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15
16 **SUPERIOR COURT OF CALIFORNIA**
17
18 **FOR THE COUNTY OF ALAMEDA**

19 BARBARA LEAR, individually and on behalf
20 of all other similarly situated employees,

21 Plaintiff,

22 vs.

23 RAXIUM, INC., a Delaware Corporation; and
24 DOES 1 to 100, inclusive,

25 Defendant.

Case No.: 21CV004358

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT**

Filed: December 20, 2021

FAC Filed: March 15, 2022

Trial Date: None Set

1 This Private Attorneys General Act Settlement is made and entered into between the Plaintiff
2 Barbara Lear (“Plaintiff”), on behalf of herself, the Labor and Workforce Development Agency, and
3 Aggrieved Employees, and Defendant Raxium, Inc., (“Defendant”). This Agreement is subject to the
4 terms and conditions set forth below and approval of the Court.

5 **1. DEFINITIONS**

6 The following terms, when used in this Agreement, have the following meanings:

7 1.1 “Action” means the above stated lawsuit, *Lear v. Raxium, Inc.*, Alameda County Superior
8 Court, Case No. 21CV004358, filed December 20, 2021.

9 1.2 “Aggrieved Employee(s)” means all non-exempt employees who have or continue to work
10 for Defendant in California during the PAGA Claim Period. The estimated number of Aggrieved
11 Employees is 53.

12 1.3 “Aggrieved Employee Fund” means the 25% share of the Net Settlement Amount paid to
13 Aggrieved Employees pursuant to Labor Code section 2699(i).

14 1.4 “Agreement” or “Settlement” or “Settlement Agreement” means this Private Attorneys
15 General Act Settlement.

16 1.5 “Claim Amount” means an individual Aggrieved Employee’s allocation of the Net
17 Settlement Amount, as defined in Section 1.16 and 5.7.

18 1.6 “Claims Administrator” means and refers to Simpluris, Inc., the third-party entity that will
19 administer the Agreement as outlined in Section 7, or any other third-party settlement claims administrator
20 agreed to by the Parties and approved by the Court for the purposes of administering this Agreement. The
21 Parties each represent that they do not have any financial interest in the Claims Administrator or otherwise
22 have a relationship with the Claims Administrator that could create a conflict of interest.

23 1.7 “Claims Administrator Costs” means the fees and expenses reasonably incurred by the
24 Claims Administrator as a result of the procedures and processes expressly required by this Agreement,
25 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
26 preparation, custodial fees, and accounting fees incurred by the Claims Administrator; all costs and fees
27 associated with preparing, issuing and mailing any and all notices and other correspondence to Aggrieved
28 Employees; all costs and fees associated with communicating with Aggrieved Employees, Plaintiff’s

1 Counsel, and Defendant's Counsel; all costs and fees associated with computing, processing, reviewing,
2 and paying the Claim Amounts, and resolving disputes; all costs and fees associated with calculating tax
3 withholdings and payroll taxes, if any, making related payment to federal and state tax authorities, if any,
4 and issuing tax forms relating to payments made under the Agreement; all costs and fees associated with
5 preparing any tax returns and any other filings required by any governmental taxing authority or agency;
6 all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the
7 course of administering Claim Amounts; and any other costs and fees incurred and/or charged by the
8 Claims Administrator in connection with the execution of its duties under this Agreement.

9 1.8 "Complaint" means the operative First Amended Complaint on file in the Action with the
10 Court.

11 1.9 "Court" means the Alameda County Superior Court.

12 1.10 "Defendant" means Raxium, Inc.

13 1.11 "Defendant's Counsel" means Wilson Sonsini Goodrich & Rosati.

14 1.12 "Effective Date" means the day the Court files a signed order granting approval of this
15 Settlement.

16 1.13 "Gross Settlement Amount" is the sum of One Hundred Thirty-Five Thousand Dollars and
17 Zero Cents (\$135,000).

18 1.14 "LWDA" means the California Labor and Workforce Development Agency.

19 1.15 "LWDA Payment" means the 75% share of the Net Settlement Amount paid to the LWDA
20 pursuant to Labor Code section 2699(i).

21 1.16 "Net Settlement Amount" is the portion of the Gross Settlement Amount available for
22 distribution between Aggrieved Employees and the LWDA pursuant to Labor Code section 2699(i), after
23 deduction of Plaintiff's attorneys' fees and litigation costs, the Service Award, and Claims Administrator
24 Costs.

25 1.17 "Notice of Settlement" means the document substantially in the form attached hereto as
26 Exhibit 1.

27 1.18 "PAGA" means Private Attorneys General Act.

28 1.19 "PAGA Claim Period" means November 24, 2020, to and including May 3, 2022.

1 1.20 "Parties" mean Defendant and Plaintiff.

2 1.21 "Plaintiff" means Barbara Lear.

3 1.22 "Plaintiff's Counsel" means Galen T. Shimoda and Justin P. Rodriguez of Shimoda &
4 Rodriguez Law, PC.

5 1.23 "QSF" means a Qualified Settlement Fund set up by the Claims Administrator for the
6 benefit of the Aggrieved Employees and from which the payments under this Agreement shall be made.
7 Any amounts Defendant has agreed to pay under this Agreement shall remain the property of Defendant
8 until the payments required under the Agreement are made.

9 1.24 "Qualifying Pay Periods" are pay periods worked by Aggrieved Employees during the
10 PAGA Claim Period in California. The calculation of an Aggrieved Employees' pay periods and a
11 determination as to whether an Aggrieved Employee was actively employed in California in a particular
12 pay period shall be construed from Defendant's records.

13 1.25 "Released PAGA Claims" means any and all claims for civil penalties pursuant to the
14 Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, that were asserted in Plaintiff's LWDA letter
15 and/or the Complaint, any additional claims for civil penalties under the PAGA that could have been
16 brought based on the facts alleged therein during the PAGA Claim Period, and any claims for fees, costs,
17 interest, based thereon, including, but not limited to, claims for civil penalties for any and all of the
18 following violations of California Labor Code: (1) Failure to Pay Overtime Wages, (2) Failure to Pay
19 Minimum Wages, (3) Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof, (4) Failure to
20 Provide Rest Periods or Pay Premiums in Lieu Thereof, (5) Failure to Provide Accurate Wage Statements,
21 (6) Failure to Pay Final Wages, (7) Failure to Maintain Accurate Records, and (8) Failure to Provide Paid
22 Sick Leave. Aggrieved Employees cannot opt out of this waiver of claims.

23 1.26 "Released Parties" means Rick Dodd, Craig Peters, and Defendant, as well as Defendant's
24 current and former insurers, officers, directors, employees, agents, investors, attorneys, shareholders,
25 administrators, affiliates, benefit plans, plan administrators, professional employer organization or co-
26 employer, insurers, trustees, divisions, parents, subsidiaries, acquirors, predecessor and successor
27 corporations, and assigns.

1.27 “Service Award” means an amount up to \$7,500, as approved by the Court, paid to Plaintiff for her work on behalf of the Aggrieved Employees and in exchange for a general release of all claims. Plaintiff acknowledges and agrees that the Service Award fully satisfies any obligation that Defendant allegedly had to pay Plaintiff wages or any other compensation for any of the services that Plaintiff rendered to Defendant, that the Service Award is in excess of any disputed wage claim that Plaintiff may have, that the Service Award shall be deemed to be paid first in satisfaction of any disputed wage claim with the remainder sufficient to act as consideration for the general release of claims, and that Plaintiff has not earned and is not entitled to receive any additional wages or other form of compensation from Defendant.

2. DESCRIPTION OF THE LITIGATION

2.1 On or about November 24, 2021, Plaintiff sent notice to the LWDA to exhaust administrative remedies under the PAGA for (1) Failure to Pay Overtime Wages, (2) Failure to Pay Minimum Wages, (3) Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof, (4) Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof, (5) Failure to Provide Accurate Wage Statements, (6) Failure to Pay Final Wages, (7) Failure to Maintain Accurate Records, and (8) Failure to Provide Paid Sick Leave. Plaintiff also alleged individual liability for the asserted claims under Labor Code sections 558 and 558.1. The LWDA did not respond to the notice within the statutorily required time frame and, as such, Plaintiff became authorized to act as a Private Attorneys General on all alleged PAGA claims.

2.2 Plaintiff filed a class action Complaint on December 20, 2021, in Alameda County Superior Court. Thereafter, on March 15, 2022, Plaintiff amended the Complaint to become a single cause of action PAGA lawsuit. Plaintiff brought the PAGA claim on behalf of herself and Aggrieved Employees for claims alleged in the November 24, 2021 notice to the LWDA.

2.3 Through informal discovery, Defendant and Defendant's Counsel provided Plaintiff's Counsel with copies of all applicable versions of its policies and procedures, employee handbooks, information on the number of Aggrieved Employees, including, but not limited to, Aggrieved Employees' workweeks, dates of employment, total number of Aggrieved Employees, their rates of pay, and pay periods as well as timecard data and payroll reports for all Aggrieved Employees.

1 2.4 After Plaintiff's Counsel received the data, the Parties participated in a lengthy mediation
2 with private mediator Timothy J. Long, which was held on May 3, 2022. At the conclusion of the
3 mediation, the Parties were able to come to a resolution. At all times, the Parties' settlement negotiations
4 have been non-collusive, adversarial, and at arm's length.

5 2.5 Discussions between Plaintiff and Plaintiff's Counsel, between counsel for the Parties, the
6 mediator, document productions, extensive legal analysis, the provision of information by Defendant to
7 Plaintiff and the detailed analysis of the sampled records have permitted each side to assess the relative
8 merits of the PAGA claims and the defenses to those claims.

9 2.6 In the Action, Plaintiff contends that Defendant violated California law by (1) Failing to
10 Pay Overtime Wages, (2) Failing to Pay Minimum Wages, (3) Failing to Provide Meal Periods or Pay
11 Premiums in Lieu Thereof, (4) Failing to Provide Rest Periods or Pay Premiums in Lieu Thereof, (5)
12 Failing to Provide Accurate Wage Statements, (6) Failing to Pay Final Wages, (7) Failing to Maintain
13 Accurate Records, and (8) Failing to Provide Paid Sick Leave. Plaintiff also made allegation to support
14 individual liability under Labor Code section 558 and 558.1. Defendant has denied each of Plaintiff's
15 claims. The agreed upon Gross Settlement Amount was reached after evaluating the Parties' theories of
16 potential exposure for the PAGA claims and Plaintiff's individual claims. The Parties, with the assistance
17 of the mediator, also assessed appropriate discounts to the potential liability based on Defendant's factual
18 and legal contentions and defenses.

19 2.7 The Parties agree that the above-described investigation and evaluation, as well as
20 discovery and the information exchanged to date, are more than sufficient to assess the merits of the
21 respective Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff,
22 Plaintiff's Counsel, Defendant, and Defendant's Counsel have concluded that it is desirable that the PAGA
23 claims asserted in the Action, as well as the individual claims Plaintiff releases herein, be settled in a
24 manner and upon such terms and conditions set forth herein in order to avoid further expense,
25 inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the
26 Parties potentially face. Plaintiff, Plaintiff's Counsel, Defendant, and Defendant's Counsel are of the
27 opinion that the Agreement for the consideration and terms set forth herein is fair, reasonable, and
28 adequate in light of all known facts and circumstances.

1 **3. THE CONDITIONAL NATURE OF THIS AGREEMENT**

2 3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose
3 of settling the PAGA claims asserted in the Action and the individual claims Plaintiff releases herein. This
4 Agreement and the settlement it evidences are made in compromise of disputed claims. The Parties enter
5 into this Agreement and associated settlement on a conditional basis in order for the Court to evaluate and
6 approve the settlement. If the Court does not enter an order approving the Agreement, this Agreement
7 shall be deemed null and void; it shall be of no force or effect whatsoever; it shall not be referred to or
8 utilized for any purpose whatsoever; and the negotiation, terms and entry of the Agreement shall remain
9 subject to the provisions of California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence
10 408, and any other analogous rules of evidence that may be applicable.

11 3.2 Defendant has denied and continues to deny all claims as to liability, damages, liquidated
12 damages, penalties, interest, fees, restitution, injunctive relief and all other forms of relief asserted in the
13 Action. Defendant has agreed to resolve the asserted PAGA claims in the Action and the individual claims
14 Plaintiff releases herein via this Agreement, but to the extent this Agreement is deemed void or the
15 Effective Date does not occur, Defendant does not waive, and are expressly reserving, all rights to
16 challenge all such claims and allegations in the Action upon all procedural and factual grounds, including,
17 without limitation, the ability to challenge representative or collective treatment on any grounds, as well
18 as to assert any and all other potential defenses or privileges. No action taken by Defendant hereto, either
19 previously or in connection with this Agreement, shall be deemed or construed to be (a) an admission of
20 the truth or falsity of any actual or potential claims or (b) an acknowledgment or admission by Defendant
21 of any fault or liability whatsoever to Plaintiff, the LWDA, any Aggrieved Employee, or to any third party.

22 **4. SCOPE OF THE AGGRIEVED EMPLOYEES**

23 4.1 The scope of individuals encompassed under the Agreement, who are entitled to all benefits
24 as authorized under the Agreement and subject to all obligations and duties required under the Agreement,
25 shall include all Aggrieved Employees as defined in Section 1.2.

26 4.2 Aggrieved Employees entitled to recover under this Agreement will include only those
27 individuals who are identified in Defendant's records as having worked as an Aggrieved Employee.

28 **5. TERMS OF THE SETTLEMENT**

1 The Parties agree as follows:

2 5.1 Gross Settlement Amount: In consideration and exchange for the releases described in
3 Section 6, Defendant shall pay the Gross Settlement Amount (\$135,000). Funding of the Gross Settlement
4 Amount shall occur within twenty-eight (28) calendar days after the Effective Date to be held in trust in a
5 QSF by the Claims Administrator. The Gross Settlement Amount represents the maximum amount
6 payable under this Agreement by Defendant, and includes without limitation, all attorneys' fees, costs and
7 litigation expenses directly related to the Action incurred to date, as well as all such fees and costs incurred
8 in documenting the Agreement, the Service Award, administering the Agreement (including Claims
9 Administrator Costs), obtaining approval of the Agreement, and payments to the LWDA and Aggrieved
10 Employees.

11 5.2 Attorneys' Fees and Costs: Plaintiff's Counsel will apply to the Court for attorney's fees
12 of 35% of the Gross Settlement Amount, which shall be paid from the Gross Settlement Amount.
13 Defendant has agreed to not oppose Plaintiff's Counsel's application for attorneys' fees so long as it does
14 not exceed the 35% threshold. Plaintiff's Counsel will also be entitled to reimbursement for advanced
15 litigation expenses not to exceed \$13,500, which shall be paid from the Gross Settlement Amount.
16 Defendant has agreed to not oppose Plaintiff's Counsel's request for reimbursement for advanced litigation
17 expenses so long as they do not exceed the \$13,500 threshold. The Claims Administrator will issue Class
18 Counsel an IRS Form 1099 for the attorneys' fees and costs paid under this Agreement. In the event that
19 the Court awards less than the requested attorney's fees and/or costs, the portion of the requested amounts
20 not awarded to Plaintiff's Counsel shall be added to the Net Settlement Amount as defined in section 1.16.

21 5.3 Claims Administrator Costs: The Claims Administrator Costs shall be paid from the Gross
22 Settlement Amount and shall not exceed \$7,500. The difference between any actual costs and the allocated
23 \$7,500 shall be added to the Net Settlement Amount as defined in section 1.16.

24 5.4 Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount allocated
25 to Aggrieved Employees that was not claimed by Aggrieved Employees by cashing their respective
26 settlement checks before the deadline to do so, that remaining amount shall be donated equally, i.e. 50/50,
27 to Capital Pro Bono, Inc., and the Center for Workers' Rights, under the doctrine of *cy pres*. No portion
28 of the Gross Settlement Amount will revert to Defendant for any reason.

1 5.5 No Additional Benefits Contributions: All Claim Amounts paid to Aggrieved Employees
2 shall be deemed to be income solely in the year in which such amounts were actually received by
3 Aggrieved Employees. It is expressly understood and agreed that the receipt of such Claim Amounts will
4 not entitle any Aggrieved Employee to any new or additional compensation or benefits under any company
5 bonus or other compensation or benefit plan or agreement in place during the period covered by the
6 Agreement, nor will it entitle any Aggrieved Employee to any increased retirement, 401(k) benefits or
7 matching benefits, or deferred compensation benefits. It is the intent of this Agreement that the Claim
8 Amounts provided for in this Agreement are the sole payments to be made by Defendant to the Aggrieved
9 Employees in connection with this Agreement (notwithstanding any contrary language or agreement in
10 any benefit or compensation plan document that might have been in effect during the period covered by
11 this Agreement).

12 5.6 Tax Allocation: The Parties recognize that the Claim Amounts to be paid to Aggrieved
13 Employees reflect settlement of a dispute over claimed penalties. The characterization of Claim Amounts
14 to Aggrieved Employees are as follows:

15 //

16 5.6.1 One Hundred percent (100%) of each Aggrieved Employees' Claim Amount shall
17 be allocated for payment of disputed civil penalties. This portion of the Claim Amount consists of other
18 income, not wages, for which the Aggrieved Employees shall receive an IRS form 1099-MISC.

19 5.6.2 Aggrieved Employees shall be solely responsible for the reporting and payment of
20 their share of any federal, state and/or municipal income or other taxes on payments made pursuant to this
21 Agreement. No party has made any representation to any of the other Parties as to the taxability of any
22 payments pursuant to this Agreement, including the payments to Aggrieved Employees, the payments to
23 Plaintiff's Counsel, or otherwise as to tax implications of any provision of this Agreement.

24 5.7 Pro Rata Distribution Formula: After Court approved attorneys' fees and costs, the Service
25 Award, and Claims Administrator Costs are determined and a Net Settlement Amount has been
26 established, that Net Settlement Amount shall be divided into the LWDA Payment and the Aggrieved
27 Employee Fund. The payment to the LWDA will be 75% of the Net Settlement Amount (the "LWDA
28 Payment") and the payment to the Aggrieved Employees will be 25% of the Net Settlement Amount (the

1 “Aggrieved Employees Fund”). Each Aggrieved Employee’s share will be determined by dividing their
2 total pay periods worked within the PAGA Claim Period by the total pay periods worked by all Aggrieved
3 Employees within the PAGA Claim Period. That fraction will then be multiplied by the Aggrieved
4 Employees Fund to arrive at the Aggrieved Employee’s individual share of the Aggrieved Employee Fund.
5 Payment to Aggrieved Employees of their Claim Amount will not require the submission of any claim
6 form.

7 5.8 No Additional Contribution by Defendant: Defendant’s monetary obligation under this
8 Agreement is limited to the Gross Settlement Amount as described above. All other costs and expenses
9 arising out of or in connection with the performance of this Agreement shall be paid from the Gross
10 Settlement Amount, unless expressly provided otherwise herein. However, in the event this Agreement
11 is deemed null and void as described in Section 3, then Defendant and Plaintiff shall be equally responsible
12 for the Claims Administrator Costs incurred between the date the Agreement was executed and the date
13 of such event.

14 5.9 Service Award: Plaintiff’s Counsel, on behalf of Plaintiff, shall apply to the Court for a
15 Service Award in an amount not to exceed \$7,500 to compensate for the risks, time, and expense of her
16 involvement in the Action, securing the benefits of this Agreement for the LWDA and Aggrieved
17 Employees, and as consideration for a general release of all claims. The Service Award is in addition to
18 the Claim Amount Plaintiff would otherwise be due under the Agreement as an Aggrieved Employee.
19 Defendant has agreed to not oppose Plaintiff’s Counsel’s request for a Service Award to Plaintiff so long
20 as it does not exceed the amount stated herein. Fifty percent (50%) of the Service Award will be
21 designated as a non-wage payment and reported on an IRS Form 1099-MISC and fifty percent (50%) of
22 the Service Award will be designated as a payment subject to withholdings and reported on an IRS Form
23 W-2. In the event that the Court awards less than the Service Award amount requested, then any portion
24 of the requested amount not awarded shall be added to the Net Settlement Amount to be distributed to
25 Aggrieved Employees on a pro rata basis as described in section 5.7. The Service Award shall be paid
26 out of the Gross Settlement Amount, not in addition to the Gross Settlement Amount.

27 **6. RELEASE**
28

1 6.1 Upon the Effective Date, Plaintiff, the LWDA, and each Aggrieved Employee shall be
2 deemed to have fully, finally, and forever released the Released Parties from all Released PAGA Claims.

3 6.2 Upon the Effective Date, Plaintiff shall, on her own behalf and on behalf of her respective
4 heirs, family members, executors, agents, and assigns, release Defendant and the Released Parties from
5 any claims, known or unknown, as set forth in the Release Agreement attached hereto as Exhibit 2.

6
7 **7. SETTLEMENT ADMINISTRATION**

8 7.1 Duties of Claims Administrator: The Claims Administrator shall be responsible for: 1)
9 receiving and reviewing for accuracy Aggrieved Employee contact information; 2) calculating estimated
10 Claim Amounts and any and all taxes associated with the Claim Amount, including Employer taxes, if
11 any; 3) taking appropriate steps to trace and locate any individual Aggrieved Employees whose address
12 or contact information as provided to the Claims Administrator is inaccurate or outdated and mailing the
13 Notice of Settlement to Aggrieved Employees; 4) providing notification to the appropriate state officials
14 of this Agreement as required; 5) maintaining the Gross Settlement Amount in a QSF; 6) determining and
15 paying the final amounts due to be paid under the Agreement after resolution of awarded attorneys' fees
16 and costs and Claims Administrator Costs; 7) paying any residual funds from uncashed checks to the cy
17 *pres* beneficiaries; 8) reporting to Plaintiff's Counsel and Defendant's Counsel regarding the statistics of
18 the administration, including (a) the number of initial Notice of Settlements mailed; (b) the number of
19 forwarded Notice of Settlements; (c) the number of re-mailed Notice of Settlements; (d) the number of
20 total undeliverable Notice of Settlements; (e) the number of address traces performed for undeliverable
21 Notice of Settlements; (g) the number of Notice of Settlements undeliverable from traced addresses; 9)
22 providing a declaration to the Court regarding the final statistics of the administration and compliance
23 with all payment obligations under the Agreement; 10) completing all necessary tax reporting on the QSF
24 and payment of the Claim Amounts to Aggrieved Employees; and 11) carrying out other related tasks as
25 necessary to effectuate the terms of this Agreement and any Order of the Court. All disputes relating to
26 the Claims Administrator's ability and need to perform its duties shall be referred to the Court, if
27 necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until
28 all payments and obligations contemplated by the Agreement have been fully executed.

1 7.2 Aggrieved Employee Data: Within seven (7) calendar days after the Effective Date,
2 Defendant shall provide the Claims Administrator with the name, last known mailing address, last known
3 telephone number, Social Security Number, and Qualifying Pay Periods of each Aggrieved Employee.
4 The Claims Administrator shall review the data to determine the number of Qualifying Pay Periods for
5 each Aggrieved Employee. Defendant shall not provide any information for pay periods during which an
6 Aggrieved Employee may have worked as an exempt employee, worked outside California, or worked
7 outside the PAGA Claim Period. The Claims Administrator shall maintain all information received from
8 Defendant confidential to itself, and Defendant's Counsel. However, Plaintiff's Counsel shall be able to
9 review the breakdown of Qualified Pay Periods and estimated Claim Amounts for Aggrieved Employees
10 prior to mailing for quality assurance.

11 7.3 Determination of Payments to Aggrieved Employees, Plaintiff's Counsel, and the LWDA:
12 Within seven (7) calendar days after Defendant has provided the Claims Administrator with information
13 regarding Aggrieved Employees, the Claims Administrator shall calculate the final Net Settlement
14 Amount, LWDA Payment, the Aggrieved Employee Fund, and the final Claim Amounts for Aggrieved
15 Employees, and report the results of these calculations to Plaintiff's Counsel and Defendant's Counsel.

16 7.4 Claims Administrator Payments to Aggrieved Employees, Plaintiff's Counsel, and the
17 LWDA: Defendant shall wire the Gross Settlement Amount as described in Section 5.1 to the Claims
18 Administrator within fourteen (14) calendar days after receiving the funding calculation and report from
19 the Claims Administrator to be to be held in trust in a QSF. Within seven (7) calendar days after the
20 Claims Administrator receives the Gross Settlement Amount, the Claims Administrator shall deliver
21 payment of Plaintiff's Counsels' attorney's fees and costs, the LWDA Payment, Service Award, Claims
22 Administrator Costs, and payment for Claim Amounts to Aggrieved Employees as required under this
23 Agreement and approved by the Court. Plaintiff's Counsel shall provide the Claims Administrator with
24 the pertinent taxpayer identification number and payment instructions for the attorney's fees and costs
25 after the Effective Date.

26 7.5 Notice to Aggrieved Employees: The Claims Administrator will provide a Notice of
27 Settlement, substantially in the form attached as Exhibit 1, to each Aggrieved Employee concurrently with
28 providing payment for Claim Amounts as described in Sections 5.7 and 7.4. The Notice of Settlement

will inform Aggrieved Employees of a summary of the terms and conditions of the Agreement. The Notice of Settlement will also inform Aggrieved Employees of the Gross Settlement Amount, Net Settlement Amount, attorneys' fees and costs allocations, Service Award allocation, Claims Administrator Cost allocations, LWDA Payment allocations, the scope of individuals covered by this Agreement, and the nature and extent of the Released PAGA Claims.

7.6 Aggrieved Employee Mailing: Within seven (7) calendar days after the Claims Administrator receives the Gross Settlement Amount, the Claims Administrator will perform a national change of address ("NCOA") search, update the addresses per the results of the NCOA search and will mail the respective Claim Amount, as determined in Sections 5.7 and 7.4, and Notice of Settlement, to each Aggrieved Employee by first-class mail, postage prepaid.

7.7 Returned and/or Re-mailed Notice Packets: In the event that a Notice of Settlement and Claim Amount payment is returned to the Claims Administrator as undeliverable, the Notice of Settlement and Claim Amount payment shall be sent to the forwarding address affixed thereto within seven (7) calendar days. If no forwarding address is provided, then the Claims Administrator shall promptly attempt to determine a correct address using a single skip-trace, computer or other search using the name, address and/or Social Security number of the individual involved, and shall then perform a single re-mailing within seven (7) calendar days. Following each search that does not result in a corrected address, for those Aggrieved Employees who appear to be current employees of Defendant at the time of the Effective Date, the Claims Administrator shall contact Defendant's Counsel for assistance and Defendant shall cooperate in good faith with the Claims Administrator's reasonable efforts to obtain valid mailing addresses for Aggrieved Employees to the extent they were active employees of Defendant at the time of the Effective Date. In the event the procedures in this paragraph are followed and the intended recipient of a Notice of Settlement and Claim Amount payment still does not receive the Notice of Settlement and/or Claim Amount payment, the Aggrieved Employee shall still be bound by all terms of the Agreement, including the releases contained in Sections 1.25 and 6.1, and any final judgment entered by the Court.

7.8 Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.2 to 7.7 shall constitute due and sufficient notice to Aggrieved Employees of the Action and the Agreement and shall satisfy Aggrieved Employees' due process rights. Nothing else shall be required of the Parties,

Plaintiff's Counsel, or Defendant's Counsel to provide notice of the Agreement except as expressly required by the Court.

7.9 Settlement Check Expiration and Cy Pres: The Claims Administrator shall issue Claim Amounts to Aggrieved Employees in the form of a check, which shall become null and void if not deposited within one hundred twenty (120) calendar days of issuance. After one hundred twenty (120) calendar days of issuance, the checks shall be voided and funds from all undeposited checks shall be transmitted to the *cy pres* beneficiaries identified in Section 5.4. The Claims Administrator shall deliver the *cy pres* funds within fourteen (14) calendar days after the check cashing deadline.

7.10 Claims Administrator Declaration Regarding Settlement Administration: Within twenty-one calendar days after the last day for Aggrieved Employees to cash their settlement checks, the Claims Administrator shall provide Plaintiff's Counsel and Defendant's Counsel with a signed declaration under penalty of perjury providing a complete and detailed report regarding the settlement administration and that all the obligations of the Claims Administrator have been completed.

8. SETTLEMENT ADMINISTRATION SCHEDULE

8.1 The schedule may be modified depending on whether and when the Court grants necessary approvals, orders notice to Aggrieved Employees, and sets further hearings, if any. The schedule may also be modified to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously as reasonably practicable. The schedule for notice and payment procedures carrying out the Agreement is as follows:

Last day for Defendant to provide Claims Administrator with Aggrieved Employee information	Within 7 calendar days after the Effective Date
Last day for Claims Administrator to calculate and report to the Parties the Net Settlement Amount, LWDA Payment, Aggrieved Employee Fund, and Claim Amounts for Aggrieved Employees	Within 7 calendar days after receiving Aggrieved Employee information

Last day for Defendant to fund Gross Settlement Amount	Within 14 calendar days after the Claims Administrator calculates and reports to the Parties the Net Settlement Amount, LWDA Payment, Aggrieved Employee Fund, and Claim Amounts for Aggrieved Employees
Last day for Claims Administrator to complete NCOA search, update Aggrieved Employee mailing information, and complete mailing	Within 7 calendar days after Defendant funds the settlement
Last day for Claims Administrator to deliver payment of Plaintiff's Counsel's attorney's fees and costs, Service Award, LWDA Payment, Claims Administrator Costs, and payment to Aggrieved Employees	Within 7 calendar days after Defendant fund the settlement
Last day for Aggrieved Employees to cash settlement checks	120 calendar days after issuance of checks to Aggrieved Employees
Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

9. MISCELLANEOUS TERMS

9.1 Dismissal and Retention of Jurisdiction to Enforce: Upon the Effective Date, the Released PAGA Claims will be dismissed with prejudice, with the Court to retain jurisdiction over the Parties to enforce the terms of the Agreement pursuant to Civil Procedure Code section 664.6. The prevailing party in any action to enforce the terms of the Agreement shall be entitled to reasonable attorneys' fees and costs. The Parties agree to meet and confer in good faith to resolve any issue before any such motion for attorney's fees and costs is filed.

9.2 Additional Pay Period Contingency: Defendant has represented that there are no more than 1,100 pay periods during the PAGA Claim Period. In the event the number of pay periods during the PAGA Claim Period is more than 1,210, then the Net Settlement Amount shall be increased

1 proportionally by the proportion of pay periods in excess of 1,210 pay periods. For example, if there
2 were 1,100 pay periods represented to exist during the PAGA Claim Period, but there are actually 1,500
3 pay periods in the PAGA Claim Period, Defendant would have to increase the Net Settlement Amount
4 by 26.36% (1,500 pay periods – 1,210 pay periods = 290 pay periods in excess, which represents 26.36%
5 of 1,100 and the corresponding 26.36% increase to the Net Settlement Amount).

6 9.3 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish
7 and implement the terms of this Agreement. Such cooperation shall include, but not be limited to,
8 execution of such other documents and the taking of such other action as may reasonably be necessary to
9 fulfill the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including
10 all efforts contemplated by this Agreement and any other efforts that may become necessary by Court
11 order, or otherwise, to effectuate this Agreement and the terms set forth herein. This may include
12 modifying and/or resubmitting the Agreement for approval. Plaintiff's Counsel shall be responsible for
13 drafting the court approval paperwork. All parties agree to act immediately and diligently to perform their
14 obligations under this Agreement, including the review and approval of settlement documents, such that
15 there are no substantial delays in seeking court approval or administration of this settlement. Plaintiff's
16 Counsel shall endeavor to file a motion for approval of this settlement within sixty (60) calendar days of
17 the date this Agreement is signed. Plaintiff's Counsel shall provide Defendant's Counsel with a draft
18 approval motion within 1 week after this Agreement is fully executed. Defendant's Counsel will provide
19 comments and/or proposed revisions within 1 week after receipt of the draft motion.

20 9.4 No Admission of Liability: Neither the acceptance nor the performance by Defendant of
21 the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to
22 be, construed as, or deemed to be, an admission by Defendant of the truth of any of the allegations in the
23 Complaint, the representative character of the Action, the validity of any of the claims that were or could
24 have been asserted by Plaintiff and/or Aggrieved Employees in the Action, or of any liability or guilt of
25 Defendant in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by
26 Defendant of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Aggrieved
27 Employees, or any other person, and Defendant has specifically disclaimed any liability, culpability,
28

negligence, or wrongdoing toward Plaintiff, the Aggrieved Employees, or any other person. Each of the Parties has entered into this Agreement with the intention to avoid further disputes and litigation.

9.5 Notices: Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States certified mail, return receipt requested, addressed as follows:

To the Plaintiff:

Galen T. Shimoda
Justin P. Rodriguez
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624

To Defendant:

Ulrico Rosales
Nedim Novakovic
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

9.6 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or its counsel participated in the drafting of this Agreement.

9.7 Binding Effect of Agreement: The Parties, by signing this Agreement, are bound by the terms herein. The Parties waive their rights to file an appeal, writ, or any challenge whatsoever to the terms of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, Claims Administrators, successors, and assigns.

9.8 Attorneys' Fees and Costs Limitations: Neither Plaintiff's Counsel nor any other attorneys acting for, or purporting to act for, Aggrieved Employees, or Plaintiff, may recover or seek to recover any amounts for fees, costs, or disbursements from the Released Parties or the Gross Settlement Amount except as expressly provided herein.

1 9.9 No Modifications: This Agreement may not be changed, altered, or modified, except in
2 writing signed by the Parties hereto and approved by the Court. This Agreement may not be discharged
3 except by performance in accordance with its terms.

4 9.10 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and
5 represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement
6 and to take all appropriate action required or permitted to be taken by such Parties pursuant to this
7 Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of
8 this Agreement

9 9.11 Counterparts: This Agreement shall become effective upon its execution by all of the
10 undersigned. Plaintiff, Plaintiff's Counsel, Defendant and Defendant's Counsel may execute this
11 Agreement in counterparts, and execution of counterparts shall have the same force and effect as if each
12 had signed the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the
13 same force and effect of originals.

14 9.12 Choice of Law: The Agreement and the exhibits hereto shall be considered to have been
15 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and
16 the rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance
17 with, and governed by, the substantive laws of the State of California without giving effect to that State's
18 choice of law principles.

19 9.13 Headings and Captions: Paragraph titles or captions contained in the Agreement are
20 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the
21 scope of this Agreement, or any provision thereof.

22 9.14 No Retaliation or Discouragement: The Parties agree they will take no action that could
23 be construed as retaliation against any Aggrieved Employees for participating in this settlement.

24 9.15 Integrated Agreement: This Agreement, including its Exhibits, sets forth the entire
25 understanding between the Parties with regard to any and all material terms or otherwise and supersedes
26 any and all prior agreements, oral or written, pertaining to the subject matter hereof. Each party
27 acknowledges that there is no representation, inducement, promise or agreement which has been made,
28 orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which is not

expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the terms of this Agreement are fully understood and voluntarily accepted by the Parties.

9.16 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

9.17 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

9.18 Waiver of Compliance: No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy

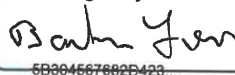
IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

For Plaintiff:

Date: 6/15/2022

Barbara Lear

DocuSigned by:



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For Defendant:

Date: _____

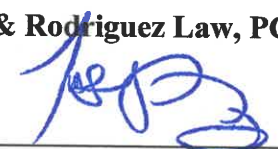
By:
For Raxium, Inc.

APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

Dated: 6/15/2022

By:


Galen T. Shimoda and Justin P. Rodriguez
Attorneys for Plaintiff and Aggrieved
Employees

APPROVED AS TO FORM

WILSON SONSINI GOODRICH & ROSATI

Dated: _____

By: _____
Ulrico Rosales
Nedim Novakovic
Attorneys for Defendant

expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the terms of this Agreement are fully understood and voluntarily accepted by the Parties.

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9.18 Waiver of Compliance: No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy

IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

For Plaintiff:

Date: _____

Barbara Lear

For Defendant:

Date: 6/14/2022

Neela M. Morrison

By: Neela M. Morrison
Title: CEO, President & Secretary
For Raxium, Inc.

APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

Dated: _____

By: _____
Galen T. Shimoda and Justin P. Rodriguez
Attorneys for Plaintiff and Aggrieved
Employees

1 APPROVED AS TO FORM

WILSON SONSINI GOODRICH & ROSATI

2 June 15, 2022

3 Dated: _____

4 By: _____
5 Ulrico Rosales
6 Nedim Novakovic
7 Attorneys for Defendant

DocuSigned by:

Nedim Novakovic

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Exhibit 1

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

Case No. 21CV004358

**NOTICE OF PRIVATE ATTORNEYS GENERAL
ACT SETTLEMENT PAYMENT**

BARBARA LEAR, individually and on behalf of all
other similarly situated employees,

Plaintiff,

vs.

RAXIUM, INC., a Delaware Corporation; and DOES
1 to 100, inclusive,

Defendant.

TO: All non-exempt employees who have or continue to work for Defendant in California from November 24, 2020 up to and including May 3, 2022 (the “Aggrieved Employees”)

This Notice is being provided to you to inform you of a Private Attorney General Act (“PAGA”) Settlement and your proportional share of this settlement payment. The payment is a result of a Court approved PAGA Settlement in the case of *Lear v. Raxium, Inc.*, Alameda County Superior Court of California, Case No. 21CV004358, filed December 20, 2021 (the “Action”). You are receiving this letter because you fall within the definition of Aggrieved Employees identified above.

In the Action, Plaintiff Barbara Lear (“Plaintiff”) alleged that Raxium, Inc. (“Defendant”) violated California law by (1) Failing to Pay Overtime Wages, (2) Failing to Pay Minimum Wages, (3) Failing to Provide Meal Periods or Pay Premiums in Lieu Thereof, (4) Failing to Provide Rest Periods or Pay Premiums in Lieu Thereof, (5) Failing to Provide Accurate Wage Statements, (6) Failing to Pay Final Wages, (7) Failing to Maintain Accurate Records, (8) Failing to Provide Paid Sick Leave, and (9) allegation to support individual liability under Labor Code section 558 and 558.1 (collective, the “Claims”). Defendant has denied all of Plaintiff’s allegations.

In the Action, Plaintiff sought to obtain (i) civil penalties, fees, and costs on behalf of the LWDA and the Aggrieved Employees, including herself and you, pursuant to the PAGA for the Claims Plaintiff brought or could have brought in her complaint, and (ii) damages, restitution, statutory penalties, fees, and costs for Plaintiff in her individual capacity for the Claims.

This notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations in the Action or the merits of the claims or defenses asserted. Defendant has denied engaging in any unlawful conduct in any respect and further disputes all of Plaintiff’s allegations in the Action. By entering into the PAGA Settlement, Defendant does not admit any liability to Plaintiff or to any other current or former employees, and Defendant does not admit that any violations of Plaintiff’s rights, or the rights of any other current or former employees has occurred.

Plaintiff filed a notice with the California Labor and Workforce Development Agency (“LWDA”) to exhaust administrative remedies and pursue claims under the PAGA, California Labor Code §§ 2698 *et seq.*, predicated on violations of Labor Code sections 201-203, 226, 226.3, 226.7, 246, 246.5, 248.5, 256, 510, 512, 558, 558.1, 1174, 1194, 1197.1. The scope of the PAGA Settlement includes all of PAGA-related claims and remedies thereof for the State of California and Aggrieved Employees, including Plaintiff, for the time period identified above. Aggrieved Employees cannot opt out of this PAGA-specific waiver of claims. However, the waiver does not extend to any non-PAGA claims you may have.

“Released Parties” means Rick Dodd, Craig Peters, and Defendant, as well as Defendant’s current and former insurers, officers, directors, employees, agents, investors, attorneys, shareholders, administrators, affiliates, benefit plans, plan administrators, professional employer organization or co-employer, insurers, trustees, divisions, parents, subsidiaries, acquirors, predecessor and successor corporations, and assigns.

By operation of the PAGA Settlement's terms, all Aggrieved Employees will release the Released Parties from any and all claims for civil penalties pursuant to PAGA that were asserted in Plaintiff's LWDA Letter and/or Complaint, any additional claims for civil penalties under the PAGA that could have been brought based on the facts alleged therein, and any claims for fees and costs based thereon, including, but not limited to, claims for civil penalties for any and all of the following violations of California Labor Code: (1) Failure to Pay Overtime Wages, (2) Failure to Pay Minimum Wages, (3) Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof, (4) Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof, (5) Failure to Provide Accurate Wage Statements, (6) Failure to Pay Final Wages, (7) Failure to Maintain Accurate Records, and (8) Failure to Provide Paid Sick Leave.

Upon entry of the Order approving the Settlement, any Aggrieved Employee covered by this Agreement will be barred from proceeding with any PAGA claim released by this Settlement.

The settlement's scope also includes all individual claims, known or unknown, and remedies thereof Plaintiff had and could have had in her individual capacity against Defendant on or before the date Plaintiff executed the settlement. This portion of the settlement does not cover you.

Under the terms of the Settlement, Defendant has agreed to pay a Gross Settlement Amount of \$135,000 to resolve the Action ("Gross Settlement Amount"). Deducted from this Gross Settlement Amount were sums approved by the Court for attorneys' fees \$[REDACTED], attorneys' costs in the amount of \$[REDACTED], the fees and expenses of the Claims Administrator in the amount of \$[REDACTED], and a Service Award for Plaintiff in the amount of \$[REDACTED], which will result in a "Net Settlement Amount" of \$[REDACTED] for distribution to between Aggrieved Employees and the Labor and Workforce Development Agency ("LWDA") as required by the California Labor Code. 75% of the Net Settlement Amount (\$[REDACTED]) is being paid to the LWDA and 25% of the Net Settlement Amount (\$[REDACTED]) is being paid to Aggrieved Employees pursuant to Labor Code section 2699(i). Each individual Aggrieved Employee's share of the Net Settlement Amount was determined by taking their individual number of pay periods worked between November 24, 2020 to May 3, 2022 and dividing that number by the number of pay periods worked by all Aggrieved Employees between November 24, 2020 to May 3, 2022, and then multiplying that fraction by the 25% share of the Net Settlement Amount.

Enclosed in this mailing, you will find a check containing your share of the PAGA Settlement based on this allocation. Should you have any questions or concerns, you may contact counsel for Plaintiff and/or Defendant.

Galen T. Shimoda
Justin P. Rodriguez
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733
On behalf of Plaintiff

Ulrico Rosales
Nedim Novakovic
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304
On behalf of Defendant

Exhibit 2

RELEASE AGREEMENT

This Release Agreement (“Agreement”) is made by and between Barbara Lear (“Former Employee”) and Raxium, Inc. (the “Company”) (collectively referred to as the “Parties” or individually referred to as a “Party”).

RECITALS

WHEREAS, Former Employee was employed at-will by the Company; and

WHEREAS, the Company and Former Employee entered into the Private Attorneys General Act Settlement (the “Settlement”), to which this Agreement is attached as Exhibit 2;

WHEREAS, the Parties wish to resolve any and all disputes, claims, complaints, grievances, charges, actions, petitions, and demands that the Former Employee may have against the Company and any of the Releasees as defined below, including, but not limited to, any and all claims arising out of or in any way related to Former Employee’s employment with or separation from the Company;

NOW, THEREFORE, in consideration of the mutual promises made herein, the Company and Former Employee hereby agree as follows:

COVENANTS

1. Payment. Pursuant to the Settlement, the Company agrees to pay Former Employee up to \$7,500.00, as approved by the Court in connection with the Court’s approval of the Settlement (the “Service Award”). The Company will pay Former Employee the Service Award through the Claims Administrator, as set forth in the Settlement. Former Employee specifically acknowledges and agrees that the Service Award fully satisfies any obligation that the Company allegedly had to pay Former Employee wages or any other compensation for any of the services that Former Employee rendered to the Company, that the Service Award is in excess of any disputed wage claim that Former Employee may have, that the Service Award shall be deemed to be paid first in satisfaction of any disputed wage claim with the remainder sufficient to act as consideration for the general release of claims, and that Former Employee has not earned and is not entitled to receive any additional wages or other form of compensation from the Company. Former Employee acknowledges that this Agreement is a post-dispute settlement agreement and a negotiated severance agreement for which consideration does not constitute in whole or in part any employment-related benefit, such as a bonus, raise, employment, or continued employment. Former Employee also acknowledges and agrees that, without this Agreement, Former Employee is otherwise not entitled to the consideration listed in this Section 1.

2. Payment of Salary and Receipt of All Benefits. Former Employee acknowledges and represents that, once the consideration under this Agreement is paid, the Company has paid or provided, to date, all salary, wages, bonuses, accrued vacation/paid time off, premiums, leaves,

housing allowances, relocation costs, interest, severance, outplacement costs, fees, reimbursable expenses, commissions, stock, stock options, vesting, and any and all other benefits and compensation due to Former Employee.

3. Former Employee Release of Claims. Former Employee agrees that the foregoing consideration represents settlement in full of all outstanding obligations owed to Former Employee by the Company and its current and former insurers, officers (including Craig Peters and Rick Dodd), directors, employees, agents, investors, attorneys, shareholders, administrators, affiliates, benefit plans, plan administrators, professional employer organization or co-employer, insurers, trustees, divisions, parents, subsidiaries, acquirors, predecessor and successor corporations, and assigns (collectively, the "Releasees"). Former Employee, on Former Employee's own behalf and on behalf of Former Employee's respective heirs, family members, executors, agents, and assigns, hereby and forever releases the Releasees from, and agrees not to sue concerning, or in any manner to institute, prosecute, or pursue, any claim, complaint, charge, duty, obligation, demand, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that Former Employee may possess against any of the Releasees arising from any omissions, acts, facts, or damages that have occurred up until and including the date Former Employee signs this Agreement. This includes, but is not limited to, a release and waiver of any and all claims relating to or arising from (i) Former Employee's employment relationship with the Company and the termination of that relationship, including any and all claims arising out of any laws and regulations relating to employment; (ii) any and all claims for violation of the federal or any state constitution; (iii) any and all claims for attorneys' fees and costs; and (iv) any and all claims for violation of any federal, state, or municipal statute, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Equal Pay Act, the Fair Labor Standards Act, the Fair Credit Reporting Act, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act, the Employee Retirement Income Security Act of 1974, the Worker Adjustment and Retraining Notification Act, the Family and Medical Leave Act, the Immigration Reform and Control Act, the National Labor Relations Act, the California Family Rights Act, the California Labor Code (including claims related to meal and rest break requirements), the California Workers' Compensation Act, and the California Fair Employment and Housing Act.

Former Employee agrees that the release set forth in this section shall be and remain in effect in all respects as a complete general release as to the matters released. This release does not extend to any obligations incurred under this Agreement or the Settlement. This release does not release claims that cannot be released as a matter of law.

4. Acknowledgment of Waiver of Claims under ADEA. Former Employee acknowledges that Former Employee is waiving and releasing any rights Former Employee may have under the Age Discrimination in Employment Act of 1967 ("ADEA"), and that this waiver and release is knowing and voluntary. Former Employee agrees that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the date Former Employee signs this Agreement. Former Employee acknowledges that the consideration given for this waiver

and release is in addition to anything of value to which Former Employee was already entitled. Former Employee further acknowledges that Former Employee has been advised by this writing that: (a) Former Employee should consult with an attorney prior to executing this Agreement; (b) Former Employee has twenty-one (21) days within which to consider this Agreement; (c) Former Employee has seven (7) days following Former Employee's execution of this Agreement to revoke this Agreement; (d) this Agreement shall not be effective until after the revocation period has expired; and (e) nothing in this Agreement prevents or precludes Former Employee from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties, or costs for doing so, unless specifically authorized by federal law. In the event Former Employee signs this Agreement and returns it to the Company in less than the 21-day period identified above, Former Employee hereby acknowledges that Former Employee has freely and voluntarily chosen to waive the time period allotted for considering this Agreement. Former Employee acknowledges and understands that revocation must be accomplished by a written notification to the person executing this Agreement on the Company's behalf that is received prior to the Effective Date. The Parties agree that changes, whether material or immaterial, do not restart the running of the 21-day period.

5. California Civil Code Section 1542. Former Employee acknowledges that Former Employee has been advised to consult with legal counsel and are familiar with the provisions of California Civil Code Section 1542, a statute that otherwise prohibits the release of unknown claims, which provides as follows:

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

Former Employee, being aware of said code section, agrees to expressly waive any rights Former Employee may have thereunder, as well as under any other statute or common law principles of similar effect.

6. No Admission of Liability. Former Employee understands and acknowledges that this Agreement constitutes a compromise and settlement of any and all actual or potential claims by Former Employee. No action taken by the Company hereto, either previously or in connection with this Agreement, shall be deemed or construed to be (a) an admission of the truth or falsity of any actual or potential claims or (b) an acknowledgment or admission by the Company of any fault or liability whatsoever to Former Employee or to any third party.

7. Confidentiality. Subject to the Protected Activity provision below, Former Employee agrees to maintain in complete confidence the existence of this Agreement except as required in connection with seeking Court Approval of the Settlement, the contents and terms of this Agreement, and the consideration for this Agreement (hereinafter collectively referred to as

“Release Information”). Except as required by law, Former Employee may disclose Release Information only to Former Employee’s immediate family members, the Court in any proceedings to enforce the terms of this Agreement, Former Employee’s attorney(s), and Former Employee’s accountant(s) and any professional tax advisor(s) to the extent that they need to know the Release Information in order to provide advice on tax treatment or to prepare tax returns, and must prevent disclosure of any Release Information to all other third parties.

8. No Cooperation. Subject to the Protected Activity provision, Former Employee agrees that Former Employee will not knowingly encourage, counsel, or assist any attorneys or their clients in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints by any third party against any of the Releasees, unless under a subpoena or other court order to do so or upon written request from an administrative agency or the legislature or as related directly to the ADEA waiver in this Agreement. Former Employee agrees both to immediately notify the Company upon receipt of any such subpoena or court order or written request from an administrative agency or the legislature, and to furnish, within three (3) business days of its receipt, a copy of such subpoena or other court order or written request from an administrative agency or the legislature. If approached by anyone for counsel or assistance in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints against any of the Releasees, Former Employee shall state no more than that Former Employee cannot provide counsel or assistance.

9. Protected Activity Not Prohibited. Former Employee understands that nothing in this Agreement shall in any way limit or prohibit Former Employee from engaging in any Protected Activity. Protected Activity includes: (i) filing and/or pursuing a charge, complaint, or report with, or otherwise communicating, cooperating, or participating in any investigation or proceeding that may be conducted by any federal, state or local government agency or commission, including the Securities and Exchange Commission, the Equal Employment Opportunity Commission, the Occupational Safety and Health Administration, and the National Labor Relations Board (“Government Agencies”); and/or (ii) discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that Former Employee has reason to believe is unlawful; and/or (iii) disclosing factual information (other than the amount paid under this Agreement) related to a claim filed in a civil action or complaint filed in an administrative action about sexual assault, an act of sexual harassment, or an act of (or failure to prevent) harassment or discrimination, or an act of retaliation against a person for reporting or opposing harassment or discrimination. Former Employee understands that in connection with such Protected Activity, Former Employee is permitted to disclose documents or other information as permitted by law, without giving notice to, or receiving authorization from, the Company. Notwithstanding the foregoing, Former Employee agrees to take all reasonable precautions to prevent any unauthorized use or disclosure of any Company trade secrets, proprietary information, or confidential information that does not involve unlawful acts in the workplace or the activity otherwise protected herein. Former Employee further understands that Protected Activity does not include the disclosure of any Company attorney-client privileged communications or attorney work product. In addition, pursuant to the Defend Trade Secrets Act of 2016, Former Employee is notified that an individual will not be held criminally or civilly liable under any federal or state

trade secret law for the disclosure of a trade secret that (i) is made in confidence to a federal, state, or local government official (directly or indirectly) or to an attorney *solely* for the purpose of reporting or investigating a suspected violation of law, or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if (and only if) such filing is made under seal. In addition, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the individual's attorney and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order.

10. Tax Consequences. The Company makes no representations or warranties with respect to the tax consequences of the payments and any other consideration provided to Former Employee or made on Former Employee's behalf under the terms of this Agreement. Former Employee agrees and understands that Former Employee is responsible for payment, if any, of employee side local, state, and/or federal taxes on the payments and any other consideration provided hereunder by the Company and any penalties or assessments thereon. Former Employee further agrees to indemnify and hold the Releasees harmless from any claims, demands, deficiencies, penalties, interest, assessments, executions, judgments, or recoveries by any government agency against the Company for any amounts claimed due on account of (a) Former Employee's failure to pay or delayed payment of federal or state taxes, or (b) damages sustained by the Company by reason of any such claims, including attorneys' fees and costs. The Parties agree and acknowledge that the payments made pursuant to section 1 of this Agreement are not related to sexual harassment or sexual abuse and not intended to fall within the scope of 26 U.S.C. Section 162(q).

11. Authority. The Company represents and warrants that the undersigned has the authority to act on behalf of the Company and to bind the Company and all who may claim through it to the terms and conditions of this Agreement. Former Employee represents and warrants that Former Employee has the capacity to act on Former Employee's own behalf and on behalf of all who might claim through Former Employee to bind them to the terms and conditions of this Agreement. Each Party warrants and represents that there are no liens or claims of lien or assignments in law or equity or otherwise of or against any of the claims or causes of action released herein.

12. Severability. In the event that any provision or any portion of any provision hereof or any surviving agreement made a part hereof becomes or is declared by a court of competent jurisdiction or arbitrator to be illegal, unenforceable, or void, this Agreement shall continue in full force and effect without said provision or portion of provision.

13. Attorneys' Fees. Except with regard to a legal action challenging or seeking a determination in good faith of the validity of the waiver herein under the ADEA, in the event that either Party brings an action to enforce or effect its rights under this Agreement or the Settlement, the prevailing Party shall be entitled to recover its costs and expenses, including the costs of mediation, arbitration, litigation, court fees, and reasonable attorneys' fees incurred in connection with such an action.

14. Entire Agreement. This Agreement represents the entire agreement and understanding between the Company and Former Employee concerning the subject matter of this Agreement, with the exception of the Settlement as well as any prior agreements by and between Former Employee and the Company regarding the protection of the Company's confidential and proprietary information and trade secrets.

15. No Oral Modification. This Agreement may only be amended in a writing signed by Former Employee and the Company's Chief Executive Officer.

16. Governing Law. This Agreement shall be governed by the laws of the State of California, without regard for choice-of-law provisions.

17. Effective Date. This Agreement is contingent upon the Court's approval of the Settlement. This Agreement shall be effective on the date when the Court enters approval of the Settlement (the "Effective Date").

18. Counterparts. This Agreement may be executed in counterparts and each counterpart shall be deemed an original and all of which counterparts taken together shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned. The counterparts of this Agreement may be executed and delivered by facsimile, photo, email PDF, or other electronic transmission or signature.

19. Voluntary Execution of Agreement. Former Employee understands and agrees that Former Employee executed this Agreement voluntarily, without any duress or undue influence on the part or behalf of the Company or any third party, with the full intent of releasing all of Former Employee's claims against the Company and any of the other Releasees. Former Employee acknowledges that:

- (a) Former Employee has read this Agreement;
- (b) Former Employee has been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of Former Employee's own choice or has elected not to retain legal counsel;
- (c) Former Employee understands the terms and consequences of this Agreement and of the releases it contains;
- (d) Former Employee is fully aware of the legal and binding effect of this Agreement;
- (e) Former Employee has not relied upon any representations or statements made by the Company that are not specifically set forth in this Agreement; and

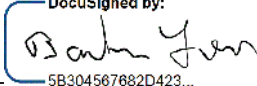
- (f) Former Employee understands and agrees that no consideration in this Agreement constitutes, in whole or in part, a raise, a bonus, employment, or continued employment.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; SIGNATURE
PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

Dated: 6/15/2022, 2022

BARBARA LEAR

 DocuSigned by:
5B304567682D423...

Barbara Lear

RAXIUM, INC.

Dated: _____, 2022

By _____
By:
For Raxium, Inc.