

BIBIYAN LAW GROUP, P.C.

David D. Bibiyani (SBN 287811)
david@tomorrowlaw.com
Vedang J. Patel (SBN 328647)
vedang@tomorrowlaw.com
Brandon M. Chang (SBN 316197)
brandon@tomorrowlaw.com
1460 Westwood Boulevard
Los Angeles, California 90024
Tel: (310) 438-5555; Fax: (310) 300-1705

Attorneys for Plaintiff, NIRAJIN POUDEL,
on behalf of himself and all others similarly situated

LAW OFFICES OF STEVEN A FINK

Steven A. Fink (SBN 93762)
sfink@stevenfinkl.com
Corporate Plaza Drive, Suite 150
Newport Beach, CA 92660
Telephone: (949) 706 – 5900

Attorneys for Defendants, MOBILENET SERVICES, INC. and
RICHARD GRANT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

NIRAJIN POUDEL, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

MOBILENET SERVICES, INC., a California
corporation; RICHARD GRANT, an
individual residing in California; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 30-2022-01276271-CU-OE-CXC
RELATED CASE: 30-2022-01284924-CU-
OE-CXC

[Assigned for all purposes to Hon. Melissa R.
McCormick, Dept. CX105]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: August 22, 2022
Trial Date: None Set

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Nirajin Poudel (“Plaintiff”) and defendants MobileNet Services, Inc.
3 (“Defendant MobileNet”), and Richard Grant (collectively, “Defendants”). The Agreement
4 refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

5 1. DEFINITIONS

6 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
7 Defendants, captioned *Nirajin Poudel v. MobileNet Services, Inc., et al.*, Case No. 30-2022-
8 01276271-CU-OE-CXC (the “Class Action”), initiated on August 22, 2022, and pending in
9 Superior Court of the State of California, County of Orange; and Plaintiff’s lawsuit alleging civil
10 penalties under PAGA, captioned *Nirajin Poudel v. MobileNet Services, Inc., et al.* Case No. 30-
11 2022-01284924-CU-OE-CXC (the “PAGA Action”), initiated on October 7, 2022, and pending
12 in Superior Court of the State of California, County of Orange.

13 1.2. “Administrator” means Phoenix Class Action Administration Solutions (“Phoenix”) the
14 neutral entity the Parties have agreed to appoint to administer the Settlement.

15 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
16 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
17 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
18 Preliminary Approval of the Settlement.

19 1.4. “Aggrieved Employees” means all persons currently or formerly employed by Defendant
20 MobileNet, either directly or through any subsidiary, staffing agency, or professional employer
21 organization, as non-exempt, hourly-paid employees, as well as “Associate RF Engineers” or
22 “RF Engineers I” who were allegedly misclassified by Defendant Mobilenet as exempt, who
23 worked for Defendant MobileNet in the State of California during the PAGA Period.

24 1.5. “Class” means all persons currently or formerly employed by Defendant MobileNet,
25 either directly or through any subsidiary, staffing agency, or professional employer organization,
26 as non-exempt, hourly-paid employees, as well as “Associate RF Engineers” or “RF Engineers
27 I” who were allegedly misclassified by Defendant MobileNet as exempt, who worked for
28 Defendant MobileNet in the State of California during the Class Period.

- 1.6. “Class Counsel” means David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, P.C.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant MobileNet’s custody, possession, or control, including the Class Member’s (1) name; (2) last known address(es); (3) last known telephone number(s); (4) last known Social Security Number(s); and (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the NOTICE OF PROPOSED CLASS AND PAGA ACTION SETTLEMENT AND DATE FOR FINAL APPROVAL HEARING, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from August 22, 2018, through the date of Preliminary Approval.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Orange.

- 1.16. “Defendants” means named defendants MobileNet Services, Inc. and Richard Grant.
- 1.17. “Defense Counsel” means Steven A Fink of Law Offices of Steven A Fink.
- 1.18. “Effective Date” means the later of: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final Approval.
- 1.22. “Gross Settlement Amount” means \$400,000.00 (Four Hundred Thousand Dollars and Zero Cents) which is the total amount Defendants agree to pay under the Settlement, except as provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

1 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
2 entitled, under Labor Code section 2699, subd. (i).

3 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA
4 under Labor Code section 2699, subd. (i).

5 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
6 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
7 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
8 Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be
9 paid to Participating Class Members as Individual Class Payments.

10 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
11 Settlement by sending the Administrator a valid and timely Request for Exclusion.

12 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked
13 for Defendant MobileNet for at least one day during the PAGA Period, based on hire dates, re-
14 hire dates (as applicable), and termination dates (as applicable).

15 1.31. “PAGA Period” means the period from July 20, 2021, through the end of the Class Period.

16 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

17 1.33. “PAGA Notice” means plaintiff’s July 20, 2022, letter to Defendants and the LWDA,
18 providing notice pursuant to Labor Code section 2699.3 subd. (a).

19 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the
20 Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to the LWDA
21 in settlement of PAGA claims.

22 1.35. “Participating Class Member” means a Class Member who does not submit a valid and
23 timely Request for Exclusion from the Settlement.

24 1.36. “Plaintiff” means Nirajin Poudel the named plaintiff in the Action.

25 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the
26 Settlement.

27 1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval
28 and Approval of PAGA Settlement.

1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.4 below.

1.41. "Released Parties" means: Defendants, and each of their owners, parents, and subsidiaries, and all of their officers, directors, members, managers, employees, consultants, predecessors, successors, and assigns.

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43. "Response Deadline" means sixty (60) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline has expired.

1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.45. "Workweek" means any week during which a Class Member worked for Defendant MobileNet, for at least one day during the Class Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

2. RECITALS

2.1. On August 22, 2022, Plaintiff filed a wage-and-hour class action complaint against Defendants alleging: (1) Failure to Pay Overtime Wages; (2) Failure to Pay Minimum Wages; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Periods; (5) Waiting Time Penalties; (6) Wage Statement Violations; (7) Failure to Timely Pay Wages; (8) Failure to Indemnify; (9) Violation of Business and Professions Code 17200 et seq.; (10) Violations of the Fair Credit Reporting Act ("FCRA"); (11) Violation of the Investigative Consumer Reporting

Agencies Act ("ICRAA"); and (12) Violation of the Consumer Credit Reporting Agencies Act ("CCRAA").

2.2. On July 20, 2022, Plaintiff provided written notice pursuant to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them (the "PAGA Notice").

2.3. On October 7, 2022, Plaintiff filed the PAGA Action against Defendants in Orange County Superior Court seeking civil penalties under Private Attorney Generals Act of 2004.

2.4. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

2.5. Prior to mediation Plaintiff obtained, through informal discovery: (a) time records for Class Members from August 22, 2018 through the date of mediation; (b) payroll records for Class Members; (c) class data points, including average rates of pay, total hours worked during the Class Period, the number of pay periods worked during the Class Period, the number of terminated/separated Class Members in the waiting time penalty period, the number of aggrieved employees (current and former), number of hours worked, and number of pay periods in the wage statement/PAGA Period (October 7, 2019 through the date of mediation); (d) wage and hour policy documents; (e) partial Class contact list; and (f) all documents pertaining to Plaintiff available to Defendants.

2.6. On January 24, 2024, the Parties participated in an all-day mediation presided over by Jill Sperber. The mediation was unsuccessful.

2.7. Thereafter, the Parties conducted formal discovery, agreed to exchange further informal discovery, and agreed to attend a second mediation.

2.8. On February 1, 2025, the Parties participated in a second all-day mediation presided over by Lynn Frank. The mediation was successful, and the Parties agreed to globally resolve all class and PAGA claims in the Action.

///

///

2.9. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.10. The Court has not granted class certification.

2.11. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

2.12. As part of this Agreement, the Parties further agree to stipulate to Plaintiff filing a Second Amended Complaint in the Class Action that effectively consolidates the allegations of the Class Action and PAGA Action within the Class Action for the purpose of settlement approval. Upon the acceptance of the Second Amended Complaint in the Class Action, Plaintiff shall dismiss the PAGA Action without prejudice. The Second Amended Complaint shall be the operative complaint in the Class Action (hereinafter, the "Action").

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below, Defendants promise to pay \$400,000.00 as the Gross Settlement Amount, unless increased pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadlines stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to Plaintiff of not more than \$10,000.00 in addition to any Individual Class Payment and any Individual PAGA

1 Payment Plaintiff is entitled to receive as a Participating Class Member. Defendants
2 will not oppose Plaintiff's request for a Class Representative Service Payment that does
3 not exceed this amount. As part of the motion for Class Counsel Fees Payment and
4 Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
5 Representative Service Payments prior to the Final Approval Hearing. If the Court
6 approves a Class Representative Service Payment less than the amount requested, the
7 Administrator will retain the remainder in the Net Settlement Amount. The
8 Administrator will pay the Class Representative Service Payment using IRS Form 1099.
9 Plaintiff assumes full responsibility and liability for employee taxes owed on the Class
10 Representative Service Payment.

11 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third
12 (1/3) of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph
13 8.1 of this Agreement, is currently estimated to be \$133,333.33 and a Class Counsel
14 Litigation Expenses Payment of not more than \$40,000.00. Defendants will not oppose
15 requests for these payments provided that they do not exceed these amounts. Plaintiff
16 and/or Class Counsel will endeavor to file a motion for Class Counsel Fees Payment
17 and Class Litigation Expenses Payment prior to the Final Approval Hearing. If the
18 Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation
19 Expenses Payment less than the amounts requested, the Administrator will allocate the
20 remainder to the Net Settlement Amount. Released Parties shall have no liability to
21 Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any
22 Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The
23 Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses
24 Payment using one or more IRS 1099 Forms. Class Counsel assume full responsibility
25 and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel
26 Litigation Expenses Payment and holds Defendants harmless, and indemnifies
27 Defendants, from any dispute or controversy regarding any division or sharing of any
28 of these Payments. There will be no additional charge of any kind to either the

1 Settlement Class Members or request for additional consideration from Defendants for
2 such work unless, Defendants materially breach this Agreement, including any term
3 regarding funding, and further efforts are necessary from Class Counsel to remedy said
4 breach, including, without limitation, moving the Court to enforce the Agreement.
5 Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts
6 that are less than the amounts provided for herein, then the unapproved portion(s) shall
7 be a part of the Net Settlement Amount.

8 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
9 \$6,250.00 except for a showing of good cause and as approved by the Court. To the
10 extent the Administration Expenses are less or the Court approves payment less than
11 \$6,250.00, the Administrator will retain the remainder in the Net Settlement Amount.

12 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated
13 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked
14 by all Participating Class Members during the Class Period and (b) multiplying the result
15 by each Participating Class Member's Workweeks.

16 3.2.4.1. Tax Allocation of Individual Class Payments. 10% of each Participating
17 Class Member's Individual Class Payment will be allocated to settlement of
18 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
19 withholding and will be reported on an IRS W-2 Form. The 90% of each
20 Participating Class Member's Individual Class Payment will be allocated to
21 settlement of claims for interest and penalties (the "Non-Wage Portion"). The
22 Non-Wage Portions are not subject to wage withholdings and will be reported
23 on IRS 1099 Forms. Participating Class Members assume full responsibility
24 and liability for any employee taxes owed on their Individual Class Payment.

25 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
26 Class Payments. Non-Participating Class Members will not receive any
27 Individual Class Payments. The Administrator will retain amounts equal to
28

their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$40,000.00 to be paid from the Gross Settlement Amount, with 75% (\$30,000.00) allocated to the LWDA PAGA Payment and 25% (\$10,000.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$10,000.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, the Parties estimate there are 70 Class Members who collectively worked a total of 11,000 Workweeks, and 36 Aggrieved Employees who worked a total of 532 PAGA Pay Periods.

4.2. Class Data. Not later than 7 days after the Court grants Preliminary Approval of the Settlement, Defendant MobileNet will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant MobileNet has a continuing duty to immediately notify Class Counsel if it discovers

1 that the Class Data omitted class member identifying information and to provide corrected or
2 updated Class Data as soon as reasonably feasible. Without any extension of the deadline by
3 which Defendant MobileNet must send the Class Data to the Administrator, the Parties and their
4 counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any
5 issues related to missing or omitted Class Data.

6 4.3. Funding of Gross Settlement Amount. Defendants shall have two (2) calendar years to
7 fund the Gross Settlement Amount, in twenty-four (24) equal monthly installment payments of
8 \$16,666.66 to the Settlement Administrator beginning on the Effective Date (with the last
9 payment being \$16,666.67), and the Employer Taxes pursuant to Internal Revenue Code section
10 1.468B-1, for deposit in an interest-bearing qualified settlement account (“QSA”) with an FDIC
11 insured banking institution, for distribution in accordance with this Agreement and the Court’s
12 Orders and subject to the conditions described herein. Defendants’ share of taxes owed on the
13 wages portion of the settlement shall be funded when the last payment is due.

14 4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendants fully fund
15 the Gross Settlement Amount, the Administrator will mail checks for all Individual Class
16 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
17 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
18 Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel
19 Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative
20 Service Payment shall not precede disbursement of Individual Class Payments, and the Individual
21 PAGA Payments.

22 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
23 Individual PAGA Payments and send them to the Class Members via First Class U.S.
24 Mail, postage prepaid. The face of each check shall prominently state the date (not less
25 than 180 days after the date of mailing) when the check will be voided. The
26 Administrator will cancel all checks not cashed by the void date. The Administrator
27 will send checks for Individual Settlement Payments to all Participating Class Members
28 (including those for whom Class Notice was returned undelivered). The Administrator

will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the *cy pres* recipient, Legal Aid at Work, for use in any county in need in California.

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASE OF CLAIMS

Effective upon entry of Judgment, the Order granting Final Approval of this Settlement, and on the date when Defendants fully fund the entire Gross Settlement Amount and fund all

1 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff,
2 Class Members, and Class Counsel will release claims against all Released Parties as follows:

3 5.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses,
4 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
5 and discharge Released Parties from all claims, transactions, or occurrences, including, but not
6 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts
7 contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could
8 have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA
9 Notice. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to
10 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
11 benefits, social security benefits, workers' compensation benefits that arose at any time, or based
12 on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts
13 or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to
14 be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all
15 respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

16 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
17 purposes of Plaintiff's Release only, Plaintiff expressly waives and relinquish the
18 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
19 which reads:

20 A general release does not extend to claims that the creditor or releasing party does not
21 know or suspect to exist in his or her favor at the time of executing the release, and that
22 if known by him or her would have materially affected his or her settlement with the
23 debtor or Released Party.

24 5.2. Release of Class Claims: Plaintiff and all Participating Class Members, on behalf of
25 themselves and their respective former and present representatives, agents, attorneys, heirs,
26 administrators, successors, and assigns, release Released Parties from all claims that were
27 alleged, or reasonably could have been alleged, based on the facts stated in the Operative
28 Complaint including: (1) Failure to Pay Overtime Wages; (2) Failure to Pay Minimum Wages;

(3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Periods; (5) Waiting Time Penalties; (6) Wage Statement Violations; (7) Failure to Timely Pay Wages; (8) Failure to Indemnify; (9) Violation of Business and Professions Code 17200 et seq.; (10) Violations of the Fair Credit Reporting Act ("FCRA"); (11) Violation of the Investigative Consumer Reporting Agencies Act ("ICRAA"); and (12) Violation of the Consumer Credit Reporting Agencies Act ("CCRAA"). Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release of PAGA Claims: For the duration of the PAGA Period, Plaintiff and the Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION FOR PRELIMINARY APPROVAL

The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. Defendants' Declaration in Support of Preliminary Approval. Within 7 days of full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient.

6.2. Plaintiff's Responsibilities. Plaintiff will prepare and endeavor to deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed

1 declaration from the Administrator attaching its “not to exceed” bid for administering the
2 Settlement and attesting to its willingness to serve; competency; operative procedures for
3 protecting the security of Class Data; amounts of insurance coverage for any data breach,
4 defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of
5 interest with Class Members; and the nature and extent of any financial relationship with
6 Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming
7 willingness and competency to serve and disclosing all facts relevant to any actual or potential
8 conflicts of interest with Class Members; (v) a signed declaration from each Class Counsel firm
9 attesting to its competency to represent the Class Members; its timely transmission to the LWDA
10 of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd.
11 (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code
12 section 2699, subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest
13 with Class Members and the Administrator.

14 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
15 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
16 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
17 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
18 Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the
19 Administrator.

20 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
21 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
22 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
23 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
24 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
25 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
26 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
27 Court’s concerns.

28 ///

1 **7. SETTLEMENT ADMINISTRATION**

2 7.1. Selection of Administrator. The Parties have jointly selected Phoenix to serve as the
3 Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by
4 this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange
5 for payment of Administration Expenses. The Parties and their Counsel represent that they have
6 no interest or relationship, financial or otherwise, with the Administrator other than a professional
7 relationship arising out of prior experiences administering settlements.

8 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
9 Identification Number for purposes of calculating payroll tax withholdings and providing reports
10 state and federal tax authorities.

11 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
12 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section
13 468B-1.

14 7.4. Notice to Class Members

15 7.4.1. No later than three (3) business days after receipt of the Class Data, the
16 Administrator shall notify Class Counsel that the list has been received and state the
17 number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the
18 Class Data.

19 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
20 days after receiving the Class Data, the Administrator will send to all Class Members
21 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
22 the Class Notice with Spanish translation, substantially in the form attached to this
23 Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the
24 dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable
25 to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable)
26 used to calculate these amounts. Before mailing Class Notices, the Administrator shall
27 update Class Member addresses using the National Change of Address database.

28 ///

1 7.4.3. Not later than 3 business days after the Administrator's receipt of any Class Notice
2 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
3 using any forwarding address provided by the USPS. If the USPS does not provide a
4 forwarding address, the Administrator shall conduct a Class Member Address Search,
5 and re-mail the Class Notice to the most current address obtained. The Administrator
6 has no obligation to make further attempts to locate or send Class Notice to Class
7 Members whose Class Notice is returned by the USPS a second time.

8 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
9 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days
10 beyond the 60 days otherwise provided in the Class Notice for all Class Members whose
11 notice is re-mailed. The Administrator will inform the Class Member of the extended
12 deadline with the re-mailed Class Notice.

13 7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
14 discovers any persons who believe they should have been included in the Class Data
15 and should have received Class Notice, the Parties will expeditiously meet and confer,
16 and in good faith, in an effort to agree on whether to include them as Class Members.
17 If the Parties agree, such persons will be Class Members entitled to the same rights as
18 other Class Members, and the Administrator will send, via email or overnight delivery,
19 a Class Notice requiring them to exercise options under this Agreement not later than
20 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, which
21 ever are later.

22 7.5. Requests for Exclusion (Opt-Outs).

23 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
24 must send the Administrator, by mail, a signed written Request for Exclusion not later
25 than 60 days after the Administrator mails the Class Notice (plus an additional 15 days
26 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
27 from a Class Member or his/her representative that reasonably communicates the Class
28 Member's election to be excluded from the Settlement and includes the Class Member's

1 name, address and email address or telephone number. Class Members may fill out and
2 mail the “Request for Exclusion” form attached hereto as Exhibit “B” to the
3 Administrator. To be valid, a Request for Exclusion must be timely postmarked by the
4 Response Deadline.

5 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
6 fails to contain all the information specified in the Class Notice. The Administrator
7 shall accept any Request for Exclusion as valid if the Administrator can reasonably
8 ascertain the identity of the person as a Class Member and the Class Member’s desire
9 to be excluded. The Administrator’s determination shall be final and not appealable or
10 otherwise susceptible to challenge. If the Administrator has reason to question the
11 authenticity of a Request for Exclusion, the Administrator may demand additional proof
12 of the Class Member’s identity. The Administrator’s determination of authenticity shall
13 be final and not appealable or otherwise susceptible to challenge.

14 7.5.3. Every Class Member who does not submit a timely and valid Request for
15 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
16 to all benefits and bound by all terms and conditions of the Settlement, including the
17 Participating Class Members’ Releases under Paragraphs 5.2 and 5.3 of this Agreement,
18 regardless whether the Participating Class Member actually receives the Class Notice
19 or objects to the Settlement.

20 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
21 Non-Participating Class Member and shall not receive an Individual Class Payment or
22 have the right to object to the class action components of the Settlement. Because future
23 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
24 Participating Class Members who are Aggrieved Employees are deemed to release the
25 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
26 PAGA Payment.

27 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after
28 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose

1 Class Notice is re-mailed) to challenge the number of Class Workweeks allocated to the Class
2 Member in the Class Notice. The Class Member may challenge the allocation by filling out and
3 mailing the “Workweek Dispute” form attached hereto as Exhibit “C” to the Administrator. The
4 Administrator must encourage the challenging Class Member to submit supporting
5 documentation. In the absence of any contrary documentation, the Administrator is entitled to
6 presume that the Workweeks contained in the Class Notice are correct so long as they are
7 consistent with the Class Data. The Administrator’s determination of each Class Member’s
8 allocation of Workweeks shall be final and not appealable or otherwise susceptible to challenge.
9 The Administrator shall promptly provide copies of all challenges to calculation of Workweeks
10 to Defense Counsel and Class Counsel and the Administrator’s determination the challenges.

11 **7.7. Objections to Settlement**

12 7.7.1. Only Participating Class Members may object to the class action components of
13 the Settlement and/or this Agreement, including contesting the fairness of the
14 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
15 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

16 7.7.2. Participating Class Members may send written objections to the Administrator by
17 filling out and mailing the “Objection to Settlement” form attached hereto as Exhibit
18 “D” to the Administrator. In the alternative, Participating Class Members may appear
19 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final
20 Approval Hearing. A Participating Class Member who elects to send a written objection
21 to the Administrator must do so not later than 60 days after the Administrator’s mailing
22 of the Class Notice (plus an additional 15 days for Class Members whose Class Notice
23 was re-mailed).

24 7.7.3. Non-Participating Class Members have no right to object to any of the class action
25 components of the Settlement.

26 **7.8. Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be
27 performed or observed by the Administrator contained in this Agreement or otherwise.

28 ///

1 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
2 and use an internet website to post information of interest to Class Members including
3 the date, time and location for the Final Approval Hearing and copies of the Settlement
4 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
5 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
6 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
7 the Final Approval and the Judgment. The Administrator will also maintain and monitor
8 an email address and a toll-free telephone number to receive Class Member calls and
9 emails.

10 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
11 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
12 Not later than 5 days after the expiration of the deadline for submitting Requests for
13 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
14 containing (a) the names and other identifying information of Class Members who have
15 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
16 other identifying information of Class Members who have submitted invalid Requests
17 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted
18 (whether valid or invalid).

19 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
20 reports to Class Counsel and Defense Counsel that, among other things, tally the number
21 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
22 Exclusion (whether valid or invalid) received, objections received, challenges to
23 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
24 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
25 Weekly Reports must include provide the Administrator’s assessment of the validity of
26 Requests for Exclusion and attach copies of all Requests for Exclusion and objections
27 received.

28 ///

1 7.8.4. Workweek Challenges. The Administrator has the authority to address and make
2 final decisions consistent with the terms of this Agreement on all Class Member
3 challenges over the calculation of Workweeks. The Administrator's decision shall be
4 final and not appealable or otherwise susceptible to challenge.

5 7.8.5. Administrator's Declaration. Before the date by which Plaintiff is required to file
6 the Motion for Final Approval of the Settlement, the Administrator will provide to Class
7 Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its
8 due diligence and compliance with all of its obligations under this Agreement,
9 including, but not limited to, its mailing of Class Notice, the Class Notices returned as
10 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total
11 number of Requests for Exclusion from Settlement it received (both valid or invalid),
12 the number of written objections and attach the Exclusion List. The Administrator will
13 supplement its declaration as needed or requested by the Parties and/or the Court. Class
14 Counsel is responsible for filing the Administrator's declaration(s) in Court.

15 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
16 disburses all funds in the Gross Settlement Amount, the Administrator will provide
17 Class Counsel and Defense Counsel with a final report detailing its disbursements by
18 employee identification number only of all payments made under this Agreement. At
19 least 7 days before any deadline set by the Court, the Administrator will prepare, and
20 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in
21 Court attesting to its disbursement of all payments required under this Agreement. Class
22 Counsel is responsible for filing the Administrator's declaration in Court.

23 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

24 Based on its records, the Parties estimates that, as of the date of this Settlement
25 Agreement, (1) there are 70 Class Members and 11,000 Total Workweeks during the Class Period
26 and (2) there are 36 Aggrieved Employees who worked 532 Pay Periods during the PAGA
27 Period.

28 ///

1 8.1. Increase in Workweeks. Defendants represent that there are no more than 11,000
2 Workweeks worked during the Class Period. In the event the number of Workweeks worked
3 increases by more than 10%, (i.e. an additional 1,100 Workweeks worked for a total of 12,100
4 Workweeks), then the Gross Settlement Amount shall be increased proportionally by the
5 Workweeks worked in excess of 12,100 multiplied by the Workweek Value. The Workweek
6 Value shall be calculated by dividing the Gross Settlement Amount by \$400,000 and thus, the
7 Parties agree that the Workweek Value amounts to, and the settlement amounts, to \$36.36 per
8 Workweek. ($\$400,000 / 11,000$ Workweeks.) Thus, for example, if there are 12,500 Workweeks
9 in the Class Period, then the Gross Settlement Amount shall be increased by \$14,545 ($[(12,500$
10 $\text{Workweeks} - 12,100 \text{ Workweeks}] \times \36.36 Workweek). Any amounts payable pursuant to this
11 Escalator Clause shall be made on May 1, 2027 or sixty (60) days after Final Judgment is entered
12 by the Court.

13 **9. MOTION FOR FINAL APPROVAL**

14 Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for
15 final approval of the Settlement that includes a request for approval of the PAGA settlement
16 under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed
17 Judgment (collectively “Motion for Final Approval”). Plaintiff shall endeavor to provide drafts
18 of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class
19 Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve
20 any disagreements concerning the Motion for Final Approval.

21 9.1. Response to Objections. Each Party retains the right to respond to any objection raised
22 by a Participating Class Member, including the right to file responsive documents in Court no
23 later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
24 by the Court.

25 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
26 Approval on any material change to the Settlement (including, but not limited to, the scope of
27 release to be granted by Class Members), the Parties will expeditiously work together in good
28 faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final

1 Approval. The Court's decision to award less than the amounts requested for the Class
2 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
3 Expenses Payment, Administrator Expenses Payment and/or individual claims of plaintiff for
4 alleged wrongful termination, shall not constitute a material modification to the Agreement
5 within the meaning of this paragraph.

6 9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
7 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
8 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
9 and (iii) addressing such post-Judgment matters as are permitted by law.

10 9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
11 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
12 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
13 respective counsel, and all Participating Class Members who did not object to the Settlement as
14 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
15 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
16 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
17 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
18 Parties' obligations to perform under this Agreement will be suspended until such time as the
19 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
20 the amount of the Net Settlement Amount.

21 9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
22 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
23 modification of this Agreement (including, but not limited to, the scope of release to be granted
24 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
25 expeditiously work together in good faith to address the appellate court's concerns and to obtain
26 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
27 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
28 the Court's award of the Class Representative Service Payment or any payments to Class Counsel

shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10. AMENDED JUDGMENT

If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

11. ADDITIONAL PROVISIONS

11.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court

1 order or subpoena; (5) potential purchasers of Defendants' business and their attorneys,
2 accountants and agents or (6) in response to an inquiry or subpoena issued by a state or federal
3 government agency. Each Party agrees to immediately notify each other Party of any judicial or
4 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel,
5 Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any
6 conversation or other communication, before the filing of the Motion for Preliminary Approval,
7 any with third party regarding this Agreement or the matters giving rise to this Agreement except
8 to respond only that "the matter was resolved," or words to that effect. This paragraph does not
9 restrict Class Counsel's communications with Class Members in accordance with Class
10 Counsel's ethical obligations owed to Class Members.

11 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
12 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
13 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
14 ability to communicate with Class Members in accordance with Class Counsel's ethical
15 obligations owed to Class Members.

16 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
17 together with its attached exhibits shall constitute the entire agreement between the Parties
18 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
19 inducements made to or by any Party.

20 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
21 represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate
22 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
23 its terms, and to execute any other documents reasonably required to effectuate the terms of this
24 Agreement including any amendments to this Agreement.

25 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
26 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
27 Settlement Agreement, submitting supplemental evidence and supplementing points and
28 authorities as requested by the Court. In the event the Parties are unable to agree upon the form

1 or content of any document necessary to implement the Settlement, or on any modification of the
2 Agreement that may become necessary to implement the Settlement, the Parties will seek the
3 assistance of a mediator and/or the Court for resolution.

4 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
5 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
6 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
7 action, or right released and discharged by the Party in this Settlement.

8 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are
9 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
10 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
11 Part 10, as amended) or otherwise.

12 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
13 modified, changed, or waived only by an express written instrument signed or agreed to by all
14 Parties or their representatives, and approved by the Court. Plaintiff and Defendants expressly
15 agree that should the Parties agree to amend, modify, change, or waive this Agreement, or any
16 part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any
17 amendments of this Agreement, amended Agreements, or amendments to the Agreement, on
18 behalf of the Parties once fully executed, which includes, but is not limited to, authorization of
19 the use of signatures previously provided by the Parties.

20 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
21 the benefit of, the successors of each of the Parties.

22 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
23 governed by and interpreted according to the internal laws of the state of California, without
24 regard to conflict of law principles.

25 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
26 this Agreement. This Agreement will not be construed against any Party on the basis that the
27 Party was the drafter or participated in the drafting.

28 ///

1 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
2 during Action and in this Agreement relating to the confidentiality of information shall survive
3 the execution of this Agreement.

4 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
5 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants
6 in connection with the mediation, other settlement negotiations, or in connection with the
7 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
8 be used in any way that violates any existing contractual agreement, statute, or rule of court.

9 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
10 inserted for convenience of reference only and does not constitute a part of this Agreement.

11 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
12 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
13 weekend or federal legal holiday, such date or deadline shall be on the first business day
14 thereafter.

15 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
16 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
17 be accepted as an original. All executed counterparts and each of them will be deemed to be one
18 and the same instrument if counsel for the Parties will exchange between themselves signed
19 counterparts. Any executed counterpart will be admissible in evidence to prove the existence
20 and contents of this Agreement.

21 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
22 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
23 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
24 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
25 process.

26 11.19. Severability. In the event that one or more of the provisions contained in this Agreement
27 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
28 illegality, or unenforceability shall in no way effect any other provision if Defendants’ Counsel

1 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
2 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
3 Agreement.

4 ///

5 **IT IS SO AGREED:**

6 *Nirajan Poudel*

7 _____
Plaintiff, Nirajin Poudel

8 _____
For Defendant, MobileNet Services, Inc.

9 _____
10
11 _____
12 Defendant, Richard Grant

13
14 **AGREED AS TO FORM ONLY:**

15
16 *Vedang J. Patel*

17 David D. Bibiyan
Vedang J. Patel
18 Counsel for Plaintiff

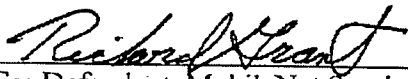
19 _____
Steven A. Fink
20 Counsel for Defendants
21
22
23
24
25
26
27
28

1 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
2 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
3 Agreement.

4 ///

5 **IT IS SO AGREED:**

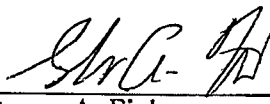
6
7 _____
8 Plaintiff, Nirajin Poudel

_____ 
9 For Defendant, MobileNet Services, Inc.

10
11 _____ 
12 Defendant, Richard Grant

13
14 **AGREED AS TO FORM ONLY:**

15
16 _____
17 David D. Bibiyan
18 Vedang J. Patel
19 Counsel for Plaintiff

_____ 
20 Steven A. Fink
21 Counsel for Defendants
22
23
24
25
26
27
28