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9 *Attorneys for Plaintiffs and the Putative Classes*

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

13 **ADAM FLIGSTEN and JONATHAN WANG,**
14 individually and on behalf of all others similarly
situated,

15 Plaintiffs,

16 vs.

17
18 **MUSICIANS INSTITUTE, INC.,** a California
19 Corporation,

20 Defendant.
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CASE NO. 21STCV38365

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: September 1, 2023
Time: 11:00 a.m.
Dept. 6

1 This matter is before the Court on Plaintiffs' Motion for Preliminary Approval of Class Action
2 Settlement based on a Settlement Agreement in the above-titled case, which is attached hereto as **Exhibit**
3 **1**. The motion, having been fully considered by the Court, and it appearing to the Court, upon preliminary
4 examination, that the Settlement set forth herein is within the range of reasonableness, and that a hearing
5 should and will be held after notice to the Class to confirm that the Settlement Agreement is fair,
6 adequate, and reasonable, and to determine whether a judgment should be entered in this action thereon,

IT IS HEREBY ORDERED THAT:

7 1. This Order hereby incorporates by reference the definitions in the Settlement Agreement,
8 and all terms used herein shall have the same meaning as set forth in the Settlement Agreement.

9 2. For purposes of settlement, the Court preliminarily approves the Settlement Agreement
10 and finds that it is within the range of reasonableness as to the Settlement Class and Defendant, and is
11 the product of good faith, arm's length negotiations between the Parties.

12 3. The Court certifies, for the purposes of this Settlement, provisional classes defined as: (1)
13 All instructors employed by Defendant Musicians Institute in California during the period from October
14 19, 2017 ("Class Period"), through the date this Court grants preliminary approval ("Class Members");
15 and (2) All current or former employees of Defendant in California other than Class Members who were
16 required to work remotely during the Class Period ("Reimbursement Class Members"). The two classes
17 and their members are referred to herein, collectively, as "Classes" or "Class Members."

18 4. The Court's conditional certification of a class for settlement purposes only is not deemed
19 a concession or admission by Defendant. If the settlement is not finally approved, Defendant retains all
20 rights to assert the action should not be certified as a class, and the Settlement and all actions taken to
21 effectuate it shall be vacated and not offered, received or construed as evidence for any purpose.

22 5. The Court finds that for the purposes of settlement, Plaintiffs have established in the
23 moving papers and supporting declarations the requirements for certification of a provisional settlement
24 class pursuant to California Rules of Court, Rule 3.769(d).

25 6. The Court appoints and designates ILYM, Inc. as Settlement Administrator. The Court
26 further preliminarily approves the payment of the settlement administration costs as provided in the
27 Settlement Agreement.

28 7. The Court appoints and designates Plaintiffs as the Class Representatives, and
HammondLaw, P.C. as Class Counsel.

8. The Court preliminarily approves the settlement of PAGA claims as set forth in the
Settlement Agreement as reasonable.

1 9. The Court preliminarily approves the Gross Settlement Amount and payment from the
2 Gross Settlement Amount of the Service Awards to Plaintiffs, payment of attorneys' fees and costs to
3 Class Counsel, payment to the LWDA, and payment of the Net Settlement Amount to the settlement
4 Class Members, as set forth in the Settlement Agreement. Final approval of those awards will be
5 determined following the class notice process and Plaintiffs' submission of final approval papers.

6 10. The Court approves the Class Notice in the form of **Exhibit A** to the Settlement
7 Agreement ("Class Notice"), and finds that the Class Notice, the method of disseminating the Class
8 Notice, including the deadlines for doing so as set forth in paragraph 11 of this Order (and in the
9 Settlement Agreement), meets the requirements of due process, is the best notice practicable under the
circumstances, and shall constitute valid, due and sufficient notice to all persons entitled thereto.

10 11. Notice shall be provided to members of the Class Members in the following manner:
11 Within fifteen (15) days of entry of this Order, Defendant shall provide the Class Data List to the
12 Settlement Administrator. Within fourteen (14) days of entry of the Class list, the Settlement
Administrator will send the Class Notice to the Classes by first class mail.

13 12. Class Members will have forty-five (45) calendar days from the date of the first mailing
14 to submit requests for exclusion or objections (extended for 14 calendar days for those individuals for
15 whom re-mailing is required) (the "Response Deadline"). Unless a Class Member submits a valid and
16 timely Request for Exclusion as provided in the Settlement Agreement, he or she will automatically
17 become a Settlement Class Member. All exclusions and objections must be mailed to the Settlement
18 Administrator and postmarked no later than the Response Deadline. Counsel for the Parties shall file
any responses to any objections at the time the Motion for Final Approval is filed.

19 13. If any Class Member timely disputes the calculation of the settlement allocation listed on
20 his or her Class Notice, the dispute will be submitted to the Settlement Administrator, who will examine
21 the records, address the dispute with Defendant if needed, and either verify the calculation or provide a
22 corrected calculation. Disputes must be in writing and submitted to the Settlement Administrator,
23 postmarked on or before the Response Deadline. The Settlement Administrator's determination of
disputes will be final and non-appealable.

24 14. The Court approves the procedure for Settlement Class Members to participate in, to opt
25 out of, and to object to, the Settlement as set forth in the Notice and finds that those procedures are in
26 accord with the due process rights of the Settlement Class Members.

27 15. The Final Approval Hearing shall be held on _____, or an alternative
28 date set by the Court, to determine whether the Settlement Agreement is fair, adequate, reasonable, and

1 should be approved. Plaintiffs' Motion for Final Approval and supporting papers, as well as Motion for
2 Approval of Attorneys' Fees, Costs, and Class Representative Service Awards (to be heard on the same
3 day and at the same time as the Final Approval Hearing), shall be filed and served at least 16 court days
4 before the hearing. The Court reserves the right to continue the date of the Final Approval Hearing and
5 all dates provided for in the Settlement Agreement without further notice to Class Members, and retains
6 jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

7 16. The Court reserves the right to adjourn or continue the date of the Final Approval hearing
8 and all other dates provided for in this Order and the settlement, without further notice to the settlement
9 Class Members and to approve the settlement with modifications, if any, expressly consented to by Class
10 Counsel and Defendant's counsel, without further class notice.

11 **IT IS SO ORDERED.**

12 Date: _____, 2023

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14 _____
15 Hon. Elihu Berle
16 Judge of the Superior Court
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EXHIBIT 1

1 JULIAN HAMMOND (SBN 268489)
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10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

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13 **ADAM FLIGSTEN and JONATHAN**
14 **WANG**, individually and on behalf of all others
similarly situated,

15 Plaintiffs,

16 vs.

17 **MUSICIAN’S INSTITUTE, INC.**, a California
18 Corporation,

19 Defendant.
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CASE NO. 21STCV38365

**CLASS ACTION SETTLEMENT
AGREEMENT**

1 This Class Action Settlement Agreement (“Settlement Agreement”) is made and entered into
2 between Plaintiff Adam Fligsten and Plaintiff Jonathan Wang (“Plaintiffs” or “Class Representatives”) on
3 the one hand, individually and on behalf of the Classes (as defined below), by and through HammondLaw,
4 P.C. (“Class Counsel”), and Defendant Musician’s Institute, Inc. (“Defendant”) on the other hand, subject
5 to the approval of the Court, as provided below.

6 **1. Definitions.**

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

9 **1.1** “Action” refers to the civil action entitled: *Adam Fligsten, et al. v. Musicians Institute, Inc.*
10 Case No. 21STCV38365, in the Superior Court of California, County of Los Angeles, alleging claims
11 under the California Labor Code, California Wage Orders, and the California Private Attorneys General
12 Act (“PAGA”).

13 **1.2** “Aggrieved Employee” means all current or former employees of Defendant in California
14 other than Instructor Aggrieved Employees who were required to work from home during the PAGA
15 Period.

16 **1.3** “Class Counsel” refers to HammondLaw, P.C., the attorneys of record for the Class
17 Representatives.

18 **1.4** “Class Member” refers to all instructors employed by Defendant in California during the
19 Class Period.

20 **1.5** “Class Period” means October 19, 2017, through the date of the Preliminary Approval Order.

21 **1.6** “Class Notice” refers to the direct-mail notice substantially in the form attached as “**Exhibit**
22 **A**”.

23 **1.7** “Complaint” refers to the operative First Amended Complaint in this Action.

24 **1.8** “Effective Date” refers to the date on which the Defendant transmits the final installation of
25 the Gross Settlement Amount to the Settlement Administrator.

26 **1.9** “Enhancement Award” refers to monetary awards not to exceed Seven Thousand Five
27 Hundred Dollars (\$7,500) to each Plaintiff, for a total of Fifteen Thousand Dollars (\$15,000.00).
28

1 **1.10** “Final Approval Hearing” refers to the hearing at which the Court will make a final
2 determination whether the terms of the Settlement are fair, reasonable, and adequate for the Class and
3 meet all applicable requirements for approval.

4 **1.11** “Final Approval Order” refers to the final order by the Court approving the Settlement
5 following the Final Approval Hearing and entering final judgment.

6 **1.12** “Instructor Aggrieved Employees” means all instructors employed by Defendant in
7 California during the PAGA Period.

8 **1.13** “Gross Settlement Amount” (also referred to herein as “GSA”) refers to the maximum
9 settlement payment of Nine Hundred Thousand Dollars (\$900,000) Defendant will be obligated to make,
10 except that Defendant shall bear, in addition, all employer-side payroll tax payments due and payable as
11 a result of this Settlement.

12 **1.14** “Net Settlement Amount” (also referred to herein as “NSA”) is the GSA minus Court-
13 approved attorneys’ fees and litigation costs, Settlement Administration Costs, Enhancement Awards, and
14 the California Labor Workforce Development Agency’s (“LWDA”) share of the amount of the GSA
15 allocated to PAGA Penalties. The NSA is the maximum amount that will be available for distribution to
16 Settlement Class Members.

17 **1.15** “Parties” are Plaintiffs and Defendant.

18 **1.16** “PAGA Notices” means Plaintiff Fligsten’s September 1, 2021, PAGA Notice and
19 November 3, 2021, Amended PAGA Notice to Defendant and the LWDA providing notice pursuant to
20 Labor Code § 2699.

21 **1.17** “PAGA Period” means the period from September 1, 2020, to the date of the Preliminary
22 Approval Order.

23 **1.18** “Preliminary Approval Order” refers to the order by the Court preliminarily approving the
24 Settlement following the Preliminary Approval Hearing.

25 **1.19** “Reimbursement Class Member” refers to all current or former employees of Defendant in
26 California other than Class Members who were required to work remotely during the Class Period.

27 **1.20** “Released Parties” include Defendant and all of its former and present non-Class Member
28 and non-Reimbursement Class Member employees, shareholders, officers, directors, managers, agents,

1 attorneys, insurance carriers, parents, subsidiaries, divisions, partnerships, or affiliated organizations,
2 entities, partnerships, or corporations whether previously or hereafter affiliated in any manner, and the
3 respective predecessors, successors and assigns of all of the foregoing.

4 **1.21** “Request for Exclusion” refers to a request to be excluded from the Settlement, mailed to
5 the Administrator and postmarked on or before the Response Deadline.

6 **1.22** “Response Deadline” is 45 days calendar days after the date that the Class Notice is mailed
7 to Class Members.

8 **1.23** “Settlement Administrator” refers to ILYM, Inc., the third-party administrator mutually
9 selected by the parties.

10 **1.24** “Settlement Administration Costs” refers to the cost of Settlement Administration not
11 expected to exceed Twenty Thousand Dollars (\$20,000).

12 **1.25** “Settlement Class Member” refers to Class Members and Reimbursement Class Members
13 who do not request exclusion from the Settlement.

14 **1.26** “Settlement Payment” refers to the amount paid to each Settlement Class Member.

15 **2. Procedural History and Recitals.**

16 On October 19, 2021, Plaintiffs filed a class action complaint alleging five causes of action: (i)
17 failure to pay for all hours worked in violation of Labor Code § 1194 and applicable Wage Orders (ii)
18 failure to authorize and permit paid rest periods, and failure to pay missed rest period premiums, in
19 violation of Labor Code §§ 226.7 and applicable Wage Orders; (iii) failure to issue accurate itemized wage
20 statements in violation of Labor Code §§ 226 and applicable Wage Orders; (vi) failure to reimburse
21 business-related expenses under Labor Code § 2802 and (v) unfair, unlawful, and/or fraudulent business
22 practices under Cal. Bus. & Prof. Code § 17200, *et seq.* On November 5, 2021 Plaintiffs filed their First
23 Amended Complaint adding a cause of action for (vi) civil penalties under PAGA. On July 27, 2023,
24 Plaintiff filed a Second Amended Complaint adding claims for (vii) failure to pay overtime in violation
25 of Labor Code § 510, and applicable Wage Orders; (viii) failure to provide meal breaks, and failure to pay
26 missed meal period premiums, in violation of Labor Code §§ 226.7, 512, and applicable Wage Orders;
27 (ix) failure to pay all wages due and owing upon discharge in violation of Labor Code §§ 201-203; and,
28

(x) failure to pay for all hours worked and failure to pay overtime in violation of the Federal Labor Standards Act ("FLSA").

2.1 This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that, but for the Settlement, a Class should be certified in the Action. This Settlement and Plaintiffs' and Defendant's willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement). Notwithstanding, in the interest of avoiding further litigation, the Parties desire to fully and finally settle the Action and Released Claims.

2.2 As set forth above, without admitting any wrongdoing or liability, the Parties are willing to agree to the terms of the Settlement in order to settle, compromise, and fully resolve the Action and Released Claims, as defined below.

3. Limitation on Effect of Settlement.

The Parties agree that certification of a class is appropriate for settlement purposes only. In the event that the Settlement is not finally approved, or the Settlement is otherwise terminated, and any class and representative action, which were certified for settlement purposes only, shall be vacated, and shall be of no force or effect whatsoever and shall not be admissible nor construed as an admission or concession of any kind by the Parties, in whole or part, and Defendant expressly reserves all rights to challenge certification of a class on all available grounds.

4. Establishment of the GSA.

Defendant shall fund the GSA as follows: By September 30, 2023, Defendant has the option to transmit 1/3 of the GSA to the Settlement Administrator, but does not need to do so. By January 15, 2024, Defendant shall transmit 1/3 of the GSA to the Settlement Administrator, or alternatively shall transmit the remainder of the GSA due. By April 15, 2024, Defendant shall fund the entirety of the GSA to the

1 Settlement Administrator, in addition to an amount equal to employer side payroll taxes due on the wage
2 component of the NSA. This Settlement is non-reversionary and under no circumstances will any part of
3 the GSA revert to Defendant.

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

5 Class Counsel shall request attorneys' fees of up to 35% of the GSA; and up to \$25,000 for
6 reimbursement of litigation costs. Defendant agrees to not oppose Class Counsel's request for attorneys'
7 fees and costs in these amounts. Any unapproved amounts will be added to the NSA and be distributed to
8 the Settlement Class Members.

9 **6. Enhancement Award.**

10 Class Counsel shall request an Enhancement Award of up to Seven Thousand Five Hundred
11 Dollars (\$7,500) for each Plaintiff for a total of Fifteen Thousand Dollars (\$15,000.00). Any unapproved
12 amounts will be added to the NSA and be distributed to the Settlement Class Members.

13 **7. PAGA Penalties**

14 Subject to Court approval, \$30,000 shall be attributed to Plaintiff Fligsten's claims under PAGA.
15 The Settlement Administrator shall apportion and distribute payment as follows: (a) \$22,500 shall be paid
16 to the LWDA as its 75% share of the settlement of civil penalties for PAGA claims; and (b) \$7,500 shall
17 be added to the NSA and distributed equally to the Aggrieved Employees and Instructor Aggrieved
18 Employees.

19 **8. Costs of Settlement Administration.**

20 The Parties have mutually agreed to the selection of ILYM, Inc. ("Settlement Administrator"), to
21 undertake the administration of the Settlement in this Action. The Parties estimate that the costs and
22 expenses of administration of the settlement will not exceed \$20,000.

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

24 **9.1.1** 95% of the NSA (excluding the \$7,500 from PAGA Penalties to be distributed to Aggrieved
25 Employees and Instructor Aggrieved Employees) shall be allocated to the Class Member(s). This portion
26 of the NSA shall be divided among the Class Members pro rata based on the number of pay periods
27 worked as a Class Member during the Class Period. The pay periods will be weighted as follows: The pay
28 periods worked by a Class Member who submitted a claim in, and received payment for those pay periods

1 from the settlement in *Tagliarino v. Musician's Institute, Inc.*, Judicate West Case No. A268536-46, will
2 be subject to a 0.05 multiplier (i.e., those pay periods will be reduced by 95%). Any pay periods worked
3 after December 29, 2020, and any pay periods prior to December 29, 2020, worked by a Class Member
4 who did not submit a claim or receive payment in the *Tagliarino* settlement, will not be subject to any
5 multiplier.

6 **9.2** 5% of the NSA (excluding the \$7,500 from PAGA Penalties to be distributed to Aggrieved
7 Employees and Instructor Aggrieved Employees) shall be allocated to the Reimbursement Class. This
8 portion of the NSA shall be divided among Reimbursement Class Members *pro rata* based on the number
9 of pay periods worked as a Reimbursement Class Member during the Class Period.

10 **9.3** The 25% of the PAGA Penalties to be added to the NSA (\$7,500) shall be paid in equal
11 amounts to Aggrieved Employees and Instructor Aggrieved Employees who worked during the PAGA
12 Period. Each Aggrieved Employee and Instructor Aggrieved Employee will receive the same amount.

13 **9.3.1** If a Class Member or Reimbursement Class Member timely and validly submits a Request
14 for Exclusion, as set forth herein, their share will return to the NSA and will be distributed to the remaining
15 Settlement Class Members on a pro rata basis, except Class Members or Reimbursement Class Members
16 who opt out will still receive their PAGA Payment share and will release the Released PAGA Claims.

17 **9.3.2** 1/3 of each payment made to Class Members will be allocated as wages and reported on an
18 IRS Form W-2; and the remaining 2/3 of each Class Member Settlement Payment will be allocated as
19 penalties and interest and reported on an IRS Form 1099.

20 **9.3.3** 100% of each payment made to Reimbursement Class Members shall be allocated as non-
21 wage payments and reported on an IRS Form 1099.

22 **9.3.4** 100% of the PAGA payments made to Aggrieved Employees and Instructor Aggrieved
23 Employees shall be allocated as penalties and reported on an IRS Form 1099.

24 **9.4** Payments to Class Members and Reimbursement Class Members pursuant to this Settlement
25 Agreement will not be construed as compensation for purposes of determining eligibility for or benefit
26 calculations of any health and welfare benefit plan, retirement benefit plan, vacation benefit plan,
27 unemployment compensation, including, without limitation, all plans, subject to Employee Retirement
28 Income Security Act ("ERISA").

1 **9.5** Neither Plaintiffs nor Defendant shall bear any liability for lost or stolen checks, forged
2 signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of
3 omission or commission, the same is true for the Settlement Administrator.

4 **10. Notice Administration.**

5 **10.1.1** Within ten business days of the order granting preliminary approval of the Settlement
6 (“Preliminary Approval Order”) Defendant shall provide the Settlement Administrator with the following
7 information (“Class Data List”):

- 8 (a) the names, employment identification number, last known addresses, last known telephone
9 numbers, and Social Security numbers of each Class Member and Reimbursement Class Member;
10 (b) dates of employment for each Class Member and Reimbursement Class Member; and
11 (c) the number of pay periods worked by each Class Member and Reimbursement Class Member
12 during the Class Period.

13 **10.1.2** Upon its receipt of the Class Data List, the Settlement Administrator shall access the
14 National Change of Address (“NCOA”) Database, and update the addresses contained therein.

15 **10.1.3** Within thirty business days of the Preliminary Approval Order, the Settlement
16 Administrator shall provide the Class Notice by bulk first class mail, forwarding requested, to the Class
17 Members and Reimbursement Class Members at the addresses identified through the process described
18 above.

19 **10.1.4** As to any Class Notices that are returned as undeliverable, or where the NCOA
20 Database indicates that the last known address of any Class Member or Reimbursement Class Member is
21 invalid or otherwise undeliverable, the Settlement Administrator will perform a skip trace procedure and
22 re-mail all returned, undelivered mail within five calendar days of the date on which the Settlement
23 Administrator is informed that a Class Notice is undeliverable or otherwise invalid. Such Class Members
24 and Reimbursement Class Members whose Class Notice is undeliverable, and is re-mailed, will have an
25 additional 14 calendar days beyond the Response Deadline to respond to the re-mailed Class Notice.

26 **11. Request for Exclusion.**

27 **11.1** Any Class Member and Reimbursement Class Member may elect to opt out of the Settlement
28 by submitting a written Request for Exclusion to the Settlement Administrator, postmarked no later than

1 the Response Deadline. The Request for Exclusion must contain the following: full name, signature,
2 address and last four digits of their social security number; and a clear statement that he or she seeks to be
3 excluded from the Settlement. The Settlement Administrator shall immediately send all Requests for
4 Exclusion to Defendant's counsel and Class Counsel. A Class Member or Reimbursement Class Member
5 who fails to comply with the opt out procedures set forth herein on or before the Response Deadline will
6 not be excluded and will instead be bound by all provisions of the Settlement Agreement and all orders
7 issued pursuant thereto.

8 **11.2** Any Class Member or Reimbursement Class Member who elects to opt out of the Settlement
9 in the manner and within the time limits specified above (1) will not have any rights under the Settlement
10 Agreement; (2) will not be entitled to receive any compensation under the Settlement Agreement other
11 than their share of PAGA Penalties; (3) will not have standing to submit any objection to the Settlement
12 Agreement; and (4) will not be bound by the Settlement Agreement other than the PAGA Released Claims.

13 **11.3 Tolerance of Opt Outs.** Defendant will retain the right, in the exercise of its sole discretion,
14 to nullify the Settlement within 10 business days after expiration of the Response Deadline if 3.5% or
15 more of the Class Members request exclusion from the Class. Defendant will retain the right, in the
16 exercise of its sole discretion, to nullify the Settlement within 10 business days after expiration of the
17 Response Deadline if 5% or more of the Reimbursement Class Members request exclusion from the
18 Reimbursement Class. If Defendant decides to void the Settlement, then the Settlement shall be considered
19 null and void, and all parties to this Settlement shall stand in the same position, without prejudice, as if
20 the Settlement had been neither entered into nor filed with the Court. If Defendant exercises the right to
21 nullify the Settlement, then Defendant shall not be obligated to pay the GSA, but Defendant shall pay the
22 Settlement Administration Costs incurred up to the date the Settlement is nullified.

23 **12. Objections.**

24 Any Class Member or Reimbursement Class Member who does not request exclusion from the
25 Settlement may object to the Settlement Agreement by sending the Settlement Administrator, not later
26 than the Response Deadline, a written statement objecting to the Settlement. The written objection must
27 contain: full name, address, last four digits of their social security number, the case name and number of
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1 the Action, and a clear statement of the basis for their objection. The Settlement Administrator shall
2 immediately send all objections to counsel for Defendant and Class Counsel.

3 Counsel for the Parties may file any responses to any objections at the time the Motion for Final
4 Approval is filed. Class Members and Reimbursement Class Members may, prior to the Final Approval
5 Hearing, withdraw their objections or opt out requests in a writing to the Settlement Administrator, which
6 may then be filed with the Court.

7 The Parties and their counsel will not seek to solicit or otherwise encourage any Class Member or
8 Reimbursement Class Member to submit an opt out request or objection, nor encourage any Class Member
9 or Reimbursement Class Member to appeal from the final judgment.

10 **13. Resolution of Disputes.**

11 If any Class Member or Reimbursement Class Member timely disputes the number of pay periods
12 listed on their Class Notice or the date(s) of issue, the dispute will be submitted to the Settlement
13 Administrator, who will examine the records and either verify the calculation or provide a corrected
14 calculation. Disputes must be in writing that is submitted to the Settlement Administrator, postmarked on
15 or before the Response Deadline. The dispute must contain: full name, address, signature, and last four
16 digits of their Social Security number; and any facts supporting the dispute, along with any supporting
17 materials confirming that the paychecks attributed to him or her are incorrect. The Settlement
18 Administrator will advise counsel for Defendant of any disputes and Defendant shall have the option of
19 accepting or rejecting the pay period listing in the dispute. If Defendant accepts the pay period listed in
20 the dispute, then the Settlement Administrator shall also accept those pay periods for purposes of resolving
21 the dispute. If Defendant disputes the pay periods listed in the dispute, then the Settlement Administrator
22 shall accept or reject the pay periods listed in the dispute based on information and documents provided
23 by the disputing parties. The Settlement Administrator's determination of disputes will be final and non-
24 appealable.

25 **14. Payment Procedure.**

26 **14.1** Within 10 days of receipt of the final installment of GSA and the employer's-side payroll
27 tax, the Settlement Administrator will distribute, subject to approval by the Court: (a) Settlement
28

1 Payments; (b) attorneys' fees and costs; (c) Settlement Administration Costs; (d) Enhancement Awards;
2 and (e) the LWDA's share of the PAGA Penalties.

3 **14.2 Uncashed Checks:** Settlement Checks that are not cashed within ninety days from the date
4 of issuance by the Settlement Administrator will be voided and the funds will be transmitted by the
5 Settlement Administrator to the California State Controller Office Unclaimed Property Division bearing
6 the identifying information and corresponding settlement payment amounts for the Class Members who
7 failed to cash their checks so that they might later be able to claim these settlement proceeds.

8 **15. No Tax Advice.**

9 The Parties are not giving any tax advice in connection with the settlement or any payments to be
10 made pursuant to this settlement including, but not limited to, within the meaning of United States
11 Treasury Circular 230 (31 CFR part 10, as amended). The Parties do not assume any liability for taxes,
12 fees, costs, or assessments resulting from any Class Members or Reimbursement Class Members failure
13 to timely pay their share of taxes, interest, fees, or penalties owed.

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

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

18 **17. Released Claims**

19 **17.1 Class Member Released Claims:** Upon the Effective Date, in exchange for the
20 consideration set forth herein, each Class Member shall be deemed to have released the Released Parties
21 from any and all claims that are alleged, or could reasonably have been alleged based on the facts and
22 claims asserted in the Complaint on their behalf and arising during the Class Period, including without
23 limitation: (1) all claims for failure to pay overtime wages, (2) failure to pay minimum wage, (3) failure
24 to provide meal periods or compensation in lieu thereof, (4) failure to authorize and permit rest periods or
25 compensation in lieu thereof, (5) failure to reimburse business expenses (including, but not limited to, the
26 use of personal instruments or use of cell phone at work), (6) failure to comply with itemized wage
27 statement provisions, (7) failure to pay wages upon termination of employment, (8) violations of the Fair
28 Labor Standards Act, the California Labor Code, or IWC Wage Orders based on any of the above

1 violations, (9) claims of unfair, unlawful, or fraudulent business practices under the California Business
2 and Professions Code based on any of the above violations, (10) any other claims or penalties under the
3 wage and hour laws pleaded in the Complaint; and (11) all damages, penalties, interest, costs (including
4 attorney's fees) and other amounts recoverable under said claims or causes of action as to the facts and/or
5 legal theories alleged in the Complaint (collectively referred to as the "Released Claims"). The Released
6 Claims include all claims meeting the above definition(s) under any and all applicable statutes, including
7 without limitation the Fair Labor Standards Act, California Labor Code, including but not limited to, §§
8 201, 202, 203, 204, 226, 226.7, 510, 512, 516, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and
9 2802; and California Business & Professions Code § 17200 *et seq.*

10 **17.2 Instructor Aggrieved Employee Released Claims:** Upon the Effective Date, each
11 Instructor Aggrieved Employee shall be deemed to have released the Released Parties from any and all
12 claims for PAGA penalties under Labor Code § 2698, *et seq.*, that were alleged in the Complaint and
13 PAGA Notices on their behalves, and arising during the PAGA Period, including but not limited to, claims
14 under Labor Code §§ 226(a) and 2802.

15 **17.3 Reimbursement Class Member Released Claims:** Upon the Effective Date, in exchange
16 for the consideration set forth herein, each member of the Reimbursement Class shall be deemed to have
17 released the Released Parties from any and all claims that are alleged, or reasonably could have been
18 alleged based on the facts and claims asserted in the Complaint on their behalf and arising during the Class
19 Period, including but not limited to claims under Labor Code § 2802 and the UCL based on the Labor
20 Code § 2802 claim.

21 **17.4 Aggrieved Employee Released Claims:** Upon the Effective Date, each Aggrieved
22 Employee shall be deemed to have released the Released Parties from any and all claims for PAGA
23 penalties that were alleged in the Complaint and PAGA Notices on their behalf, and arising during the
24 PAGA Period, including but not limited to claims under Labor Code § 2802.

25 **17.5 Plaintiffs' General Release:** Upon the Effective Date, Plaintiffs, on their own individual
26 behalves, agree to generally release the Released Parties from any and all causes of action, claims, rights,
27 damages, punitive or statutory damages, penalties, liabilities, expenses, and losses and issues of any kind
28 or nature whatsoever, that they may have had against the Released Parties arising on or before the date

1 Plaintiffs execute this Agreement. Plaintiffs acknowledge that they may have claims that are presently
2 unknown and that the release contained in this Settlement Agreement is intended to and will fully, finally,
3 and forever discharge all claims against the Released Parties, whether now asserted or un-asserted, known
4 or unknown, suspected or unsuspected, which now exist, or heretofore existed or may hereafter exist,
5 which if known, might have affected their decision to enter into this release. The foregoing waiver
6 includes, without limitation, an express waiver, to the fullest extent permitted by law, by Plaintiffs of any
7 and all rights under California Civil Code section 1542, which provides:

8 “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR
9 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
10 THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD
11 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR
12 RELEASED PARTY.”

13 **17.6** The Parties hereto represent, covenant, and warrant that they have not directly or indirectly,
14 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity
15 any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.

16 **17.7** Class Members and Reimbursement Class Members who do not opt out of this Action and
17 who accept payment pursuant to this Settlement Agreement shall, by virtue of such acceptance, agree
18 never to institute any suit, complaint, proceeding, grievance, or action of any kind at law, in equity, or
19 otherwise in any court of the United States, state, or municipality, or administrative agency, or any
20 arbitration or other legal forum, against the Released Parties for any claim included in the Class and
21 Reimbursement Class Released Claims, and, as to Plaintiffs, in their General Release. The Class Members
22 and Reimbursement Class Members also agree that they will not join, participate in, or consent to opt in
23 to any actions alleging that they are similarly situated to any other employee with respect to any such
24 Class and Reimbursement Class Released Claims, or, as to Plaintiffs, their General Release, and that each
25 will elect to opt out of any such actions against Defendant or the Released Parties of which he or she is
26 involuntarily made a member or party. If any of the Class Members or Reimbursement Class Members
27 are joined in any class or collective lawsuits for any Adjunct Class and Reimbursement Class Released
28

Claims, they will receive no further compensation of any kind for such Class and Reimbursement Class Released Claims and, as to Plaintiffs, their General Release.

18. Application for Preliminary Approval Order.

18.1 After the Parties' execution of this Settlement Agreement, Plaintiffs shall file a motion for preliminary approval of the Settlement, requesting a Preliminary Approval Order that contains the following provisions:

18.1.1 preliminarily approving the Settlement Agreement;

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

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

18.1.4 establishing the procedures and the deadline by which Class Members may assert objections to the Settlement, seek exclusion from the Settlement, and/or dispute their Settlement Shares; and

18.1.5 setting a date for the Final Approval Hearing.

19. Final Approval Order and Final Judgment.

19.1 If the Settlement is preliminarily approved by the Court, Plaintiffs shall thereafter request that the Court enter an order granting final approval of the Settlement and judgment based thereon ("Final Approval Order and Judgment"), which includes the following provisions:

19.1.1 confirming certification of the Class for settlement purposes only;

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

19.1.3 finally approving the Settlement Agreement as fair, reasonable and adequate and directing consummation of the Settlement in accordance with its terms and provisions;

19.1.4 directing the Parties to implement the terms of the Settlement Agreement;

19.1.5 releasing and discharging the Released Parties from any and all liability with respect to the Released Claims and Reimbursement Released Claims;

19.1.6 awarding reasonable attorneys' fees and litigation costs to Class Counsel;

1 **19.1.7** awarding Enhancement Awards to Class Representative;

2 **19.1.8** awarding Settlement Administration Costs to the Settlement Administrator as
3 determined by the Court;

4 **19.1.9** approving the allocation of PAGA Penalties to the LWDA;

5 **19.1.10** entering final judgment on the Complaint; and

6 **19.1.11** preserving continuing and exclusive jurisdiction over all matters related to the
7 administration and consummation of the terms of this Settlement and enforcement of the Judgment.

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

9 In the event that the Settlement does not become final, or is negated, then the Settlement
10 Agreement will become null and void and of no force and effect whatsoever, any class and representative
11 action, which were certified for settlement purposes only, shall be vacated, and shall be of no force or
12 effect whatsoever, and all negotiations, proceedings, and statements relating thereto will be without
13 prejudice as to the rights of any and all Parties hereto, none shall be admissible or construed as an
14 admission or concession of any kind by the Parties, in whole or part, and all Parties and their respective
15 predecessors and successors will be deemed to have reverted to their respective positions in the Action as
16 of the date and time immediately prior to the execution of this Settlement Agreement.

17 **21. Escalator Clause.**

18 If the total number of Class Members exceeds 452 by more than 7.5% (i.e., more than 486), then
19 the GSA attributable to the Class Members shall be increased by the same percentage by which the number
20 of Class Members exceeds 452.

21 If the total number of Reimbursement Class Members exceeds 134 by more than 5% (i.e., more
22 than 141), then the GSA attributable to the Reimbursement Class Members shall be increased by the same
23 percentage by which the number of Class Members exceeds 134.

24 **22. No Admissions.**

25 The Parties understand and agree that this Settlement Agreement is the result of a good faith
26 compromise settlement of disputed claims, and no part of this Settlement Agreement, or the negotiations
27 leading thereto, or any document filed in support thereof, should be construed as an admission of any
28 wrongdoing by Defendant or the Released Parties.

1 **23. Avoidance of Undue Publicity.**

2 The Parties and their counsel agree that they will not issue any press releases or communicate to
3 the press, media or to the public, through social media or otherwise, the settlement terms or amount unless
4 and until the court has granted Preliminary Approval. Class Counsel will take all steps necessary to
5 ensure Plaintiffs are aware of, and will encourage them to adhere to, the restriction against any media
6 comment on the settlement and its terms. Class Counsel further agrees not to use the settlement of the
7 Action or any of its terms for any marketing or promotional purposes. Nothing herein will restrict Class
8 Counsel from including publicly available information regarding this settlement in future judicial
9 submissions regarding Class Counsel's qualifications and experience.

10 **24. Neutral Reference.**

11 Defendant agrees that all inquiries about Plaintiffs shall be referred to Human Resources, who will
12 confirm the Plaintiffs' dates of employment and position held. No other information concerning Plaintiffs'
13 work history will be provided by Human Resources without authorization from Plaintiffs, unless required
14 by subpoena or other legal process.

15 **25. Construction.**

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

20 **26. Entire Agreement.**

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

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

5 **27. Modification or Amendment.**

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

8 **28. Successors.**

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

12 **29. Counterparts.**

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

15 **30. Waivers.**

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

19 **31. Governing Law.**

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

22 **32. Headings.**

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

25 **33. Notices.**

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

33.1 To Class Counsel to the attention of Julian Hammond, HammondLaw, P.C., 1201 Pacific Ave., Suite 600, Tacoma, WA 98402; Telephone: (310) 601-6766.

33.2 To Defendant, to the attention of Nathan Okelberry, Fisher & Phillips, 444 South Flower Street, Suite 1500, Los Angeles, CA, 90071, nokelberry@fisherphillips.com, (213) 330-4449.

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

Plaintiffs and Proposed Class Representatives

Dated: 08/01/2023, 2023 By: Adam Fligsten
Adam Fligsten

Dated: 08/01/2023, 2023 By: Jonathan Wang
Jonathan Wang

Musicians Institute

Dated: _____, 2023 By: _____
Name: _____
Title: _____

On behalf of Defendant

APPROVED AS TO FORM:

**Counsel for Plaintiff and
Proposed Class Counsel**

Dated: August 1, 2023 By: Julian Hammond
Julian Hammond
Hammond Law, P.C.

Counsel for Defendant

Dated: _____, 2023 By: _____
Nathan Okelberry
Fisher & Phillips LLP

33.1 To Class Counsel to the attention of Julian Hammond, HammondLaw, P.C., 1201 Pacific Ave., Suite 600, Tacoma, WA 98402; Telephone: (310) 601-6766.

33.2 To Defendant, to the attention of Nathan Okelberry, Fisher & Phillips, 444 South Flower Street, Suite 1500, Los Angeles, CA, 90071, nokelberry@fisherphillips.com, (213) 330-4449.

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

Plaintiffs and Proposed Class Representatives

Dated: _____, 2023 By: _____
Adam Fligsten

Dated: _____, 2023 By: _____
Jonathan Wang

Musicians Institute

Dated: 08/01, 2023 By: Takeshi Sakimoto
Name: Takeshi Sakimoto
Title: Corporate Secretary

On behalf of Defendant

APPROVED AS TO FORM:

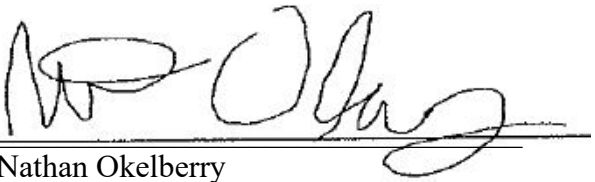
**Counsel for Plaintiff and
Proposed Class Counsel**

Dated: _____, 2023 By: _____
Julian Hammond
Hammond Law, P.C.

Counsel for Defendant

Dated: August 2, 2023, 2023

By:



Nathan Okelberry
Fisher & Phillips LLP

EXHIBIT A

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

(Adam Fligsten et al v Musicians Institute)

Los Angeles Superior Court, Case #. 21STCV38365

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Musicians Institute, Inc. (“Defendant”) for alleged wage and hour violations. The Action was filed by a Adam Fligsten and Jonathan Wang (“Plaintiffs”) and seek payment of (1) unpaid wages, statutory penalties, and reimbursement for remote work expenses for a class of instructors (“Class Members”) who worked for Defendant during the Class Period (October 19, 2017 through _____); and (2) reimbursement for a class of employees other than Class Members who were required to work remotely for Defendant (“Reimbursement Class Members”) during the Class Period; and (3) penalties under the California Private Attorney General Act (“PAGA”) for all Class Members (“Instructor Aggrieved Employees”) and Reimbursement Class Members (“Aggrieved Employees”) who worked for Defendant from September 1, 2020 through _____ (“PAGA Period”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and payments to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding if applicable) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on Defendant’s records showing that **you worked _____ pay periods as an Instructor** during the Class Period and already received payment for _____ of those pay periods under an earlier class action settlement that covered a portion of the Class Period captioned *Tagliarino v. Musician’s Institute, Inc.*, Judicate West Case No. A268536-46; or **you worked _____ pay periods** during the Class Period as a Reimbursement Class Members. Defendant’s records also show that **you worked/ did not work** during the PAGA Period. If you believe that you worked more pay periods during any of these periods, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter judgment that requires Defendant

to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

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

- (1) **Do Nothing.** You do not have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert wage claims and PAGA penalty claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period claims against Defendant, and, if you are an Aggrieved Employee or Instructor Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Do Not Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you do not want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and Instructor Aggrieved Employees and they must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by 	All Class Members and Reimbursement Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Classes. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing 	The Court’s Final Approval Hearing is scheduled to take place on _____. You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many pay periods in which you worked at least one day during the Class Period, whether you received any payment under the <i>Tagliarino v. Musician’s Institute, Inc.</i> , settlement, and whether you worked at least one day during the PAGA Period, respectively. The number of pay periods you worked, and whether you worked during the PAGA Period, according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

The Action accuses Defendant of violating California labor laws by failing to pay Class Members minimum wage (under California law or the Fair Labor Standards Act); failing to pay Class Members overtime (under California law or the Fair Labor Standards Act); failing to provide rest and meal breaks, failing to issue accurate itemized wage statements, failing to pay all wages due upon termination of employment; and failing to reimburse remote work expenses incurred by Class Members and Reimbursement Class Members. Plaintiff Fligsten has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”) for Defendant’s failure to issue accurate itemized wage statements to Instructor Aggrieved Employees, and failure to reimburse remote work expense of Instructor Aggrieved Employees and Aggrieved Employees. Plaintiffs are represented by attorneys in the Action: HammondLaw, P.C. (“Class Counsel.”)

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

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

So far, the Court has made no determination whether Defendant or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendant resolved the Action by negotiating a successful end to the case by agreement to settle the case in a way both sides found fair and reasonable rather than continuing the expensive and time-consuming process of litigation. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

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

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

1. Defendant Will Pay \$900,000.00 (Nine Hundred Thousand Dollars) as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement in three installments, with the entire GSA paid in full by April 2024. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to 35% of the Gross Settlement (\$315,000) to Class Counsel for attorneys’ fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

- B. Up to \$7,500.00 to each Class Representative (total of \$15,000.00) as an Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than each Plaintiff's Individual Class Payment and any Individual PAGA Payment.
- C. Up to \$20,000.00 to the Administrator for services administering the Settlement.
- D. Up to \$30,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

- 3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement"). 5% of the Net Settlement shall be allocated to the Reimbursement Class and shall be paid pro-rata based on the number of pay periods worked by a Reimbursement Class Member during the Class Period. 5% of the Net Settlement shall be allocated to the Class and to be paid to Class Members pro-rata based on the number of pay periods that worked by a Class Member during the Class Period. The pay periods will be weighted as follows: The pay periods worked by a Class Member who submitted a claim in, and received payment from the settlement in *Tagliarino v. Musician's Institute, Inc.*, Judicate West Case No. A268536-46, will be subject to a 0.05 multiplier (i.e., those pay periods will be reduced by 95%).
- 4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 1/3 of each Individual Class Member Payment to taxable wages ("Wage Portion") and two-third to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms and Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Non-Wage Portion will be allocated entirely as non-Wage payments and reported on an IRS Form 1099. Individual Reimbursement Class Member Payments will be allocated entirely as non-Wage payments and reported on an IRS Form 1099. Individual PAGA Payments will be allocated entirely as penalties and reported on IRS 1099 Form.

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

- 5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires

(the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be transmitted to the California State Controller Office Unclaimed Property Division.

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

You cannot opt-out of the PAGA portion of the Settlement. Non-Participating Class Members remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

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

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

Class Release of Claims: Upon the Effective Date, in exchange for the consideration set

forth herein, each Class Member shall be deemed to have released the Released Parties from any and all claims that are alleged, or could reasonably have been alleged based on the facts and claims asserted in the Complaint on their behalf and arising during the Class Period, including without limitation: (1) all claims for failure to pay overtime wages, (2) failure to pay minimum wage, (3) failure to provide meal periods or compensation in lieu thereof, (4) failure to authorize and permit rest periods or compensation in lieu thereof, (5) failure to reimburse business expenses (including, but not limited to, the use of personal instruments or use of cell phone at work), (6) failure to comply with itemized wage statement provisions, (7) failure to pay wages upon termination of employment, (8) violations of the Fair Labor Standards Act, the California Labor Code, or IWC Wage Orders based on any of the above violations, (9) claims of unfair, unlawful, or fraudulent business practices under the California Business and Professions Code based on any of the above violations, (10) any other claims or penalties under the wage and hour laws pleaded in the Complaint; and (11) all damages, penalties, interest, costs (including attorney's fees) and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged in the Complaint (collectively referred to as the "Released Claims"). The Released Claims include all claims meeting the above definition(s) under any and all applicable statutes, including without limitation the Fair Labor Standards Act, California Labor Code, including but not limited to, §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 516, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and 2802; and California Business & Professions Code § 17200 et seq.

Instructor Aggrieved Employee Released Claims: Upon the Effective Date, each Instructor Aggrieved Employee shall be deemed to have released the Released Parties from any and all claims for PAGA penalties under Labor Code § 2698, et seq., that were alleged in the Complaint and PAGA Notices on their behalves, and arising during the PAGA Period, including but not limited to, claims under Labor Code §§ 226(a) and 2802.

Reimbursement Release of Claims: Upon the Effective Date, in exchange for the consideration set forth herein, each member of the Reimbursement Class shall be deemed to have released the Released Parties from any and all claims that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Complaint on their behalf and arising during the Class Period, including but not limited to claims under Labor Code § 2802 and the UCL based on the Labor Code § 2802 claim.

Aggrieved Employee Released Claims: Upon the Effective Date, each Aggrieved Employee shall be deemed to have released the Released Parties from any and all claims for PAGA penalties that were alleged in the Complaint and PAGA Notices on their behalf, and arising during the PAGA Period, including but not limited to claims under Labor Code § 2802.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Net Settlement Amount will be divided between the Class and the Reimbursement Class and shall be paid *pro-rata* based on the number of pay periods worked by a Class Member or Reimbursement Class Member during the Class

Period in proportion to the weeks worked by all Class Members or Reimbursement Class Members during those Class Period. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount allocated to each Class by the total number of pay periods worked by all Participating Class Members in that Class, and (b) multiplying the result by the number of pay periods worked by each individual Participating Class Member. The pay periods worked by a Class Member who submitted a claim in, and received payment for those pay periods from the settlement in *Tagliarino v. Musician's Institute, Inc.*, Judicate West Case No. A268536-46, will be subject to a 0.05 multiplier (i.e., those pay periods will be reduced by 95%). Any pay periods worked after December 29, 2020, and any pay periods prior to December 29, 2020, worked by a Class Member who did not submit a claim or receive payment in the *Tagliarino* settlement, will not be subject to any multiplier.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by dividing \$7,500.00 by the total number of Instructor Aggrieved Employees and Aggrieved Employees.
3. Pay Period Challenges. The number of pay periods you worked during the Class Period and whether or not you are entitled to a PAGA payment, as recorded in Defendant's records, are stated in the first page of this Notice. You have until _____ to challenge the number of Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member and Reimbursement Class Member who does not opt-out) including those who also qualify as Aggrieved Employees and Instructor Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment. The checks will mail out no earlier than May 2024.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee and Instructor Aggrieved Employees who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Fligsten et al v Musicians Institute*, Los Angeles Superior Court Case No. 21STCV38365, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendant are asking the Court to approve. At least 16 days before the _____ Final Approval Hearing, Class Counsel will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website www.simpluris.com or the Court's website <https://www.lacourt.org/>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Adam Fligsten et al v Musicians Institute, Inc.*, Case No. 21STCV38365, and include your full name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but do not have to, attend the Final Approval Hearing on _____ at ____ (time) in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It is possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website (www.simpluris.com) beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Simpluris' website at www.simpluris.com. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV38365. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Name of Attorney: Julian Hammond, Esq.

Email Address: jammond@hammondlawpc.com

Name of Firm: HammondLaw, P.C.

Mailing Address: 1201 Pacific Avenue, Suite 600, Tacoma, WA 98402

Telephone: (310) 601-6766

Settlement Administrator:

Name of Company: Simpluris

Email Address: _____

Mailing Address: P.O. Box 26170, Santa Ana, CA 92799

Telephone: 888-369-3780

Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as

long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address. See Section 6 for Administrator contact information.