

AEGIS LAW FIRM, PC

KASHIF HAQUE, State Bar No. 218672

SAMUEL A. WONG, State Bar No. 217104

JESSICA L. CAMPBELL, State Bar No. 280626

STEVEN A. MCNICHOLL, State Bar No. 323191

9811 Irvine Center Drive, Suite 100

Irvine, California 92618

Telephone: (949) 379-6250

Facsimile: (949) 379-6251

Email: jcampbell@aegislawfirm.com

smcnicholl@aegislawfirm.com

Attorneys for Plaintiff Joshua F. Hardwick., individually,
and on behalf of all others similarly situated.

COOK BROWN LLP

CARRIE E. BUSHMAN, State Bar No. 186130

DANIEL F.C. KOZIEJA, State Bar No..331123

2407 J Street, Second Floor

Sacramento, California 95816

Telephone: 916.442.3100

Facsimile: 916.442.4227

Email: cbushman@cookbrown.com

Attorneys for Defendant:

3D DATA COM

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

JOSHUA F. HARDWICK, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

3D DATA COM; and DOES 1 through 20,
inclusive,

Defendants.

Case No. 34-2022-00316434-CU-OE-GDS

Assigned for all purposes to:

Hon. Richard K. Sueyoshi

Dept. 28

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

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiff Joshua F. Hardwick (“Named
7 Plaintiff”) and the Class Members, on the one hand, and Defendant 3D Data Com (“Defendant”), on
8 the other hand. Named Plaintiff and Defendant collectively are referred to in this Agreement as “the
9 Parties.”

10 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
11 concluded by agreement of Defendant to pay the settlement amount of Five Hundred and Ninety
12 Thousand Dollars and zero cents (\$590,000.00) as provided in Section 3.06(a) below (“Gross
13 Settlement Amount”) pursuant to the terms and conditions of this Agreement and for the
14 consideration set forth herein, including but not limited to, a release of all claims by Named Plaintiff
15 and the Class Members as set forth herein.

16 ARTICLE I

17 DEFINITIONS

18 Unless otherwise defined herein, the following terms used in this Agreement shall have the
19 meanings ascribed to them as set forth below:

20 a. “Action” means the action described as follows: *Joshua Hardwick v. 3D Data Com*;
21 and DOES 1 through 20, inclusive,” Case No. 34-2022-00316434-CU-OE-GDS, commenced on
22 March 4, 2022, in the Superior Court of the State of California for the County of Sacramento (the
23 “Class Action”).

24 b. “Agreement” means this Joint Stipulation of Settlement, including the attached
25 Exhibit(s).

26 c. “Class” means all non-exempt employees employed by Defendant in California
27 during the Class Period.

28 d. “Class Counsel” means the attorneys for the Class and the Class Members, who are:

AEGIS LAW FIRM, PC
Kashif Haque
Samuel A. Wong
Jessica L. Campbell
Steven A. McNicholl
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251

e. “Class List” means a list based on Defendant’s business records that identifies each Class Member’s name, last known home or mailing address, Social Security number or, as applicable, other taxpayer identification number, and the number of Qualifying Workweeks worked during the Class Period.

f. “Class Member(s)” means all non-exempt employees employed by Defendant in California at any time during the Class Period.

g. “Class Period” means September 7, 2017 through November 4, 2023.

h. “Court” means the California Superior Court for the County of Sacramento, where the Action is currently pending.

i. “Date of Finality” means the later of the following: (1) the date the Final Order is signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or other judicial review is taken from the Court’s overruling of objections to the settlement, ten (10) days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes final.

j. “Defendant” means Defendant 3D Data Com, aka 3D Technology Services, Inc.

k. “Defense Counsel” means counsel for Defendant:

COOK BROWN LLP
CARRIE E. BUSHMAN, State Bar No. 186130
DANIEL F.C. KOZIEJA, State Bar No..331123
2407 J Street, Second Floor
Sacramento, California 95816
Telephone: 916.442.3100
Facsimile: 916.442.4227
Email: cbushman@cookbrown.com

1 l. “Disposition” means the method by which the Court approves the terms of the
2 Settlement and retains jurisdiction over its enforcement, implementation, construction,
3 administration, and interpretation.

4 m. “Final Order Approving Settlement of Class and Representative PAGA Action” or
5 “Final Order” means the final formal court order signed by the Court following the Final Fairness
6 and Approval Hearing in accordance with the terms herein, approving this Agreement.

7 n. “Gross Settlement Amount” means Five Hundred and Ninety Thousand Dollars and
8 zero cents (\$590,000.00) to be paid by Defendant as provided by this Agreement to settle the Action.
9 All payments to the Class, the LWDA Payment, administration costs, attorney’s fees and costs, and
10 Incentive Awards, pursuant to Section 3.06(a) below, shall be paid out of the Gross Settlement
11 Amount. The employer’s share of payroll taxes arising from the payments made under this settlement
12 shall be paid by Defendant separate from and in addition to the Gross Settlement Amount. The Gross
13 Settlement Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the
14 Gross Settlement Amount shall revert to Defendant.

15 o. “Incentive Award” means a monetary amount of up to Ten Thousand Dollars
16 (\$10,000.00) for Plaintiff Joshua F. Hardwick, subject to Court approval, in recognition of his effort
17 and work in prosecuting the Action on behalf of Class Members, and for his general release of claims.

18 p. “Individual Settlement Payment(s)” means each Participating Class Member’s
19 respective share of the Net Settlement Amount. Individual Settlement Payments will be determined
20 by the calculations provided in this Agreement.

21 q. “LWDA” means The State of California Labor and Workforce Development Agency.

22 r. “LWDA Payment” means 75% of the PAGA Settlement Amount which, subject to
23 Court approval, will be paid to the LWDA pursuant to Section 3.06(e) of this Agreement, as provided
24 for below.

25 s. “Motion for Final Approval” means Plaintiff’s submission of a written motion,
26 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
27

1 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
2 to enter a Final Order in the Action.

3 t. “Motion for Preliminary Approval” means Plaintiff’s submission of a written motion,
4 including any evidence as may be required for the Court to grant preliminary approval of the
5 Settlement as required by Rule 3.769 of the California Rules of Court.

6 u. “Named Plaintiff” means Joshua F. Hardwick.

7 v. “Net Settlement Amount” means the Gross Settlement Amount less Court-approved
8 administration costs, Class Counsels’ attorney’s fees and costs, Incentive Award, and LWDA
9 Payment, pursuant to Section 3.06(a)-(f) below.

10 w. “Non-Participating Class Member(s)” means any Class Member(s) who submit to the
11 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
12 to Section 3.04(b) below.

13 x. “Notice Packet” means the Notice of Proposed Class and Representative PAGA
14 Action Settlement in a form substantially similar to the Notice Packet attached hereto as **Exhibit A**,
15 subject to Court approval.

16 y. “PAGA” means the California Private Attorneys General Act of 2004, which is
17 codified in California Labor Code §§ 2698 *et seq.*

18 z. “PAGA Letter” means Named Plaintiff’s March 4, 2022 letter to the California Labor
19 and Workforce Development Agency, to be amended pursuant to Section 5.02.

20 aa. “PAGA Group Members” means all non-exempt employees employed by Defendant
21 in California at any time during the PAGA Period.

22 bb. “PAGA Period” means September 7, 2020 through November 4, 2023.

23 cc. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount
24 allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties have
25 agreed that the PAGA Settlement Amount is Forty Thousand Dollars (\$40,000.00), subject to Court
26 approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the
27 remaining 25% will be added to the Net Settlement Amount and distributed to PAGA Group
28 Members.

dd. “Participating Class Member(s)” is defined as a Class Member who does not timely exclude himself or herself from the Settlement and will therefore receive his or her share of the Net Settlement Amount automatically without the need to return a claim form. Each Participating Class Member will be paid his/her Individual Settlement Payment.

ee. “Preliminary Approval Date” means the date the Court preliminarily approves the Settlement embodied in this Agreement.

ff. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement Administrator for the benefit of Participating Class Members.

gg. “Qualifying Workweeks” means the number of weeks that a Class Member worked for Defendant as a non-exempt employee during the Class Period.

hh. “Qualifying PAGA Workweeks” means the number of weeks that a Class Members worked for Defendant as a non-exempt employee during the PAGA Period.

ii. “Released Parties” means Defendant 3D Data Com, aka 3D Technology Services, Inc., as well as Defendant’s past or present owners, officers, shareholders, directors, members, executives, partners, managers, representatives, parents, subsidiaries, joint ventures, affiliated entities, agents, clients, employees, attorneys, insurers, predecessors, and successors.

jj. “Response Deadline” means the deadline by which Class Members must postmark or fax to the Settlement Administrator requests for exclusion or written notices of objection. The Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by the Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-mailing.

kk. “Settlement Administration Costs” means all costs incurred by the Settlement Administrator in administration of the Settlement, including, but not limited to, mailing of notice to the class, calculation of Individual Settlement Payments, calculation of employer tax payments on the wage portion of the Individual Settlement Payments to Participating Class Members and

generation of related tax reporting forms, generation of Individual Settlement Payment checks and related tax reporting forms, administration of unclaimed checks, and generation of checks to Class Counsel for attorneys' fees and costs, to Named Plaintiff for his Incentive Awards, and to the LWDA. The Settlement Administration Costs shall be paid from the Gross Settlement Amount.

11. “Settlement Administrator” means Phoenix Class Action Administration Solutions, which the Parties have agreed will be responsible for the administration of the Individual Settlement Payments to be made by Defendant from the Gross Settlement Amount and related matters under this Agreement.

ARTICLE II

CONTINGENT NATURE OF THE AGREEMENT

Section 2.01: Stipulation of Class Certification for Settlement Purposes

Because the Parties are settling claims under Labor Code section 2699 *et. eq.* and have stipulated to the certification of the Class with respect to all causes of action alleged in the Class Action for settlement purposes only, this Agreement requires approval by the Court in accordance with Labor Code section 2699(1) and California Rule of Court 3.769. Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement to a Class and agreed to resolution of Plaintiff's claim for PAGA penalties shall have no bearing on, nor be admissible in connection with, the issue of certification of the Class with respect to all causes of action alleged in the Class Action. Defendant does not consent to certification of the Class for any purpose other than to effectuate settlement of the Action. If the Date of Finality does not occur, or if Disposition of the Action is not effectuated, any certification of the Class as to Defendant and any approval or award of PAGA penalties will be vacated, and Named Plaintiff, Defendant, and the Class will be returned to their positions with respect to the Action as if the Agreement had not been entered into. In the event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving certification of any class contemplated by this Agreement and/or awarding PAGA penalties shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement

1 reflected in this Agreement, the fact that Defendant did not oppose the certification of a Class under
2 this Agreement, or that the Court preliminarily approved the certification of the Class and/or
3 approved an award of PAGA penalties, shall not be used or cited thereafter by any person or entity,
4 including in any manner whatsoever, including without limitation any contested proceeding relating
5 to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed
6 null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any
7 purpose whatsoever. Defendant expressly reserves the right to challenge the propriety of class
8 certification in the Class Action for any purpose, if the Date of Finality does not occur.

9 The Parties and their respective counsel shall take all steps that may be requested by the Court
10 relating to the approval and implementation of this Agreement and shall otherwise use their
11 respective best efforts to obtain Court approval and implement this Agreement. Plaintiff shall be
12 responsible for submitting the settlement to the LWDA at the same time of filing the Motion for
13 Preliminary Approval. If the Court does not grant the Motion for Preliminary Approval and/or the
14 Motion for Final Approval and/or if the LWDA objects to the PAGA Settlement Amount, the Parties
15 agree to meet and confer to address the Court's and/or LWDA's concerns. If the Parties are unable
16 to agree upon a resolution, the Parties agree to seek the assistance of mediator Michael Loeb, Esq. to
17 resolve the dispute.

18 **ARTICLE III**

19 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

20 The procedure for obtaining Court approval of and implementing this Agreement shall be as
21 follows:

22 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

23 Named Plaintiff will bring a motion before the Court for an order conditionally certifying the
24 Class to include all claims pled in the Action based on the preliminary approval of this Agreement.
25 The date that the Court grants preliminary approval of this Agreement will be the "Preliminary
26 Approval Date."
27
28

1 **Section 3.02: The Settlement Administrator**

2 The Parties have chosen Phoenix Class Action Administration Solutions to administer this
3 Settlement and to act as the Settlement Administrator, including but not limited to distributing and
4 responding to inquiries about the Notice Packet, determining the validity of exclusions/opt-outs,
5 calculating the Net Settlement Amount and the Individual Settlement Payments, issuing the
6 Individual Settlement Payment checks and distributing them to Participating Class Members,
7 establishing and maintaining the QSF, and issuing the payment to Class Counsel for attorneys' fees
8 and costs, the Incentive Award checks to Named Plaintiff, and calculating and distributing the
9 employer payroll taxes to the appropriate taxing authorities. The Settlement Administrator shall
10 expressly agree to all of the terms and conditions of this Agreement.

11 All costs of administering the Settlement, including but not limited to all costs and fees
12 associated with preparing, issuing and mailing any and all notices to Class Members and/or
13 Participating Class Members, all costs and fees associated with computing, processing, reviewing,
14 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax
15 returns and any other filings required by any governmental taxing authority or agency, all costs and
16 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the
17 course of administering disbursements from the Net Settlement Amount, and any other costs and fees
18 incurred and/or charged by the Settlement Administrator in connection with the execution of its
19 duties under this Agreement ("Settlement Administration Costs"), shall be paid to the Settlement
20 Administrator from the Gross Settlement Amount.

21 **Section 3.03: Notice to Class Members**

22 No later than twenty (20) business days after the Preliminary Approval Date, Defendant will
23 provide the Settlement Administrator with a "Class List" in electronic format based on its business
24 records, identifying the names of the Class Members, their last known home addresses, Social
25 Security numbers or, as applicable, other taxpayer identification number, and weeks worked during
26 the Class Period and PAGA Period (if applicable).

27 Within ten (10) business days of receiving a Class List from Defendant, the Settlement
28 Administrator will send Class Members, by first-class mail, at their last known address, the Court

1 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
2 Settlement Class. The Notice Packet will include a calculation of the Class Member's approximate
3 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of
4 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the
5 Settlement Administrator will check all Class Member addresses against the National Change of
6 Address database and shall update any addresses before mailing. The Settlement Administrator will
7 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
8 Notice Packet was undeliverable. If a Class Member's notice is re-mailed, the Class Member shall
9 have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from the date of the
10 initial mailing, whichever is later, in which to postmark objections or requests for exclusion. Class
11 Members shall not be required to submit claim forms in order to receive a proportional share of the
12 Net Settlement Amount.

13 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
14 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose
15 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
16 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
17 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
18 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
19 that reasonable means be used to locate Class Members and that the Settlement Administrator be
20 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
21 Individual Settlement Payments to all Participating Class Members.

22 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
23 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
24 status report provided to the Parties. The Settlement Administrator shall not provide any Class
25 Member or PAGA Group Member identifying information, other than employee identification
26 numbers, to Class Counsel unless requested by a specific Class Member or PAGA Group Member.

27 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
28 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class

1 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
2 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
3 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and
4 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
5 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
6 procedures set forth in Section 3.06(g) below.

7 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
8 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
9 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
10 for and re-sending of any returned Notice Packets, objections that the Settlement Administrator
11 received, and the identity, by employee identification number, of those individuals who submitted
12 valid requests for exclusion from the Settlement.

13 **Section 3.04: Responses to Notice**

14 **a. Class Member Disputes**

15 If any Class Member disagrees with Defendant's records as to his or her Qualifying
16 Workweeks during the Class Period and/ or PAGA Period as reflected in the Notice Packet, the Class
17 Member shall set forth in writing the Qualifying Workweeks he/she claims to have worked during
18 the Class Period and/or PAGA Period and submit such writing to the Settlement Administrator by
19 the Response Deadline, along with any supporting documentation. The Notice will also provide a
20 method for the Class Member to challenge the employment data on which his or her Individual
21 Settlement Payment is based. The Settlement Administrator shall contact the Parties regarding the
22 dispute and the Parties will work in good faith to resolve it. The Settlement Administrator shall not
23 provide any Class Member or PAGA Group Member identifying information other than employee
24 identification numbers to Class Counsel unless requested by a specific Class Member or PAGA
25 Group Member. If the Parties are unable to resolve the dispute, the Settlement Administrator will be
26 the final arbiter of the Qualifying Workweeks for each Class Member during the Class Period and/or
27 PAGA Period based on the information provided to it.

1 **b. Requests for Exclusion from Class**

2 In order for any Class Member to validly exclude himself or herself from the Class and this
3 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class
4 Member or his or her authorized representative, and must be sent to the Settlement Administrator,
5 postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement
6 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall
7 contain instructions on how to validly exclude himself or herself from the Class and this Settlement
8 (*i.e.*, opt out), including the language to be used in a request for exclusion. The date of the initial
9 mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be
10 conclusively determined according to the records of the Settlement Administrator. Any Class
11 Member who timely and validly requests exclusion from the Class and this Settlement will receive
12 his/her share of PAGA Settlement Amount but will not be entitled to the remaining portion of the
13 Individual Settlement Payment which would have been paid to him/her, will not be bound by the
14 terms and conditions of this Agreement, and will not have any right to object, appeal, or comment
15 thereon.

16 Any Class Member who fails to timely submit a request for exclusion shall automatically be
17 deemed a Class Member whose rights and claims with respect to the issues raised in the Action are
18 determined by the Court's Final Order Approving Settlement, and by the other rulings in the Action.
19 Thus, said Class Member's rights to pursue any claims covered by the Action and/or released in this
20 Agreement will be extinguished.

21 **c. Objections to Settlement**

22 For any Class Member to object to this Agreement, or any term of it, the person making the
23 objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the
24 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)
25 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),
26 a written statement of the grounds of objection, signed by the objecting Class Member or his or her
27 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and
28 the date the signed objection was postmarked, shall be conclusively determined according to the

1 records of the Settlement Administrator. The Settlement Administrator shall send any objections it
2 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. The
3 Settlement Administrator shall not provide any Class Member or PAGA Group Member identifying
4 information other than employee identification numbers to Class Counsel unless requested by a
5 specific Class Member or PAGA Group Member. Class Members may also appear at the final
6 approval hearing to object. The Court retains final authority with respect to the consideration and
7 admissibility of any Class Member objections.

8 **d. Encouragement of Class Members**

9 The Parties to this Agreement and the counsel representing such Parties shall not, directly or
10 indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from
11 this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from
12 Class Members.

13 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

14 Defendant has estimated the number of work weeks as 19,000. If the number of work weeks
15 increases by more than 10% (which is more than 20,900) as of the end of the Class Period), the GSA
16 will increase by \$28.23 per additional workweek in excess of 20,900.

17 **f. Right of Defendant to Withdraw Based on Opt-Outs**

18 If prior to the court's order granting Final Approval of the Settlement, 10 percent or more of
19 the Class Members have submitted proper and timely requests to opt-out in accordance with the terms
20 of this Agreement, Defendant, may at its election, rescind the Agreement and all actions taken in
21 furtherance will be thereby null and void. Defendant must exercise this right of rescission, in writing
22 to Class Counsel. If the option to rescission is exercised, then any Claims Administrator Costs
23 incurred to date must be paid by Defendant.

24 **Section 3.05: Final Fairness and Approval Hearing**

25 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final
26 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement
27 and determine whether the Court should give it final approval, and (2) consider any objections made
28 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the

Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a Proposed Final Order Approving Settlement of Class and Representative PAGA Action.

Section 3.06: Settlement Payment Procedures

a. Settlement Amount

In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount in the amount of Five Hundred Ninety Thousand Dollars and zero cents (\$590,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e). The Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class Members, all administration costs, Class Counsel's attorney's fees and costs, PAGA Settlement Amount, and the Incentive Payment.

Defendant shall transfer the Gross Settlement Amount plus Defendant's share of employer-side payroll taxes, as set forth herein, into a QSF established by the Settlement Administrator either directly or by sending the funds to the Settlement Administrator to be deposited and distributed. The Gross Settlement Amount shall be paid in two installments, with the first payment of \$295,000 to be deposited no later than April 15, 2024 and the second payment of \$295,000 plus Defendant's share of employer-side payroll taxes to be deposited no later than December 15, 2024. In the event final approval of the settlement has not been granted by either of the above dates, the payment(s) shall be held in trust by the Settlement Administrator and immediately refunded to Defendant if the court issues a final order denying approval of the settlement. The Settlement Administrator will use these funds, exclusive of employer-side payroll taxes, to fund payment of the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, the Incentive Awards, the LWDA Payment, and the Settlement Administration Costs.

Only if final approval of the settlement has been granted, within ten (10) court days after receiving Defendants' final payment funding the Gross Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the Incentive Awards, and employer and employee tax withholdings applicable to the Net Settlement Amount allocated to wages. Prior to this

1 distribution, the Settlement Administrator will perform a search based on the National Change of
2 Address Database to update and correct for any known or identifiable address changes.

3 **b. Payment of Attorneys' Fees and Costs**

4 Class Counsel shall submit an application for an award of attorneys' fees of up to one-third
5 of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is One
6 Hundred and Ninety Six Thousand Six Hundred Sixty-Six and Sixty-Six Cents (\$196,666.66). Class
7 Counsel shall submit an application for an award of costs not to exceed Twelve Thousand Dollars
8 (\$12,000.00). Such application for attorneys' fees and costs shall be heard by the Court at the Final
9 Fairness and Approval Hearing. Defendant shall not object to or oppose any such application in these
10 amounts. Class Counsel shall serve Defendant with copies of all documents submitted in support of
11 their application for an award of attorneys' fees and costs.

12 Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the
13 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'
14 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,
15 and expenses related to the investigation, prosecution, and settlement of the Action incurred through
16 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees
17 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts
18 will be reallocated to the Net Settlement Amount.

19 **c. Payment of Settlement Administration Costs**

20 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
21 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed Ten
22 Thousand Dollars (\$10,000.00). To the extent that the Court approves a lesser amount for settlement
23 administration costs, the difference between the requested and awarded amounts will be reallocated
24 to the Net Settlement Amount.

25 **d. Payment of Incentive Award to Named Plaintiff**

26 Subject to Court approval, the Named Plaintiff shall receive an Incentive Award of up to Ten
27 Thousand Dollars and Zero Cents (\$10,000.00), the request for which Defendant will not object to
28 or oppose. The Incentive Award shall be paid out of the Gross Settlement Amount and shall not

1 constitute payment to any Participating Class Member(s) other than Named Plaintiff. To the extent
2 that the Court approves less than the amount of incentive award that Class Counsel request, the
3 difference between the requested and awarded amounts will be reallocated to the Net Settlement
4 Amount.

5 Because it is the intent of the Parties that the Incentive Awards represent payment to Named
6 Plaintiff for his service to the Class Members, and not wages, the Settlement Administrator will not
7 withhold any taxes from the Incentive Awards. The Incentive Award will be reported on a Form
8 1099, which the Settlement Administrator will provide to Named Plaintiff and to the pertinent taxing
9 authorities as required by law.

10 **e. Payment to the Labor and Workforce Development Agency**

11 In consideration of claims for penalties made under PAGA, Class Counsel will request that
12 the Court approve allocation of Forty Thousand Dollars (\$40,000.00) of the Gross Settlement
13 Amount to be attributed as the PAGA Settlement Amount. Seventy-five percent (75%) of this
14 payment will be allocated as the LWDA Payment, and twenty-five percent (25%) will be paid to the
15 Net Settlement Amount for distribution to PAGA Group Members. Defendant will not oppose this
16 request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount. The
17 Court's adjustment, if any, of the amount allocated to Named Plaintiff's PAGA claim in the PAGA
18 Action, will not invalidate this Agreement.

19 **f. Payment of Individual Settlement Payments to Participating Class Members**

20 The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement
21 Payments. The Parties agree that the Net Settlement Amount shall be divided between all
22 Participating Class Members in proportion to the number of individual Qualifying Workweeks for
23 each Class Member during the Class Period and PAGA Period. To calculate the minimum amount
24 each Class Member will receive based on their individual Qualifying Workweeks, the Net Settlement
25 Amount will be divided by the total number of Qualifying Workweeks by all Class Members / PAGA
26 Group Members during the Class Period and PAGA Period then allocated on a pro rata basis based
27 on the number of Qualifying Workweeks / Qualifying PAGA Workweeks worked by each
28 Participating Class Member / PAGA Group Member. Qualifying Workweeks will be rounded up to

1 the next whole integer. Each Class Member's approximate Individual Settlement Payment amount
2 will be included in his or her Notice Packet. After final approval by the Court, the Net Settlement
3 Amount will be dispersed to Participating Class Members (those who did not exclude themselves)
4 on a pro rata basis based on the individual Qualifying Workweeks worked during the Class Period
5 by each Participating Class Member. Class Members who were employed during the PAGA Period
6 will receive their share of the PAGA Payment regardless of whether they Opt-out of the settlement.

7 Each Individual Settlement Payment will represent wages and penalties. Settlement Payments
8 for the Class Period will be allocated using the following formula: 20% allocated to wages; 80%
9 allocated to interest and penalties. Settlement Payments for the PAGA Period will be allocated as
10 100 percent penalties. The amounts paid as wages shall be subject to all tax withholdings customarily
11 made from an employee's wages and all other authorized and required withholdings and shall be
12 reported by W-2 forms. The employer-side taxes will be paid separate from and in addition to the
13 Gross Settlement Amount. The amounts paid as penalties and interest shall be subject to all
14 authorized and required withholdings other than the tax withholdings customarily made from
15 employees' wages and shall be reported by IRS 1099 forms.

16 Neither Defendant nor its counsel shall have any liability for any tax implications related to
17 the receipt of settlement funds herein, including by the third-party settlement administrator; any and
18 all such liability and/or obligations shall be borne solely by the recipients of any funds to be paid by
19 Defendant herein. The Parties acknowledge neither Defendant nor Plaintiff's counsel have provided
20 any tax-related advice whatsoever.

21 No later than ten (10) business days after the Court grants final approval of the settlement and
22 after receiving the Gross Settlement Amount from Defendant, the Settlement Administrator shall
23 prepare and mail the checks for the Individual Settlement Payments to Participating Class Members.
24 Individual Settlement Payments paid from the Net Settlement Amount allocated to wages will be
25 reduced by applicable employer and employee tax withholdings, and the Settlement Administrator
26 will issue a Form W-2 for the wage portion of the Individual Settlement Payments. The Settlement
27 Administrator will issue a Form 1099 to the extent required by law for the interest and penalty
28 portions of the Individual Settlement Payments. Participating Class Members shall have 180 days

1 from the date their Individual Settlement Payment checks are dated to cash their Settlement checks.
2 Any checks that are not cashed upon the expiration of that 180-day time period will be void, and the
3 uncashed funds shall be paid to the State Controller Unclaimed Property Fund in the name of the
4 Class Member for whom the funds are designated.

5 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
6 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
7 a mass search on LexisNexis or a comparable database based on set criteria and, if another address
8 is identified, the Settlement Administrator shall mail the check to the newly identified address. If the
9 Settlement Administrator is unable to obtain a valid mailing address through this process, the
10 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
11 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

12 **g. No Credit Toward Benefit Plans.**

13 The Individual Settlement Payments made to Participating Class Members under this
14 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
15 calculate any additional benefits under any benefit plans to which any Class Members may be
16 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
17 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
18 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
19 Members may be entitled under any benefit plans.

20 **h. No Additional Contribution from Defendant**

21 Defendant's monetary obligation under this Agreement is limited to the Gross Settlement
22 Amount and any employer side payroll taxes owed on amounts characterized as wages under this
23 Agreement (with the express exception of any potential pro rata increase to the Gross Settlement
24 Amount, as described in Section 3.04(e)). All other costs and expenses arising out of or in connection
25 with the performance of this Agreement shall be paid from the Gross Settlement Amount, unless
26 expressly provided otherwise herein. However, in the event this agreement is deemed null and void
27 pursuant to Section 2.01, because the Court, in its independent determination, finds that the
28 Agreement does not meet the standards for settlement approval, then Defendant and Plaintiff shall

1 be equally responsible for the costs of the Claims Administrator incurred between the date the
2 Agreement was executed and the date of such event.

3 **ARTICLE IV**

4 **LIMITATIONS ON USE OF THIS SETTLEMENT**

5 **Section 4.01: No Admission**

6 Defendant disputes the allegations in the Action and disputes that, but for this Settlement, a
7 Class should have been certified in the Class Action and that any wages or penalties are due or should
8 be awarded. This Agreement is entered into solely for the purpose of settling highly disputed claims.
9 Nothing in this Agreement is intended nor will be construed as an admission of liability or
10 wrongdoing by Defendant or any of the Released Parties.

11 **Section 4.02: Non-Evidentiary Use**

12 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
13 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
14 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,
15 including but not limited to, evidence of a presumption, concession, indication, or admission by any
16 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or
17 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
18 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
19 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims
20 released through this Agreement.

21 **Section 4.03: Nullification**

22 The Parties have agreed to the certification of the Class encompassing all claims alleged in
23 the Action and the PAGA Letter, and all similar and/or associated Labor Code provisions, statutes,
24 and Wage Orders, for the sole purpose of effectuating this Agreement. If (a) the Court should for any
25 reason fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve
26 this Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final
27 Order is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose
28 of the Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this

1 Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all
2 Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had
3 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to
4 stipulate to class certification of all causes of action pled in the Action as part of the Settlement will
5 have no bearing on, and will not be admissible in connection with, the issue of whether the Class
6 should be certified by the Court in a non-settlement context in the Action or any other action, and in
7 any of those events, Defendant expressly reserves the right to oppose certification of the Class.

8 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
9 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

10 **ARTICLE V**

11 **RELEASES**

12 **Section 5.01: Released Claims by Class Members**

13 Upon the date Defendant transfers the Gross Settlement Amount, Named Plaintiff and
14 Participating Class Members who do not opt out of the Settlement, release the Released Parties from
15 any and all claims alleged or that could have been alleged based on the facts alleged in the operative
16 complaint, which arose during the Class Period. Plaintiff will amend the complaint to add the claims
17 raised at mediation regarding payment of the regular rate of pay for paid sick leave, exclusion of
18 prevailing wage rates from calculation of the overtime rate, and facial wage statement claims.
19 Plaintiff's counsel shall send defense counsel a draft of said amendments in advance for meet and
20 confer purposes. The released claims shall include claims under Labor Code sections 201, 202, 203,
21 204, 210, 221, 223, 224, 225.5, 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1182.12, 1194,
22 1194.2, 1197, 1197.1, 1198, 2800, 2802 and 2698 et seq., IWC Wage Order, Sections 11, 12, and
23 Bus. & Prof. Code section 17200, et seq., including claims for failure to pay minimum wages, failure
24 to pay overtime wages, failure to provide meal and rest breaks or provide compensation in lieu thereof,
25 unlawful deductions, failure to reimburse business expenses, failure to pay all wages due upon
26 separation of employment, inaccurate wage statements, failure to pay paid sick leave, and unfair
27 competition.

1 **Section 5.02: Released Claims by PAGA Group Members**

2 Upon the date Defendant transfers the Gross Settlement Amount, the State of California.
3 Named Plaintiff and PAGA Group Members release the Released Parties from all claims for civil
4 penalties under Labor Code § 2698 *et seq.* exhausted in Plaintiff's notice(s) sent to the LWDA and
5 alleged in the Action, which arose during the PAGA Period, regardless of whether PAGA Group
6 Members opt out of the Class Settlement. Plaintiff will amend the PAGA Letter to add the claims
7 raised at mediation regarding payment of the regular rate of pay for paid sick leave, exclusion of
8 prevailing wage rates from calculation of the overtime rate, and facial wage statement claims.
9 Plaintiff's counsel shall send defense counsel a draft of said amendments in advance for meet and
10 confer purposes. The released claims shall include PAGA penalty claims based on Labor Code
11 sections 201, 202, 203, 204, 210, 221, 223, 224, 225.5, 226, 226.3, 226.7, 246, 510, 512, 558, 1174,
12 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802 and 2698 *et seq.*, and IWC Wage
13 Orders, Sections 11, 12, including claims for failure to pay minimum wages, failure to pay overtime
14 wages, failure to provide meal and rest breaks or provide compensation in lieu thereof, unlawful
15 deductions, failure to reimburse business expenses, failure to pay all wages due upon separation of
16 employment, inaccurate wage statements, and failure to pay paid sick leave. This settlement is also
17 conditioned on the covenant that PAGA Group members will not participate in or receive recovery
18 or monies in connection with any further proceeding seeking penalties under Section 2699, which
19 arose during the PAGA Period for claims based on the same facts or theories of the Released Claims
20 facts which were or could have been alleged in the Action.

21 **Section 5.03: Named Plaintiff's Release of Unknown Claims**

22 Upon the date of funding the Gross Settlement Amount, Named Plaintiff, waives, releases,
23 acquits, and forever discharges the Released Parties from any and all claims, actions, charges,
24 complaints, grievances, and causes of action, of any nature arising from Named Plaintiff's
25 employment with Defendant and/or the separation thereof, whether known or unknown, which exist
26 or may exist as of the Parties' execution of this Agreement. Without limiting the generality of the
27 foregoing, this release shall include, but not be limited to, any and all claims under the (a) Americans
28 With Disabilities Act, as amended; (b) Title VII of the Civil Rights Act of 1964, as amended; (c) the

1 Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended; (e) the Age Discrimination in
2 Employment Act, as amended; (f) the Fair Labor Standards Act, as amended; (g) the Equal Pay Act;
3 (h) the Employee Retirement Income Security Act, as amended; (i) the Consolidated Omnibus
4 Budget Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the Family and Medical Leave
5 Act; (l) the Civil Rights Act of 1966; (m) the California Fair Employment and Housing Act; (n) the
6 California Constitution; (o) the California Labor Code; (p) the California Government Code; (q) the
7 California Civil Code; (r) the California Wage Orders, and (s) any and all other federal, state and
8 local statutes, ordinances, regulations, rules and other laws, and any and all claims based on
9 constitutional, statutory, common law or regulatory grounds as well as any other claims based on
10 theories of wrongful or constructive discharge, breach of contract or implied contract, fraud,
11 misrepresentation, promissory estoppel or intentional and/or negligent infliction of emotional
12 distress, or damages under any other federal, state or local statutes, ordinances, regulations, rules or
13 laws. This release is for any and all relief, no matter how denominated, including, but not limited to,
14 back pay, front pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated
15 damages, punitive damages, damages for pain and suffering, and attorney fees and costs.

16 Section 1542 of the California Civil Code provides as follows:

17 *“A general release does not extend to claims that the creditor or releasing*
18 *party does not know or suspect to exist in his or her favor at the time of*
19 *executing the release and that, if known by him or her, would have*
20 *materially affected his or her settlement with the debtor or released party.”*

21 Plaintiff’s general release provided herein is made with an express waiver and relinquishment
22 of any claim, right, or benefit under California Civil Code § 1542.

23 **ARTICLE VI**

24 **MISCELLANEOUS PROVISIONS**

25 **Section 6.01: Amendments or Modification**

26 The terms and provisions of this Agreement may be amended or modified only by an express
27 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel,
28 and approved by the Court.

1 **Section 6.02: Assignment**

2 None of the rights, commitments, or obligations recognized under this Agreement may be
3 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
4 consent of each other Party and their respective counsel. The representations, warranties, covenants,
5 and agreements contained in this Agreement are for the sole benefit of the Parties under this
6 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

7 **Section 6.03: Governing Law**

8 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
9 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
10 of laws.

11 **Section 6.04: Entire Agreement**

12 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
13 contains the entire understanding of the Parties with respect to the subject matter contained herein.
14 In case of any conflict between text contained in Articles I through VI of this Agreement and text
15 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be
16 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
17 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
18 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
19 supersedes all prior agreements and understandings among the Parties with respect to the settlement
20 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of
21 prior agreements or proposals.

22 **Section 6.05: Waiver of Compliance**

23 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
24 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
25 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
26 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
27 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
28 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

1 **Section 6.06: Counterparts and Fax/PDF Signatures**

2 This Agreement, and any amendments hereto, may be executed in any number of counterparts
3 and any Party and/or their respective counsel may execute any such counterpart, each of which when
4 executed and delivered shall be deemed to be an original. All counterparts taken together shall
5 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
6 signature.

7 **Section 6.07: Meet and Confer Regarding Disputes**

8 Should any dispute arise among the Parties or their respective counsel regarding the
9 implementation or interpretation of this Agreement, a representative of Class Counsel and a
10 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
11 to submitting such disputes to the Court.

12 **Section 6.08: Agreement Binding on Successors**

13 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
14 of each of the Parties.

15 **Section 6.09: Cooperation in Drafting**

16 The Parties have cooperated in the negotiation and preparation of this Agreement. This
17 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
18 was the drafter or participated in the drafting of this Agreement.

19 **Section 6.10: Fair and Reasonable Settlement**

20 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
21 the Action and have arrived at this Agreement through arm's-length negotiation and in the context
22 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
23 further believe that the Settlement is and is consistent with public policy, and fully complies with
24 applicable law.

25 **Section 6.11: Headings**

26 The descriptive heading of any section or paragraph of this Agreement is inserted for
27 convenience of reference only and does not constitute a part of this Agreement and shall not be
28 considered in interpreting this Agreement.

1 **Section 6.12: Notice**

2 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
3 communications under this Agreement must be in writing and addressed as follows:

4 *To Named Plaintiff and the Class:*

5 Kashif Haque
6 Samuel A. Wong
7 Jessica L. Campbell
8 Steven A. McNicholl
9 AEGIS LAW FIRM, PC
10 9811 Irvine Center Drive, Suite 100
11 Irvine, California 92618
12 Telephone: (949) 379-6250
13 Facsimile: (949) 379-6251

14 And

15 *To Defendant:*

16 Carrie Bushman
17 Daniel Kozieja
18 COOK BROWN LLP
19 2407 J Street, Second Floor
20 Sacramento, California 95816
21 Telephone: 916.442.3100
22 Facsimile: 916.442.4227

23 **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

24 To the extent consistent with class action procedure, this Agreement shall be enforceable by
25 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
26 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the
27 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the
28 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
retain continuing jurisdiction over the Action and over all Parties and Class Members, to the fullest
extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more
of the Parties institutes any legal action or other proceeding against any other Party or Parties to
enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover

1 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
2 fees incurred in connection with any enforcement actions.

3 **Section 6.14: Mutual Full Cooperation**

4 The Parties agree fully to cooperate with each other to accomplish the terms of this
5 Agreement, including but not limited to the execution of such documents, and the taking of such
6 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties
7 to this Agreement shall use their best efforts to effectuate and implement this Agreement and its
8 terms. In the event the Parties are unable to reach agreement on the form or content of any document
9 needed to implement the Settlement, or on any supplemental provisions that may become necessary
10 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

11 **Section 6.15: Authorization to Act**

12 Class Counsel warrants and represents that they are authorized by Named Plaintiff, and
13 Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action
14 required to effectuate the terms of this Agreement, except for signing documents, including but not
15 limited to this Agreement, that are required to be signed by the Parties themselves. Defendant
16 represents and warrants that the individual executing this Agreement on its behalf has the full right,
17 power, and authority to enter into this Agreement and to carry out the transactions contemplated
18 herein.

19 **Section 6.16: No Reliance on Representations**

20 The Parties have made such investigation of the facts and the law pertaining to the matters
21 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
22 on any statement, promise, or representation of fact or law, made by any of the other parties, or any
23 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted
24 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect
25 to any other matters. No representations, warranties, or inducements, except as expressly set forth
26 herein, have been made to any party concerning this Agreement.

27 **Section 6.17: Publicity**

1 The Parties and their counsel agree that they will not issue any press releases, initiate any
2 contact with the press, respond to any press inquiry or have any communication with the press about
3 this case and/or the fact, amount or terms of the Settlement.

4 **EXECUTION BY PARTIES AND COUNSEL**

5 The Parties and their counsel hereby execute this Agreement.

6
7
8 Dated: 12/4/2023

JOSHOUA HARDWICK

9
10 By: 
Named Plaintiff

11
12 Dated: 1/2/24

3D DATA COM

13 By: Frank J. Pedersen, Jr.
14 (Signature)

15 Frank J. Pedersen, Jr.
(Printed Name)

16 CEO
17 (Title)

18
19 **APPROVED AS TO FORM ONLY:**

20
21 Dated: 12/4/2023

AEGIS LAW FIRM, PC

22
23 By: Steven McNicholl
24 Samuel A. Wong
25 Jessica L. Campbell
26 Steven A. McNicholl
27 Attorneys for Named Plaintiff Joshua Hardwick

28 Dated: 1/3/24

COOK & BROWN LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: 
Carrie Bushman
Daniel Kozieja
Attorneys for Defendant