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[ADDITIONAL COUNSEL ON NEXT PAGE]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERIC CHAVEZ, as an individual and on behalf of
all others similarly situated,

Plaintiff,

v.

CONVERSE, INC., a Delaware corporation; and
Does 1 through 50, inclusive,

Defendants.

Case No. 15-cv-03746-NC

[Assigned to Hon. Nathanael M. Cousins]

**CLASS ACTION SETTLEMENT
AGREEMENT**

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28 Attorneys for Plaintiff and the Class
ERIC CHAVEZ

This Class Action Settlement Agreement and Release, including Exhibits A and B hereto (“Settlement Agreement” or “Agreement”), is made and entered into by, between, and among Plaintiff Eric Chavez (“Plaintiff”) on behalf of themselves and the Settlement Class (as defined below) and the State of California Labor and Workforce Development Agency (“LWDA”), on the one hand, and Defendant Converse, Inc. (“Converse” and “Defendant”) on the other hand. Plaintiff and Defendant (collectively, the “Parties”) enter into this Agreement to effect a full and final settlement and preclusive judgment resolving all claims brought or that could have been brought against Defendant in *Eric Chavez v. Converse, Inc.*, Case No. 15-cv-03746-NC, filed in the United States District Court, Northern District of California Court on July 10, 2015 all amended complaints filed thereafter (the “Action”), and all claims based on or reasonably related thereto. This Agreement is intended to fully and finally compromise, resolve, discharge, and settle the Released Claims, as defined and on the terms set forth below, and to the full extent reflected herein, subject to the approval of the Court.

I. RECITALS

This Agreement is made in consideration of the following facts:

1.1 WHEREAS, on July 10, 2015, Plaintiff Eric Chavez filed a class action complaint against Defendant Converse, Inc. in the Superior Court of California for the County of Santa Clara, on behalf of himself and a proposed class consisting of “all non-exempt retail store employees who were employed by Defendants in the State of California at any time from July 10, 2011, through the present,” and alleging the following seven wage-related causes of action: (1) violation of Cal. Labor Code §§ 1194, 1197, and 1197.1 (unpaid minimum wages); (2) violation of Cal. Labor Code §§ 510 and 1194 (unpaid overtime wages); (3) violation of Cal. Labor Code §§ 226.7 and 512 (failure to provide meal breaks); (4) violation of Cal. Labor Code § 226.7 (failure to provide rest breaks); (5) violation of Cal. Labor Code § 226(a) (failure to provide accurate wage statements); (6) violation of Cal. Labor Code §§ 2698, *et seq.* (PAGA); and (7) violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.* (unfair business practices). On August 17, 2015, the Action was removed to the United States District Court for the Northern District of California, Case No. 15-cv-03746-NC, and the Plaintiff subsequently filed a First Amended Complaint on November 23, 2015, adding claims for waiting time penalties under Cal. Labor Code § 203, which provides penalties to separated employees. On August 18, 2016, this Court granted Defendant’s motion for partial summary

judgment as to Plaintiff's second cause of action for violation of Cal. Labor Code §§ 510 and 1194 in its entirety and Plaintiff's fifth, sixth, and seventh causes of action to the extent these claims were premised upon Defendant's failure to pay overtime wages as a result of the miscalculation of Plaintiff's regular rate of pay. This Court certified the class and the remaining claims on September 22, 2016, with the exception of Plaintiff's third cause of action for violation of Cal. Labor Code §§ 226.7 and 512 (failure to provide meal breaks), which was never certified. On March 20, 2020, this Court granted Defendant's motion for partial summary judgment as to Plaintiff's claim for waiting time penalties under Cal. Labor Code § 203 and his fifth cause of action for violation of Cal. Labor Code § 226(a) (failure to provide accurate wage statements) in their entirety.

1.2 WHEREAS, Defendant denies the allegations in the Action; denies that it has engaged in any wrongdoing; denies that Plaintiff's allegations constitute valid claims; denies that a litigation class could properly be certified in the Action; denies that Plaintiff's claims could properly be maintained as a PAGA representative action; and states that it is entering into this Settlement Agreement solely to eliminate the burden, expense, and delay of further litigation, and on the express conditions that (a) if for any reason the Settlement is not finalized according to the terms of this Agreement, the Settlement and the documents generated as a result of the Settlement shall not be usable for any purpose in the Action, and (b) this Settlement and the documents generated as a result of the Settlement are not admissible or usable in any other civil or administrative proceeding or any arbitration, except to the extent necessary to enforce this Settlement and the orders, judgment and agreements arising from this Settlement;

1.3 WHEREAS, a *bona fide* dispute exists as to whether any amount of wages or penalties are due from Defendant to the Plaintiff, Settlement Class Member or to the LWDA;

1.4 WHEREAS, while litigating the Action, the Parties engaged in substantial discovery, including depositions of Plaintiff, Defendant's FRCP 30(b)(6) witnesses, numerous class members, expert depositions, expert discovery, document requests, and interrogatories propounded by both Plaintiff and Defendant, and to which both responded and produced documents, and all parties provided testimony;

1.5 WHEREAS, while litigating the Action, the Parties engaged in substantial motion practice, including class certification, dispositive motions for summary judgment and/or adjudication and appellate briefings and oral argument by both Plaintiff and Defendant, and to which both responded;

1 1.6 WHEREAS, in preparation for mediation, the Parties also engaged in informal discovery,
2 exchanging information and reviewing and analyzing extensive data made available by Defendant, which
3 enabled Plaintiff, his expert, and the mediator to thoroughly evaluate Plaintiff's claims and the claims of
4 the putative class, and the likely outcomes, risks and expense of pursuing litigation;

5 1.7 WHEREAS, the Parties attended a virtual, face-to-face mediation session with experienced
6 professional mediator Michael Loeb, Esq., where the Parties discussed settlement terms at length with the
7 mediator and directly for some time after, before agreeing to the terms of this arm's-length Settlement;

8 1.8 WHEREAS, as a result of the mediation and discussions thereafter, Plaintiff and Class
9 Counsel believe that the Settlement provides a favorable recovery for the Settlement Class, based on the
10 claims asserted, the evidence developed, and the damages that might be proven against Defendant in the
11 Action. Plaintiff and Class Counsel further recognize and acknowledge the expense and length of
12 continued proceedings necessary to prosecute the Action against Defendant through trial and appeals.
13 They also have considered the uncertain outcome and the risk of any litigation, especially in complex
14 litigation such as the Action, as well as the difficulties and delays inherent in any such litigation. They
15 are also mindful of the inherent challenges of proof and the strength of the defenses to the alleged claims,
16 and therefore believe that it is desirable that the Released Claims be fully and finally compromised, settled,
17 and resolved with prejudice as set forth herein, subject to the approval of the Court;

18 1.9 WHEREAS, Plaintiff and Class Counsel, based on their own independent investigations
19 and evaluations, have examined the benefits to be obtained under the terms of this Settlement Agreement,
20 have considered the claims of Plaintiff, the claims of the average Settlement Class Member, the risks
21 associated with the continued prosecution of the Action, and the likelihood of success on the merits of the
22 Action, and believe that, after considering all the circumstances, including the uncertainties surrounding
23 the risk of further litigation and the defenses that Defendant has asserted and could assert, the proposed
24 Settlement set forth in this Agreement is fair, reasonable, adequate, in the best interests of Plaintiff and
25 the Settlement Class, and confers substantial benefits upon the Settlement Class;

26 1.10 WHEREAS, Plaintiff warrants and represents that he is effecting this Settlement and
27 executing this Agreement after having received full legal advice as to his rights and has had the
28 opportunity to obtain independent counsel to review this Agreement;

1 1.11 WHEREAS, the Parties further agree that the Agreement, the fact of this Settlement, and
2 any of the terms of this Agreement, and any documents filed in connection with the Settlement shall not
3 constitute, or be offered, received, claimed, construed, or deemed as, an admission, finding, or evidence
4 of: (i) any wrongdoing, (ii) any violation of any statute or law, (iii) any liability on the claims or allegations
5 in the Action on the part of any Released Parties, or (iv) the propriety of certifying a litigation class or
6 pursuing representative relief under the PAGA in the Action or any other proceeding; and shall not be
7 used by any person for any purpose whatsoever in any legal proceeding, including but not limited to
8 arbitrations, and/or other civil and/or administrative proceedings, other than a proceeding to enforce the
9 terms of the Agreement;

10 1.12 WHEREAS, this Court previously granted Plaintiff's Motion for Class Certification,
11 certifying the following class: "[a]ll current and former non-exempt retail store employees of Converse
12 who worked in California during the period from July 10, 2011, to the present," (Dkt. No. 89 at 6), and
13 then limited the class period to November 19, 2019. Converse filed a Motion for Decertification which
14 was pending at the time of settlement. For settlement purposes only, Defendant will stipulate to the
15 certification of the Settlement Class as further defined in this Agreement pursuant to the requirements of
16 Rule 23 of the Federal Rules of Civil Procedure. Other than for purposes of this Agreement, Defendant
17 disputes that certification is proper for the purposes of litigating the class claims proposed in or flowing
18 from the claims asserted in the Action;

19 1.13 WHEREAS, the Parties desire to compromise and settle all issues and claims that have
20 been, could have been, or should have been brought against Defendant or related persons in the Action,
21 including all claims brought on a putative class and PAGA representative basis in the Action;

22 1.14 NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND
23 AGREED, by Plaintiff for himself and on behalf of the Settlement Class, and by Defendant that, subject
24 to the approval of the Court, the Action shall be settled, compromised, and dismissed, on the merits and
25 with prejudice, and the Released Claims shall be finally and fully compromised, settled and dismissed as
26 to the Released Parties, in the manner and upon the terms and conditions hereafter set forth in this
27 Agreement.
28

II. DEFINITIONS

Unless otherwise defined herein, capitalized terms used in this Agreement shall have the meanings set forth below:

2.1 “Class Counsel” means Diversity Law Group, A Professional Corporation, Polaris Law Group LLP, and Hyun Legal, APC.

2.2 “Class Counsel Award” means (i) the attorneys’ fees for Class Counsel’s litigation and resolution of the Action, and all claims resolved by this Settlement, as awarded by the Court, which will be paid exclusively from the Total Settlement Amount, and may not exceed thirty-three and one-third percent (33 1/3%) of the Total Settlement Amount (equaling \$625,000.) and (ii) all expenses and costs incurred by Class Counsel in litigation and resolution of the Action, and all claims resolved by this Settlement, not to exceed \$200,000, which will be paid exclusively from the Total Settlement Amount.

2.3 “Class Information” means information regarding Settlement Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. Class Information shall be provided in a Microsoft Excel spreadsheet and shall include, if possible, for each Settlement Class Member: full name, last known mailing address, last four digits of the social security number, and Hours Worked. Because Settlement Class Members’ private information is included in the Class Information, Class Counsel and the Settlement Administrator shall maintain any Class Information received in confidence and shall use and disclose Class Information only for purposes of this Settlement and for no other purpose, and pursuant to the restrictions as described in Paragraph 5.4. Further, within the Settlement Administrator’s operations, access shall be limited to those personnel with a need to use the Class Information as part of the administration of the Settlement.

2.4 “Class Notice” means the notice of class action settlement to be provided to Settlement Class Members, without material variation from the relevant portion of Exhibit A.

2.5 “Court” means United States District Court, Northern District of California.

2.6 “Effective Date” means one (1) day after which both of the following events have occurred: (i) the Court’s Final Approval order has been entered and (ii) the Court’s Final Approval order and Judgment have become Final.

2.7 “Exclusion/Written Objection Deadline” means the final date by which a Settlement Class Member may either (i) submit a written objection to any aspect of the Settlement, or (ii) submit a written request to be excluded from the Settlement. The Exclusion/Written Objection Deadline shall be forty-five (45) days after the Notice Date, and shall be specifically identified and set forth in the Preliminary Approval Order and the Class Notice.

2.8 “Final” when referring to a judgment or order, means that (i) the judgment is a final, appealable judgment; and (ii) either (a) no appeal has been taken from the judgment as of the date on which all times to appeal therefrom have expired, or (b) an appeal or other review proceeding of the judgment having been commenced, such appeal or other review is finally concluded and no longer is subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions for rehearing en banc, petitions for writ of certiorari, or otherwise, and such appeal or other review has been finally resolved in such manner that affirms the judgment order in its entirety, and remittitur has been issued.

2.9 “Final Approval” means the Court’s entry of a Final Approval order finally approving this Settlement.

2.10 “Final Approval Hearing” means the hearing at or after which the Court will make a final decision as to whether the Settlement is fair, reasonable, and adequate, and therefore, finally approved by the Court.

2.11 “Hours Worked” means the best approximation of the total number of hours a Settlement Class Member worked during the Settlement Class Period for Converse as a non-exempt/hourly employee, based on the records and data maintained by Converse.

2.12 “Individual Settlement Payment” means the amount payable to each Settlement Class Member from the Total Settlement Amount. In the case of Settlement Class Members who do not opt out, thirty percent (30%) of their Individual Settlement Payment shall be issued as wages, less applicable withholdings and for which an IRS Form W-2 shall issue if required, and thirty percent (30%) of their Individual Settlement Payment shall be issued as interest, for which an IRS Form 1099-INT shall issue if required, and forty percent (40%) of their Individual Settlement Payment shall be issued as penalties, for which an IRS Form 1099-MISC shall issue if required. In the case of the Settlement Class Members who

do opt out (do request to be excluded), the Individual Settlement Payment shall be for \$10.00, in consideration of their release of the PAGA Claims or remedies under the Final Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). This \$10.00 payment shall be issued as penalties, and will not require any IRS Form to issue given the amount. The Individual Settlement Payment(s) shall be calculated pursuant to Section V herein.

2.13 “Judgment” means the judgment to be entered in the Action on Final Approval of this Settlement.

2.14 “Legally Authorized Representatives” means an administrator/administratrix, personal representative, or executor/executrix of a deceased Settlement Class Member’s estate; a guardian, conservator, or next friend of an incapacitated Settlement Class Member; or any other legally appointed person responsible for handling the business affairs of a Settlement Class Member.

2.15 “Named Plaintiff’s General Released Claims” means any and all past, present, and future claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and description whatsoever, known or unknown, existing or potential, recognized now or hereafter, expected or unexpected, pursuant to any theory of recovery (including but not limited to those based in contract or tort, common law or equity, federal, state, or local law, statute, ordinance, or regulation), and for claims for compensatory, consequential, punitive or exemplary damages, statutory damages, penalties, interest, attorneys’ fees, costs or disbursements, against the Released Parties, including unknown claims covered by California Civil Code section 1542, as quoted below in Paragraph 9.4, by Plaintiff, arising during the period from the beginning of the Plaintiff’s first interaction with any defendant to the date on which the Court enters the order of Final Approval of this Settlement, for any type of relief that can be released as a matter of law, including, without limitation, claims for wages, damages, unpaid costs, penalties (including civil and waiting time penalties), liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or injunctive, declaratory or equitable relief, with the exception of any claims which cannot be released as a matter of law. Plaintiff will generally release all known and unknown claims against the Released Parties, and waive the application of section 1542 of the California Civil Code. The claims released pursuant to this paragraph include but are not limited to the Settlement Class Members’ Released Claims, as well as any other claims under any provision of the Fair Labor

Standards Act, the California Labor Code, the California Code of Regulations, or any applicable California Industrial Welfare Commission Wage Order(s), and claims under state or federal discrimination statutes, including, without limitation the California Fair Employment and Housing Act, California Government Code section 12940 *et seq.*; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*; the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*; the Age Discrimination in Employment Act of 1967, as amended; the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*; and all of their implementing regulations and interpretive guidelines.

2.16 “Notice Date” means the date of the initial distribution of the Class Notice to Settlement Class Members, as set forth in Section VI.

2.17 “Opt Out List” means the Court-approved list of all persons who timely and properly request exclusion from the Settlement Class.

2.18 “PAGA Claims” means the Plaintiff’s representative claims seeking penalties pursuant to PAGA, as alleged in the Action and predicated on violation of Labor Code sections 201-203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1.

2.19 “PAGA Payment” means a total payment of \$100,000 to settle all claims under the PAGA. From this amount, 75% will be paid to the LWDA for civil penalties pursuant to the PAGA and 25% will be distributed to Settlement Class Members and considered penalties for tax reporting purposes. Should the Court alter the amount to be allocated for this purpose, it shall not affect the Total Settlement Amount or any other term of the Settlement Agreement.

2.20 “Plaintiff” means Eric Chavez.

2.21 “Plan of Allocation” means the plan for allocating the Total Settlement Amount between and among Settlement Class Members as approved by the Court.

2.22 “Preliminary Approval Date” means the date that the Court enters the Preliminary Approval Order and thus: (i) preliminarily approves the Settlement, and the exhibits thereto, and (ii) enters an order providing for notice to the Settlement Class, an opportunity to opt out of the Settlement Class, an opportunity to submit timely and proper objections to the Settlement, and setting a hearing on the fairness of the terms of Settlement, including approval of the Class Counsel Award.

2.23 “Preliminary Approval Order” means the order that Plaintiff and Defendant will seek from the Court, without material variation from Exhibit B. Entry of the Preliminary Approval Order shall constitute preliminary approval of the Settlement Agreement.

2.24 “Released Claims” means (i) Settlement Class Members’ Released Claims and (ii) Named Plaintiff’s General Released Claims.

2.25 “Released Parties” means Converse and its past, present and future divisions, affiliates, predecessors, successors, assigns, shareholders, owners, officers, directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, parents, subsidiaries, and privies. The Parties understand and agree that NIKE Retail Services, Inc. is excluded from “Released Parties.”

2.26 “Service Award” means the amounts approved by the Court to be paid to Plaintiff, in addition to Plaintiff’s Individual Settlement Payment, in recognition of his efforts in coming forward as named Plaintiff, sitting for his deposition, being involved in the litigation of this Lawsuit, including reviewing and signing pleadings and discovery responses, and as consideration for a full, general, and comprehensive release of the Named Plaintiff’s General Released Claims. The Service Award amount payable to Plaintiff shall come exclusively from the Total Settlement Amount and is not to exceed \$10,000.

2.27 “Settlement” means the settlement of the Action between Plaintiff and Defendant, as set forth in this Settlement Agreement.

2.28 “Settlement Administrator” means Phoenix Settlement Administrators.

2.29 “Settlement Administrator Expenses” means the amount to be paid to the Settlement Administrator exclusively from the Total Settlement Amount, including the total costs, expenses, and fees of the Settlement Administrator. The amount is not to exceed \$25,000.

2.30 “Settlement Class” means all individuals employed by Converse, Inc. as non-exempt/hourly employees in California who worked at any time during the Settlement Class Period. Defendant represents that the Settlement Class is comprised of approximately 2,700 unique individuals.

2.31 “Settlement Class Member” means any member of the Settlement Class.

2.32 “Settlement Class Members’ Released Claims” means any and all present and past claims under the wage and hour laws and regulations of the state of California that were or could have been asserted based on the facts pleaded in the Lawsuit or any amendments thereto, including but not limited to, all statutes mentioned in the Lawsuit and corresponding provisions of the relevant California Wage Order, including but not limited to California Labor Code sections 201-203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, the Private Attorneys General Act (“PAGA”) (Labor Code Sections 2698-2699.5) and California Business and Professions Code sections 17200, *et seq.*, as related to claims for: overtime; minimum wage; meal period premiums; rest break premiums; wage statements; waiting time penalties; restitution; civil and statutory penalties; interest; injunctive relief; and attorneys’ fees, costs and expenses. The “Settlement Class Members’ Released Claims” are released from July 10 2011 through and including November 19, 2019.

2.33 “Settlement Class Period” means July 10, 2011 through and including November 19, 2019.

2.34 “Total Settlement Amount” means One Million Eight Hundred Seventy Five Thousand Dollars (\$1,875,000), for payment of all claims, which is the maximum amount that Converse is obligated to pay under this Settlement Agreement under any circumstances in order to resolve and settle the Action, subject to Court approval, with the sole exceptions of (1) the employer-side employment taxes for the wage portion of the settlement, which shall be paid by Converse in addition to the Total Settlement Amount, and (2) if the number of Settlement Class Members exceeds 2,700 by more than 10% (2,970), in which case Converse shall contribute a proportionate percentage¹ to the Total Settlement Amount. The Total Settlement Amount includes all costs and fees, including, but not limited to, the Class Counsel Award, Settlement Administrator Expenses, escrow costs and expenses, Service Awards, interest, and taxes and tax expenses (except employer-side employment taxes).

2.35 “Void Date” means the date by which any checks issued to Settlement Class Members shall become void, *i.e.* on the 181st day after mailing.

¹ In other words, if the total number of Settlement Class Members is 3,105 – 15% more than 2,700 – then Converse must contribute an additional \$281,250 – 15% of \$1,875,000 – to the Total Settlement Amount.

III. SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT FOR PRELIMINARY AND FINAL APPROVAL

3.1 Upon execution of this Settlement Agreement, Plaintiff shall submit to the Court a motion for preliminary approval of the Settlement. The motion for preliminary approval shall include a proposed plan for sending of the Class Notice to Settlement Class Members within forty-five (45) days after the Preliminary Approval Date (the Notice Date), and establishing a period of forty-five (45) days from the Notice Date within which any Settlement Class Member may (i) request exclusion from the Settlement Class, (ii) object to the proposed Settlement, or (iii) object to Class Counsel's request for the Class Counsel Award and for the Service Awards to the Plaintiff (the Exclusion/Written Objection Deadline).

3.2 The Parties stipulate to certification under Federal Rule of Civil Procedure 23, for settlement purposes only, of the Settlement Class, excluding the Settlement Class's PAGA Claims. The Parties agree that this stipulation shall not be admissible in, and may not be used by any person for any purpose whatsoever in any legal proceeding, including but not limited to any arbitrations and/or any civil and/or administrative proceedings, other than a proceeding to enforce the terms of the Agreement, as further set forth in this Agreement.

3.3 Class Counsel agrees to keep any and all data and other employment and personal information related to the Settlement Class in the strictest confidence, and shall not disclose that data. Any such data provided to Class Counsel shall be treated as privileged mediation communications under Federal Rule of Evidence 408 and designated "Confidential—Attorneys' Eyes Only," except to the extent absolutely necessary (as agreed between the Parties) for approval of the Settlement. Class Counsel agrees to submit such necessary data and information to the Court under seal to the extent appropriate under governing law. Nevertheless, should the Court not grant final approval of this settlement, the Parties understand and agree that they will meet and confer regarding use of the data in litigation, including for purposes of trial.

3.4 The Parties stipulate to the form of, and agree to submit to the Court for its consideration this Settlement Agreement, and the following Exhibits to this Settlement Agreement: Class Notice (the relevant portion of Exhibit A); and [Proposed] Preliminary Approval Order (Exhibit B).

1 3.5 Solely for purposes of implementing this Agreement and effectuating the proposed
2 Settlement, the Parties agree and stipulate that:

3 3.5.1 The Court may enter the Preliminary Approval Order, without material variation
4 from Exhibit B, preliminarily approving the Settlement and this Agreement. Among other things, the
5 Preliminary Approval Order shall grant leave to preliminarily certify the Settlement Class for settlement
6 purposes only; approve the Plaintiff as the class representative of the Settlement Class, appoint Class
7 Counsel to represent the Settlement Class, and appoint the Settlement Administrator; approve the Class
8 Notice, and the class notice plan embodied in the Settlement Agreement, and approve them as consistent
9 with Federal Rule of Civil Procedure 23(c)(2) and due process; set out the requirements for disputing the
10 information upon which Settlement Class Members' share of the Settlement will be calculated, objecting
11 to the Settlement, excluding Settlement Class Members who timely and properly request to be excluded
12 from the Settlement Class, all as provided in this Agreement; and provide that certification and all actions
13 associated with certification are undertaken on the condition that the certification and other actions shall
14 be automatically vacated and of no force or evidentiary effect if this Agreement is terminated or
15 disapproved, as provided in this Agreement.

16 3.6 Within 10 days of the Preliminary Approval Date, Class Counsel will notify the LWDA of
17 the Preliminary Approval Order.

18 3.7 At the Final Approval Hearing, Plaintiff shall request entry of a Final Approval order and
19 a Judgment, to be agreed upon by the Parties, the entry of which is a material condition of this Settlement
20 and that, among other things:

21 3.7.1 Finally approves the Settlement as fair, reasonable, and adequate and directs its
22 consummation pursuant to the terms of the Settlement Agreement;

23 3.7.2 Finds that Class Counsel and Plaintiff adequately represented the Settlement Class
24 for the purpose of entering into and implementing the Agreement;

25 3.7.3 Re-confirms the appointment of the Settlement Administrator and finds that the
26 Settlement Administrator has fulfilled its duties under the Settlement to date;

27 3.7.4 Finds that the Class Notice (i) constituted the best practicable notice; (ii) constituted
28 notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of

the pendency of the Action, and their right to exclude themselves from or object to the proposed settlement and to appear at the Final Approval Hearing; (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of Federal Rule of Civil Procedure 23(c)(2), due process, and any other applicable rules or law;

3.7.5 Approves the Opt-Out List and determines that the Opt-Out List is a complete list of all Settlement Class Members who have timely and properly requested exclusion from the Settlement Class and, accordingly, shall neither share in nor be bound by the Final Approval order and Judgment;

3.7.6 Directs that the Final Approval order and Judgment of dismissal shall be final and entered forthwith;

3.7.7 Without affecting the finality of the Final Approval order and Judgment, directs that the Court retains continuing jurisdiction over Plaintiff, the Settlement Class, and Converse as to all matters concerning the administration, consummation, and enforcement of this Settlement Agreement;

3.7.8 Adjudges that, as of the Final Approval Date, Plaintiff, and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List approved by the Court, and their Legally Authorized Representatives, heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether they have received actual notice of the proposed Settlement, have conclusively compromised, settled, discharged, and released the Named Plaintiff's General Released Claims (in the case of Plaintiff) and Settlement Class Members' Released Claims (in the case of the Settlement Class Members) against Converse and the Released Parties, and are bound by the provisions of this Agreement;

3.7.9 Affirms that, notwithstanding the submission of a timely and proper request for exclusion, Settlement Class Members will still be bound by the settlement and release of the PAGA Claims under the Final Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009) as requests for exclusion do not apply to the PAGA Claims, and further affirms that any claim by the LWDA for civil penalties pursuant to PAGA are also extinguished;

3.7.10 Declares this Agreement and the Final Approval order and Judgment to be binding on, and have res judicata and preclusive effect as to all pending and future lawsuits or other proceedings:

(i) that encompass the Named Plaintiff's General Released Claims and that are maintained by or on behalf of Plaintiff and/or his Legally Authorized Representatives, heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, and (ii) that encompass the Settlement Class Members' Released Claims and that are maintained by or on behalf of any Settlement Class Member who has not been excluded from the Settlement Class as provided in the Opt-Out List approved by the Court and/or their Legally Authorized Representatives, heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether the Settlement Class Member previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the Settlement Class Members' Released Claims, and even if such Settlement Class Member never received actual notice of the Action or this proposed Settlement;

3.7.11 Determines that the Agreement and the Settlement provided for herein, and any proceedings taken pursuant thereto, are not, and should not in any event be offered, received, or construed as evidence of, a presumption, concession, or an admission by any Party of liability or non-liability or of the certifiability or non-certifiability of a litigation class, or that PAGA representative claims may validly be pursued, or of any misrepresentation or omission in any statement or written document approved or made by any Party; provided, however, that reference may be made to this Agreement and the Settlement provided for herein in such proceedings as may be necessary to effectuate the provisions of this Agreement, as further set forth in this Agreement;

3.7.12 Orders that the preliminary approval of the Settlement, certification of the Settlement Class and final approval of the proposed Settlement, and all actions associated with them, are undertaken on the condition that they shall be vacated if the Settlement Agreement is terminated or disapproved in whole or in part by the Court, or by any appellate court and/or other court of review, in which event the Agreement and the fact that it was entered into shall not be offered, received, or construed as an admission or as evidence for any purpose, including but not limited to an admission by any Party of liability or non-liability or of any misrepresentation or omission in any statement or written document

1 approved or made by any Party, or of the certifiability of a litigation class or the appropriateness of
2 maintaining a PAGA representative action, as further provided in this Settlement Agreement;

3 3.7.13 Authorizes the Parties, without further approval from the Court, to mutually agree
4 to and adopt such amendments, modifications, and expansions of this Agreement, including all Exhibits
5 hereto, as (i) shall be consistent in all material respects with the Final Approval order and (ii) do not limit
6 the rights of Settlement Class Members; and

7 3.7.14 Contains such other and further provisions consistent with the terms of this
8 Settlement Agreement to which the Parties expressly consent in writing.

9 3.8 At the Final Approval Hearing and as a part of the final approval of this Settlement, Class
10 Counsel will also request approval of the Plan of Allocation set forth in Section V. Any modification to
11 the Plan of Allocation by the Court shall not (i) affect the enforceability of the Settlement Agreement, (ii)
12 provide any of the Parties with the right to terminate the Settlement Agreement, or (iii) impose any
13 obligation on the Defendant or any Released Party to increase the consideration paid in connection with
14 the Settlement.

15 3.9 At the Final Approval Hearing, Class Counsel may also request entry of an Order
16 approving the Class Counsel Award and the Service Award to the Plaintiff, which shall be paid exclusively
17 from the Total Settlement Amount and in accordance with the distribution plan described in Section V.
18 In no event shall any Released Party otherwise be obligated to pay for any attorneys' fees and expenses
19 or any Service Award. The disposition of Class Counsel's application for a Class Counsel Award, and
20 for the Service Award, is within the sound discretion of the Court and is not a material term of this
21 Settlement Agreement, and it is not a condition of this Settlement Agreement that such application be
22 granted. Any disapproval or modification of such application by the Court shall not (i) affect the
23 enforceability of the Settlement Agreement, (ii) provide any of the Parties with the right to terminate the
24 Settlement Agreement, or (iii) increase the consideration Defendant or any Released Party pays in
25 connection with the Settlement. If the Court modifies the amount of the Class Counsel Award to be lower
26 than the maximum allocated to the Class Counsel Award in the Agreement, then the difference shall be
27 allocated to the Individual Settlement Payments, as set forth in the Plan of Allocation. Released Parties
28 shall have no liability to Class Counsel arising from any claim regarding the division of the Class Counsel

Award between and among Class Counsel or any other counsel representing Plaintiff or the Settlement Class Members.

3.10 Within 10 days after entry of Judgment, Class Counsel will provide a copy of the Judgment to the LWDA.

3.11 In no event shall Defendant or any Released Party be obligated to pay Settlement Administrator Expenses beyond those provided for in this Agreement.

IV. SETTLEMENT CONSIDERATION

4.1 The total consideration for the Settlement from Converse is the Total Settlement Amount (\$1,875,000). The Total Settlement Amount is an “all in” number that includes, without limitation, all monetary benefits and payments to the Settlement Class, Service Awards, Class Counsel Award, Settlement Administrator Expenses, the PAGA Payment, and all claims for interest, fees, and costs, with the sole exceptions being (1) the employer-side employment taxes for the wage portion of the settlement; and (2) if the number of Settlement Class Members exceeds 2,700 by more than 10% (2,970), in which case Converse shall contribute a proportionate percentage² to the Total Settlement Amount. Under no circumstances shall Converse be required to pay anything more than the Total Settlement Amount. In no event shall Converse be liable for making any payments under this Settlement, or for providing any relief to Settlement Class Members, before the deadlines set forth in this Agreement.

4.2 Plaintiff and all Settlement Class Members who do not request exclusion and receive an Individual Settlement Payment from the Total Settlement Amount expressly acknowledge that thirty percent (30%) shall be issued as wages, less applicable withholdings and for which an IRS Form W-2 shall issue if required, thirty percent (30%) shall be issued as interest, and forty percent (40%) of which shall be issued as penalties, for both of which an IRS Form 1099 shall issue if required. In the case of Plaintiff, the Service Award shall be considered entirely non-wages, and shall be included in Plaintiff's IRS Form 1099. Plaintiff and all Settlement Class Members who receive a payment of any kind from the Total Settlement Amount agree to timely pay in full all of the federal, state, and municipal income taxes

² In other words, if the total number of Settlement Class Members is 3,105 – 15% more than 2,700 – then Converse must contribute an additional \$281,250 – 15% of \$1,875,000 – to the Total Settlement Amount.

owed on such payments, with the sole exception of the employer-side employment taxes for the wage portion of the settlement, which shall be paid by Defendant.

4.3 The terms of this Agreement relating to the Service Awards and Class Counsel Award were not negotiated by the Parties before full agreement was reached as to all other material terms of the proposed Settlement, including, but not limited to, any terms relating to the relief to the Settlement Class. Converse agrees not to oppose a request for the Service Award for Plaintiff, as awarded by the Court, up to a maximum of \$10,000. Plaintiff and Class Counsel agree not to seek any Service Award in excess of the above amount.

4.4 Class Counsel agrees not to seek an award from the Court in excess of thirty-three percent and one-third (33 1/3%) of the Total Settlement Amount in attorneys' fees nor in excess of \$200,000 in costs and expenses. Converse agrees not to oppose a request for attorneys' fees, costs and expenses so long as it does not exceed the amounts set forth above. Any amount awarded as the Class Counsel Award shall be inclusive of any and all amounts due to or claimed by any and all counsel representing Plaintiff. Released Parties and Settlement Class Members shall have no obligation regarding, or liability for, allocation or payment of the Class Counsel Award. Class Counsel shall file any request for attorneys' fees, costs and expenses and any request for Service Awards no later than 35 calendar days before the Final Approval Hearing.

4.5 The Settlement Administrator shall pay the Class Counsel Award from the Total Settlement Amount pursuant to the instructions of Class Counsel. Class Counsel shall provide the Settlement Administrator notice of receipt of the Class Counsel Award. Released Parties shall have no liability to Class Counsel or any other counsel for Plaintiff or any Settlement Class Member arising from any claim regarding the division of the Class Counsel Award.

V. FUNDING AND ALLOCATION OF THE SETTLEMENT

5.1 Within twenty (20) calendar days of the Effective Date, Converse shall provide the Total Settlement Amount to the Settlement Administrator.

5.2 Subject to Court approval, the Total Settlement Amount shall be allocated to pay the Settlement Administrator Expenses (not to exceed \$25,000); Plaintiff's Service Award (not to exceed \$10,000); the Class Counsel Award (up to, but not to exceed, \$625,000.00 in fees and up to \$200,000 in

costs) as ordered by the Court; seventy-five percent (75%) of the PAGA Payment (equaling \$75,000) to the LWDA; and all remaining funds allocated to the Individual Settlement Payments (“Net Settlement Amount”).

5.3 Settlement Class Members are not eligible to receive any compensation from the Settlement other than the Individual Settlement Payment(s), and the Individual Settlement Payment shall total no less than \$10.00.

5.4 Settlement Class Members who request exclusion shall each be paid \$10.00, and nothing more. Each Settlement Class Member who does not request exclusion (“Remaining Settlement Class Members”) shall be paid a base payment of \$10.00, plus an amount calculated in direct proportion to Converse’s best estimate of the Settlement Class Member’s Hours Worked, as determined from the Class Information provided to the Settlement Administrator by Converse. To calculate the amount to be paid in proportion to Hours Worked, the number of Settlement Class Members (including those who requested exclusion) shall be multiplied by \$10.00 and the resulting amount shall be subtracted from the Net Settlement Amount, after which the remaining amount shall be deemed as the “Hours Worked Settlement Amount.” Then, the Hours Worked of all Remaining Settlement Class Members will be totaled (“Total Hours Worked”). Each Remaining Settlement Class Member’s Hours Worked will be divided by the Total Hours Worked and multiplied against the Hours Worked Settlement Amount. Finally, the resulting amount shall be added to the base payment of \$10.00 to reach each Remaining Settlement Class Member’s Individual Settlement Payment. Class Counsel will be permitted to review and approve the calculation of settlement funds to be distributed, provided that the information shared with Class Counsel contain solely a unique identifying number for each individual and their Hours Worked, but not contain any Settlement Class Member’s name, last four digits of the social security number, nor last known address nor any other identifying information.

5.5 At no point shall any amount from the Total Settlement Amount revert back to Defendant.

5.6 The Settlement Administrator shall issue the Individual Settlement Payments from the Total Settlement Amount to each Settlement Class Member. Of those Individual Settlement Payments to the Remaining Settlement Class Members, thirty percent (30%) of shall be reported by the Settlement Administrator to the applicable governmental authorities on IRS Form W-2s (allocated to wages), thirty

percent (30%) shall be reported by the Settlement Administrator to the applicable governmental authorities on IRS Form 1099-INT (allocated to interest), if required, and forty percent (40%) shall be reported by the Settlement Administrator to the applicable governmental authorities on IRS Form 1099-MISC (allocated to penalties) if required. In the case of Settlement Class Members who requested exclusion and therefore received a flat payment of \$10.00, such payments shall be issued as penalties, and will not require any IRS Form to issue to the Settlement Class Member. In the case of Plaintiff, the Service Award shall be considered entirely non-wages, and shall be included in Plaintiff's IRS Form 1099. The Settlement Administrator shall be responsible for issuing respective copies of IRS Form 1099s and W-2s for the Plaintiff and Settlement Class Members who received and cashed their respective Individual Settlement Payments.

VI. CLASS NOTICE & CLAIM PROCEDURES

6.1 No more than fourteen (14) calendar days after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the Class Information for purposes of sending the Class Notice to Settlement Class Members.

6.2 The Class Notice will include a statement to each Settlement Class Member containing their Hours Worked being used to calculate the amount of their Settlement Payment as described in Paragraph 5.4, and inform Settlement Class Members of their right to request exclusion from the Settlement, of their right to object to the Settlement, of their right to dispute the information upon which their share of the Settlement will be calculated, and the claims to be released.

6.3 As set forth in the Class Notice, Settlement Class Members will be provided ten (10) days after receiving the Class Notice and accompanying statement to disagree with Converse's calculation of their total Hours Worked by providing documentation to the Settlement Administrator. The Settlement Administrator shall review any documentation submitted by a Settlement Class Member and consult with the Parties to determine whether an adjustment is warranted. There will be a presumption that Converse's records are correct, absent evidence produced by a Settlement Class Member to the contrary. The Settlement Administrator's determination of the amount of any Settlement Class Member's Hours Worked shall be binding upon the Settlement Class Member and the Parties, and a Settlement Class Member's

1 Individual Settlement Payment will be calculated according to the Settlement Administrator's
2 determination.

3 6.4 No more than thirty (30) calendar days after entry of the Preliminary Approval Order,
4 provided Defendant timely complied with its obligation in Paragraph 6.1, the Settlement Administrator
5 shall send a copy of the Class Notice by U.S. mail to each potential Settlement Class Member (the Notice
6 Date). Before the initial mailing of the Class Notice, the Settlement Administrator shall make a good-
7 faith attempt to obtain the most-current names and postal mail addresses for all potential Settlement Class
8 Members to receive such postal mail, including (1) cross-checking the names and/or postal mail addresses
9 it received from Converse, and (2) reviewing the addresses with the National Change of Address Database.

10 6.5 If any Class Notice sent via U.S. mail to any potential Settlement Class Member is returned
11 to the Settlement Administrator with a forwarding address, the Settlement Administrator shall forward the
12 postal mailing to that address. If the Settlement Administrator is not provided a forwarding address, the
13 Settlement Administrator shall attempt to locate a current mailing address for the Class Member by skip
14 tracing using the Class Member's SSN and will mail the Class Notice to the updated address identified.
15 In the event that any Class Notice is returned as undeliverable a second time, no further efforts shall be
16 required. The Settlement Administrator shall maintain a log detailing the instances Class Notices are
17 returned as undeliverable.

18 6.6 All Settlement Class Members' names and postal mail addresses obtained through these
19 sources shall be protected as confidential and not used for purposes other than the notice and
20 administration of this Settlement. The address determined by the Settlement Administrator as the current
21 mailing address through this process shall be presumed to be the best mailing address for the applicable
22 Settlement Class Member.

23 6.7 The Parties agree that the procedures set forth in this Section constitute reasonable and the
24 best practicable notice under the circumstances and an appropriate and sufficient effort to locate current
25 addresses for Settlement Class Members such that no additional efforts to do so shall be required.

26 6.8 At least twenty-one (21) days before the Final Approval Hearing, the Settlement
27 Administrator shall prepare a declaration of due diligence and proof of dissemination with regard to the
28 mailing of the Class Notice, and any attempts by the Settlement Administrator to locate Settlement Class

Members, its receipt of valid requests for exclusion, and its inability to deliver the Class Notice to Settlement Class Members due to invalid addresses (“Due Diligence Declaration”), to Class Counsel and counsel for Converse for presentation to the Court. Class Counsel shall be responsible for filing the Due Diligence Declaration with the Court.

6.9 If any individual whose name does not appear in the Class Information that Converse provides the Settlement Administrator (and who has not previously opted out of the Settlement Class), believes that they are a Settlement Class Member, they shall have the opportunity to dispute their exclusion from the Settlement Class, prior to the Void Date. If an individual believes they are a Settlement Class Member, they must notify the Settlement Administrator within a reasonable amount of time after the Notice Date, but under no circumstances more than 120 days after the Effective Date. The Parties will meet and confer regarding any such individuals in an attempt to reach an agreement as to whether any such individual should be regarded as a Settlement Class Member. If the Parties so agree, the Settlement Administrator will provide a Class Notice to the individual, and treat the individual as a Settlement Class Member for all other purposes. Such an individual will have all of the same rights as any other Settlement Class Member under this Agreement. In the event that the disbursement of the Individual Settlement Payments has begun (in accordance with this Settlement Agreement) at the time that the Parties agree that such individual should be regarded as a Settlement Class Member, and such individual has not exercised their right to opt out of the Settlement, the Individual Settlement Payment to such individual shall be at the same time as the redistribution of Individual Settlement Payments, as described in Paragraph 10.5, from funds remitted back to the Total Settlement Amount (*i.e.* from settlement checks that remain uncashed beyond the Void Date).

VII. PROCEDURES FOR REQUESTS FOR EXCLUSION

7.1 Settlement Class Members (with the exception of Plaintiff) may opt out of the Settlement. Those who wish to exclude themselves (or “opt out”) from the Settlement Class must submit timely, written requests for exclusion. To be effective, such a request must include the Settlement Class Member’s name, address, and telephone number; a clear and unequivocal statement that the Settlement Class Member wishes to be excluded from the Settlement Class; and the signature of the Settlement Class Member. The request must be mailed to the Settlement Administrator at the address provided in the Class

1 Notice and must be postmarked no later than the Exclusion/Written Objection Deadline. The date of the
2 postmark shall be the exclusive means used to determine whether a request for exclusion has been timely
3 submitted. Requests for exclusion must be exercised individually by the Settlement Class Member.
4 Attempted collective group, class, or subclass requests for exclusions shall be ineffective and disregarded
5 by the Settlement Administrator.

6 7.2 The Settlement Administrator shall promptly log each request for exclusion that it receives
7 and provide copies of the log and all such requests for exclusion to counsel for Converse. Class Counsel
8 shall be permitted access to the log if, and only if, necessary to resolve disputes arising from the
9 administration of the Settlement.

10 7.3 The Settlement Administrator shall prepare a list of all persons who timely and properly
11 requested exclusion from the Settlement Class (the Opt-Out List) and shall, before the Final Approval
12 Hearing, submit an affidavit to the Court attesting to the accuracy of the list.

13 7.4 All Settlement Class Members who are not included in the Opt-Out List approved by the
14 Court shall be bound by this Agreement, and all their claims shall be dismissed with prejudice and released
15 as provided for herein, even if they never received actual notice of the Action or this proposed Settlement.

16 7.5 The Settlement Administrator, in its sole discretion, shall determine whether a request for
17 exclusion was timely and properly submitted. The Settlement Administrator's decision shall be final,
18 binding, and nonappealable.

19 7.6 Plaintiff agrees not to request exclusion from the Settlement Class.

20 7.7 Settlement Class Members may object to or opt out of the Settlement, but may not do both.
21 Any Settlement Class Member who submits a timely and proper request for exclusion may not file an
22 objection to the Settlement or receive a Settlement Payment, and shall be deemed to have waived any
23 rights or benefits under the Settlement Agreement, with the sole exception of a payment of \$10.00, in
24 consideration of the individual's release of the PAGA Claims or remedies under the Final Judgment
25 pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). If a Settlement Class Member files both an
26 objection and a valid and timely request for exclusion, the request for exclusion will override the objection,
27 and the objection shall therefore be ignored. In addition, should this Settlement not be approved for any
28 reason, any exclusion from the Settlement Class shall not have any impact or effect upon the respective

individual's membership in the class as previously certified by the Court on September 22, 2016 (Dkt. No. 89 at 6).

7.8 Notwithstanding the submission of a timely request for exclusion, Class Members will still be bound by the settlement and release of the PAGA Claims or remedies under the Final Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Requests for exclusion do not apply to the PAGA Claims, and will not be effective to preclude the release of the PAGA Claims.

VIII. PROCEDURES FOR OBJECTIONS

8.1 Any Settlement Class Member that wishes to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed Settlement must provide to the Settlement Administrator (who shall forward it to Class Counsel and counsel for Converse), a timely statement of the objection, as set forth below.

8.2 To be timely, a written objection must be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, San Jose Courthouse, Courtroom 5 – 4th Floor, 280 South 1st Street, San Jose, CA 95113, or by filing them in person at any location of the United States District Court for the Northern District of California, no later than the Exclusion/Written Objection Deadline. The date of the postmark on the return-mailing envelope or the filing date (respective of the method used) shall be the exclusive means used to determine whether an objection has been timely submitted.

8.3 A written objection must contain at least the following: (i) the objector's full name, address, telephone, and signature; (ii) a clear reference to the Action; (iii) a statement of the specific legal and factual basis for each objection argument; and (iv) a statement whether the objecting person or entity intends to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. All objections shall be signed by the objecting Settlement Class Member, even if the Settlement Class Member is represented by counsel.

8.4 The right to object to the proposed Settlement must be exercised individually by a Settlement Class Member. Attempted collective, group, class, or subclass objections shall be ineffective and disregarded.

8.5 Any Settlement Class Member who does not file a timely written objection in accordance with this Section shall waive the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the proposed Settlement, the Plan of Allocation, the Class Counsel Award and the Service Award. Settlement Class Members who object to the proposed Settlement shall remain Settlement Class Members, and shall be deemed to have voluntarily waived their right to pursue an independent remedy against Converse and the Released Parties.

8.6 To the extent any Settlement Class Member objects to the proposed Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Final Approval order and Judgment.

8.7 It shall be Class Counsel's sole responsibility to respond to any objections made with respect to any application for the Class Counsel Award and Service Award.

IX. RELEASES

9.1 The Released Claims against each and all of the Released Parties shall be released and dismissed with prejudice and on the merits (without an award of costs to any party other than as provided in this Agreement) upon entry of the Final Approval order and Judgment.

9.2 As of the Final Approval Date, Plaintiff, and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List, individually and on behalf of their Legally Authorized Representatives, heirs, estates, trustees, executors, administrators, representatives, agents, successors, and assigns, and anyone claiming through them or acting or purporting to act on their behalf, agree to forever release, discharge, hold harmless, and covenant not to sue each and all of the Released Parties from each and all of the Named Plaintiff's General Released Claims (in the case of the Plaintiff) and the Settlement Class Members' Released Claims (in the case of the Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List), and by operation of the Final Judgment shall have fully and finally released, relinquished, and discharged all such claims against each and all of the Released Parties; and they further agree that they shall not now or hereafter initiate, maintain, or assert any Named Plaintiff's General Released Claims (in the case of Plaintiff) and any Settlement Class Members' Released Claims (in the case of the Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List), against

the Released Parties in any other court action or before any administrative body, tribunal, arbitration panel, or other adjudicating body. Without in any way limiting the scope of the releases described in Paragraphs 2.15, 2.24, and 2.32, as well as the remainder of this Section, this release covers, without limitation, any and all claims for attorneys' fees, costs or disbursements incurred by Class Counsel or any other counsel representing Plaintiff or Settlement Class Members, or by Plaintiff or Settlement Class Members, or any of them, in connection with or related in any manner to the Action, the Settlement of the Action, the administration of such Settlement, and/or the Released Claims, except to the extent otherwise specified in the Agreement.

9.3 As of the Final Approval Date, Plaintiff and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List shall be permanently barred and enjoined from initiating, asserting, or prosecuting against the Released Parties in any federal or state court or tribunal any and all Named Plaintiff's General Released Claims (in the case of Plaintiff) and any Settlement Class Members' Released Claims (in the case of the Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List,) arising during the Settlement Class Period, as further provided in Paragraphs 2.15, 2.24, and 2.32, as well as this Section.

9.4 Plaintiff expressly acknowledge that he is familiar with principles of law such as Section 1542 of the California Civil Code, which provides:

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

9.5 With respect to the Named Plaintiff's General Released Claims, as described in Paragraph 2.15, Plaintiff shall be deemed to have expressly, knowingly, and voluntarily waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may otherwise have had pursuant to Section 1542 of the California Civil Code and all similar federal or state laws, rights, rules, or legal principles of any other jurisdiction that may be applicable herein. In connection with the release, Plaintiff acknowledges that he is aware that he may hereafter discover claims presently unknown and unsuspected or facts in addition to or different from those which he now knows or believes to be true with

respect to matters released herein. Nevertheless, Plaintiff acknowledges that a portion of the consideration received herein is for a release with respect to unknown damages and complaints, whether resulting from known injuries and consequences or from unknown injuries or unknown consequences of known or unknown injuries, and state that it is the intention of Plaintiff in agreeing to this release to fully, finally, and forever to settle and release all matters and all claims that exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action), constituting Named Plaintiff's General Released Claims.

9.6 Plaintiff further acknowledges, agrees, and understands that: (i) he has read and understands the terms of this Agreement; (ii) he has been advised in writing to consult with an attorney before executing this Agreement; and (iii) he has obtained and considered such legal counsel as he deems necessary.

9.7 Subject to Court approval, the Plaintiff, and all Settlement Class Members to the extent they have not been excluded from the Settlement Class as provided in the Opt-Out List, shall be bound by this Settlement Agreement, and all of their claims shall be dismissed with prejudice and released, even if they never received actual notice of the Action or this Settlement

X. ADMINISTRATION OF THE SETTLEMENT FUND

10.1 The Settlement Administrator or its authorized agents in consultation with the Parties and subject to the supervision, direction, and approval of the Court, shall calculate the allocation of and oversee the distribution of the Total Settlement Amount.

10.2 The Total Settlement Amount shall be applied as follows:

10.2.1 To pay the total costs, expenses, and fees of the Settlement Administrator incurred in connection with providing Class Notice to potential Settlement Class Members, and the management and distribution of the Total Settlement Amount to Settlement Class Members, not to exceed \$25,000;

10.2.2 Subject to the approval and further order(s) of the Court, to pay Plaintiff's Service Awards based on contributions and time expended assisting in the litigation, up to a maximum of \$10,000;

10.2.3 Subject to the approval and further order(s) of the Court, to pay the Class Counsel Award (up to, but not to exceed, 33 1/3% of the Total Settlement Amount and up to, but not to exceed, \$200,000 in costs, as ordered by the Court);

10.2.4 Subject to the approval and further order(s) of the Court, to distribute 75% of the PAGA Payment to the LWDA and 25% of the PAGA Payment to the Settlement Class Members as part of each Settlement Class Members' Individual Settlement Payment, with the amount to be distributed to each Settlement Class Member determined proportionately to their Individual Settlement Payment;

10.2.5 After the Effective Date and subject to the approval and further order(s) of the Court, to distribute the Individual Settlement Payments from the Total Settlement Amount for the benefit of the Settlement Class pursuant to Settlement Agreement, or as otherwise ordered by the Court.

10.3 Within thirty-five (35) days of the Effective Date, the Class Counsel Award (Six Hundred Twenty-Five Thousand Dollars (\$625,000.00) in fees and up to Two Hundred Thousand Dollars (\$200,000) in costs), and the Service Award approved by the Court (up to Ten Thousand (\$10,000)), and the Settlement Administrator Expenses (up to \$25,000), shall be made by the Settlement Administrator from the amount provided to it by Converse on or before thirty-five (35) days after the Effective Date.

10.4 The Settlement Administrator shall use reasonable efforts to disburse the Individual Settlement Payments to Settlement Class Members within sixty (60) days after the Effective Date, pursuant to the Plan of Allocation.

10.5 If any portion included in the Individual Settlement Payments is not successfully distributed to Settlement Class Members after the initial Void Date (*i.e.* checks are not cashed or checks are returned as undeliverable after the initial distribution), then the Settlement Administrator shall void the check and shall direct such unclaimed funds to be redistributed to the those Remaining Settlement Class Members who received and cashed their Individual Settlement Payment check. If any portion of the Total Settlement Amount is not successfully redistributed to Remaining Settlement Class Members (*i.e.* checks are not cashed or checks are returned as undeliverable after the second distribution), then after the Void Date for the redistributed checks, the Settlement Administrator shall void the checks and shall direct such unclaimed funds to be paid to the *cy pres* beneficiary of the Settlement, Legal Aid At Work.

10.6 Settlement Class Members who are not on the Opt-Out List approved by the Court shall be subject to and bound by the provisions of the Settlement Agreement, the releases contained herein, and the Judgment with respect to all Settlement Class Members' Released Claims, regardless of whether they obtained any distribution from the Total Settlement Amount.

10.7 Payment from the Total Settlement Amount made pursuant to and in the manner set forth herein shall be deemed conclusive of compliance with this Settlement Agreement as to all Settlement Class Members.

10.8 No Settlement Class Member shall have any claim against the Plaintiff, Class Counsel, or the Settlement Administrator based on distributions made substantially in accordance with this Settlement Agreement and/or orders of the Court. No Settlement Class Member shall have any claim against any Released Party or its counsel relating to distributions made under this Settlement.

XI. EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF SETTLEMENT AGREEMENT

11.1 If the Court does not approve the Settlement as set forth in this Settlement Agreement, or does not enter the Final Approval order and Judgment on the terms described herein, or if the Court enters the Judgment and appellate review is sought, and on such review, the entry of Judgment is vacated, modified in any way, or reversed, or if the Final Approval order does not otherwise become Final, then this Settlement Agreement shall be cancelled and terminated, unless all Parties, in their sole discretion no later than thirty (30) days from the date such ruling becomes Final, provide written notice to all other Parties hereto of their intent to proceed with the Settlement under the terms of the Judgment as it may be modified by the Court or any appellate court.

11.2 No later than ten (10) business days after the Exclusion/Written Objection Deadline, the Settlement Administrator shall provide to counsel for Converse the Opt-Out List together with copies of the opt-out requests. Notwithstanding any other provision of this Settlement Agreement, if more than ten percent (10%) of Settlement Class Members exercise their right to opt out of the Settlement, Defendant at its sole and absolute discretion may elect to rescind and revoke the entire Settlement Agreement by sending written notice that it revokes the Settlement pursuant to this paragraph to Class Counsel within ten (10) business days following receipt of the Opt-Out List. Should Defendant exercise its rights under this Paragraph, Defendant shall bear all of the Settlement Administrator's costs incurred up to the point of the revocation.

11.3 In the event that: (i) the District Court denies, with prejudice, approval of the Settlement, (ii) the District Court's approval of the Settlement is overturned on appeal, (iii) the Judgment does not

1 become Final, or (iv) this Settlement Agreement is terminated, cancelled, or fails to become effective for
2 any reason, then: (a) the Parties stipulate and agree the Settlement, this Agreement, the Class Information,
3 the Opt-Out List, and all documents exchanged and filed in connection with the Settlement shall be treated
4 as privileged mediation communications under Cal. Evid. Code §§ 1115 *et seq.*; (b) the Settlement shall
5 be without force and effect upon the rights of the Parties hereto, and none of its terms shall be effective or
6 enforceable, with the exception of this Paragraph, which shall remain effective and enforceable; (c) the
7 parties shall be deemed to have reverted nunc pro tunc to their respective status prior to execution of this
8 Agreement, including with respect to any Court-imposed deadlines; (d) all Orders entered in connection
9 with the Settlement, including the certification of the Settlement Class, shall be vacated without prejudice
10 to any party's position on the issue of class certification, the issue of amending the complaint, or any other
11 issue, in the Action or any other action, and the parties shall be restored to their litigation positions existing
12 on the date of execution of this Agreement; and (e) the parties shall proceed in all respects as if the
13 Settlement Agreement and related documentation and orders had not been executed, and without prejudice
14 in any way from the negotiation or fact of the Settlement or the terms of the Settlement Agreement. The
15 Settlement Agreement, the Settlement, all documents, orders, and evidence relating to the Settlement, the
16 fact of their existence, any of their terms, any press release or other statement or report by the Parties or
17 by others concerning the Settlement Agreement, the Settlement, their existence, or their terms, any
18 negotiations, proceedings, acts performed, or documents executed pursuant to or in furtherance of the
19 Settlement Agreement or the Settlement shall not be admissible in any proceeding, and shall not be
20 offered, received, or construed as evidence of a presumption, concession, or an admission of liability, of
21 the certifiability of a litigation class, or of any misrepresentation or omission in any statement or written
22 document approved or made, or otherwise used by any person for any purpose whatsoever, in any trial of
23 the Action or any other action or proceedings. Plaintiff, Class Counsel and the Settlement Administrator
24 shall return to counsel for Converse all copies of Class Information and Opt-Out Lists and shall not use
25 or disclose the Class Information or Opt-Out List for any purpose or in any proceeding.

26 Converse does not agree or consent to certification of the Settlement Class for any purpose other
27 than to effectuate the Settlement of the Action. Further, Converse does not agree or consent that the
28 Action could properly be maintained as a PAGA representative action for any purpose other than to

1 effectuate the Settlement of the Action. If this Settlement Agreement is terminated pursuant to its terms,
2 or the Effective Date for any reason does not occur, all Orders certifying the Settlement Class or
3 establishing the Action as a PAGA representative action for purposes of effecting this Settlement
4 Agreement, and all preliminary and/or final findings regarding the Settlement Class certification order,
5 shall be automatically vacated upon notice to the Court. Consistent with this Paragraph, the Parties
6 understand and agree that the Court's Order Granting Plaintiff's Motion for Class Certification shall not
7 be affected by this settlement and/or this Agreement. The Action shall revert nunc pro tunc to the
8 procedural status quo as of the date and time immediately before the execution of the Settlement
9 Agreement, in accordance with this Settlement Agreement.

10 **XII. ADDITIONAL PROVISIONS**

11 12.1 Neither Plaintiff, Plaintiffs' counsel, Defendant or Defendant's counsel shall engage in any
12 publicity, including website or social media postings, of any type related to this lawsuit, settlement, or
13 litigation against Defendant. The Parties understand and agree that this clause does not apply to any court
14 order requiring Plaintiff's counsel publish and/or make case documents available to the public and/or
15 prohibit Plaintiff and Plaintiff's counsel communicating with class members regarding this case and/or
16 this settlement.

17 12.2 All of the Exhibits to this Agreement are an integral part of the Settlement and are
18 incorporated by reference as though fully set forth herein.

19 12.3 Plaintiff and Class Counsel acknowledge that an adequate factual record has been
20 established that supports the Settlement and hereby waive any right to conduct further discovery to assess
21 or confirm the Settlement, except if required by Court Order.

22 12.4 Unless otherwise noted, all references to "days" in this Agreement shall be to calendar
23 days. In the event any date or deadline set forth in this Agreement falls on a weekend or California court
24 legal holiday, such date or deadline shall be on the first business day thereafter.

25 12.5 This Agreement constitutes the full and complete agreement of the Parties hereto, and
26 supersedes all prior negotiations and agreements, whether oral, written or otherwise, and may be amended
27 or modified only by a written instrument signed by counsel for all Parties or the Parties' successors-in-
28 interest.

1 12.6 The Parties reserve the right, subject to the Court's approval, to make any reasonable
2 extensions of time that might be necessary to carry out any of the provisions of this Agreement. Such
3 extensions must be in writing to be enforceable.

4 12.7 The Settlement Agreement, the Settlement, the fact of the Settlement's existence, any of
5 terms of the Settlement Agreement, any public statement concerning the Settlement Agreement or the
6 Settlement, and any negotiations, proceedings, acts performed, or documents executed pursuant to or in
7 furtherance of the Settlement Agreement or the Settlement may not be used as evidence of any waiver of,
8 unenforceability of, or as a defense to any Converse arbitration agreement.

9 12.8 The Released Parties shall have the right to file the Settlement Agreement, the Final
10 Approval order and Judgment, and any other documents or evidence relating to the Settlement in any
11 action that may be brought against them in order to support a defense or counterclaim based on principles
12 of res judicata, collateral estoppel, release, good-faith settlement, judgment bar, reduction, or any other
13 theory of claim preclusion or issue preclusion or similar defense or counterclaim.

14 12.9 The Parties to the Settlement Agreement agree that the Total Settlement Amount and the
15 other terms of the Settlement were negotiated at arm's length and in good faith by the Parties, resulted
16 from an arm's-length mediation session facilitated by Michael Loeb, Esq., and subsequent discussions
17 between the Parties, and reflect a settlement that was reached voluntarily based upon adequate information
18 and sufficient discovery and after consultation with experienced legal counsel.

19 12.10 Plaintiff and Class Counsel have concluded that the Settlement set forth herein constitutes
20 a fair, reasonable, and adequate resolution of the claims that Plaintiff asserted against defendants,
21 including the claims on behalf of the Settlement Class, and that it promotes the best interests of the
22 Settlement Class.

23 12.11 To the extent permitted by law, all agreements made and orders entered during the course
24 of the Action relating to the confidentiality of information shall survive this Settlement Agreement.

25 12.12 The Parties agree that Plaintiff and Class Counsel are not required to return any documents
26 produced by Converse until the final resolution of the Action. Within one year following the Effective
27 Date, Class Counsel shall return to Converse all documents produced in the Action, or confirm in writing
28 that all such documents have been destroyed. Any documents retained after the Effective Date shall be

1 for the sole purpose of Class Counsel's ethical obligations to keep a record of the work performed for their
2 clients.

3 12.13 The waiver by one Party of any breach of this Settlement Agreement by any other Party
4 shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

5 12.14 This Settlement Agreement constitutes the entire agreement among the Parties, and no
6 representations, warranties, or inducements have been made to any Party concerning this Settlement
7 Agreement, other than the representations, warranties, and covenants contained and memorialized in this
8 Settlement Agreement.

9 12.15 This Settlement Agreement may be executed in one or more counterparts and by facsimile,
10 PDF, electronic, and/or DocuSign signatures. If Plaintiff executes the Settlement Agreement by electronic
11 signature, including Docusign or any comparable service, Class Counsel makes the following
12 representations: (a) the electronic signature system and processes used to obtain Plaintiff's signature
13 comply with the federal EISGN Act and any state laws regarding the use or adoption of electronic
14 signatures, (b) Plaintiff consented to using electronic signatures for this purpose, as required under both
15 the federal and state laws), (c) Class Counsel selected and implemented a method in their electronic
16 signature system to authenticate Plaintiff to ensure the signature is Plaintiff's signature, (d) Class Counsel
17 has and will maintain records of the system and the process used to present the agreement to Plaintiff and
18 obtain and record Plaintiff's signature, and will maintain and provide such records to counsel for Converse
19 to allow counsel for Converse to lay the foundation for the admission of the settlement agreement into
20 evidence, (e) Plaintiff and Class Counsel waive any objections to the admission of the agreement in any
21 later action to enforce the terms of the agreement based on the electronic signature process, and (f) Class
22 Counsel agrees to indemnify and hold Converse harmless from any loss, cost, damage or expense
23 (including attorneys' fees) resulting from our Converse's inability to enforce the agreement and release
24 against their client. All executed counterparts and copies thereof shall be deemed to be one and the same
25 instrument.

26 12.16 The Parties hereto and their respective counsel agree that they will use their best efforts to
27 obtain all necessary approvals of the Court required by this Settlement Agreement.
28

1 12.17 This Settlement Agreement shall be binding upon and shall inure to the benefit of the
2 successors and assigns of the Parties hereto, including any and all Released Parties and any corporation,
3 partnership, or other entity into or with which any Released Party hereto may merge, consolidate, or
4 reorganize.

5 12.18 This Settlement Agreement shall not be construed more strictly against one Party than
6 another merely because of the fact that it may have been prepared by counsel for one of the Parties, it
7 being recognized that because of the arm's-length negotiations resulting in the Settlement Agreement, all
8 Parties hereto have contributed substantially and materially to the preparation of the Settlement
9 Agreement.

10 12.19 Except where this Settlement Agreement itself provides otherwise, all terms, conditions,
11 and Exhibits are material and necessary to this Settlement Agreement and have been relied upon by the
12 Parties in entering into this Settlement Agreement.

13 12.20 This Settlement Agreement shall be governed by California law. Any action based on this
14 Settlement Agreement, or to enforce any of its terms, shall be venued in United States District Court,
15 Northern District of California, which shall retain jurisdiction over all such disputes. All Parties to this
16 Settlement Agreement shall be subject to the jurisdiction of United States District Court, Northern District
17 of California for all purposes related to this Settlement Agreement. This paragraph relates solely to the
18 law governing this Settlement Agreement and any action based thereon, and nothing in this paragraph
19 shall be construed as an admission or finding that California law applies to the Released Claims of any
20 Plaintiff or Settlement Class Members who reside outside of the state.

21 12.21 The Court shall retain continuing and exclusive jurisdiction over the Parties to this
22 Settlement Agreement for the purpose of the administration and enforcement of this Settlement
23 Agreement. If an action is brought to enforce this Agreement, the prevailing party shall be entitled to
24 its/his reasonable attorneys' fees and costs.

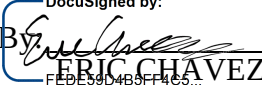
25 12.22 The headings used in this Settlement Agreement are for the convenience of the reader only,
26 and shall not affect the meaning or interpretation of this Settlement Agreement.

27 12.23 In construing this Settlement Agreement, the use of the singular includes the plural (and
28 vice-versa) and the use of the masculine includes the feminine (and vice-versa).

1 12.24 Each Party to this Settlement Agreement warrants that he, she, they, or it is acting upon
2 independent judgment and upon the advice of counsel, and not in reliance upon any warranty or
3 representation, express or implied, of any nature of any kind by any other Party, other than the warranties
4 and representations expressly made in this Settlement Agreement.

5 12.25 Each counsel signing this Settlement Agreement on behalf of their clients who are unable
6 to sign the Agreement on the date that it is executed by other Parties represents that such counsel is fully
7 authorized to sign this Settlement Agreement on behalf of their clients; provided, however, that all Parties
8 who have not executed this Agreement on the date that it is executed by the other Parties shall promptly
9 thereafter execute this Agreement and in any event no later than one (1) week after the Agreement has
10 been executed by counsel.

11
12 Dated: 6/2/2020, 2020

DocuSigned by:
By: 
ERIC CHAVEZ
FEDE3D4B5FF4C5...
PLAINTIFF

13
14
15
16 Dated: _____, 2020

By: _____
CASSIE ENGLISH
ASSISTANT GENERAL COUNSEL,
EMPLOYMENT – THE AMERICAS
FOR CONVERSE, INC.
DEFENDANT

17
18
19
20
21 Dated: _____, 2020

By: _____
Larry W. Lee
Attorneys for Plaintiff

22
23
24
25
26 4843-1499-8971.6 049435.1041

12.24 Each Party to this Settlement Agreement warrants that he, she, they, or it is acting upon independent judgment and upon the advice of counsel, and not in reliance upon any warranty or representation, express or implied, of any nature of any kind by any other Party, other than the warranties and representations expressly made in this Settlement Agreement.

12.25 Each counsel signing this Settlement Agreement on behalf of their clients who are unable to sign the Agreement on the date that it is executed by other Parties represents that such counsel is fully authorized to sign this Settlement Agreement on behalf of their clients; provided, however, that all Parties who have not executed this Agreement on the date that it is executed by the other Parties shall promptly thereafter execute this Agreement and in any event no later than one (1) week after the Agreement has been executed by counsel.

Dated: _____, 2020

By: _____
ERIC CHAVEZ
PLAINTIFF



Dated: June 3, 2020

By: _____
LAUREN THIBODEAUX
VP, GLOBAL EMPLOYMENT COUNSEL
for CONVERSE INC.

Dated: _____, 2020

By: _____
Larry W. Lee
Attorneys for Plaintiff

4843-1499-8971.6 049435.1041

12.24 Each Party to this Settlement Agreement warrants that he, she, they, or it is acting upon independent judgment and upon the advice of counsel, and not in reliance upon any warranty or representation, express or implied, of any nature of any kind by any other Party, other than the warranties and representations expressly made in this Settlement Agreement.

12.25 Each counsel signing this Settlement Agreement on behalf of their clients who are unable to sign the Agreement on the date that it is executed by other Parties represents that such counsel is fully authorized to sign this Settlement Agreement on behalf of their clients; provided, however, that all Parties who have not executed this Agreement on the date that it is executed by the other Parties shall promptly thereafter execute this Agreement and in any event no later than one (1) week after the Agreement has been executed by counsel.

Dated: _____, 2020

By: _____
ERIC CHAVEZ
PLAINTIFF

Dated: _____, 2020

By: _____
CASSIE ENGLISH
ASSISTANT GENERAL COUNSEL,
EMPLOYMENT – THE AMERICAS
FOR CONVERSE, INC.
DEFENDANT

Dated: June 2, 2020

By: 
Larry W. Lee
Attorneys for Plaintiff

4843-1499-8971.6 049435.1041

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ERIC CHAVEZ, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

CONVERSE, INC., a Delaware Corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 15-cv-03746-NC
Hon. Nathanael M. Cousins

**IMPORTANT LEGAL NOTICE –
THIS LAWSUIT SETTLEMENT MAY
AFFECT YOUR RIGHTS**

A federal court authorized this notice. This is not a solicitation from a lawyer. This is not a lawsuit against you and you are not being sued. However, your legal rights are affected whether you act or don't act.

**IMPORTANT: YOU ARE ENTITLED TO MONEY IF THE COURT APPROVES THE
SETTLEMENT DESCRIBED HEREIN**

Dear **[Insert Full Name]**:

**THE RECORDS OF CONVERSE, INC. (“CONVERSE” OR “DEFENDANT”) SHOW
YOU WERE EMPLOYED BY CONVERSE AS AN HOURLY-PAID EMPLOYEE IN
CALIFORNIA AT SOME TIME BETWEEN JULY 10, 2011, AND NOVEMBER 19, 2019,
AND YOU ARE ELIGIBLE FOR A PAYMENT FROM A CLASS/PAGA ACTION
SETTLEMENT.**

**IT IS ESTIMATED THAT YOUR POTENTIAL PAYMENT UNDER THIS
SETTLEMENT WOULD BE \$ [REDACTED].**

**IMPORTANT: YOU WILL BE BOUND BY THIS SETTLEMENT AND YOUR
RIGHTS WILL BE AFFECTED BY THIS LITIGATION UNLESS YOU EXCLUDE
YOURSELF FROM THE CLASS AS EXPLAINED BELOW.**

PLEASE READ THIS NOTICE CAREFULLY.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You will receive a payment under the Settlement.
Exclude Yourself	Receive no payment for the class claims, but still receive \$10 as your portion of the PAGA settlement. You will still retain all rights you individually may have against Converse.
Object	Write to the Court about why you believe that the settlement is unfair.

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

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains the nature of this lawsuit, as well as a proposed settlement of this lawsuit, and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of a class on whose behalf this class action lawsuit has been brought. The Court has conditionally certified a Class for settlement purposes comprised of:

All individuals employed by Converse, Inc. as non-exempt/hourly employees in California who worked at any time during July 10, 2011 through November 19, 2019.

The Court has appointed as class counsel Diversity Law Group, PC, Polaris Law Group, LLP and Hyun Legal, APC (“Class Counsel”).

WHAT IS THIS LAWSUIT ABOUT?

This settlement is the result of a lawsuit filed by Plaintiff Eric Chavez (“Plaintiff”). On July 10, 2015, Plaintiff filed a Class Action Complaint against Defendant Converse in the Superior Court of the State of California, County of Santa Clara (the “Lawsuit”). Defendant subsequently removed the case to the United States District Court for the Northern District of California, where it was assigned Case. No. 5:16-cv-03746-NC.

Plaintiff’s Lawsuit brings class claims for violation of the California Labor Code based on Converse’s policy and practice of conducting security checks and visual inspections of its employees after clocking out from their shift and prior to leaving the store. Plaintiff’s Lawsuit alleges that this policy and practice was not compliant with California law, and that Converse owes minimum, regular, and overtime wages, meal and rest break premiums, and various penalties to its hourly employees for the time spent waiting and undergoing said security checks and visual inspections as they were off-the-clock. Based on these class claims, Plaintiff seeks on behalf of all similarly situated current and former hourly-paid employees all unpaid minimum, regular, and overtime wages, meal and rest break premiums, and related statutory and civil penalties under California law. In addition to the class claims above, Plaintiff has also brought a claim for violation

of the Private Attorneys General Act of 2004 (the “PAGA”), California Labor Code § 2698, *et seq.*, seeking civil penalties on behalf of all other aggrieved employees based on these same Labor Code violations.

Defendant denied the allegations in the Lawsuit, and continues to deny, that it failed to comply with California law and the California Labor Code. In this regard, Defendant maintains that its security checks and visual inspections conducted at retail stores were compliant with California law, such that it properly compensated employees for all wages earned. In addition, Defendant denied, and continues to deny, that the Lawsuit could or should be certified to proceed as a class action.

THE COURT HAS NOT RULED ON THE MERITS OF PLAINTIFF’S CLAIMS, DEFENDANT’S DEFENSES, OR THE SUBSTANTIVE CONTENTIONS OF THE PARTIES. NO INFERENCES REGARDING THE MERITS OF THE LITIGATION SHOULD BE DRAWN FROM THE SENDING OF THIS NOTICE. THIS NOTICE IS NOT MEANT TO IMPLY THAT THERE HAS BEEN ANY VIOLATION OF LAW OR WRONGDOING BY ANY PARTY OR THAT A RECOVERY AFTER TRIAL COULD BE HAD IF THE LITIGATION IS NOT SETTLED.

SUMMARY OF THE SETTLEMENT

A. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Defendant. Plaintiff thinks he would have prevailed on the merits of his claims at trial. Defendant does not think Plaintiff would have won anything from trial because it has asserted legal and factual defenses to the claims. But there was no trial. Instead, both parties agreed to a settlement of the Lawsuit. As a result, both sides can avoid the costs, risks, and uncertainty of proceeding with trial, and the people affected from the Lawsuit will get monetary compensation. Plaintiff and Class Counsel believe that the settlement is fair, reasonable, adequate, and in the best interests of all members of the Class.

B. Who is in the Settlement Class?

All current and former non-exempt (“hourly”) employees who worked for Defendant in the State of California at any time between July 10, 2011 to November 19, 2019, and who do not opt out of the settlement as explained below would become part of the “Settlement Class” (also referred to as a “Settlement Class Member”). The period of time between July 10, 2011 and November 19, 2019 is referred to as the “Settlement Class Period.”

C. Who are the attorneys representing the class?

<u>Class Counsel</u>	<u>Class Counsel (cont’d)</u>
DIVERSITY LAW GROUP, P.C. Larry W. Lee, State Bar No. 228175 lwlee@diversitylaw.com	HYUN LEGAL, APC Dennis S. Hyun, State Bar No. 224240 dhyun@hyunlegal.com

Kristen M. Agnew, State Bar No. 247656 kagnew@diversitylaw.com Nick Rosenthal, State Bar No. 268297 nrosenthal@diversitylaw.com Max Gavron, State Bar No. 291697 mgavron@diversitylaw.com 515 S. Figueroa St., Suite 1250 Los Angeles, California 90071 Telephone: (213) 488-6555 Facsimile: (213) 488-6554	515 S. Figueroa St., Suite 1250 Los Angeles, California 90071 Telephone: (213) 488-6555 Facsimile: (213) 488-6554
<u>Class Counsel (cont'd)</u> POLARIS LAW GROUP LLP William L. Marder, State Bar No. 170131 bill@polarislawgroup.com 501 San Benito Street, Suite 200 Hollister, California 95023 Telephone: (831) 531-4214 Facsimile: (831) 634-0333	

D. What does the settlement provide?

The parties have agreed to settle the Lawsuit in exchange for the settlement amount of \$1,875,000.00 (“Total Settlement Amount”). This amount is inclusive of (1) individual settlement payments to the Class Members; (2) an enhancement payment of up to \$10,000.00 to Plaintiff for his efforts and work in prosecuting this Lawsuit on behalf of the class; (3) not more than \$625,000.00 in attorneys’ fees and not more than \$200,000.00 in litigation costs; (4) payment of \$75,000.00 to the California Labor and Workforce Development Agency (“LWDA”) in connection and accordance with PAGA (75% of \$100,000.00 PAGA penalty allocation, with \$25,000.00 being distributed to Class Members); and (5) claims administrator’s fees and expenses estimated to be \$25,000.00.

After deducting the class representative enhancement payment, attorneys’ fees, costs, the payment to the LWDA, and the claims administrator’s fees and expenses, it is estimated that a total of approximately \$940,000.00 (“Net Settlement Amount”) will be available to be distributed to each person (“Individual Settlement Payment”).

Settlement Class Members who request exclusion shall each be paid \$10.00, and nothing more. Each Settlement Class Member who does not request exclusion (“Remaining Settlement Class Members”) shall be paid a base payment of \$10.00, plus an amount calculated in direct proportion to Converse’s best estimate of the Settlement Class Member’s Hours Worked, as determined from the Class Information provided to the Settlement Administrator by Converse. To calculate the amount to be paid in proportion to Hours Worked, the number of Settlement Class Members (including those who requested exclusion) shall be multiplied by \$10.00 and the resulting amount shall be subtracted from the Net Settlement Amount, after which the remaining amount shall be deemed as the “Hours Worked Settlement Amount.” Then, the Hours Worked of all Remaining Settlement Class Members will be totaled (“Total Hours Worked”). Each Remaining Settlement

Class Member's Hours Worked will be divided by the Total Hours Worked and multiplied against the Hours Worked Settlement Amount. Finally, the resulting amount shall be added to the base payment of \$10.00 to reach each Remaining Settlement Class Member's Individual Settlement Payment.

Settlement Class Members are not required to do anything to receive their Individual Settlement Payment. Thus, you do not need to submit any proof of a claim form. Upon final approval of this settlement by the Court, your Individual Settlement Payment check will be mailed to you.

If any Settlement Class Member does not cash their settlement payment check within one hundred eighty (180) days after the claims administrator mails the settlement payment check to the Settlement Class Member, all such uncashed amounts will be redistributed to those Remaining Settlement Class Members who received and cashed their Individual Settlement Payment check. Any portion of the settlement payments not cashed within one hundred eighty (180) days of the second distribution shall be paid to the *cy pres* beneficiary of the Settlement, Legal Aid At Work.

All Individual Settlement Payments paid to satisfy Claims of those who do not request exclusion shall be allocated as follows: thirty percent (30%) of which shall be issued as wages, less applicable withholdings and for which an IRS Form W-2 shall issue if required, thirty percent (30%) of which shall be issued as interest and for which a IRS Form 1099-INT shall issue if required, and forty percent (40%) of which shall be issued as penalties, for which an IRS Form 1099-MISC shall issue if required. Converse will be separately responsible for the employer-paid portion of any taxes arising from settlement payment amounts issued as wages, including the employer-paid portion of FICA, Medicare, FUTA, and SDI contribution, which shall not be paid from the Total Settlement Amount. Each individual Settlement Class Member shall be solely responsible for their share of taxes (federal, state, or local) owed as a result of any payments received under this settlement. To ensure compliance with requirements imposed by the IRS, we inform you that any United States federal tax advice contained in this Notice was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. Class Counsel and Defendant's Counsel do not purport this communication to constitute legal and/or tax advice.

E. What will I get?

The records of Converse indicate that, between July 10, 2011 and November 19, 2019, the total hours you worked within this period is:

Hours Worked

Based on this, it is estimated that your Individual Settlement Payment will be approximately \$.

If you dispute the hours worked listed above, you must notify the claims administrator in writing of this dispute within ten (10) days of your receipt of this Notice at the address listed below, and

provide documents (*e.g.*, payroll records) evidencing your claim. You can only submit a dispute if you do not exclude or opt out of the settlement. Any dispute over the hours worked that cannot be resolved by the parties shall be submitted to the claims administrator for a final and binding determination.

F. What is the payment to the Class Representative?

Subject to Court approval, Plaintiff will be paid a “Service Award” in an amount up to ten thousand dollars (\$10,000.00) for his efforts and work in prosecuting this Lawsuit as the class representative, including sitting for his deposition, providing Defendant with a general release of any claims he may have, as well as his willingness to accept the risk of paying Defendant’s attorneys’ fees and costs in the event of an unsuccessful outcome of this Lawsuit.

G. How will Class Counsel be paid?

Class Counsel will apply to the Court for an award of reasonable attorneys’ fees in an amount up one-third (1/3) of the Total Settlement Amount (*i.e.*, \$625,000.00) and reasonable litigations costs of this Lawsuit of up to two hundred thousand dollars (\$200,000.00) (“Class Counsel Award”).

H. What are you giving up to get a payment or stay in the Class?

If you remain a part of this settlement, and if the Court grants final approval of the settlement, you will be deemed to have released or waived the claims listed below in Section I that arose any time during the Settlement Class Period (referred to as the “Released Claims”). The release of claims set forth below in **Section I** which describes exactly the legal claims that you will give up if you do not exclude yourself from the Settlement Class, and will extend to Converse and its past, present and future parents, owners, subsidiaries, affiliates, successors-in-interest, assigns, auditors, accountants, experts, contractors, partners, insurers, reinsurers, and other parties acting on their behalf, officers, directors, shareholders, employees, agents, attorneys, and representatives (the “Released Parties”).

If you do not elect to exclude yourself from the Settlement Class, you will be deemed to have entered into the release of claims below and to have released your claims against the Released Parties. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

I. What are the Released Claims?

In consideration of the monetary sum provided by Defendant and upon final approval of this Settlement by the Court, Plaintiff and the Settlement Class Members, except those who timely and validly exclude themselves from the Settlement, hereby cancel, terminate, abrogate, discharge, waive, fully release, and forever discharge the Released Parties from the following claims that arose during the Settlement Class Period (“Released Claims”): any and all present and past claims under the wage and hour laws and regulations of the state of California that were or could have been asserted based on the facts pleaded in the Lawsuit or any amendments thereto, including but not limited to, all statutes mentioned in the Lawsuit and corresponding provisions of the relevant California Wage Order, including but not limited to California Labor Code sections 201-203, 226,

226.7, 510, 512, 558, 1194, 1197, 1197.1, the Private Attorneys General Act (“PAGA”) (Labor Code Sections 2698-2699.5) and California Business and Professions Code sections 17200, et seq., as related to claims for: overtime; minimum wage; meal period premiums; rest break premiums; wage statements; waiting time penalties; restitution; civil and statutory penalties; interest; injunctive relief; and attorneys’ fees, costs and expenses.

If you currently have a case pending, or plan to file a case based on the above claims, you must exclude yourself from this class action in order to proceed on your own. You will be solely responsible for the costs of hiring your own attorney and proceeding on your own. If you wish instead to receive the benefits of this Settlement, and waive your right to proceed on your own, you should participate in this Settlement, meaning do not exclude yourself from the Settlement.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed Settlement (the “Final Settlement Hearing”) on [REDACTED], at [REDACTED] .m., in Courtroom 5 of United States District Court for the Northern District of California, San Jose Division, 280 South 1st Street, San Jose, CA 95113.

At the Final Settlement Hearing, the Court will determine: (i) whether the Action should be finally certified as a class action solely and exclusively for Settlement purposes; (ii) whether the Settlement should be given the Court’s final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members, and if so, whether to enter a judgment fully and finally resolving Plaintiff’s and Settlement Class Members’ claims against Defendant; (iii) whether the Settlement Class Members should be bound by the terms of the Settlement, including the release of claims; (iv) the amount of the attorneys’ fees and expenses to be awarded to Class Counsel; and (v) the amount that should be awarded to Plaintiff as the Service Award. At the Final Settlement Hearing, the Court will rule on any written objections filed by Class Members, as well as arguments for and against the proposed Settlement. Assuming you do not elect to exclude yourself from the Settlement, you have a right to attend this hearing, but you must first object according to the procedure below. You are not required to attend the hearing. The Court has reserved the right to adjourn the Final Settlement Hearing to consider any issue, without further notice of any kind. Please contact the claims administrator or Class Counsel to confirm that the Final Settlement Hearing date has not been changed.

You also have the right to hire an attorney to represent you, or to enter an appearance on your behalf and represent you at the hearing.

WHAT ARE YOUR OPTIONS?

OPTION 1 – REMAIN A SETTLEMENT CLASS MEMBER. IF YOU WISH TO REMAIN A SETTLEMENT CLASS MEMBER AND OBTAIN YOUR SHARE OF THE SETTLEMENT THAT YOU MAY BE ENTITLED TO RECEIVE, YOU DO NOT NEED TO DO ANYTHING OTHER THAN MAKE SURE THE SETTLEMENT ADMINISTRATOR HAS YOUR CURRENT ADDRESS. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. You will be bound by a judgment in this case, you will release your claims against the Defendant, and you

will not have the right to file your own lawsuit against the Defendant and pursue your own claims in a separate suit. If the Court approves the proposed Settlement, you will automatically be mailed your share of the Net Settlement Amount. If the Court does not approve the Settlement, the lawsuit will continue, and you may or may not be designated or redesignated a Class Member at a later time. If your mailing address information is incorrect or you move, please provide your current address to the claims administrator: **XXXXXX** at **XXXXXXXXXX**.

OPTION 2 – REMAIN A CLASS MEMBER AND OBJECT TO THE SETTLEMENT.

You can ask the Court to deny approval by filing a written objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object in writing.

Any objection to the proposed settlement must be in writing and must: (1) contain your full name, current address, telephone number and signature; (2) identify the case name and number (*Chavez v. Converse*, Case Number 5:16-cv-333 EJD); (3) state with specificity the grounds for your objection(s); and (4) state whether you intend to appear at the Final Approval Hearing. You may include any supporting documents or papers, including without limitation, briefs, written evidence, and declarations, with your objection. Your written objection and/or supporting documents must be filed with the Court only, either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113, or by filing them in person at any location of the United States District Court for the Northern District of California.

To be valid and effective, all objections to the approval of the Settlement must be postmarked to the Court, or filed in person, on or before **_____, _____**. DO NOT CONTACT THE COURT, except as provided here.

If you file a timely written objection, you may, but are not required to, appear at the Final Settlement Hearing, either in person or through your own attorney. If you choose to appear through your own attorney, you are responsible for hiring and paying that attorney. Any Class Member who fails to object to the proposed Settlement as described above will lose the right to object to it.

OPTION 3 – EXCLUDE YOURSELF FROM THE CLASS. YOU HAVE A RIGHT TO EXCLUDE YOURSELF ("OPT OUT") FROM THE CLASS, BUT IF YOU CHOOSE TO DO SO, **YOU WILL NOT RECEIVE ANY BENEFITS BEYOND \$10.00 FROM THE PROPOSED SETTLEMENT AND YOU WILL NOT HAVE STANDING TO OBJECT TO THE SETTLEMENT.** You will not be bound by a judgment in this case, you will not release your claims against the Defendant, and you will have the right to file your own lawsuit against the Defendant and pursue your own claims in a separate suit. If you want to exclude yourself from the Class, you must timely write to the claims administrator to request that you be excluded from the settlement ("Request for Exclusion").

Your Request for Exclusion must: (1) contain your full name, address and telephone number, and the last four digits of your Social Security number; (2) be signed by you; (3) identify the case name

and number (*CHAVEZ v. CONVERSE*, Case Number 15-cv-03746-NC); and (4) contain a clear statement that indicates that you want to be excluded from the Settlement.

Your written Request for Exclusion must be mailed to the claims administrator at: XXXXXX, Claims Administrator, XXXXXX. In order for you to timely and validly opt out and exclude yourself, your written Request for Exclusion must contain the information listed above, and be postmarked on or before _____, _____. Any Requests for Exclusion post-marked after this date or not received by the claims administrator will have no force and effect, meaning that you will still remain a part of the Settlement Class.

Any Class Member who files a timely and valid Request for Exclusion will only receive \$10.00 as settlement of the PAGA claims, and be barred from objecting to the Settlement. If you exclude yourself, you can, at your own expense, pursue any claims that you may individually have against Defendant. Please note that you cannot both exclude yourself and object to the Settlement.

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, approval papers, other documents in this Lawsuit, and any attorneys' fee motions by contacting Class Counsel at their contact information above, the claims administrator at *****, by accessing the Court docket in this case (for a fee) through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

ALL INQUIRIES REGARDING THIS LITIGATION SHOULD BE MADE TO THE CLAIMS ADMINISTRATOR:

XXXXXX
XXXXXX
XXXXXX

You may also call Class Counsel listed above.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION.

EXHIBIT B

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ERIC CHAVEZ, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

CONVERSE, INC., a Delaware
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 15-cv-03746-NC

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

[PROPOSED] ORDER

Plaintiff Eric Chavez (“Plaintiff” or “Class Representative”), having made an application pursuant to Fed. R. Civ. P. Rule 23(e) for entry of an order (a) preliminarily approving the settlement of the litigation pursuant to the Class Action Settlement Agreement (the “Agreement”); (b) certifying the Settlement Class for purposes of proceedings in connection with the final approval of the Agreement; (c) approving the form of Notice of Class Action Settlement and directing the manner of delivery thereof; (d) approving Larry W. Lee, Kristen M. Agnew, Nicholas Rosenthal, and Max W. Gavron of Diversity Law Group, William L. Marder of Polaris Law Group, and Dennis S. Hyun of Hyun Legal as Class Counsel and Plaintiff as Class Representative.

IT IS HEREBY ORDERED THAT:

1. All defined terms contained herein shall have the same meaning as set forth in the Agreement executed by the Parties and filed with this Court.

2. The Agreement is hereby PRELIMINARILY APPROVED as appearing on its face to be fair, reasonable, and adequate and to have been the product of serious, informed, and extensive arm’s-length negotiations among the Plaintiff and Defendant Converse, Inc. (“Defendant” or “Converse”) (Plaintiff and Defendant collectively referred to as the “Parties”). In making this preliminary finding, the Court considered the nature of the claims, the relative strength of Plaintiff’s claims, the amounts and kinds of benefits paid in settlement, the allocation of settlement proceeds among the class members, and the fact that a settlement represents a compromise of the Parties’ respective positions rather than the result of a finding of liability at trial. The Court further preliminarily finds that the terms of the Agreement have no obvious deficiencies and do not improperly grant preferential treatment to any individual class member.

3. Pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(3), the Court conditionally certifies the Settlement Class defined as the following:

All individuals employed by Converse, Inc. as non-exempt/hourly employees in California who worked at any time during the Settlement Class Period (July 10, 2011, through and including November 19, 2019)

1 The Court finds preliminarily, and for purposes of proceeding pursuant to Fed. R. Civ. P.
 2 Rule 23(e), that the number of class members is sufficiently numerous, the class members are
 3 ascertainable based on the Defendant's records, the Plaintiff's claims are typical of those in the
 4 class, and that there is adequate and fair representation. Accordingly, the Settlement Class is
 5 hereby CERTIFIED for the purposes of the Settlement pursuant to Fed. R. Civ. P. 23(e).

6 4. Pursuant to Fed. R. Civ. P. 23(g), the Court hereby APPOINTS as Class Counsel
 7 for the Settlement Class Larry W. Lee, Kristen M. Agnew, Nicholas Rosenthal, and Max W.
 8 Gavron of Diversity Law Group, William L. Marder of Polaris Law Group, and Dennis S. Hyun
 9 of Hyun Legal. The Court finds that Class Counsel collectively have extensive experience and
 10 expertise in prosecuting wage and hour class actions.

11 5. Plaintiff is approved as the class representative for the Settlement Class Members.

12 6. The Court finds on a preliminary basis that the proposed settlement described in
 13 the Agreement (including the monetary provisions, the plan of allocation, the release of claims,
 14 the proposed award of attorneys' fees and costs and the Service Award) falls within the "range of
 15 reasonableness" and therefore grants preliminary approval of the Agreement. Based on a review
 16 of the papers submitted by the Parties, the Court finds that the Agreement is the result of
 17 extensive arm's-length negotiations conducted after Class Counsel had adequately investigated
 18 the claims and became familiar with the strengths and weaknesses of those claims. The
 19 assistance of an experienced neutral mediator during the settlement process supports the Court's
 20 conclusion that the Agreement is non-collusive.

21 7. The Court hereby APPROVES Phoenix Settlement Administrators as the
 22 Settlement Administrator for the purposes of this settlement.

23 8. A hearing (the "Final Approval and Fairness Hearing") is hereby SCHEDULED
 24 to be held before the Court on _____, 2020, at 1:00 p.m. for the following purposes:

- 25 a. to determine whether the Settlement is fair, reasonable, and adequate and
- 26 direct its consummation pursuant to the terms of the Settlement Agreement;
- 27 b. to determine whether Class Counsel and Plaintiff adequately represented
- 28 the Settlement Class for the purpose of entering into and implementing the

1 Agreement;

2 c. to re-confirms the appointment of the Settlement Administrator and find
3 that the Settlement Administrator has fulfilled its duties under the Settlement to
4 date;

5 d. to determine whether the Class Notice (i) constituted the best practicable
6 notice; (ii) constituted notice that was reasonably calculated, under the
7 circumstances, to apprise Settlement Class Members of the pendency of the
8 Action, and their right to exclude themselves from or object to the proposed
9 settlement and to appear at the Final Approval Hearing; (iii) was reasonable and
10 constituted due, adequate, and sufficient notice to all persons entitled to receive
11 notice; and (iv) met all applicable requirements of Federal Rule of Civil
12 Procedure 23(c)(2), due process, and any other applicable rules or law;

13 e. to approve the Opt-Out List and determine that the Opt-Out List is a
14 complete list of all Settlement Class Members who have timely and properly
15 requested exclusion from the Settlement Class and, accordingly, shall neither
16 share in nor be bound by the Final Approval order and Judgment;

17 f. to direct that the Final Approval order and Judgment of dismissal shall be
18 final and entered forthwith;

19 g. without affecting the finality of the Final Approval order and Judgment, to
20 direct that the Court retain continuing jurisdiction over Plaintiff, the Settlement
21 Class, and Converse as to all matters concerning the administration,
22 consummation, and enforcement of this Settlement Agreement;

23 h. to adjudge that, as of the Final Approval Date, Plaintiff, and all Settlement
24 Class Members who have not been excluded from the Settlement Class as
25 provided in the Opt-Out List approved by the Court, and their Legally Authorized
26 Representatives, heirs, estates, trustees, executors, administrators, principals,
27 beneficiaries, representatives, agents, assigns, and successors, and/or anyone
28 claiming through them or acting or purporting to act for them or on their behalf,

1 regardless of whether they have received actual notice of the proposed Settlement,
2 have conclusively compromised, settled, discharged, and released the Named
3 Plaintiff's General Released Claims (in the case of Plaintiff) and Settlement Class
4 Members' Released Claims (in the case of the Settlement Class Members) against
5 Converse and the Released Parties, and are bound by the provisions of this
6 Agreement;

7 i. to affirm that, notwithstanding the submission of a timely and proper
8 request for exclusion, Settlement Class Members will still be bound by the
9 settlement and release of the PAGA Claims under the Final Judgment pursuant to
10 *Arias v. Superior Court*, 46 Cal. 4th 969 (2009) as requests for exclusion do not
11 apply to the PAGA Claims, and further affirms that any claim by the LWDA for
12 civil penalties pursuant to PAGA are also extinguished;

13 j. to declare the Agreement and the Final Approval order and Judgment be
14 binding on, and have res judicata and preclusive effect as to all pending and future
15 lawsuits or other proceedings: (i) that encompass the Named Plaintiff's General
16 Released Claims and that are maintained by or on behalf of Plaintiff and/or his
17 Legally Authorized Representatives, heirs, estates, trustees, executors,
18 administrators, principals, beneficiaries, representatives, agents, assigns, and
19 successors, and/or anyone claiming through them or acting or purporting to act for
20 them or on their behalf, and (ii) that encompass the Settlement Class Members'
21 Released Claims and that are maintained by or on behalf of any Settlement Class
22 Member who has not been excluded from the Settlement Class as provided in the
23 Opt-Out List approved by the Court and/or their Legally Authorized
24 Representatives, heirs, estates, trustees, executors, administrators, principals,
25 beneficiaries, representatives, agents, assigns, and successors, and/or anyone
26 claiming through them or acting or purporting to act for them or on their behalf,
27 regardless of whether the Settlement Class Member previously initiated or
28 subsequently initiates individual litigation or other proceedings encompassed by

1 the Settlement Class Members' Released Claims, and even if such Settlement
2 Class Member never received actual notice of the Action or this proposed
3 Settlement;

4 k. to determine that the Agreement and the Settlement provided for herein,
5 and any proceedings taken pursuant thereto, are not, and should not in any event
6 be offered, received, or construed as evidence of, a presumption, concession, or
7 an admission by any Party of liability or non-liability or of the certifiability or
8 non-certifiability of a litigation class, or that PAGA representative claims may
9 validly be pursued, or of any misrepresentation or omission in any statement or
10 written document approved or made by any Party; provided, however, that
11 reference may be made to this Agreement and the Settlement provided for herein
12 in such proceedings as may be necessary to effectuate the provisions of this
13 Agreement, as further set forth in this Agreement;

14 l. to order the preliminary approval of the Settlement, certification of the
15 Settlement Class and final approval of the proposed Settlement, and all actions
16 associated with them, were undertaken on the condition that they shall be vacated
17 if the Settlement Agreement is terminated or disapproved in whole or in part by
18 the Court, or by any appellate court and/or other court of review, in which event
19 the Agreement and the fact that it was entered into shall not be offered, received,
20 or construed as an admission or as evidence for any purpose, including but not
21 limited to an admission by any Party of liability or non-liability or of any
22 misrepresentation or omission in any statement or written document approved or
23 made by any Party, or of the certifiability of a litigation class or the
24 appropriateness of maintaining a PAGA representative action, as further provided
25 in this Settlement Agreement;

26 m. to authorize the Parties, without further approval from the Court, to
27 mutually agree to and adopt such amendments, modifications, and expansions of
28 this Agreement, including all Exhibits hereto, as (i) shall be consistent in all

1 material respects with the Final Approval order and (ii) do not limit the rights of
2 Settlement Class Members; and

3 n. to rule upon such other and further provisions consistent with the terms of
4 this Settlement Agreement to which the Parties expressly consented in writing.
5

6 9. The form of Class Notice is hereby APPROVED. No later than fourteen (14)
7 calendar days after the Preliminary Approval Date, Defendant shall provide the Settlement
8 Administrator with the Class Information for purposes of preparing and mailing Notice Packets
9 to Settlement Class Members. The Class Information shall be confidential. The Settlement
10 Administrator shall not provide the Class Information to Class Counsel or Plaintiff or any third
11 party, or use the Class Information or any information contained therein for any purpose other
12 than to administer this Settlement. Specifically, for each Class Member, Defendant will provide
13 the Settlement Administrator with data Microsoft Excel spreadsheet and shall include, if
14 possible, for each Settlement Class Member: full name, last known mailing address, last four
15 digits of the social security number, and Hours Worked (“Hours Worked” means the best
16 approximation of the total number of hours a Settlement Class Member worked during the
17 Settlement Class Period for Converse as a non-exempt/hourly employee, based on the records
18 and data maintained by Converse). No more than thirty (30) calendar days after entry of the
19 Preliminary Approval Order, provided Defendant timely complied with its obligation in
20 Paragraph 6.1, the Settlement Administrator shall send a copy of the Class Notice by U.S. mail to
21 each potential Settlement Class Member (the Notice Date). Before the initial mailing of the
22 Class Notice, the Settlement Administrator shall make a good-faith attempt to obtain the most-
23 current names and postal mail addresses for all potential Settlement Class Members to receive
24 such postal mail, including (1) cross-checking the names and/or postal mail addresses it received
25 from Converse, and (2) reviewing the addresses with the National Change of Address Database.
26 If any Class Notice sent via U.S. mail to any potential Settlement Class Member is returned to
27 the Settlement Administrator with a forwarding address, the Settlement Administrator shall
28 forward the postal mailing to that address. If the Settlement Administrator is not provided a

1 forwarding address, the Settlement Administrator shall attempt to locate a current mailing
2 address for the Class Member by skip tracing using the Class Member's SSN and will mail the
3 Class Notice to the updated address identified. In the event that any Class Notice is returned as
4 undeliverable a second time, no further efforts shall be required. The Settlement Administrator
5 shall maintain a log detailing the instances Class Notices are returned as undeliverable.

6 9. The Court finds that the Notice Packet, along with the related notification
7 materials, constitute the best notice practicable under the circumstances and are in full
8 compliance with the laws of the State of California, the United States Constitution, and the
9 requirements of due process. The Court further finds that the notifications fully and accurately
10 inform the Settlement Class Members of all material elements of the proposed settlement, of the
11 Settlement Class Members' right to dispute their share of the settlement, of the Settlement Class
12 Members' right to be excluded from the Settlement Class, and of each Settlement Class
13 Member's right and opportunity to object to the settlement.

14 10. The Court hereby APPROVES the proposed Exclusion/Written Objection
15 Deadline of forty-five (45) calendar days from the initial mailing of the Notice Packet.

16 11. The Court hereby APPROVES the proposed procedure for opting out of the
17 Settlement Class. To be effective, such a request must include the Settlement Class Member's
18 name, address, and telephone number; a clear and unequivocal statement that the Settlement
19 Class Member wishes to be excluded from the Settlement Class; and the signature of the
20 Settlement Class Member. The date of the postmark on the return-mailing envelope shall be the
21 exclusive means used to determine whether a request for exclusion has been timely submitted.
22 Any member of the Settlement Class who requests exclusion from the settlement will not be
23 entitled to any share of the settlement and will not be bound by the Agreement or have any right
24 to object, appeal or comment thereon. Members of the Class who fail to submit a valid and
25 timely request for exclusion shall be bound by all terms of the Agreement and the Order and
26 Final Judgment, regardless of whether they otherwise have requested exclusion from the
27 settlement.

28 12. All reasonable costs of settlement and claims administration, including the

1 mailing of Class Notice, shall be paid for as provided in the Agreement.

2 13. All written objections and supporting papers must be submitted to the Court either
3 by mailing them to the Class Action Clerk, United States District Court for the Northern District
4 of California, San Jose Courthouse, Courtroom 5 - 4th Floor, 280 South 1st Street, San Jose, CA
5 95113, or by filing them in person at any location of the United States District Court for the
6 Northern District of California, no later than the Exclusion/Written Objection Deadline. The
7 date of the postmark on the return-mailing envelope or the filing date (respective of the method
8 used) shall be the exclusive means used to determine whether an objection has been timely
9 submitted. A written objection must contain at least the following: (i) the objector's full name,
10 address, telephone, and signature; (ii) a clear reference to the Action; (iii) a statement of the
11 specific legal and factual basis for each objection argument; and (iv) a statement whether the
12 objecting person or entity intends to appear at the Final Approval Hearing, either in person or
13 through counsel and, if through counsel, a statement identifying that counsel by name, bar
14 number, address, and telephone number. All objections shall be signed by the objecting
15 Settlement Class Member, even if the Settlement Class Member is represented by counsel.
16 Settlement Class Members who fail to make objections in the manner specified above shall be
17 deemed to have waived any objections and shall be foreclosed from making any objections
18 (whether by appeal or otherwise) to the Settlement. Settlement Class Members who submit a
19 timely written objection have a right to appear at the Final Approval/Settlement Fairness Hearing
20 in order to present his or her objection to the Court orally, but is not required to attend. No
21 Settlement Class Member may appear at the Final Approval/Settlement Fairness Hearing unless
22 he or she has filed a written objection that complies with the procedures provided in this
23 paragraph. Settlement Class Members who submit a Request for Exclusion are not entitled to
24 object to the Settlement.

25 14. It is further ordered that pending further order of this Court, all proceedings in this
26 matter except those contemplated herein and as part of the settlement are stayed.

27 15. All Parties are otherwise ordered to comply with the terms of the Agreement.

28 16. The Agreement resolves all of the class and individual claims, as well as the

1 representative claim asserted under the Private Attorney Generals Act (the “PAGA”), California
2 Labor Code § 2698, *et seq.*, contained in the Complaint and as set forth in Plaintiff’s PAGA
3 notices submitted to the California Labor and Workforce Development Agency.

4 17. Jurisdiction is hereby retained over this Litigation and the Parties to the
5 Litigation, and each of the Settlement Class Members for all matters relating to this Litigation,
6 the Agreement, including (without limitation) all matters relating to the administration,
7 interpretation, effectuation, and/or enforcement of the Agreement and this Order.

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9 IT IS SO ORDERED.

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12 Dated: _____ By: _____

13 Hon. Nathanael M. Cousins
14 UNITED STATES MAGISTRATE JUDGE
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