
9 Settlement still does not receive the Notice of Settlement, the intended recipient shall be a
10 Settlement Class Member and will be bound by all the terms of the Settlement and the Final
11 Approval entered by the Court if the Settlement becomes effective.

12 4. Objections or Exclusions.

13 a. Procedure for Objecting. The Notice shall provide that individuals
14 in the Settlement Class who wish to object to the Settlement must submit a written objection to the
15 Settlement Administrator. The objection must include the case name and number and only needs
16 to provide a concise statement explaining why he or she objects along with any supporting
17 documentation. The Settlement Administrator will promptly serve copies of any objection on
18 Class Counsel and Defense Counsel. Class Counsel shall lodge a copy of the objection with the
19 Court. Such written statement must be submitted to the Settlement Administrator no later than
20 forty-five (45) days after the date the Class Notice is first mailed (the "Objection/Exclusion
21 Deadline Date"). No PAGA Aggrieved Employee may opt out or otherwise be excluded from the
22 PAGA Settlement, as no such right exists under the law. An Employee who does not timely
23 submit a written objection to the Settlement Administrator may appear (or their representative may
24 appear on their behalf) at the Final Approval Hearing to present to the Court oral objections or
25 concerns with the Settlement, so long as the Employee provides written notice, which may be by
26 email, to Class Counsel, Defense Counsel, and the Court no later than seven days prior to the date
27 of the Final Approval Hearing of their intent to appear at the Final Approval Hearing. The Parties
28 will be permitted to respond in writing to such objections prior to the Final Approval hearing.

Any individual in the Settlement Class who fails to file and serve timely written objections in the manner specified above shall remain Settlement Class Members and shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

b. Procedure for Requesting Exclusion. The Class Notice shall provide that individuals in the Settlement Class who wish to exclude themselves from the Settlement Class must submit a personally signed, written statement requesting exclusion from the Settlement Class on or before the Objection/Exclusion Deadline Date. The opt-out request must state in substance, words to the effect:

“I have read the Class Notice and I wish to opt out of the Settlement Class in *Ekaterina Netsvetayeva and Valerie Butler v. Autodesk, Inc.*, Case No. []. I understand that by requesting to be excluded from the Settlement Class, I will not receive a Class Member Payment. I also understand that I will still receive a PAGA Payment for my share of the PAGA Settlement, if I am entitled to such payment, because I cannot object or exclude myself from the PAGA Settlement.”

(1) Such written request for exclusion must contain the name, address, telephone number, last four digits of Social Security number, and the years of his or her employment by Autodesk of the person requesting exclusion, must be returned by mail to the Settlement Administrator at the specified address, must be signed by the objecting individual in the Settlement Class personally, and must be postmarked on or before the Objection/Exclusion Deadline Date. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. If the postmark is illegible then the request for exclusion must arrive within three (3) calendar days after the Objection/Exclusion Deadline Date to be considered timely.

(2) Any individual in the Settlement Class who opts out of the Settlement Class will not be entitled to any recovery under the Class Settlement (which refers to claims encompassed by the Class Payout Fund and excludes the PAGA claims) and will not be bound by the Settlement as it relates to the Class Settlement or have any right to object, appeal or comment in court on the Class Settlement. Any and all individuals in the Settlement Class who fail to submit a valid and timely request for exclusion on or before the Objection/Exclusion

1 Deadline Date shall be Settlement Class Members and shall be bound by all terms of the
2 Settlement and any final judgment entered in these actions if the Settlement is approved by the
3 Court.

4 c. No Opt-Out or Objection of PAGA Settlement. PAGA Aggrieved
5 Employees will not have the opportunity to opt out of, or object to, the PAGA Settlement and
6 release of the PAGA claims set forth in this Settlement Agreement and will receive their share of
7 the PAGA Payment.

8 d. No Solicitation of Settlement Objections or Exclusions. The Parties
9 agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the
10 Parties, or their counsel, seek to directly or indirectly solicit or otherwise encourage the Settlement
11 Class to submit written objections to the Settlement or requests for exclusion from the Class
12 Settlement, or appeal from the Court's final judgment.

13 5. Certification Reports by the Settlement Administrator.

14 a. The Settlement Administrator will, on a weekly basis during and for
15 a reasonable period following distribution of the Class Notice, provide updates to Class Counsel
16 and Defendant's Counsel as to the number of individuals in the Settlement Class who submitted (i)
17 valid opt-out requests for exclusion; and (ii) objections. All written objections shall be provided
18 to the Parties' counsel within five (5) calendar days of receipt by the Settlement Administrator.
19 The Settlement Administrator shall also provide the names of any opt-outs to Defendant's counsel
20 within five (5) calendar days of receipt. To the extent practicable, the weekly updates shall also
21 provide updated data on the extent of Class Notices that are returned undeliverable and any re-
22 mailing efforts.

23 b. Within ten (10) calendar days after the Objection/Exclusion
24 Deadline Date, the Settlement Administrator will prepare a declaration to be provided to Class
25 Counsel and Defendant's Counsel for filing in support of Named Plaintiffs' motion for final
26 approval attesting to the following: (i) its mailing efforts regarding the Class Notice; (ii) its receipt
27 of any valid and timely requests for exclusion, and its inability to deliver the Class Notice to the
28 Settlement Class, if any; (iii) the number of Settlement Class Members; (iv) the highest estimated

1 Class Member Payment and PAGA Aggrieved Employees' portion of the PAGA Payment, along
2 with the estimated average Class Member Payment and portion of the PAGA Payment. The
3 Settlement Administrator will also prepare and submit to Class Counsel and Defendant's Counsel
4 for filing in support of the motion any supplemental declaration as may be needed.

5 6. Right of Defendant to Reject Settlement.

6 a. Option to Void Settlement. If, after the Objection/Exclusion
7 Deadline Date, the number of employees in the Settlement Class who have timely submitted
8 requests for exclusion total in number more than two (2) percent of the Settlement Class,
9 Defendant shall have, in its sole discretion, the option to void this Settlement. In order to exercise
10 this option, Defendant must notify Class Counsel in writing within fifteen (15) days after the later
11 of the Objection/Exclusion Deadline Date, or of learning in writing from the Settlement
12 Administrator that the number of individuals in the Settlement Class who have timely submitted
13 requests for exclusion total in number more than 2 percent of the Settlement Class.

14 b. Escalator Clause. Defendant estimates that there will be
15 approximately 97,943 pay periods worked by PAGA Aggrieved Employees and the Settlement
16 Class during the PAGA Period and Settlement Class Period (the "Estimated Pay Periods").
17 Within fifteen (15) days of receipt of the data, the Settlement Administrator shall calculate and
18 provide to all Parties the number of actual pay periods worked by PAGA Aggrieved Employees
19 and the Settlement Class during the PAGA period and Settlement Class Period (the "Actual Pay
20 Periods.") If the number of Actual Pay Periods as of March 5, 2022 exceed 15% above the
21 Estimated Pay Periods, the Gross Settlement Amount shall be increased automatically in
22 proportion to the increase in pay periods. There shall be no increase in the Gross Settlement
23 Amount if the total number of Actual Pay Periods is 112,634, or less.

24 c. Nullification of Settlement Agreement. In the event: (i) the Court
25 does not enter the Order specified herein; (ii) the Court does not finally approve the Settlement as
26 provided herein; (iii) the Court does not enter a final judgment as provided herein which becomes
27 final as a result of the occurrence of the Effective Date; or (iv) the Settlement does not become
28 final for any other reason, this Settlement Agreement shall be null and void and any order or

1 judgment entered by the Court in furtherance of this Settlement shall be treated as void ab initio.
2 In such a case, the Parties and any funds to be awarded under this Settlement shall be returned to
3 their respective statuses as of the date and time immediately prior to the execution of this
4 Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not
5 been executed, except that any fees already incurred by the Settlement Administrator shall be
6 borne equally by the Parties. In the event an appeal is filed from the Court's final judgment, or
7 any other appellate review is sought prior to the Effective Date, administration of the Settlement
8 shall be stayed pending final resolution of the appeal or other appellate review, pending the
9 Effective Date.

10 7. Final Approval Hearing and Entry of Final Judgment.

11 a. Upon expiration of the Objection/Exclusion Deadline Date, with the
12 Court's permission, a Final Approval hearing shall be conducted to determine final approval of the
13 Settlement along with the amount properly payable for (i) the Fees Award and Costs Award, (ii)
14 Named Plaintiffs Enhancement Awards, (iii) Settlement Administration Costs, and (iv) Class
15 Member Payments; and (v) the PAGA Payment. Upon final approval of the Settlement by the
16 Court at or after the Final Approval hearing, the Parties shall present a Proposed Final Judgment
17 (attached as Exhibit 4 hereto) to the Court for its approval. Class Counsel will be responsible for
18 drafting all documents necessary to obtain Final Approval, including the Final Judgment.

19 b. The Settlement Administrator shall keep counsel for the Parties
20 apprised of all distributions from the Qualified Settlement Account and upon completion of
21 administration of that portion of the Settlement, the Settlement Administrator shall provide written
22 certification, under penalty of perjury, of such completion to the Court and counsel for all Parties.

23 c. Upon completion of administration of the Settlement, Named
24 Plaintiffs and Class Counsel shall provide written certification, under penalty of perjury, of such
25 completion to the Court and Defendant's Counsel.

26 8. Administration Costs. All of Defendant's own legal fees, costs and
27 expenses incurred in the Lawsuit shall be borne by Defendant. As set forth above, claims
28 administration expenses will be paid from the Gross Settlement Amount. The Parties agree to

1 cooperate in the Settlement administration process and to make all reasonable efforts to control
2 and minimize the costs and expenses incurred in administration of the Settlement.

3 **IV. Other Provisions**

4 **A. Publicity.** The Parties agree that neither Named Plaintiffs nor Class Counsel shall
5 issue any press release or announcement of any kind related in any way to the Settlement. Named
6 Plaintiffs and Class Counsel agree that, prior to preliminary approval of the Settlement, they will
7 keep the terms of the Settlement confidential except for purposes of communicating with Named
8 Plaintiffs only. Named Plaintiffs shall be informed that the Settlement is confidential and shall be
9 advised to keep the Settlement confidential. From and after preliminary approval of the
10 Settlement, Named Plaintiffs and Class Counsel may comment regarding the specific terms of the
11 Settlement (1) as required by law; (2) as required under the terms of the Settlement; or (3) as
12 required under counsel's duties and responsibilities as Class Counsel. In all other cases, Named
13 Plaintiffs and Class Counsel agree to limit their statements regarding the terms of the Settlement,
14 whether oral, written or electronic (including the world wide web), to say the Lawsuit has been
15 resolved and that Named Plaintiffs and Class Counsel are satisfied with the terms of the
16 Settlement. Class Counsel shall not, at any time, advertise or mention the terms of the Settlement
17 on personal or firm website(s); shall not discuss the terms of the Settlement with media, general
18 public, or issue press releases; and shall limit any statements regarding the terms of the Settlement
19 to that information that is publicly available. Nothing in this Paragraph is intended to interfere
20 with Class Counsel's duties and obligations to faithfully discharge their duties as Class Counsel,
21 including but not limited to, communicating with Settlement Class Members regarding the
22 Settlement.

23 **B. Privacy of Documents and Information.** Named Plaintiffs and Class Counsel
24 agree that none of the documents and information provided to them by Defendant shall be used for
25 any purpose other than settlement of the Lawsuit.

26 **C. No Admission By the Released Parties.**

27 1. The Released Parties, including Defendant, deny any and all claims alleged
28 in the Lawsuit and deny any and all wrongdoing whatsoever. This Settlement Agreement is not a

1 concession or admission, and shall not be used against Defendant or any of the Released Parties as
2 an admission or indication with respect to any claim of any fault, concession or omission by
3 Defendant or any of the Released Parties. Whether or not the Settlement is finally approved,
4 neither the Settlement, nor any document, statement, proceeding or conduct related to this
5 Settlement Agreement, nor any reports or accounts thereof, shall in any event be: (1) construed as,
6 offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse
7 to the Released Parties, including, but not limited to, evidence of a presumption, concession,
8 indication or admission by any of the Released Parties of any liability, fault, wrongdoing,
9 omission, concession or damage; or (2) disclosed, referred to or offered or received in evidence
10 against any of the Released Parties, in any further proceeding in the Lawsuit, or any other civil,
11 criminal or administrative action or proceeding, except for purposes of settling the Lawsuit
12 pursuant to this Settlement Agreement.

13 2. The Released Parties, including Defendant, shall have the right to use this
14 Settlement, including the Releases set forth above, to defend against any claims asserted by or on
15 behalf of Settlement Class Members, PAGA Aggrieved Employees, or the LWDA, that are
16 encompassed within the Releases, whether such claims are asserted in the Lawsuit or any other
17 lawsuit.

18 **D. Exhibits and Headings.** The terms of this Settlement Agreement include the terms
19 set forth in any attached Exhibits 1-4, which are incorporated by this reference as though fully set
20 forth herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.
21 The descriptive headings of any paragraphs or sections of this Settlement Agreement are inserted
22 for convenience of reference only and do not constitute a part of this Settlement Agreement.

23 **E. Interim Stay of Proceedings.** The Parties agree to hold all proceedings in the
24 Lawsuit, except such proceedings necessary to implement and complete the Settlement in
25 abeyance pending the Final Approval hearing to be conducted by the Court.

26 **F. Amendment or Modification.** This Settlement Agreement may be amended or
27 modified only by a written instrument signed by all Parties or their successors-in-interest.
28

1 **G. Entire Agreement.** This Settlement Agreement and any attached Exhibits
2 constitute the entire agreement among these Parties with respect to resolution of the Lawsuit. To
3 the extent there are any other oral or written agreements relating to the subject matter of this
4 Settlement Agreement, this Settlement Agreement controls and supersedes all such agreements.
5 No oral or written representations, warranties or inducements have been made to any Party
6 concerning this Settlement Agreement or its Exhibits other than the representations, warranties
7 and covenants contained and memorialized in this Settlement Agreement and any attached
8 Exhibits.

9 **H. Authorization to Enter Into Settlement Agreement.** Counsel for all Parties
10 warrant and represent they are expressly authorized by the Parties whom they represent and who
11 are signing this Settlement Agreement, to negotiate this Settlement Agreement and to take all
12 appropriate action required or permitted to be taken by such Parties pursuant to this Settlement
13 Agreement to effectuate its terms, and to execute any other documents required to effectuate the
14 terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other
15 and use their best efforts to effect the implementation of the Settlement.

16 **I. Binding on Successors and Assigns.** This Settlement Agreement shall be binding
17 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
18 defined.

19 **J. California Law Governs.** All terms of this Settlement Agreement and the
20 Exhibits hereto shall be governed by and interpreted according to the laws of the State of
21 California.

22 **K. Counterparts.** This Settlement Agreement may be executed in one or more
23 counterparts. All executed counterparts and each of them shall be deemed to be one and the same
24 instrument provided that counsel for the Parties to this Settlement Agreement shall exchange
25 among themselves original signed counterparts.

26 **L. This Settlement is Fair, Adequate and Reasonable.** The Parties believe this
27 Settlement is a fair, adequate and reasonable settlement of the Lawsuit and have arrived at this
28

1 Settlement in arms-length negotiations, taking into account all relevant factors, present and
2 potential. This Settlement was reached after extensive negotiations.

3 **M. Jurisdiction.** The Court shall retain jurisdiction with respect to the interpretation,
4 implementation and enforcement of the terms of this Settlement Agreement and all orders and
5 judgments entered in connection therewith, and the parties and their counsel hereto submit to the
6 jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement
7 embodied in this Settlement Agreement and all orders and judgments entered in connection
8 therewith.

9 **N. Cooperation and Drafting.** Each of the parties has cooperated in the drafting and
10 preparation of this Settlement Agreement. Hence, in any construction made to this Settlement
11 Agreement, the same shall not be construed against any of the Parties.

12 **O. Invalidity of Any Provision.** Before declaring any provision of this Settlement
13 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest
14 extent possible consistent with applicable precedents so as to define all provisions of this
15 Settlement Agreement valid and enforceable.

16 **P. Severability.** Should any clause or provision of this Settlement Agreement be
17 declared illegal or unenforceable, it shall be modified or reformed as minimally necessary to be
18 enforceable. If the provision cannot be modified or reformed to be enforceable, such provision
19 shall be severed and deemed null and void, leaving the remainder of this Settlement Agreement in
20 full force and effect.

21 **Q. Named Plaintiff General Release Remains Effective.** Named Plaintiffs agree to
22 sign this Settlement Agreement, and by signing this Settlement Agreement are bound by the terms
23 herein stated upon final approval, including without limitation the general release set forth above.
24 Named Plaintiffs shall retain their rights to participate as Settlement Class Members under this
25 Settlement Agreement, and agree that they may not opt out of the Settlement Class.

26
27 **PLAINTIFF**
28

1 Date: 2/15/2022

DocuSigned by:

Ekaterina Netsvetayeva

143A3EFC8D76444...

2 EKATERINA NETSVETAYEVA

3 PLAINTIFF

4 Date: 2/14/2022

DocuSigned by:

Valerie Butler

957E204A365448D...

5 VALERIE BUTLER

6 DEFENDANT AUTODESK, INC.

7 Date: 18-Feb-2022 | 13:51 PST

DocuSigned by:

Ruth Ann Keene

17E205A8D49140F...

8 RUTH ANN KEENE

9 Executive Vice President & General Counsel
10 Autodesk, Inc.

11 APPROVED AS TO FORM

12 Date: 2/15/2022

DocuSigned by:

Craig Ackermann

958133D51C1D4A4...

13 ACKERMANN & TILAJEF, P.C.

14 CRAIG ACKERMANN

15 Attorneys for Plaintiffs Ekaterina Netsvetayeva and
16 Valerie Butler

17 SHEPPARD, MULLIN, RICHTER & HAMPTON
18 LLP

19 Date: 2/15/2022

P. S. Cowie

20 Paul S. Cowie
21 Attorney for Defendant Autodesk, Inc.
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LIST OF EXHIBITS

1. Class Action and PAGA Complaint
2. Class Notice
3. Proposed Preliminary Approval Order
4. Proposed Final Judgment

EXHIBIT 1

ACKERMANN & TILAJEF, P.C.

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Los Angeles, California 90035

Telephone: (310) 277-0614

Facsimile: (310) 277-0635

Attorneys for Plaintiffs, the LWDA, and the other Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MARIN**

EKATERINA NETSVETAYEVA and
VALERIE BUTLER, individually, on behalf of
the State of California, as private attorney
generals, and on behalf of all Aggrieved
Employees,

PLAINTIFFS,

v.

AUTODESK, INC., a California Corporation;
DOES 1 to 50, inclusive,

DEFENDANT.

CASE NO.

**PLAINTIFF'S CLASS AND PAGA
REPRESENTATIVE ACTION
COMPLAINT FOR:**

**(1) FAILURE TO REIMBURSE
BUSINESS EXPENSES (LABOR CODE §
2802);
(2) FAILURE TO PAY MINIMUM
WAGES (LABOR CODE § 1194);
(3) FAILURE TO AUTHORIZE AND
PROVIDE COMPLIANT MEAL
PERIODS (LABOR CODE §§ 226.7, 512;
IWC WAGE ORDER 4-2001);
(4) FAILURE TO AUTHORIZE AND
PROVIDE COMPLIANT REST
PERIODS (LABOR CODE § 226.7; IWC
WAGE ORDER 4-2001);
(5) FAILURE TO ISSUE ACCURATE
ITEMIZED WAGE STATEMENTS
(LABOR CODE § 226);
(6) FAILURE TO PAY TIMELY WAGES
(LABOR CODE §§ 204, 210;
(7) WAITING TIME PENALTIES
(LABOR CODE § 201-203);
(8) UCL VIOLATIONS (CAL. BUS. AND
PROF. CODE §§ 17200-17204); AND
(9) PENALTIES PURSUANT TO LABOR
CODE § 2699, *ET SEQ.***

1 Plaintiffs EKATERINA NETSVETAYEVA and VALERIE BUTLER (“Plaintiffs”), on
2 behalf of the Aggrieved Employees, the State of California, and all others similarly situated
3 (hereinafter “Class Members”) complains of Defendant AUTODESK, INC. and DOES 1 to 50
4 (collectively, “Defendant” or “Autodesk”) and each of them, and alleges the following upon
5 information and belief:

6 **INTRODUCTION**

7 1. This is a class action brought pursuant to Code of Civil Procedure section 382 and a
8 representative action brought pursuant to Labor Code § 2699, *et seq.*, on behalf of the State of
9 California against Defendant for its (1) failure to reimburse its current and former employees for
10 their home office expenses in California for which they have not been fully reimbursed; (2) failure
11 to pay minimum wages; (3) failure to authorize and provide compliant meal periods; (4) failure to
12 authorize and provide compliant rest periods; (5) failure to issue accurate itemized wage
13 statements; (6) failure to pay timely wages; (7) failure to pay final wages; (8) unfair business
14 practices based on the foregoing; and (9) PAGA penalties based on the foregoing:

15 2. The Class is defined as follows: all current and former employees of Autodesk
16 employed in California during the time period beginning March 17, 2020 through March 5, 2022
17 (the “Class Period”) who were subject to stay-at-home orders and/or whose offices were closed due
18 to COVID-19 for at least one pay period during the Class Period and did not receive a fully paid
19 wireless internet device for work purposes.

20 3. The Aggrieved Employees are defined as follows: all current and former employees
21 of Autodesk employed in California during the time period beginning March 17, 2020 through
22 March 5, 2022 (the “PAGA Period”) who were subject to stay-at-home orders and/or whose offices
23 were closed due to COVID-19 for at least one pay period during the PAGA Period and did not
24 receive a fully paid wireless internet device for work purposes

25 **THE PARTIES**

26 4. Plaintiff Katerina Netsvetayeva is a resident of California and at all times pertinent
27 hereto worked for Defendant.

28 5. Plaintiff Valerie Butler Katerina Netsvetayeva is a resident of California and at all

1 times pertinent hereto worked for Defendant.

2 6. Plaintiffs, Class Members, and all Aggrieved Employees are, and at all times
3 pertinent hereto, have been classified as exempt or non-exempt employees by Defendant, and have
4 been hired to work for Defendant in California.

5 7. Autodesk is an American multinational software corporation that makes software
6 products and services for the architecture, engineering, construction, manufacturing, media,
7 education, and entertainment industries. Autodesk is headquartered in San Rafael, California, and
8 upon information and belief has one office in San Rafael, California and two offices in San
9 Francisco, California. Defendant employed Plaintiffs and similarly situated persons as employees
10 within California. Defendant has done and do business throughout the State of California including
11 in San Francisco County.

12 8. The true names and capacities, whether individual, corporate, associate, or
13 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to
14 Plaintiffs, who therefore sues Defendants by such fictitious names under Code of Civil Procedure §
15 474. Plaintiffs are informed and believe, and based thereon alleges, that each of the Defendants
16 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to
17 herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and
18 capacities of the Defendants designated hereinafter as DOES when such identities become known.

19 9. Plaintiffs are informed and believe, and based thereon alleges, that each Defendant
20 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
21 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
22 legally attributable to the other Defendants. Accordingly, all Defendants engaged, suffered, and
23 permitted Plaintiffs, the Class, and all other Aggrieved Employees to perform services from which
24 they benefitted. Moreover, the aforementioned entities had the right to exercise control over the
25 wages, hours and/or working conditions over Plaintiffs, the Class, and all Aggrieved Employees at
26 all relevant times herein, so as to be considered the joint employers of all of the Class Members and
27 Aggrieved Employees. By reason of their status as joint employers, they are each liable for civil
28 penalties for violation of the California Labor Code as to the Plaintiffs, the Class, and other

1 Aggrieved Employees as set forth herein.

2 **JURISDICTION AND VENUE**

3 10. This Court has subject matter jurisdiction over any and all causes of action asserted
4 herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil
5 Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy,
6 exclusive of interest, exceeds \$25,000, and because each cause of action asserted arises under the
7 laws of the State of California or is subject to adjudication in the courts of the State of California.

8 11. This Court has personal jurisdiction over Defendant because Defendant has caused
9 injuries in the County of San Francisco and State of California through their acts, and by their
10 violation of the California Labor Code and California state common law.

11 12. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
12 Civil Procedure § 395. Defendant operates within California and do business within San Francisco
13 County, California. The unlawful acts alleged herein have a direct effect on Plaintiffs and all
14 “employees” within the State of California and San Francisco County.

15 13. Further, to the extent that Defendant may claim that Plaintiffs have signed an
16 arbitration agreements or severance agreements, venue is still appropriate in the Superior Court of
17 San Francisco County as PAGA claims are not arbitrable as a matter of law *Iskanian v. CLS*
18 *Transp. Los Angeles, LLC*, 59 Cal. 4th 348, 383 (2014) (holding “a PAGA claim lies outside the
19 FAA’s coverage because it is not a dispute between an employer and an employee arising out of
20 their contractual relationship. It is a dispute between an employer and the *state*”).

21 **COMMON ALLEGATIONS**

22 14. From at least March 17, 2020 and continuing into the present, during which time
23 various work from home orders were in effect, Plaintiffs, the Class, and the Aggrieved Employees,
24 at the direction of Defendant and/or with Defendant’s knowledge and acquiescence, have incurred
25 home office expenses including, among other things, home internet expenses, cell phone expenses,
26 equipment expenses, electricity, and home office infrastructure expenses, in order to perform
27 necessary work-related duties. Plaintiffs, who were employed by Defendant, were not able to work
28 on premises at Defendant’s offices but instead were expected to, and did, work from home, like the

1 other aggrieved employees. To be clear, Defendant sent home their California-resident office-
2 based employees during the Class Period without affirmatively reimbursing them for a reasonable
3 portion of their monthly home internet and cell phone expenses.

4 15. During the Class Period, Plaintiffs, the Class, and the aggrieved employees were
5 thus expected by Defendant to pay for, and have personally paid for, among other things, home
6 internet service, cell phone service, home electricity, and the purchase and maintenance of
7 hardware used for work-purposes, including keyboards, mice, Bluetooth headsets, and/or cell
8 phones, as well as to allocate home office space, in the discharge of their job duties (the “home
9 office expenses”). These expenses ranged, but typically amounted from \$100 to \$200 per month
10 per Class Members and aggrieved employee.

11 16. During the Class Period, Defendant had no policy to affirmatively reimburse all of
12 its employees who were forced to work from home during the COVID-19 pandemic for their
13 monthly recurring home office expenses, other than one initial \$500 stipend designated for home
14 office equipment. Notably, Defendant did not affirmatively provide any monthly recurring
15 reimbursement thereafter for monthly home office, home internet, home electricity, or cell phone
16 expenses. In sum, Defendant’s expense-related policies and/or practices require and expect, and/or
17 with Defendant’s knowledge thereof permit, Plaintiffs, the Class, and the Aggrieved Employees to
18 pay for monthly home internet, cell phone, and home office infrastructure expenses incurred in
19 direct consequence of discharging their necessary, reasonable and business-related job duties on
20 behalf of Defendant, without reimbursement in full by Defendant for such expenses, as required by
21 California law.

22 17. California Labor Code section 2802 requires an employer to "indemnify his or her
23 employee for all necessary expenditures or losses incurred by that employee in direct consequence
24 of the discharge of his or her duties." See Cal. Labor Code section 2802(a); *see also* 2802(c) where
25 necessary is defined to include all “reasonable” costs. “The elements of a claim under Section
26 2802 are: (i) the employee made expenditures or incurred losses; (ii) the expenditures or losses
27 were incurred in direct consequence of the employee's discharge of his or her duties, or obedience
28 to the directions of the employer; and (iii) the expenditures or losses were reasonable and

1 necessary.” *Marr v. Bank of America*, 2011 U.S. Dist. LEXIS 24868 (N.D. March 8,
2 2011) (citing *Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.4th 554, 568 (2007). “In addition, the
3 employer ‘must either know or have reason to know that the employee has incurred [the] expense.’”
4 *Id.* (citing *Stuart v. RadioShack Corp.*, 641 F.Supp. 2d 901 (N.D.Cal. 2009). Where an employer
5 has knowledge that employees are incurring a reimbursable expense, the employer must “exercise
6 due diligence to ensure each employee is reimbursed.” *Marr*, at *1. The right of an employee to
7 expense reimbursements is not waivable. *See* Cal. Labor Code sections 2804 and 219(a). Any
8 contract to waive them is null and void. *Edwards v. Arthur Anderson*, 44 Cal. 4th 937, 951 (2008)

9 18. Furthermore, under Labor Code section 2802, employers must reimburse employees
10 for all necessary and/or reasonable work-related expenses, regardless of whether or not the
11 employees incurred any additional out-of-pocket expense from that work-related use. *See, Cochran*
12 *v. Schwan’s Home Service, Inc.*, 228 Cal.App.4th 1137 (Cal. Aug. 12, 2014) (“We hold that when
13 employees must use their personal cell phones for work-related calls, Labor Code section 2802
14 requires the employer to reimburse them. Whether the employees have cell phone plans with
15 unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their
16 cell phone bills.”); *see also, Herrera v. Zumiez*, F.3d, 2020 WL 1301057, at *11 (9th Cir. Mar. 19,
17 2020) (same). The same logic would obviously apply to monthly home internet expenses.

18 19. Where, as here, employees in California are expected or mandated to use their
19 internet at home for work, courts have held that they incurred cell phone expenses in “direct
20 consequence of the discharge of his or her duties” and were entitled to reimbursement. *See Aguilar*
21 *v. Zep, Inc.*, 2014 US Dist LEXIS 120315, *54 (N.D.Cal. Aug. 27, 2014) (Hon. Edward Chen)
22 (where outside sales reps used home internet and computers for work, and even admitted that they
23 would have incurred the same expenses without work duties, the court nevertheless held that the
24 employer was obligated to reimburse some reasonable portion of these expenses); *see also Ritchie*
25 *v. Blue Shield of California*, 2014 WL 6982943, at *21 (N.D.Cal. Dec. 9, 2014) (Hon. Edward
26 Chen) (certifying class of home office claims processors with 2802 phone reimbursement claims
27 for landline reimbursements where company required claims processors working from home to
28 have a landline, but rejecting certification of claims for home office supplies as individualized).

20. Defendant is aware or should have been aware that Plaintiffs, the Class, and the Aggrieved Employees regularly incurred and incur monthly home office internet, cell phone, and home electricity and other infrastructure expenses in the discharge of their duties as employees by virtue of Defendant's instructions to Plaintiffs, the Class, and the Aggrieved Employees to work from home order and/or their announcements of office closures during the COVID-19 pandemic¹. Specifically, Plaintiffs regularly communicated with managers on their personal cell phones, and Plaintiffs, the Class, and all other Aggrieved Employees were required to use their personal cell phones for VPN authentication to access Defendant's servers from their home/remote locations. Plaintiffs, the Class, and the Aggrieved Employees could not perform their job duties for Defendant without accessing Defendant's servers and network. Defendant nevertheless has, throughout the Class and PAGA Periods, failed and refused to affirmatively reimburse Plaintiffs, the Class, and the Aggrieved Employees for such monthly home internet, cell phone, and home office expenses incurred by them in connection with their work.

21. Labor Code § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code § 1194 entitles "any employee receiving less than the legal minimum wage...to recover in a civil action the unpaid balance of the full amount of this

¹ Numerous employment firms advised their clients to make monthly reimbursements to workers working from home during the pandemic. See, <https://www.fisherphillips.com/news-insights/covid-19-litigation-testing-limits-california-expense.html> ("When remote work is mandatory – even if ordered by California or local authorities – employees must be reimbursed for the necessary expenses they incur while working at home.") (3/21/21); <https://www.morganlewis.com/-/media/files/publication/presentation/webinar/2020/californiaemploymentlawupdatejasscwebinar92920.pdf> ("In response to lockdowns, employers have required employees to work from home. Strong argument that many expenses needed to facilitate work from home are reimbursable.") (Slide at p. 52); <https://www.acc.com/sites/default/files/2020-04/COVID-19%20CA%20Slides.pdf> ("Telecommuting Considerations Q. Must employers reimburse employees for expenses incurred while teleworking? A. Yes. California employers are required to reimburse employees for "all necessary expenditures or losses incurred by the employee" in the course of the employee's job, as well as for any expenses arising out of an employer's directive. Cal. Labor Code section 2802. This question is likely to be implicated if employees are asked to work from home. ...") (Cozen O'Connor; Slide 23/28, 3/26/20); and <https://www.jdsupra.com/legalnews/when-how-much-to-pay-for-work-from-home-8302177/> ("During the pandemic when workplaces were closed and employees had to work from home due to Covid-19 restrictions, employers were required to either provide the equipment needed to work from home (such as internet access and a computer/phone), or to reimburse employees for those costs. Case law interpreting Cal. Labor Code Section 2802 holds that employers cannot benefit from employees' use of their own equipment, even if it doesn't cost the employee extra to use their phone or internet. Bottomline: Some portion must be paid, typically in some sort of Work From Home or Phone Allowance.").

1 minimum wage.” IWC Wage Order No. 4 also obligates employers to pay each employee minimum
2 wages for all hours worked.

3 22. These minimum wage standards apply to each hour employees worked for which
4 they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked
5 by an employee is unlawful, ***even if averaging an employee’s total pay over all hours worked, paid***
6 ***or not, results in an average hourly wage above minimum wage.*** *Armenta v. Osmose, Inc.* (2005)
7 135 Cal.App.4th 314, 324.

8 23. Labor Code § 1194.2 authorizes employees to recover wages to recover liquidated
9 damages for violations of Labor Code § 1194. Where employees, such as Plaintiff, the Class, and
10 the Aggrieved Employees, are not paid for all hours worked under Labor Code § 1194, the
11 employee may recover minimum wages for the time associated with the time for which they
12 received no compensation. See *Sillah v. Command Int’l Sec. Servs.* (N.D. Cal. 2015) 154 F. Supp.
13 3d 891 [holding that employees suing for failure to pay overtime could recover liquidated damages
14 under § 1194.2 if they also showed they were paid less than minimum wage]; *accord Andrade v.*
15 *Arby’s Rest. Grp., Inc.* (N.D. Cal. Dec. 12, 2016) 2016 U.S. Dist. LEXIS 172319, at *20-21.

16 24. During the Class Period and PAGA Period, Plaintiffs, the Class, and the Aggrieved
17 Employees were not paid for all hours worked while employed by Defendant and thus were not
18 paid all minimum wages owed. As a result, Plaintiffs, the Class, and the Aggrieved Employees
19 were denied compensation for all hours worked, in violation of Cal. Labor Code § 1194, and
20 Plaintiffs, the Class, and the Aggrieved Employees were also denied compensation at the minimum
21 wage in violation of Cal. Labor Code §§1197 and 1199.

22 25. Labor Code § 512 and Section 11 of the applicable IWC Wage Order require
23 employers to provide employees with a thirty (30) minute uninterrupted and duty-free meal period
24 within the first five (5) hours of an employee’s shift. Moreover, an employee who works more than
25 ten (10) hours per day is entitled to receive a second thirty (30) minute uninterrupted and duty-free
26 meal period

27 26. During the Class Period and PAGA Period, Defendant violated and continues to
28 violate Labor Code § 512 and IWC Wage Order 4-2001 § 11 by, among other things, failing to

1 provide and schedule duty-free meal breaks on or before the fifth hour of work to Aggrieved
2 Employees and Class Members and failing to advise all other Aggrieved Employees and Class
3 Members of their meal break rights with respect to the timing of meal breaks, and failing to pay
4 meal break premiums for late meal breaks. As a result of Defendant's failure to authorize or permit
5 lawful and timely meal periods, Plaintiffs and the other Class Members and Aggrieved Employees
6 frequently did not receive compliant duty-free meal periods within the first five (5) hours of their
7 work.

8 27. Under Labor Code § 226.7, if an employer maintains a uniform policy that does not
9 authorize and permit the amount of rest time on the schedule called for under the law (as specified
10 in Section 12 of the applicable Wage Order), "it has violated the wage order and is liable."

11 28. During the Class Period and PAGA Period, Defendant did not authorize Plaintiffs,
12 the Class Members, and the Aggrieved Employees to take their ten-minute rest breaks during each
13 4 hours of work or major fraction thereof during their shifts.

14 29. Labor Code § 226 obligates employers, semi-monthly or at the time of each payment
15 to furnish an itemized wage statement in writing showing:

- 16 (1) gross wages earned;
- 17 (2) total hours worked by the employee;
- 18 (3) the number of piece-rate units earned and any applicable piece rate if the employee
19 is paid on a piece rate;
- 20 (4) all deductions, provided that all deductions made on written orders of the employee
21 may be aggregated and shown as one item;
- 22 (5) net wages earned;
- 23 (6) the inclusive dates of the period for which the employee is paid;
- 24 (7) the name of the employee and only the last four digits of his or her social security
25 number or an employee identification number other than a social security number;
- 26 (8) the name and address of the legal entity that is the employer...; and,
- 27 (9) all applicable hourly rates in effect during the pay period and the corresponding
28 number of hours worked at each hourly rate by the employee...

30. Due to Defendant's failure to pay Plaintiffs, the Class Members, and the Aggrieved
Employees for all minimum wages and meal and rest break premiums owed, the wage statements
issued by Defendant to Plaintiffs, the Class Members, and the Aggrieved Employees do not indicate
the correct amount of gross wages earned, net wages earned, or the applicable hourly rates in effect
during the pay period and the corresponding number of hours worked at each hourly rate in

1 violation of Labor Code § 226(a)(1), (2), (5) and (9).

2 31. Defendant's violation of Labor Code § 226 was knowing and intentional. *See*
3 *Garnett v. ADT LLC* 139 F. Supp. 3d 1121, 1131 (E.D. Cal. Oct. 6, 2015) (finding that the
4 defendant knowingly and intentionally violated Labor Code § 226 because the "[d]efendant knew
5 that it was not providing total hours worked to plaintiff or other employees paid on commission"
6 even though it believed that employees paid solely on commission or commission and salary "are
7 exempt and therefore we do not record hours on a wage statement").

8 32. Defendant's failure to furnish accurate itemized wage statements has caused
9 Plaintiffs, the Class Members, and the Aggrieved Employees to incur economic damages in that
10 they were not aware that they were owed and not paid appropriate premiums for their non-
11 compliant statutory rest breaks and meal periods and all minimum wages. *See Cicairos v. Summit*
12 *Logistics*, 133 Cal.App.4th 949, 954 ("If it is left to the employee to add up the daily hours shown
13 on the time cards or other records so that the employee must perform arithmetic computations to
14 determine the total hours worked during the pay period, the requirements of section 226 would not
15 be met"); *McKenzie v. Federal Express Corp.*, 765 F. Supp. 2d 1222 (C.D. Cal. 2011) (wage
16 statements violated California Labor Code by not including, inter alia, total hours worked giving
17 rise to claims under both Section 226 and for PAGA penalties); Labor Code § 226(e)(2)(B)
18 (clarifying that injury is established where the wage statement violated Section 226(a)(1), (2), or
19 (5), among other provisions, and where employees cannot easily determine the gross or net wages
20 earned by the employee during the pay period).

21 33. Labor Code § 226(e) provides that an employee is entitled to recover \$50 for initial
22 pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay period, not
23 to exceed \$4,000, as well as an award of costs and reasonable attorney's fees, for all pay periods in
24 which the employer fails to provide accurate itemized statements to the employee causing the
25 employee to suffer injury.

26 34. Aggrieved Employees need not show "injury" or a "knowing and intentional" as
27 ordinarily required by Labor Code section 226(e) to establish a violation sufficient to trigger PAGA
28 penalties under Labor Code § 226(a). *See Lopez v. Friant & Associates, LLC*, 15 Cal. App. 773,

1 788 (Cal. App. 2017) (“Consistent with the PAGA statutory framework and the plain language and
2 legislative history of section 226(e), we hold a plaintiff seeking civil penalties under PAGA for a
3 violation of section 226(a) does not have to satisfy the “injury” and “knowing and intentional”
4 requirements of section 226(e)(1)”); *Willner v. Manpower Inc.* 35 F. Supp. 3d 1116, 1136 (N.D.
5 Cal. 2014) (To obtain judgment on a PAGA claim, “all [plaintiff] needs to establish is a violation of
6 section 226(a), which she has done, as discussed above.”); *McKenzie v. Fed. Exp. Corp.* 765
7 F.Supp.2d 1222, 1232 (C.D. Cal. 2011) (holding that “for the purposes of recovering PAGA
8 penalties, one need only prove a violation of Section 226(a), and need not establish a Section 226(e)
9 injury.”); *Aguirre v. Genesis Logistics*, 2013 U.S. Dist. LEXIS 189815, at *28 (C.D. Cal. July 3,
10 2013) (“Plaintiffs do not need to establish a Cal. Lab. Code § 226(e) injury to recover penalties
11 under § 2699(f) of PAGA.”).

12 35. Further and in addition to the penalties outlined above, Labor Code § 226.3 provides
13 that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty
14 in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation
15 and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for
16 which the employer fails to provide the employee a wage deduction statement or fails to keep the
17 required in subdivision (a) of Section 226.” As explained in detail above, Defendant failed to
18 provide Plaintiffs, the Class Members, and the Aggrieved Employees with accurate itemized wage
19 statements. Accordingly, Defendant is additionally liable for Labor Code § 226.3 penalties for their
20 violations of Labor Code § 226(a). *See Finder v. Leprino Foods Co.* (E.D. Cal. Mar. 12, 2015) No.
21 1:13-CV-2059 AWI-BAM, 2015 WL 1137151, at *7 [“the weight of authority counsels that
22 violations of Section 226.3 may be the basis of a PAGA claim.”]; *Pedroza v. PetSmart, Inc.*, No.
23 ED CV 11-298 GHK DTB, 2012 WL 9506073, at *6 (C.D. Cal. June 14, 2012) (“Lab. Code §
24 226.3 merely provides that failure to perform actions mandated by § 226(a) may trigger civil
25 penalties.”).²

26 36. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in any

27 ² *Accord Singer v. Becton, Dickinson & Co., Med-Safe Sys.* (S.D.Cal. July 23, 2008) 2008 U.S. Dist. LEXIS 56326,
28 *18; *Yadira v. Fernandez* (N.D. Cal. June 14, 2011) 2011 U.S. Dist. LEXIS 62894, *7–9, 2011 WL 2434043; *Willis v.*
Xerox Bus. Servs., LLC (E.D. Cal. Nov. 15, 2013) No. 1:13-CV-01353-LJO, 2013 WL 6053831, at *7.

1 employment are due and payable twice during each calendar month, on days designated in advance
2 by the employer as the regular paydays.” Pursuant to Labor Code § 204(d), these requirements are
3 “deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the
4 wages are paid not more than seven calendar days following the close of the payroll period.

5 37. Due to Defendant’s failure to pay Plaintiffs, the Class, and the other Aggrieved
6 Employees all minimum wages owed and meal and rest break period premiums owed,³ Defendant
7 violated Labor Code § 204 by failing to pay all wages due, including meal and rest break premiums
8 due, within seven (7) days of the close of the payroll period on a regular and consistent basis. *See*
9 *Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL 1734010, at *3-5 (N.D.
10 Cal. May 2, 2016) (finding after *Ling* that a failure to pay rest period premiums can support claims
11 under Labor Code §§ 203 and 204).

12 38. Labor Code § 210 provides that “in addition to, an entirely independent and apart
13 from, any other penalty provided in this article, every person who fails to pay the wages of each
14 employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any
15 initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
16 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
17 failure to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the
18 faulty compensation policies and practices described in detail above, Plaintiffs, the Class, and the
19 other Aggrieved Employees are entitled to recover penalties under Labor Code § 210.

20 39. Labor Code § 203 provides “if an employer willfully fails to pay . . . any wages of
21 an employee who is discharged or who quits, the wages of the employee shall continue as a penalty.

22 ³ Courts have routinely found that employees who do not receive meal/rest periods premiums are entitled to waiting
23 time penalties under Labor Code § 203. *See e.g. In re Autozone, Inc.*, 2016 U.S. Dist. LEXIS 105746 *23 (N.D. Cal.
24 Aug. 10, 2016) (denying the defendant’s motion for summary judgment on the plaintiff’s claim for waiting time
25 penalties based upon the failure to provide rest period premiums and finding that the California Court of Appeals
26 decision in *Ling vs. P.F. Chang’s China Bistro, Inc.* (2016) 245 Cal. App. 4th 1242 “concerned only whether ‘a section
27 203 waiting time claim based on section 226.7 premium pay is an action brought for the non-payment of wages under
28 section 218.5’”); *Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL 1734010, at *3-5 (N.D.
Cal. May 2, 2016) (finding after *Ling* that a failure to pay rest period premiums can support claims under Labor Code
§§ 203 and 204); *Brewer v. Gen. Nutrition Corp.* (N.D. Cal. Aug. 27, 2015) 2015 WL 5072039, at *19 [denying
defendant’s motion for summary judgment because “the premium payments due under section 226.7 are to be
considered “wages” for purposes of sections 203 and 226.”]; *Abad v. Gen. Nutrition Centers, Inc.* (C.D. Cal. Mar. 7,
2013) 2013 WL 4038617, at *3–4 [distinguishing *Kirby*, and finding “Plaintiffs’ section 203 claim for failure to pay
wages...can be based on amounts owed under section 226.7.”). The issue is currently before the California Supreme
Court in the *Naranjo* case. *See Naranjo v. Spectrum Security Services, Inc.*, Cal. Supreme Court Case No. S258966.

1 .” for up to 30 days. Lab. Code § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

2 40. Due to Defendant’s faulty policies described above, including its failure to pay for
3 all minimum wages owed and meal and rest break premiums, Defendant violated Labor Code §
4 203, for those employees whose employment ended within the Class Period and PAGA Period by
5 willfully failing to pay them all wages due upon the termination of their employment.

6 **CLASS ACTION ALLEGATIONS**

7 41. Plaintiffs brings this action, on behalf of themselves and all others similarly situated,
8 as a class action pursuant to Code of Civil Procedure § 382. Plaintiffs seeks to represent a Class
9 composed and defined as: all current and former employees of Autodesk employed in California
10 during the Class Period who were subject to stay-at-home orders and/or whose offices were closed
11 due to COVID-19 for at least one pay period during the Class Period and did not receive a fully
12 paid wireless internet device for work purposes.

13 42. This action has been brought and may properly be maintained as a class action under
14 Code of Civil Procedure § 382 because there is a well-defined community of interest in the
15 litigation, the proposed class is easily ascertainable, and Plaintiffs are proper representatives of the
16 Class:

17 a. Numerosity: The potential members of the Class as defined are so numerous
18 that joinder of all the members of the Class is impracticable. According to Defendant there are an
19 over 2,000 Class Members. The Class Members are dispersed throughout California. Joinder of all
20 members of the proposed classes is therefore not practicable.

21 b. Commonality: There are questions of law and fact common to Plaintiffs and
22 the Class that predominate over any questions affecting only individual members of the Class.
23 These common questions of law and fact include, without limitation:

24 i. Whether Plaintiffs and Class Members incurred unreimbursed business
25 expenses in the discharge of their duties, including but not limited to home office expenses, in
26 violation of Labor Code § 2802;

27 ii. Whether Defendant intended, suffered and/or permitted, and/or knew and/or
28 should have known that Plaintiffs and Class Members incurred unreimbursed home office expenses,

1 in the discharge of their duties;

2 iii. Whether Defendant violated Labor Code section 1194 by failing to pay all
3 minimum wages owed to Plaintiffs and the Class during the Class Period;

4 iv. Whether Defendant violated Labor Code sections 226.7 and 512 and Section
5 11 of IWC Wage Order No. 4 by failing to provide timely, duty-free meal periods to Plaintiffs and
6 the members of the Class in California during the Class Period;

7 v. Whether Defendant violated Labor Code section 226.7 by failing to provide
8 one hour of premium pay to each member of the Class for each day that a timely, duty-free meal
9 period was not provided in California during the Class Period;

10 vi. Whether Defendant violated Labor Code section 226.7 and Section 12 of
11 IWC Wage Order No. 4 by failing to provide timely, duty-free rest periods to Plaintiffs and the
12 members of the Class in California during the Class Period;

13 vii. Whether Defendant violated Labor Code section 226.7 by failing to provide
14 one hour of premium pay to each member of the Class for each day that a timely, duty-free rest period
15 was not provided in California during the Class Period;

16 viii. Whether Defendant failed to provide Class Members complete wage
17 statements in violation of Labor Code Section 226(a);

18 ix. Whether Defendant violated Sections 204 and 210 of the Labor Code by
19 failing to pay member of the Class all wages due on a timely basis;

20 x. Whether Defendant violated Section 203 of the Labor Code by failing to pay
21 members of the Class for all wages due to them (including all minimum wages owed and their
22 unpaid meal and rest break premiums) upon their separation of employment from Defendant;

23 xi. Whether Defendant engaged in an unfair practice and violated section 17200
24 of the California Business and Professions Code by failing to provide Plaintiffs and the members of
25 the Class with all minimum wages owed during the Class Period;

26 xii. Whether Defendant engaged in an unfair practice and violated section 17200
27 of the California Business and Professions Code by failing to provide Plaintiffs and the members of
28 the Class with timely, duty-free meal breaks during the Class Period;

1 xiii. Whether Defendant engaged in an unfair practice and violated section 17200
2 of the California Business and Professions Code by failing to provide Plaintiffs and members of the
3 Class with meal period premiums for each day they were not provided a compliant meal break;

4 xiv. Whether Defendant engaged in an unfair practice and violated section 17200
5 of the California Business and Professions Code by failing to provide Plaintiffs and the members of
6 the Class with timely, duty-free rest breaks during the Class Period;

7 xv. Whether Defendant engaged in an unfair practice and violated section 17200
8 of the California Business and Professions Code by failing to provide Plaintiffs and members of the
9 Class with rest period premiums for each day they were not provided a compliant meal break;

10 xvi. Whether Plaintiffs and the Class are entitled to restitution under Business and
11 Professions Code § 17200;

12 xvii. The proper formula(s) for calculating damages, interest, and restitution owed
13 to Plaintiffs and the Class Members;

14 xviii. The nature and extent of class-wide damages.

15 c. Typicality: Plaintiffs' claims are typical of the claims of the Class. Both
16 Plaintiffs and Class Members sustained injuries and damages, and were deprived of property rightly
17 belonging to them, arising out of and caused by Defendant's common course of conduct in
18 violation of law as alleged herein, in similar ways and for the same types of unpaid wages.

19 d. Adequacy of Representation: Plaintiffs are members of the Class and will
20 fairly and adequately represent and protect the interests of the Class and Class Members. Plaintiffs'
21 interests do not conflict with those of Class and Class Members. Counsel who represent Plaintiffs
22 are competent and experienced in litigating large wage and hour class actions, including numerous
23 cases virtually identical to this one (i.e., wage and hour class action cases), and other employment
24 class actions, and will devote sufficient time and resources to the case and otherwise adequately
25 represent the Class and Class Members.

26 43. Superiority of Class Action: A class action is superior to other available means for
27 the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is
28 not practicable, and questions of law and fact common to the Class predominate over any questions

1 affecting only individual members of the Class. Each Class Member has been damaged or may be
2 damaged in the future by reason of Defendant's unlawful policies and/or practices. Certification of
3 this case as a class action will allow those similarly situated persons to litigate their claims in the
4 manner that is most efficient and economical for the parties and the judicial system. Certifying this
5 case as a class action is superior because it allows for efficient and full disgorgement of the ill-
6 gotten gains Defendant has enjoyed by maintaining its unlawful break, compensation, and non-
7 reimbursement policies and will thereby effectuate California's strong public policy of protecting
8 employees from deprivation or offsetting of compensation earned in their employment. If this
9 action is not certified as a Class Action, it will be impossible as a practical matter, for many or most
10 Class Members to bring individual actions to recover monies unlawfully withheld from their lawful
11 compensation due from Defendant, due to the relatively small amounts of such individual
12 recoveries relative to the costs and burdens of litigation.

13 **FIRST CAUSE OF ACTION**
14 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**
15 **[Cal. Labor Code section 2802)**
16 **On Behalf of Plaintiffs and the Class Against Defendant**

17 44. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
18 in the preceding paragraphs.

19 45. Labor Code § 2802(a) provides that "[a]n employer shall indemnify his or her
20 employee for all necessary expenditures or losses incurred by the employee in direct consequence
21 of the discharge of his or her duties." Section 2802(c) defines "necessary" to include all "reasonable
22 costs."

23 46. In order to discharge their duties for Defendant during stay-at-home orders and/or
24 when Defendant's offices were closed, Plaintiffs and similarly situated Class Members regularly
25 incurred home office and cell phone expenses in the discharge of their duties as employees by
26 virtue of Defendant's instructions to Plaintiffs and the Class. Defendant nevertheless has,
27 throughout the Class Period, failed and refused to affirmatively reimburse Plaintiffs, the Class, and
28 the aggrieved employees for such home office and cell phone expenses incurred by them in
connection with their work

47. Although having knowledge of such usage, Defendant did not reimburse Plaintiffs and similarly situated Class Members for a reasonable percentage of their work-related expenses, as required by California law as stated in *Cochran v. Schwan's Home Service, Inc.*, 228 Cal.App.4th 1137 (August 12, 2014) ("We hold that when employees must use their personal cell phones for work-related calls, Labor Code section 2802 requires the employer to reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills."). *See also, Aguilar v. Zep, Inc.*, 2014 US Dist LEXIS 120315, *54 (N.D.Cal. Aug. 27, 2014) (Hon. Edward Chen) (where outside sales reps used home internet and computers for work, and even admitted that they would have incurred the same expenses without work duties, the court nevertheless held that the employer was obligated to reimburse some reasonable portion of these expenses); *Ritchie v. Blue Shield of California*, 2014 WL 6982943, at *21 (N.D.Cal. Dec. 9, 2014) (Hon. Edward Chen) (certifying class of home office claims processors with 2802 phone reimbursement claims for landline reimbursements where company required claims processors working from home to have a landline, but rejecting certification of claims for home office supplies as individualized).

48. Defendant's failure to pay for or reimburse the work-related business expenses of Plaintiffs and Class Members violated non-waivable rights secured to Plaintiffs and Class Members by Labor Code §2802. See Labor Code §2804. Plaintiffs and similarly situated Class Members are entitled to reimbursement for these necessary expenditures, plus interest and attorneys' fees and costs, under Labor Code § 2802(c).

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
[Labor Code § 1194]
On Behalf of Plaintiffs and the Class Against Defendant

49. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

50. Section 1194 of the Labor Code provides, in relevant part, “[n]otwithstanding any agreement to work for a lesser wage, any employee receiving less than minimum wage...applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this

1 minimum wage ..., including interest thereon, reasonable attorney's fees, and costs of suit."

2 51. Section 1194.2 of the Labor Code provides, in relevant part, "[i]n any action
3 under...Section 1194 to recover wages because of the payment of a wage less than the minimum
4 wage fixed by an order of the commission, an employee shall be entitled to recover liquidated
5 damages in an amount equal to the wages unlawfully unpaid and interest thereon."

6 52. During the Class Period, Plaintiffs and other Class members were not paid at least
7 minimum wage while employed by the Defendant. As a result, Plaintiffs and other Class members
8 were denied compensation for all hours suffered or permitted to work.

9 53. Consequently, Defendant violated California Labor Code laws and minimum wage
10 laws, *inter alia*, Labor Code §§ 1194.

11 54. Plaintiffs are informed and believes and thereon alleges that Defendant intentionally,
12 willfully, and improperly failed to pay wages to Plaintiffs and other Class members.

13 55. Defendant's conduct was willful, as Defendant knew that Plaintiffs and other class
14 members were entitled to be paid wages for each hour worked, including proper minimum wages,
15 yet Defendant chose not to pay them in accordance thereto.

16 56. As a result of Defendant's wrongful conduct, Plaintiffs and other Class members
17 have been damaged in amounts to be proven at trial.

18 57. Accordingly, pursuant to sections 1194 and 1194.2 of the California Labor Code,
19 Plaintiffs and other class members are entitled to recover, either his unpaid hourly wages due, or
20 minimum wage plus interest and/or liquidated damages in an additional amount equal to the total
21 amount of wages unlawfully withheld for rest period time.

22 58. Plaintiffs and other class members seek recovery of all unpaid minimum wages,
23 liquidated damages, penalties, interest, attorneys' fees and costs of suit, pursuant to Labor Code §§
24 1194, 1194.2, and 1197, against Defendant in an amount to be proven at trial.

25 **THIRD CAUSE OF ACTION**

26 **FAILURE TO PROVIDE AND AUTHORIZE COMPLIANT MEAL PERIODS**

27 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Order 4-2001 Section 11]**

28 **On behalf of Plaintiffs and the Class Against Defendant**

59. Plaintiffs re-allege and incorporate by reference each and every allegation set forth

1 in the preceding paragraphs.

2 60. California Labor Code § 226.7(a) provides, “No employer shall require any
3 employee to work during any meal or rest period mandated by an applicable order of the Industrial
4 Welfare Commission.”

5 61. Section 512(a) of the California Labor Code provides, in relevant part, that: An
6 employer may not employ an employee for a work period of more than five hours per day without
7 providing the employee with a meal period of not less than 30-minutes, except that if the total work
8 period per day of the employee is no more than six hours, the meal period may be waived by
9 mutual consent of both the employer and employee. An employer may not employ an employee for
10 a work period of more than 10 hours per day without providing the employee with a second meal
11 period of not less than 30-minutes, except that if the total hours worked is no more than 12 hours,
12 the second meal period may be waived by mutual consent of the employer and the employee only if
13 the first meal period was not waived.

14 62. During the Class Period, Defendant violated and continues to violate Labor Code §
15 512 and IWC Wage Order 4-2001 § 11 by, among other things, failing to provide and schedule
16 duty-free meal breaks on or before the fifth hour of work to Class Member and failed to advise all
17 other Class Members of their meal break rights with respect to the timing of meal breaks, failed to
18 provide Class Members with thirty-minute, uninterrupted meal periods within the first five (5)
19 hours of their shifts, and failed to pay meal break premiums for late meal breaks.

20 63. As a result of Defendant’s failure to authorize or permit lawful and timely meal
21 periods, Plaintiffs and the other Class Members frequently did not receive compliant duty-free meal
22 periods within the first five (5) hours of their work.

23 64. As a result, for each day on which Plaintiffs and other Class members were not
24 provided a timely meal break, Plaintiffs and the Class Members are entitled to recover one hour of
25 premium pay pursuant to Labor Code section 226.7 and Section 11 of the IWC Wage Order.

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FOURTH CAUSE OF ACTION
FAILURE TO PROVIDE AND AUTHORIZE COMPLIANT REST PERIODS
[Cal. Labor Code §§ 226.7; Section 12 of IWC Wage Order 4-2001]
On behalf of Plaintiffs and the Class Against Defendant

65. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

66. Under Labor Code § 226.7, if an employer maintains a uniform policy that does not authorize and permit the amount of rest time on the schedule called for under the law (as specified in Section 12 of the applicable Wage Order), “it has violated the wage order and is liable.”

67. During the Class Period , Defendant did not authorize Plaintiffs and the Class Members to take their ten-minute rest breaks during each 4 hours of work or major fraction thereof during their shifts. As a result, for each day on which Plaintiffs and other Class members were not provided a timely rest breaks, Plaintiffs and the Class Members are entitled to recover one hour of premium pay pursuant to Labor Code section 226.7 and Section 12 of the IWC Wage Order.

FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE COMPLETE WAGE STATEMENTS
[Cal. Labor Code § 226(a)]
On behalf of Plaintiffs and the Class Members Against Defendant

68. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

69. Section 226(a) of the California Labor Code provides, in relevant part:

Every employer shall...furnish each of his or her employees...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all -deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

70. As set forth above, Defendant’s failure to pay Plaintiffs and the Class Members for

1 all minimum wages and meal and rest break premiums during the Class Period, the wage statements
2 issued by Defendant to Plaintiffs and the other Class Members do not indicate the correct amount of
3 gross wages earned, net wages earned, or the applicable hourly rates in effect during the pay period
4 and the corresponding number of hours worked at each hourly rate in violation of Labor Code §
5 226(a)(1), (2), (5) and (9).

6 71. Defendant's violation of Labor Code § 226 was knowing and intentional. *See*
7 *Garnett v. ADT LLC* 139 F. Supp. 3d 1121, 1131 (E.D. Cal. Oct. 6, 2015) (finding that the
8 defendant knowingly and intentionally violated Labor Code § 226 because the "[d]efendant knew
9 that it was not providing total hours worked to plaintiff or other employees paid on commission"
10 even though it believed that employees paid solely on commission or commission and salary "are
11 exempt and therefore we do not record hours on a wage statement").

12 72. Defendant's failure to furnish accurate itemized wage statements has caused
13 Plaintiffs and the other Class Members to incur economic damages in that they were not aware that
14 they were owed and not paid appropriate premiums for their non-compliant statutory rest breaks
15 and meal periods. *See Cicairos v. Summit Logistics*, 133 Cal.App.4th 949, 954 ("If it is left to the
16 employee to add up the daily hours shown on the time cards or other records so that the employee
17 must perform arithmetic computations to determine the total hours worked during the pay period,
18 the requirements of section 226 would not be met"); *McKenzie v. Federal Express Corp.*, 765 F.
19 Supp. 2d 1222 (C.D. Cal. 2011) (wage statements violated California Labor Code by not including,
20 inter alia, total hours worked giving rise to claims under both Section 226 and for PAGA penalties);
21 Labor Code § 226(e)(2)(B) (clarifying that injury is established where the wage statement violated
22 Section 226(a)(1), (2), or (5), among other provisions, and where employees cannot easily
23 determine the gross or net wages earned by the employee during the pay period).

24 73. In addition, Defendant's failure to furnish accurate itemized wage statements has
25 caused Plaintiffs and the other Aggrieved Employees to incur economic injuries in that they were
26 not aware of the specific inclusive dates for which their wages were being paid, so that that needed
27 to resort to other documents and to make various calculations to understand their wage and pay
28 history and to assess its accuracy. This violates Section 226 of the Labor Code. *See e.g., Cicairos v.*

1 *Summit Logistics*, 133 Cal.App.4th 949, 954 (“If it is left to the employee to add up the daily hours
2 shown on the timecards or other records so that the employee must perform arithmetic
3 computations to determine the total hours worked during the pay period, the requirements of
4 section 226 would not be met”).

5 74. Labor Code § 226(e) provides that an employee is entitled to recover \$50 for initial
6 pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay period, not
7 to exceed \$4,000, as well as an award of costs and reasonable attorney’s fees, for all pay periods in
8 which the employer fails to provide accurate itemized statements to the employee causing the
9 employee to suffer injury.

10 **SIXTH CAUSE OF ACTION**
11 **FAILURE TO PAY WAGES ON A TIMELY BASIS**
12 **[Cal. Labor Code §§ 204, 210]**
13 **On Behalf of Plaintiffs and the Class Against Defendant**

14 75. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
15 in the preceding paragraph.

16 76. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in any
17 employment are due and payable twice during each calendar month, on days designated in advance
18 by the employer as the regular paydays.” Pursuant to Labor Code § 204(d), these requirements are
19 “deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the
20 wages are paid not more than seven calendar days following the close of the payroll period.

21 77. Due to Defendant’s failure to pay Plaintiffs and the Class Members all minimum
22 wages and meal and rest break period premiums owed,⁴ Defendant violated Labor Code § 204 by

23 ⁴ Courts have routinely found that employees who do not receive meal/rest periods premiums are entitled to waiting
24 time penalties under Labor Code § 203. *See e.g. In re Autozone, Inc.*, 2016 U.S. Dist. LEXIS 105746 *23 (N.D. Cal.
25 Aug. 10, 2016) (denying the defendant’s motion for summary judgment on the plaintiff’s claim for waiting time
26 penalties based upon the failure to provide rest period premiums and finding that the California Court of Appeals
27 decision in *Ling vs. P.F. Chang’s China Bistro, Inc.* (2016) 245 Cal. App. 4th 1242 “concerned only whether ‘a section
28 203 waiting time claim based on section 226.7 premium pay is an action brought for the non-payment of wages under
section 218.5’”); *Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL 1734010, at *3-5 (N.D.
Cal. May 2, 2016) (finding after *Ling* that a failure to pay rest period premiums can support claims under Labor Code
§§ 203 and 204); *Brewer v. Gen. Nutrition Corp.* (N.D. Cal. Aug. 27, 2015) 2015 WL 5072039, at *19 [denying
defendant’s motion for summary judgment because “the premium payments due under section 226.7 are to be
considered “wages” for purposes of sections 203 and 226.”]; *Abad v. Gen. Nutrition Centers, Inc.* (C.D. Cal. Mar. 7,
2013) 2013 WL 4038617, at *3–4 [distinguishing *Kirby*, and finding “Plaintiffs’ section 203 claim for failure to pay
wages...can be based on amounts owed under section 226.7.”). The issue is currently before the California Supreme
Court in the *Naranjo* case. *See Naranjo v. Spectrum Security Services, Inc.*, Cal. Supreme Court Case No. S258966.

1 failing to pay all wages due within seven (7) days of the close of the payroll period on a regular and
2 consistent basis. *See Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL
3 1734010, at *3-5 (N.D. Cal. May 2, 2016) (finding after *Ling* that a failure to pay rest period
4 premiums can support claims under Labor Code §§ 203 and 204).

5 78. Labor Code § 210 provides that “in addition to, an entirely independent and apart
6 from, any other penalty provided in this article, every person who fails to pay the wages of each
7 employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any
8 initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
9 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
10 failure to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the
11 faulty compensation policies and practices described in detail above, Plaintiffs and the Class are
12 entitled to recover penalties under Labor Code § 210.

13 **SEVENTH CAUSE OF ACTION**
14 **WAITING TIME PENALTIES FOR**
15 **FAILURE TO PAY WAGES DUE ON TERMINATION**
16 **[Cal. Labor Code §§ 201-203]**
17 **On Behalf of Plaintiffs and the Class Against Defendant**

18 79. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
19 in the preceding paragraphs.

20 80. Labor Code § 203 provides “if an employer willfully fails to pay . . . any wages of
21 an employee who is discharged or who quits, the wages of the employee shall continue as a penalty.
22 . . .” for up to 30 days. Lab. Code § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

23 81. Due to Defendant’s faulty policies described above, including its failure to pay for
24 all minimum wages owed and meal and rest break premiums, Defendant violated Labor Code §
25 203, for those employees whose employment ended during the Class Period by willfully failing to
26 pay them all wages due upon the termination of their employment.

27 82. As a result, Plaintiffs and those Class Members who are former employees of
28 Defendant are entitled to collect 30 days each of wages due as waiting time penalties.

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EIGHTH CAUSE OF ACTION
UNFAIR COMPETITION LAW VIOLATIONS
[Bus. & Prof. Code § 17200]
On Behalf of Plaintiffs and the Class Against Defendant

83. Plaintiffs re-allege and incorporates by reference each and every allegation set forth in the preceding paragraphs.

84. Section 17200 of the California Business & Professions Code prohibits any unlawful, unfair, or fraudulent business practices. Business & Professions Code § 17204 allows “any person who has suffered injury in fact and has lost money or property” to prosecute a civil action for violation of the UCL. Such a person may bring such an action on behalf of himself and others similarly situated who are affected by the unlawful, unfair, or fraudulent business practice.

85. The actionable period for this cause of action is the Class Period.

86. Section 90.5(a) of the Labor Code states that it is the public policy of California to enforce vigorously minimum labor standards in order to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

87. As a direct and proximate result of Defendant’s unlawful, unfair, and/or fraudulent acts and practices described herein, Defendant has received and continue to hold unlawfully obtained property and money belonging to Plaintiffs and the Class in the form of unreimbursed employee cell phone and home office business expenses that reduced or offset compensation earned by Plaintiffs and Class Members.

88. Plaintiffs and similarly situated Class Members are entitled to monetary relief pursuant to Business & Professions Code §§ 17203 and 17208 for all unpaid minimum wages, meal and rest period premiums, and unreimbursed business expenses, and interest thereon during the Class Period, at rates specified by law. Defendant should be required to disgorge all the profits and gains it has reaped and restore such profits and gains to Plaintiffs and Class Members from whom they were unlawfully taken.

89. During the Class Period, Defendant committed, and continue to commit, acts of

1 unfair competition, as defined in sections 17200 *et seq.* of the California Business and Professions
2 Code because Defendant's conduct, as herein alleged has damaged Plaintiffs and the Class
3 Members by wrongfully denying them reimbursement for business expenses, and wrongfully
4 denying them minimum wages and meal and rest period premiums, and therefore was substantially
5 injurious to Plaintiffs and the Class Members.

6 90. Defendant's course of conduct, act, and practice in violation of the California laws
7 mentioned above constitute independent violations of sections 17200 *et seq.* of the California
8 Business and Professions Code.

9 91. The unlawful, unfair and fraudulent business practices and acts of Defendant, as
10 described above, have injured Plaintiffs and the Class.

11 92. Plaintiffs and similarly situated Class Members are entitled to enforce all applicable
12 penalty provisions of the Labor Code pursuant to Business & Professions Code § 17202.

13 93. Plaintiffs have assumed the responsibility of enforcement of the laws and public
14 policies specified herein by suing on behalf of themselves and other similarly situated Class
15 Members previously or presently employed by Defendant in California. Plaintiffs' success in this
16 action will enforce important rights affecting the public interest. Plaintiffs will incur a financial
17 burden in pursuing this action in the public interest. Therefore, an award of reasonable attorneys'
18 fees to Plaintiffs is appropriate pursuant to Code of Civil Procedure § 1021.5

19 **NINTH CAUSE OF ACTION**
20 **PENALTIES PURSUANT PAGA. LABOR CODE § 2699, *ET SEQ.***
21 **FOR VIOLATIONS OF LABOR CODE § 201, 202, 203, 204, 210, 226, 226.7, 512, 1194, 2802**
22 **PLAINTIFFS AND ALL AGGRIEVED EMPLOYEES AGAINST DEFENDANT**

23 94. Plaintiffs, on behalf of themselves and all Aggrieved Employees, reallege and
24 incorporate by reference all previous paragraphs.

25 95. Based on the above allegations incorporated by reference, Defendant has violated
26 Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 512, 1194, 2802.

27 96. Under Labor Code §§ 2699(f)(2) and 2699.5, for each such violation, Plaintiffs and
28 all other Aggrieved Employees are entitled to penalties in an amount to be shown at the time of trial
subject to the following formula:

1 Pursuant to 1194, an award to Plaintiffs and the Class for penalties pursuant to Labor Code § 1194.

2 4. On the Third Cause of Action:

3 a. A declaratory judgment that Defendant violated California Labor Code §§
4 226.7, 512 and Section 11 of IWC Wage Order 4-2001;

5 b. Pursuant to Cal. Labor Code § 226.7, an award to Plaintiffs and the Class
6 Members for an hour of pay for each day that a timely, duty-free meal period was not provided
7 during the Class Period.

8 5. On the Fourth Cause of Action:

9 a. A declaratory judgment that Defendant violated California Labor Code §
10 226.7, and Section 12 of IWC Wage Order 4-2001;

11 b. Pursuant to Cal. Labor Code § 226.7, an award to Plaintiffs and the Class
12 Members for an hour of pay for each day that a timely, duty-free rest period was not provided
13 during the Class Period.

14 6. On the Fifth Cause of Action:

15 a. A declaratory judgment that Defendant violated California Labor Code §226
16 by issuing inaccurate and/or incomplete wage statements that failed to include the correct amount
17 of gross wages earned, net wages earned, or the applicable hourly rates in effect during the pay
18 period and the corresponding number of hours worked at each hourly rate to Plaintiffs and the wage
19 statement Class Members;

20 b. An award to Plaintiffs and Class Members of \$50 for each initial pay period,
21 one year prior to the filing of this Complaint through the date of trial, in which a violation of
22 Section 226 occurred and \$100 for each subsequent pay period, one year prior to the filing of this
23 Complaint through the date of trial, in which a violation of Section 226 occurred, not to exceed
24 \$4,000 for each member of the Class, as well as an award of costs and reasonable attorney's fees,
25 pursuant to Labor Code § 226(e).

26 7. On the Sixth Cause of Action:

27 a. A declaratory judgment that Defendant violated California Labor Code §§
28 204 and 210;

1 b. Pursuant to Labor Code §§ 204 and 210, an award to Plaintiffs and the Class
2 for penalties pursuant to Labor Code § 210.

3 8. On the Seventh Cause of Action:

4 a. A declaratory judgment that Defendant violated California Labor Code §§
5 201 through 203;

6 b. Pursuant to Cal. Labor Code §§ 201 through 203, an award to Plaintiffs and
7 the Waiting Time Class members for waiting time penalties in the amount of 30 days' wages per
8 waiting time Class Member.

9 9. On the Eighth Cause of Action:

10 a. That the Court find and declare that Defendant have violated the UCL and
11 committed unfair and unlawful business practices by failing to pay meal and rest break premiums,
12 and by failing to reimburse Plaintiffs and the Class for all their business expenses;

13 b. Restitution, including, but not limited to, the relief permitted by sections
14 226.7, and 2802 of the California Labor Code (i.e., pay as specified for meal and rest period
15 premiums and reimbursement of all business-related expenses by Plaintiffs and the members of the
16 Class during the Class Period.

17 10. On the Ninth Cause of Action:

18 a. A civil penalty against Defendant in the amount of \$100 for the initial
19 violation and \$200 for each subsequent violation as specified in section 2699(f)(2) of the California
20 Labor Code for Plaintiffs and the Aggrieved Employees during all of the pay periods in the PAGA
21 Period and on-going until the violations are corrected, or this subclass is certified;

22 b. An award of reasonable attorney's fees against Defendant as specified in
23 Labor Code § 2699(g)(1), for all the work performed by the undersigned counsel in connection with
24 the PAGA claims;

25 c. An award of all costs incurred by the undersigned counsel for Plaintiffs in
26 connection with Plaintiffs' and Aggrieved Employees' PAGA claim against Defendant, as provided
27 for in Labor Code § 2699(g)(1).

28 ///

1 11. All other relief as this Court deems proper.

2
3 Respectfully submitted,

4 ACKERMANN & TILAJEF, P.C.

5
6 Dated: February 22, 2022

7 _____
8 Craig J. Ackermann, Esq.
9 *Attorneys for Plaintiffs, the LWDA, and the Aggrieved*
10 *Employees*

EXHIBIT 2

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

MARIN COUNTY SUPERIOR COURT

To: All persons employed by Autodesk, Inc. in California who were subject to stay-at-home orders and/or whose offices were closed due to COVID-19 for at least one pay period from March 17, 2020 through March 5, 2022.

You are receiving this Notice because a proposed settlement has been reached in the following case pending in the Superior Court of California, County of Marin: *Ekaterina Netsvetayeva and Valerie Butler v. Autodesk, Inc.*, Case No. [REDACTED] (the “Lawsuit”). You may be entitled to benefits as a member of the Settlement Class if the Court approves the Settlement described in this Notice. Your options with respect to the Settlement are explained in further detail below.

THIS NOTICE AFFECTS YOUR LEGAL RIGHTS. **PLEASE READ IT CAREFULLY.**

This is not a solicitation from a lawyer. A Court has authorized this Notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT ARE:	
Do Nothing	If you want to participate and receive your share of the money from the settlement, you do <u>not</u> need to do anything. If you do nothing, you will be mailed a settlement payment and you will be releasing certain claims.
Object	If you want to object to the settlement, you must submit in writing the reason(s) why you think the settlement should not be approved by the deadline stated below.
Exclude Yourself	If you exclude yourself (or “opt-out”) from the class settlement, you will not receive any share of the money from the class settlement. You will still receive your share of the PAGA settlement (described below).

YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM ARE EXPLAINED IN THIS NOTICE

WHAT IS THIS NOTICE ABOUT?

A proposed settlement (the “Settlement”) has been reached between Plaintiffs Ekaterina Netsvetayeva and Valerie Butler (“Plaintiffs”) and Defendant Autodesk, Inc. (“Defendant” or “Autodesk”) in a proposed class action also brought under the California Private Attorneys

General Act (“PAGA”) pending in the Marin County Superior Court, brought on behalf of all current and former employees of Autodesk in California employed during the time period beginning March 17, 2020 through March 5, 2022 (the “Class Period”) who were subject to stay-at-home orders and/or whose offices were closed due to COVID-19 for at least one pay period during the Class Period and did not receive a fully paid wireless internet device for work purposes (the “Settlement Class”), and on behalf of all current and former employees of Autodesk employed in California during the time period beginning March 17, 2020 through March 5, 2022 (the “PAGA Period”) who were subject to stay-at-home orders and/or whose offices were closed due to COVID-19 for at least one pay period during the PAGA Period and did not receive a fully paid wireless internet device for work purposes (the “PAGA Aggrieved Employees”).

On **INSERT DATE**, the Court preliminarily approved the proposed Settlement and certified the Settlement Class for purposes of Settlement only. You have received this Notice because Autodesk’s records indicate that you are a member of the Settlement Class. This Notice is designed to inform you of how you can participate in the Settlement, request to be excluded from the non-PAGA portion of the Settlement (the “Class Settlement”), or object to the Class Settlement. **Unless you submit a request to be excluded from the Class Settlement, the Class Settlement, if finally approved by the Court, will be binding on you.**

WHAT ARE THESE LAWSUITS ABOUT?

On , 2022, Plaintiffs Ekaterina Netsvetayeva and Valerie Butler, former Autodesk employees, filed a wage and hour class action on behalf of current and former Autodesk employees who worked in California as more specifically defined below. Plaintiffs allege that Autodesk failed to compensate employees for all time worked, including minimum wages and overtime, failed to provide meal and rest periods, failed to reimburse business expenses incurred by employees, failed to provide employees with accurate wage statements, failed to pay separated employees all compensation due in a timely manner, and engaged in unfair competition. The Lawsuit seeks compensatory damages, liquidated damages, penalties, interest, and attorneys’ fees and costs, restitution, and injunctive relief. On , 2022, Plaintiffs filed a First Amended Complaint (“FAC”) adding a claim under the PAGA. Autodesk denies all allegations in their entirety and vigorously maintains that Autodesk pays its employees properly under the law.

The parties have conducted a significant investigation of the facts and law during the prosecution of the Lawsuit, including the exchange of information and documents through informal discovery. The parties have held numerous meetings and informal conferences wherein they exchanged information and theories of the respective cases. The parties participated in prolonged settlement discussions and reached a Settlement. The Settlement resolves all claims in the Lawsuit.

This Settlement represents a compromise and settlement of highly disputed claims. Nothing in this Notice is intended or will be construed as an admission by Autodesk that Plaintiffs’ claims in the Lawsuit have merit or that Autodesk has any liability to Plaintiffs or the Settlement Class on those claims.

The Parties and their counsel have concluded that the Settlement is fair, reasonable and adequate, considering the costs, interruptions, risks and uncertainties to each side of continued litigation and Plaintiffs and their counsel believe the Settlement is in the best interests of Settlement Class Members.

WHO IS INCLUDED IN THE SETTLEMENT?

You are included in the Settlement Class if you fall within the following definition:

All current and former employees of Autodesk in California employed during the Class Period who were subject to stay-at-home orders and/or whose offices were closed due to COVID-19 for at least one pay period from March 17, 2020 to March 5, 2022.

WHO IS CLASS COUNSEL?

Craig Ackermann and Avi Kreitenberg of Ackermann & Tilajef, P.C. and India Lin Bodien of India Lin Bodien, Attorney at Law (“Class Counsel”).

SUMMARY OF THE SETTLEMENT

WHAT ARE THE BENEFITS OF THE SETTLEMENT?

1. Autodesk will pay a Gross Settlement Amount of \$475,000.00 to settle the Lawsuit. The Gross Settlement Amount will fund all payments to be made under the Settlement, including payments to the Settlement Class Members and the employer’s portion of payroll taxes, the PAGA Payment, and all court-approved deductions including settlement administration costs, attorney’s fees, costs, and the Named Plaintiff Enhancement Payments, as described below.

Following the court-approved deductions from the Gross Settlement Amount, the remaining amount will be the Class Payout Fund, which will be distributed to Settlement Class Members who do not timely request to be excluded from the Settlement. Class Member Payments will be made on a pro-rata basis, based on the number of pay periods each Settlement Class Member worked from March 17, 2020 through March 5, 2022 (“Class Period”).

2. A Settlement Class Member is not required to submit a claim form in order to be eligible for and to receive a Class Member Payment.
3. Excluded from becoming Settlement Class Members are those who submit valid and timely requests for exclusion pursuant to the terms and procedures of this Notice.

However, Class Members cannot exclude themselves from the PAGA portion of the Settlement.

4. **Court-Approved Deductions.** Should the Court approve the Settlement, the following court-approved deductions shall be made from the Gross Settlement Amount:

- a. **Class Counsel's Fees Award and Costs Award.** Class Counsel have represented and continue to represent the Settlement Class on a contingency-fee basis. That means that attorneys' fees are paid only if money is recovered for the Settlement Class. It is common to award attorneys' fees as a percentage of the settlement amount negotiated by the attorneys for the Settlement Class. As part of the final approval hearing, Class Counsel, will request up to one third of the Gross Settlement Amount for their attorneys' fees in connection with their work in this case, and reimbursement of their reasonable litigation costs and expenses that were advanced by Class Counsel in connection with the Lawsuit.
- b. **Named Plaintiff Enhancement Payments.** In addition to their Class Member Payments as Settlement Class Members, the named Plaintiffs will seek approval from the Court for payments not to exceed \$5,000 for Plaintiff Ekaterina Netsvetayeva and \$7,500 for Plaintiff Valerie Butler (for a total of \$12,500) in consideration for their service in initiating and pursuing the Lawsuit, and undertaking the risk of liability for attorneys' fees and expenses in the event they were unsuccessful in the prosecution of the Lawsuit. These payments, if approved by the Court, will be paid in addition to each Plaintiff's Class Member Payment, and will be made out of the Gross Settlement Amount.
- c. **PAGA Payment.** The parties will seek approval from the Court to designate \$47,500 of the Gross Settlement Amount as penalties recoverable under the California Private Attorneys General Act. 75% of this amount, or \$35,625, will be paid to the California Labor and Workforce Development Agency, as required by law. The remaining 25% of this amount, or \$11,875, will be distributed to PAGA Aggrieved Employees on a pro-rata basis and paid in addition to any Class Member Payments.
- d. **Settlement Administration Costs.** If approved by the Court, the reasonable costs of administering the Settlement, including the Settlement Administrator's fees and expenses, which are estimated to be approximately \$18,500, will be paid out of the Gross Settlement Amount.

How much is my Settlement Payment?

Your total estimated pay periods is [REDACTED]. Your anticipated approximate Settlement Payment is [REDACTED]. The exact amount of the Settlement Payment could vary, depending upon various factors, including (1) whether any Class Members dispute the number of pay periods credited to them; and (2) whether any additions or deletions are made to the number of Class Members. 20% of your Settlement Payment will be allocated as W-2 wages; 80% will

be allocated as penalties and interest.

You are entitled to dispute the number of pay periods and/or your employment status that is reported in this Notice. To submit a valid dispute, you must send a dated and signed letter including the case name and number and stating you dispute the number of pay periods along with any supporting documentation, to the Claims Administrator so that it is **postmarked no later than [REDACTED], 2022 (45 days after this Notice was originally sent to you)**. Any dispute that is postmarked later than [REDACTED], 2022, will be late and invalid and will result in the Class Member being bound by the number of pay periods reported in this Notice.

WHAT HAPPENS IF THE COURT APPROVES THE SETTLEMENT?

Settlement Class Release. If the Court approves the proposed Settlement, it will enter a judgment as to all Settlement Class Members who do not timely request exclusion from the Settlement. This means that Settlement Class Members, including the Named Plaintiffs, who do not exclude themselves, will be barred from bringing their own lawsuits for recovery against Defendant and Released Parties for any and all “Released Claims,” which are defined as:

- Any and all claims that arose during the Settlement Class Period based on the facts, theories, and primary rights alleged in the Lawsuit including without limitation for unpaid wages, including, but not limited to, failure to pay minimum wages, failure to pay straight time compensation, overtime compensation, double-time compensation, and/or interest; missed, late, short or interrupted meal and/or rest periods or any allegation that meal or rest periods were not provided, including any claim for any alleged failure to pay premiums for missed, late, short or interrupted meal or rest periods, or to pay such premiums at the regular rate of compensation; reimbursement for business expenses or any other claim that Defendant allowed or required employees to bear any of the costs associated with the operation of Defendant’s business, including without limitation the use of personal cell phones, home internet, equipment, home electricity, home office infrastructure or other costs incurred; inaccurate or otherwise improper wage statements and/or failure to keep or maintain accurate records; unlawful deductions; any claim for unfair business practices arising out of or related to any or all of the aforementioned claims; any claim for penalties arising out of or related to any or all of the aforementioned claims, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum wage penalties, liquidated damages, and waiting time penalties; and attorneys’ fees and costs. The claims released by the Settlement Class Members also include any and all claims that arise out of or arise in connection with the claims and facts alleged in the Lawsuit, and any claims which could have been asserted in the Lawsuit arising from the alleged facts, theories, and/or primary rights alleged to have been invaded to the fullest extent permitted by law. This release includes claims alleging a violation of the Wage Orders of the California Industrial Welfare Commission; California Business and Professions Code section 17200, *et seq.*; the California Civil Code sections 3287, 3289, 3336, and 3294; California Code of Civil Procedure section 1021.5; and/or alleging a violation of California Labor Code §§ 200, 201, 201.3, 202, 203, 204, 210, 212, 216, 218, 218.5, 218.6, 221, 222.5, 223, 224, 225, 225.5, 226, 226.7,

510, 511, 512, 516, 558, 1021.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2800, 2802, and 2804.

PAGA Release. In addition, if the Court approves the proposed Settlement, then Plaintiffs, as representatives of the State of California and on behalf of the LWDA and the PAGA Aggrieved Employees, will fully and finally release Defendant and Released Parties from all claims under the PAGA associated with any and all claims that arose during the PAGA Period, which includes the following:

- All claims under the PAGA associated with any and all claims that arose during the PAGA Period based on the facts, theories, and primary rights alleged in the Lawsuit including without limitation for unpaid wages, including, but not limited to, failure to pay minimum wages; failure to pay straight time compensation, overtime compensation, double-time compensation, and/or interest; missed, late, short or interrupted meal and/or rest periods or any allegation that meal or rest periods were not provided, including any claim for any alleged failure to pay premiums for missed, late, short or interrupted meal or rest periods, or to pay such premiums at the regular rate of compensation; reimbursement for business expenses or any other claim that Defendant allowed or required employees to bear any of the costs associated with the operation of Defendant's business, including without limitation the use of personal cell phones, home internet, equipment, home electricity, home office infrastructure or other costs incurred; inaccurate or otherwise improper wage statements and/or failure to keep or maintain accurate records; unlawful deductions; any claim for unfair business practices arising out of or related to any or all of the aforementioned claims; any claim for penalties arising out of or related to any or all of the aforementioned claims, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum wage penalties, liquidated damages, and waiting time penalties; and attorneys' fees and costs. The claims released by the PAGA Aggrieved Employees also include any and all claims under the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 et seq. that arise out of or arise in connection with the claims and facts alleged in the Lawsuit, and any claims which could have been asserted in the Lawsuit arising from the alleged facts, theories, and/or primary rights alleged to have been invaded to the fullest extent permitted by law. This release includes claims under the California Private Attorneys General Act of 2004 alleging a violation of the Wage Orders of the California Industrial Welfare Commission; and/or alleging a violation of California Labor Code §§ 200, 201, 201.3, 202, 203, 204, 210, 212, 216, 218, 218.5, 218.6, 221, 222.5, 223, 224, 225, 225.5, 226, 226.7, 510, 511, 512, 516, 558, 1021.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 et seq., 2800, 2802, and 2804.

The release of claims set forth in the Settlement excludes claims for workers' compensation benefits, unemployment insurance benefits, or any other claim or right that as a matter of law cannot be waived or released.

WHAT HAPPENS IF THE COURT DOES NOT APPROVE THE SETTLEMENT?

If the Court does not approve the proposed Settlement, the Lawsuit will proceed as if no settlement has been attempted and there can be no assurance that the Settlement Class Members will recover more than is provided for in this Settlement or anything at all.

WHEN IS THE FINAL SETTLEMENT APPROVAL HEARING?

A hearing will be held before the [REDACTED] of the Marin County Superior Court on **INSERT DATE AND TIME**, in Department [REDACTED], **FILL IN ADDRESS**. The purpose of the hearing is for the Court to determine final approval of the Settlement along with the amount properly payable for (i) the Fees Award and Costs Award, (ii) Named Plaintiff Enhancement Payments, (iii) the Settlement Administration Costs, (iv) Class Member Payments; and (v) the PAGA Payments. **The time and date of this hearing may be changed without further notice. Settlement Class Members are advised to check the Settlement website or the Court's website to confirm that the date and/or time of the hearing has not been changed.**

Will my decision about whether to participate in the Settlement affect my employment with Autodesk?

No. Autodesk is prohibited by law from retaliating against any employee for participating in this Settlement.

Should I get my own lawyer in this case?

The Court has approved the law firm of Ackermann & Tilajef, P.C. and India Lin Bodien, as Class Counsel. Class Counsel represents you and all Class Members in the Class Settlement. You also have the right to hire an attorney (at your own cost) to represent you, or to enter an appearance and represent yourself.

WHAT ARE MY OPTIONS REGARDING THE SETTLEMENT?

If you are receiving this Notice, you have the following options:

- **Participate Fully in the Settlement:** To receive a monetary payment from this settlement, Class Members are not required to do anything.
- **Request to be Excluded:** Class Members who wish to exclude themselves from the Settlement Class must submit a signed, written statement requesting exclusion from the Settlement Class on or before **INSERT DATE** ("Objection/Exclusion Deadline Date"). The opt-out request must state in substance:

"I have read the Class Notice and I wish to opt out of the Settlement Class in *Ekaterina Netsvetayeva and Valerie Butler v.*

Autodesk, Inc., Case No. [REDACTED]. I understand that by requesting to be excluded from the Settlement Class, I will not receive a Class Member Payment. I also understand that I will still receive a PAGA Payment for my share of the PAGA Settlement, if I am entitled to such payment, because I cannot object or exclude myself from the PAGA Settlement.”

Such written request for exclusion must contain the name, address, telephone number and last four digits of the Social Security number of the individual requesting exclusion and the years of his or her employment by Autodesk; must be returned by mail to the Settlement Administrator at the following address: **INSERT ADDRESS**; must be signed by the individual requesting exclusion; and must be postmarked on or before the Objection/Exclusion Deadline Date. **The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted.** Any person who opts-out of the Settlement Class will not be entitled to any recovery under the Class Settlement and will not be bound by the Class Settlement or have any right to object, appeal or comment thereon. Absent good cause found by the Court, individuals who fail to submit a valid and timely request for exclusion on or before the Objection/Exclusion Deadline Date shall be Settlement Class Members and shall be bound by all terms of the Settlement and any Final Judgment entered in the Lawsuit if the Settlement is approved by the Court. Class Members cannot opt-out or exclude themselves from the PAGA portion of the Settlement.

- **Object.** You can ask the Court to deny approval of the Settlement by filing an objection. **You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement.** If the Court denies approval, no settlement payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object.

All objections, requests to appear or other documents from Settlement Class Members should be sent to the Settlement Administrator, who then packages the documents for counsel and the court.

All objections must be submitted no later than the Objection/Exclusion Deadline Date of [REDACTED], 2022. If the Settlement Class Member satisfies the requirements to object to the Settlement, he or she may opt to appear at the Final Approval Hearing *pro se* or through his or her own attorney. Where the Settlement Class Member opts to appear through his or her own attorney, he or she is responsible for hiring and paying that attorney. If the Settlement Class Member does not timely submit a written objection to the Settlement Administrator, the Settlement Class Member may appear (or their representative may appear on their behalf) at the Final Approval Hearing to present to the Court oral objections or concerns with the Settlement, so long as the Settlement Class Member provides written notice, which may be by email, to Class Counsel, Defense Counsel, and the Court no later than seven days prior to the date of the Final Approval Hearing of their intent to appear at the Final Approval Hearing.

The Parties will be permitted to respond in writing to such objections prior to the Final Approval hearing. Absent good cause found by the Court, Settlement Class Members who fail to file and serve timely written objections in the manner specified above shall remain Settlement Class Members and shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

**COUNSEL FOR THE PARTIES MAY BE CONTACTED AT THE ADDRESSES
BELOW:**

DEFENSE COUNSEL

SHEPPARD MULLIN RICHTER & HAMPTON

Paul Cowie

Luis Arias

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larias@sheppardmullin.com

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Telephone: (253)212-7913

ARE THERE MORE DETAILS AVAILABLE?

This notice summarizes the proposed Settlement Agreement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, which is available at www.■■■■■.com. You may obtain a copy of the Settlement Agreement by contacting Class Counsel at the addresses above. The pleadings and other records in this litigation may be examined online on the Marin County Superior Court's website, known as 'Marin County Superior Court Register of Actions,' at <https://apps.marincounty.org/BeaconRoa/BeaconROASearch.aspx>. After arriving at the website, enter "CIV" as the case type and ■■■■■ as the case number and click 'SEARCH.' The documents filed in the case may be viewed through the 'Marin County Superior Court Register of Actions.' You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

For any additional inquiries concerning this case, you may also contact the Claims Administrator, the ■■■■■, at ■■■■■.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE
TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

EXHIBIT 3

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

EKATERINA NETSVETAYEVA AND
VALERIE BUTLER, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

AUTODESK, INC., a California corporation; and
DOES 1-50, inclusive,

Defendant.

Case No.

**[PROPOSED] ORDER CONDITIONALLY
CERTIFYING A CLASS FOR SETTLEMENT
PURPOSES AND PRELIMINARILY
APPROVING CLASS SETTLEMENT**

1 The motion by Plaintiffs Ekaterina Netsvetayeva and Valerie Butler (“Named Plaintiffs”)
2 to conditionally certify a class for settlement purposes only and to preliminarily approve a class
3 settlement under California Code of Civil Procedure 382 was heard on _____, 2022 in
4 Department ____ of the above captioned Court, the Honorable _____presiding. Defendant
5 Autodesk, Inc. did not oppose Named Plaintiffs’ motion. Having considered the papers and
6 arguments of counsel, and good cause appearing, the Court hereby ORDERS as follows:

7 1. The Court preliminarily approves the Settlement as set forth in the Settlement
8 Agreement as being fair, reasonable, and adequate.

9 2. This Order incorporates by reference all definitions in the parties’ Settlement
10 Agreement of Class Action and Private Attorneys General Act Claims (“Settlement” or
11 “Settlement Agreement”) in the action entitled *Ekaterina Netsvetayeva and Valerie Butler v.*
12 *Autodesk, Inc.*, Case No. _____ (the “Lawsuit”) and all terms used herein shall have the same
13 meanings as set forth in the Settlement Agreement.

14 3. The Court finds the requirements of Code of Civil Procedure 382 are satisfied for
15 purposes of settlement and conditionally certifies the following class for settlement purposes:

16 All persons employed by Autodesk, Inc. in California who were
17 subject to stay-at-home orders and/or whose offices were closed due
18 to COVID-19 for at least one pay period during the period from
19 March 17, 2020 through March 5, 2022 and did not receive a fully
20 paid wireless internet device for work purposes.

21 4. The Court finds Craig Ackermann and Avi Kreitenberg of Ackermann & Tilajef,
22 P.C., and India Lin Bodien of India Lin Bodien, to be capable of adequately representing the
23 conditionally certified Settlement Class and are hereby appointed as joint Class Counsel.

24 5. The Court approves CPT Group, Inc. as the Settlement Administrator to perform
25 those duties and responsibilities as set forth in the Settlement Agreement, and such further duties
26 as may be required to effectuate the Settlement.

27 6. The Court approves, as to form and content, the Notice of Proposed Settlement of
28 Class Action attached to the Settlement Agreement as Exhibit 2.

1 7. The Court finds that the mailing of the Notice of Proposed Settlement of Class
2 Action and methods for contacting and locating the Settlement Class described in the Settlement
3 Agreement constitutes the best notice practicable under the circumstances, constitutes valid and
4 sufficient notice to all employees in the Settlement Class, and conforms with the requirements of
5 California Code of Civil Procedure 382, California Rules of Court 3.766 and 3.769, and due
6 process.

7 8. Within 30 days from the date of entry of this order, Defendant shall provide the
8 Settlement Administrator with an “Employee List” showing employees’ names, last known
9 mailing address, telephone number, Social Security number, date of birth, and dates of
10 employment during the Settlement Class Period and PAGA Period. Defendant shall provide the
11 Employee List in an electronic format to the Settlement Administrator. The Settlement
12 Administrator shall keep the Employee List confidential, except as to disclose to Class Counsel
13 the number of pay periods between March 17, 2020 and March 5, 2022, and will use it only for the
14 purposes described herein.

15 9. Within 15 days after receipt of the Employee List, the Settlement Administrator
16 shall disclose to Class Counsel the total number of pay periods worked by the Settlement Class
17 between March 17, 2020 and March 5, 2022.

18 10. Within 21 days after receipt of the Employee List, the Settlement Administrator
19 shall mail the Notice of Proposed Settlement of Class Action to the Settlement Class via first-class
20 regular U.S. mail and follow the procedures set forth in the Settlement Agreement. Settlement
21 Class individuals who wish to object to the class settlement, but not the PAGA settlement, must
22 submit a written statement objecting to the Settlement to the Settlement Administrator no later
23 than forty-five (45) days after the date the Class Notice is first mailed (the “Objection/Exclusion
24 Deadline Date”). Settlement Class individuals who do not timely submit a written objection to the
25 Settlement Administrator may appear (or their representative may appear on their behalf) at the
26 Final Approval Hearing to present to the Court oral objections or concerns with the Settlement, so
27 long as the Employee provides written notice, which may be by email, to Class Counsel, Defense
28 Counsel, and the Court no later than seven days prior to the date of the Final Approval Hearing of

1 their intent to appear at the Final Approval Hearing and to object. The Parties will be permitted to
2 respond in writing to such objections prior to the Final Approval hearing and also to make oral
3 argument in opposition at the hearing. Settlement Class individuals who fail to file and serve
4 timely written objections in the manner specified above shall remain Settlement Class Members
5 and shall be deemed to have waived any objections and shall be foreclosed from making any
6 objection (whether by appeal or otherwise) to the Settlement.

7 11. Settlement Class individuals who wish to exclude themselves from the Settlement
8 Class must submit a signed, written statement requesting exclusion from the Settlement Class on
9 or before the Objection/Exclusion Deadline Date. The request for exclusion must state in
10 substance:

11 "I have read the Class Notice and I wish to opt out of the Settlement
12 Class in *Ekaterina Netsvetayeva and Valerie Butler v. Autodesk,*
13 *Inc.*, Case No. [REDACTED]. I understand that by requesting to be excluded
14 from the Settlement Class, I will not receive a Class Member
15 Payment. I also understand that I will still receive a PAGA Payment
16 for my share of the PAGA Settlement, if I am entitled to such
17 payment, because I cannot object or exclude myself from the PAGA
18 Settlement."

19 12. A written request for exclusion must contain the name, address, telephone number
20 and last four digits of the Social Security number of the person requesting exclusion and the years
21 of their employment by Defendant, must be returned by mail to the Settlement Administrator at a
22 specified address, must be signed by the Settlement Class individual, and must be postmarked on
23 or before the Objection/Exclusion Deadline Date. The date of the postmark on the return mailing
24 envelope shall be the exclusive means used to determine whether a request for exclusion has been
25 timely submitted. Any Employee who requests exclusion from the Class Settlement will not be
26 entitled to any recovery under the Class Settlement and will not be bound by the Class Settlement
27 or have any right to object, appeal or comment in Court on the Settlement. Settlement Class
28 individuals who fail to submit a valid and timely request for exclusion on or before the

1 Objection/Exclusion Deadline Date shall be Settlement Class Members and shall be bound by all
2 terms of the Class Settlement and any Final Judgment entered in the Lawsuit if the Settlement is
3 finally approved by the Court. However, Settlement Class individuals cannot opt out of the
4 PAGA Settlement and release of the PAGA claims set forth in the Settlement Agreement.

5 13. A Final Approval hearing shall be held on _____, 2022 at
6 ____: ____ .m. before the Honorable _____ in Department ____, _____. At the
7 Final Approval hearing, the Court will determine whether the Settlement should be finally
8 approved as fair, reasonable and adequate, and whether the terms of this Preliminary Approval
9 Order and any other applicable legal prerequisites to Judgment are satisfied. The Court will also
10 determine the amount properly payable for (i) the Fees Award and Costs Award, (ii) Named
11 Plaintiff Enhancement Payments, (iii) the Settlement Administration Costs, (iv) Class Member
12 Payments; and (v) the PAGA Payments.

13 14. Named Plaintiffs shall file a motion for Final Approval no later than sixteen court
14 days prior to the Final Approval hearing.

15 15. The Parties and Settlement Administrator are directed to add the date and time of
16 the Final Approval hearing, the deadline to request exclusion from or object to the Settlement and
17 information as applicable to the approved Notice of Proposed Settlement of Class Action.

18 IT IS SO ORDERED

19
20 Dated: __, _____, 2022

21 _____
22 Honorable _____
23 Judge of the Superior Court
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EXHIBIT 4

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

EKATERINA NETSVETAYEVA AND
VALERIE BUTLER, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

AUTODESK, INC., a California corporation; and
DOES 1-50, inclusive,

Defendant.

Case No.

[PROPOSED] FINAL JUDGMENT

1 Plaintiffs Ekaterina Netsvetayeva and Valerie Butler (“Named Plaintiffs”) motion for final
2 approval of the parties’ Settlement Agreement of Class Action and Private Attorneys General Act
3 Claims (“Settlement” or “Settlement Agreement”) in the action entitled *Ekaterina Netsvetayeva*
4 *and Valerie Butler v. Autodesk, Inc.*, Case No. _____ (the “Lawsuit”) under California Code of
5 Civil Procedure 382 was heard on _____, 2022 in Department _____ of the above captioned
6 Court, the Honorable _____ presiding. Defendant Autodesk, Inc. did not oppose Named
7 Plaintiffs’ motion. Having considered the papers and arguments of counsel, and good cause
8 appearing, it is hereby ORDERED, ADJUDGED, AND DECREED:

10 1. This Judgment incorporates by reference all definitions in the parties’ Settlement
11 Agreement and all terms used herein shall have the same meanings as set forth in the Settlement
12 Agreement.
13

14 2. The Court finds that the Parties have complied with the terms of the Preliminary
15 Approval Order entered on _____, 2022.

16 3. Notice of the Proposed Settlement of Class Action was provided to the Settlement
17 Class, as set forth in the Settlement Agreement. The form and manner of notice were approved by
18 the Court in its Preliminary Approval Order, and the notice process has been completed in
19 conformity with the Court’s Order. The Court finds that said notice was the best notice
20 practicable under the circumstances and fully satisfied the requirements of California Code of
21 Civil Procedure 382, California Rules of Court 3.766 and 3.769, and due process.
22

23 4. The Court has considered all timely filed written objections and oral objections, if
24 any, presented at the Final Approval hearing. To the extent there were any such objections, the
25 Court overrules these objections and finds that the Settlement is fair, reasonable, and adequate.
26

27 5. The Court finds that the Fees Award to Class Counsel in the amount of
28 \$158,333.33. set forth in the Settlement Agreement is fair, reasonable and adequate to the

1 Settlement Class, Settlement Class Members, and PAGA Aggrieved Employees and is therefore
2 approved.

3 6. The Court finds that the Costs Award to Class Counsel in the amount of
4 \$ _____ is fair, reasonable, and adequate, and is therefore approved.
5

6 7. The Court finds that the Named Plaintiffs Enhancement Payments in the amounts
7 of \$5,000 for Ekaterina Netsvetayeva and \$7,500 for Valerie Butler, for a total of \$12,500, as set
8 forth in the Settlement Agreement, are fair, reasonable, and adequate, and are therefore approved.

9 8. The Court finds that the Settlement Administration Costs in the amount of \$18,500
10 are fair, reasonable, and adequate, and is therefore approved.

11 9. The Court finds that the PAGA Payment in the amount of \$47,500, of which
12 \$35,625 will be paid to the California Labor Workforce and Development Agency and \$ 11,875
13 will be paid to the PAGA Aggrieved Employees, as set forth in the Settlement Agreement, is fair,
14 reasonable, and adequate, and satisfies the requirements of Cal. Labor Code §§ 2698, *et seq.*
15

16 10. Defendant and the Settlement Administrator are directed to fund and distribute the
17 Gross Settlement Amount in accordance with the terms of the Settlement Agreement.

18 11. By operation of this Judgment, the Settlement Class Members, other than
19 Settlement Class individuals who timely requested exclusion from the Settlement Class as defined
20 in the Settlement Agreement, have released the Released Parties from any and all class claims
21 released in the Settlement Agreement, which include any and all claims the Settlement Class
22 Members may have against Defendant and/or the Released Parties that arise out of or arise in
23 connection with the claims and facts alleged in the Lawsuit, and any claims which could have
24 been asserted in the Lawsuit arising from the alleged facts and/or primary rights alleged to have
25 been invaded to the fullest extent permitted by law.
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1 12. By operation of this Judgment, the PAGA Aggrieved Employees and the State of
2 California have released the Released Parties from any and all claims under the California Private
3 Attorneys General Act, Cal. Lab. Code §§ 2698, *et seq.* that were released in the Settlement
4 Agreement, which includes any and all claims that the PAGA Aggrieved Employees or the State
5 of California may have against Defendant and/or the Released Parties that arise out of or arise in
6 connection with the claims and facts alleged in the Lawsuit, and any claims which could have
7 been asserted in the Lawsuit arising from the alleged facts and/or primary rights alleged to have
8 been invaded to the fullest extent permitted by law.

10 13. This Order and Judgment binds: (1) all Settlement Class Members, except those
11 who timely requested exclusion; and (2) with respect to PAGA claims, the State of California and
12 all PAGA Aggrieved Employees.

14 14. Without affecting the finality of Judgment in any way, the Court retains jurisdiction
15 of all matters relating to the interpretation, administration, implementation, effectuation, and
16 enforcement of this Judgment and the Settlement Agreement.

17 15. Neither Defendant nor any Released Party shall have any further liability for costs,
18 expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as provided
19 for by the Settlement Agreement.

21 16. Neither the making of, nor the entry into, the Settlement Agreement is an admission
22 by Defendant, nor is this Judgment a finding of validity of any claim in the Lawsuit or of any
23 wrongdoing. The Settlement Agreement is not a concession, and shall not be used as an
24 admission of wrongdoing or fault. Carrying out the terms of the Settlement Agreement may not
25 be construed as an admission or concession by or against Defendant or any related person or
26 entity, including any of the Released Parties.

17. Nothing in this Judgment shall preclude any action to enforce the Parties' obligations under the Settlement Agreement or under this Judgment, including the requirement that Defendant fund payments in accordance with the Settlement Agreement.

18. The Parties will bear their own costs and attorneys' fees except as otherwise provided by this Judgment awarding Class Counsel's attorneys' fees and litigation costs.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: ____, _____, 2022

Honorable _____
Judge of the Superior Court