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11 and the Putative Class

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **FOR THE COUNTY OF ALAMEDA**

14 JULIE DEAN, on behalf of herself and all others
15 similarly situated

16 Plaintiff,

17 vs.

18 FREEMODEL, INC.; JOHN GERALD
19 GARNER; and DOES 1 through 10, inclusive,

20 Defendants.

Case No.: 23CV038315

**DECLARATION OF HUNTER PYLE IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND REPRESENTATIVE ACTION
SETTLEMENT**

DATE: December 3, 2024
TIME: 10:00 A.M.
DEPT: 23
JUDGE: Hon. Michael Markman

Reservation ID.: 976853001663

Action Filed: July 14, 2023
Trial Date: N/A

1 I, Hunter Pyle, declare as follows:

2 1. I am a member in good standing of the Bar of the State of California and the principal
3 at Hunter Pyle Law, in Oakland, California. I submit this declaration in support of Plaintiff Julie
4 Dean's ("Plaintiff") Motion for Preliminary Approval of a Class and PAGA Representative Action
5 Settlement Agreement agreed to by Plaintiff and Defendants Freemodel, Inc. ("Freemodel") and John
6 Gerald Garner (collectively, "Defendants"). Plaintiff and Defendants are collectively referred to
7 herein as the "Parties."

8 2. My firm, Hunter Pyle Law, is counsel for Plaintiff and the putative class in this matter.
9 I have personal knowledge of the facts set forth in this declaration and could and would testify
10 competently to them.

11 3. Attached as **Exhibit 1** is the proposed Stipulation of Settlement (the "Settlement" or
12 "Settlement Agreement")¹ agreed to by the Parties. The Class Notice is attached as Exhibit A to the
13 Settlement Agreement.

14 **BACKGROUND AND EXPERIENCE**

15 4. In 1997, I received a J.D. from Boalt Hall School of Law at the University of
16 California at Berkeley.

17 5. As a law student, I clerked for Professor David Feller, one of the premier scholars in
18 the field of labor and employment law. I also worked as a law clerk at Eggleston, Siegel & Lewitter;
19 Beeson, Tayer & Bodine; and Davis, Cowell & Bowe. Each of these firms represents employees in
20 the labor and employment context.

21 6. I have been practicing law since December 1997. From December 1997 through
22 October 2003, I was an associate at Siegel & Yee in Oakland, where I focused my practice mainly
23 on employment law. In that capacity, I was the primary attorney for numerous employment law
24 cases that resolved prior to trial, handling all aspects of these cases. Additionally, I served as second
25 chair in approximately ten trials.

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¹ All capitalized terms here have the same meanings as those in the Settlement Agreement.

1 7. In October 2003, I left Siegel & Yee and became a partner at Sundeen Salinas & Pyle.
2 In 2017, I left Sundeen Salinas & Pyle and created Hunter Pyle Law. Since that time, most of my
3 cases have involved employment law, and many of them have involved wage and hour matters. Over
4 the past ten years, I have tried approximately fifteen cases to verdict.

5 8. I have been approved as Class Counsel in the following cases (among others), which
6 resolved favorably for the class members: *Jackson v. ACE* (Alameda County Superior Court case no.
7 RG05241698; settled for \$1.1 million); *Beasley, et al., v. Allied Cash Advance* (Alameda County
8 Superior Court case no. 07359698; settled for \$400,000); *Schakow v. Lerner New York, Inc., et al.*
9 (Contra Costa County case no. MSC08-01145; settled for \$850,000); *Brown, et al. v. George S. May*
10 *International Company* (Alameda County Superior Court case no. 08413991; settled for \$750,000);
11 *Miriam Aquino Ruelas, et al. v. Neilmed Products, Inc.* (Sonoma County Case No. SCV245231;
12 settled for approximately \$600,000); *Randolph et al. v. AT&T Wireless Services, Inc., et al.* (Alameda
13 County Superior Court case no. RG05193855; settled for approximately \$70 million); *Booker II, et*
14 *al. v. Auto Guardian, et al.* (Alameda Superior Court case No. RG11562117; settled for \$775,000);
15 *Alonzo, et al. v. First Transit, Inc.* (Los Angeles Superior Court case no. BC433932; settled for \$2
16 million); *Lopez, et al. v. City of Montebello* (Los Angeles Superior Court case no. BC553076; settled
17 for \$1 million); *Sadiq v. Greatwide Dedicated Transport II, LLC* (Alameda County Superior Court
18 case no. RG15789114; settled for \$762,500); *Kostyuk v. Golden State Overnight Delivery Service,*
19 *Inc.* (Alameda County Superior Court case no. RG14727191; settled for \$1.25 million); *Newcomb,*
20 *et al. v. J.B. Hunt Transport, Inc.* (Alameda County Superior Court case no. RG16815734; settled
21 for \$750,000); *Hooper v. URS Midwest, Inc.,* (San Bernardino Superior Court Case No. CIV
22 DS1607489; settled for approximately \$3 million); *Brooks, et al. v. Chariot Transit, Inc.* (San
23 Francisco Superior Court case no. CGC-16-554398; settled for \$750,000); *Austin, et al. v. Foodliner,*
24 *Inc.* (United States District Court, Northern District of California case no. 4:16-cv-07185-HSG;
25 settled for \$1.2 million); *Castro, et al. v. ABM Industries, Inc., et al.* (United States District Court,
26 Northern District of California case no. 4:17-cv-03026-YGR; settled for \$5,400,000); *Botros v.*
27 *Walgreen Co.* (United States District Court, Northern District of California case no. 3:18-cv-05328;
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1 settled for \$2,142,000); *Winston v. Comcast Spectator Holding, et al.* (Alameda County Superior
2 Court case no. R-2145147; settled for \$105,000.00); and *Olivera v. C & B Delivery Service, et al.*
3 (Alameda County Superior Court case no. RG20062287; settled for \$1,068,500.00); *Lopez v. First*
4 *Student* (United States District Court, Central District of California case no. 5:19-cv-01669-JGB-
5 SHK; settled for 1.475 million).

6 9. Each of these cases, except for the *Randolph* case, was a wage and hour class action.
7 (*Randolph* was a consumer class action.)

8 10. In 2006, 2007, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017, I organized
9 and/or presented at annual CLEs put on by the Alameda County Bar Association Labor and
10 Employment Law Section regarding wage and hour law and class actions. The faculty for these
11 CLEs has included the Honorable George C. Hernandez, Jr., the Honorable Ronald Sabraw, the
12 Honorable Bonnie Sabraw, the Honorable Robert Freedman, the Honorable Steven Brick, the
13 Honorable David Flinn, the Honorable Richard A. Kramer, Jenna Whitman, Walter Stemmler and
14 Phillip Obbard.

15 11. I am a Lecturer at U.C. Berkeley Law School (formerly known as Boalt Hall). From
16 2014 to 2016, I, along with one other Lecturer, taught the employment law course to second and third
17 year law students. The course materials included a survey of California wage and hour law. From
18 2017 to present I have taught an advanced seminar on California Wage and Hour Law.

19 12. I am the primary contributor to www.workersrightsblog.com. That blog covers recent
20 developments in employment law, including wage and hour law. Additionally, I am a co-author of
21 “Civil Penalties Under the California Private Attorneys General Act (PAGA),” Employment
22 Damages and Remedies (CEB 2014). I have also served as the updating editor for the Employee and
23 Union Member Guide to Labor Law (West), Chapter 2 (“Opposing Discriminatory Discharges”).

24 13. Almost every year from 2011 to present I have served on the faculty of the Stanford
25 Law School Trial Advocacy Workshop.

1 14. Almost every year from 2011 to present, I have been a panelist at annual seminars put
2 on by Bridgeport regarding California wage and hour law, including the Wage and Hour Litigation
3 Seminar.

4 15. I have made numerous other presentations regarding wage and hour law and class
5 actions. For example, in 2019 and 2020, I spoke on several panels regarding California's Private
6 Attorneys General Act. I have also spoken on separate panels discussing trends in class action
7 litigation.

8 16. I am a member of the California State Bar Labor and Employment Law Section. In
9 addition, I regularly serve as a volunteer attorney at the Workers' Rights Clinic put on by the Legal
10 Aid Society of San Francisco Employment Law Center. I am also a member or past member of the
11 Alameda County Bar Association Labor and Employment Section and Trial Practice Section.

12 17. My extensive experience in litigating employment wage and hour matters was integral
13 in evaluating the strengths and weaknesses of the case against Defendants and negotiating a fair and
14 reasonable settlement.

15 18. Andrea A. Núñez is an associate at Hunter Pyle Law. She was admitted to the
16 California Bar in November of 2021. Ms. Núñez received her J.D. from U.C. Berkeley School of
17 Law in 2020. During law school, Ms. Núñez volunteered at the Workers' Rights Clinic and the
18 Wage Justice Clinic at Legal Aid at Work, providing legal services to low-wage workers. Ms.
19 Núñez also worked as a law clerk at a plaintiff-side employment law firm and at the Department of
20 Labor Office of Administrative Law Judges. Prior to joining Hunter Pyle Law in December 2021,
21 Ms. Núñez was a Law Fellow at the Impact Fund, a public interest non-profit organization in
22 Berkeley, where she worked on impact litigation, research, training, and amicus briefs in support
23 of social justice. In addition to other types of cases, Ms. Núñez now litigates wage-and-hour
24 actions on behalf of workers at Hunter Pyle Law.

25 **FACTUAL AND PROCEDURAL BACKGROUND**

26 19. Plaintiff and Class Members are all individuals who entered into Project Director
27 Agreements with Freemodel, Inc. and/or worked as Project Directors for Freemodel, Inc. in
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1 California between July 14, 2019, and the date of preliminary approval of the parties' settlement
2 agreement by the Court (the "Class Period").

3 20. Defendants hired Project Directors to plan and execute design projects for the
4 homeowners and agents paying for Freemodel's services. John Gerald Garner is the Chief Executive
5 Officer, Chief Financial Officer, and Secretary for Freemodel.

6 21. Plaintiff Julie Dean was a Project Director for Freemodel, a pre-sale home renovation
7 company. Plaintiff worked as a Project Director for Freemodel from April 30, 2022, through July 25,
8 2023.

9 22. On July 14, 2023, Plaintiff commenced this Action by filing a complaint asserting
10 causes of action for: 1) failure to reimburse business expenses (Lab. Code § 2802); 2) failure to pay
11 minimum wages (Lab. Code §§ 226.2, 1182.11–1182.13, 1194, 1194.2, 1197 & 1198, IWC Wage
12 Order No. 4-2001); 3) failure to pay overtime wages (Lab. Code §§ 510 & 1194, IWC Wage Order
13 No. 4-2001); 4) failure to provide off-duty meal periods (Lab. Code §§ 226.7 & 512, IWC Wage
14 Order No. 4-2001); 5) failure to authorize and permit rest periods (Lab. Code §§ 226.2 & 226.7,
15 IWC Wage Order No. 4-2001); 6) failure to provide accurate wage statements (Lab. Code § 226,
16 IWC Wage Order No. 4-2001); and 7) unlawful business practices under Business and Professions
17 Code section 17200 *et seq.*

18 23. On July 20, 2023, Plaintiff notified Defendants and the with the Labor and Workforce
19 Development Agency ("LWDA") of Defendants' alleged violations of the Private Attorneys General
20 Act (Lab. Code § 2698 *et seq.*) ("PAGA").

21 24. On October 25, 2023, Plaintiff filed a First Amended Complaint, adding claims for
22 wrongful termination of public policy, breach of contract, and penalties under PAGA.

23 **INVESTIGATION AND SETTLEMENT**

24 25. Plaintiffs' counsel have conducted a thorough investigation into the facts relevant to
25 this Action and have diligently pursued an investigation of Class Members' claims against
26 Defendant. Among other things, Plaintiffs' counsel have reviewed a large volume of documents,
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1 information, and data regarding the claims asserted in the Action, along with Defendant's available
2 defenses.

3 26. Prior to mediation, the Parties met and conferred and agreed to an informal discovery
4 plan that would allow them to productively move forward with settlement discussions.

5 27. Through informal discovery, Defendants produced and Plaintiff's counsel reviewed a
6 spreadsheet that included each class member's dates of employment, how many projects that had
7 with Freemodel, the total compensation they had received, and whether they had signed an
8 arbitration agreement.

9 28. Defendants also produced Plaintiff's Project Director Agreement, which included
10 information regarding Project Director job duties, expectations, tools, and relationship with
11 Freemodel and Freemodel's clients.

12 29. Additionally, Defendants produced an email thread that evidenced Plaintiff's work on
13 various projects and provided information about Plaintiff's job duties.

14 30. Based on these productions and conversations with class members, Plaintiff's counsel
15 determined in which ways class member job duties were inconsistent with the independent
16 contractor test outlined in Labor Code sections 2775. Plaintiff's counsel also used this information to
17 determine that Project Directors were not subject to the business-to-business exception codified in
18 Labor Code section 2776.

19 31. The Parties engaged in arm's-length negotiations throughout the mediation and in the
20 following weeks and ultimately resolved the matter with the assistance of Judge Sabraw.

- 21 a. On February 14, 2024, the Parties attended a private mediation with mediator
22 Hon. Ronald Sabraw (Ret.) through JAMS. The mediation lasted approximately
23 nine hours, during which the parties explained their respective positions to Judge
24 Sabraw at length. Plaintiffs provided Judge Sabraw with their detailed analysis of
25 Defendants' liability and damages. At the end of the mediation, the Parties had
26 not come to an agreement and agreed to consider a mediator's proposal.

- b. On February 18, 2024, Judge Sabraw sent the Parties three mediator’s proposals: one for the class claims, one for the PAGA claims, and one for the individual claim. Judge Sabraw conditioned Plaintiff’s individual settlement on the PAGA settlement, meaning that there could be no individual settlement agreement without an agreement regarding the PAGA claims in the case. Rejection of the mediator’s proposal regarding the class claims would not preclude the Parties’ acceptance of the mediator’s proposals for the PAGA and individual claims.
- c. Plaintiff accepted the mediator’s proposals regarding the class and PAGA claims. However, Plaintiff did not accept the proposed individual settlement.
- d. After continued negotiations with Judge Sabraw, the Parties came to an agreement regarding Plaintiff’s individual claims on March, 21, 2024.²

32. The principal terms of the Parties’ agreement were outlined in a Memorandum of Understanding. The Parties then negotiated the terms of the Settlement Agreement.

33. In reaching the Settlement, Plaintiffs’ counsel relied on their substantial litigation experience in similar employment class actions. Information gathered from investigation and informal discovery informed Plaintiffs’ counsel’s assessment of the strengths and weaknesses of the case and the benefits of the Settlement. The arm’s-length settlement of this matter avoids significant litigation and financial risk and provides for a monetary distribution to all Settlement Class Members.

34. Plaintiff recognizes the expense and length of protracted proceedings necessary to continue the Action against Defendants through trial and through any possible appeals.

35. Plaintiff has also taken into account the uncertainty and risks of further litigation, including the risk of significant delay, the risk that the Court may not certify the Class or may later decertify it, and potential appellate issues.

² Should the Court want more information regarding Plaintiff’s individual settlement, Plaintiff will provide a supplemental declaration and/or lodge the individual settlement agreement with the Court for in camera review.

36. Plaintiff is also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, Defendants' defenses to those claims, and the difficulties in establishing damages.

THE PROPOSED SETTLEMENT

37. The Class is defined as all individuals who entered into Project Director Agreements with Freemodel, Inc. and/or worked as Project Directors for Freemodel, Inc. in California between July 14, 2019, and the date of preliminary approval of the parties' settlement agreement by the Court (the "Class Period"). Defendant represents that there are approximately 89 Class Members.

38. The Settlement Agreement provides that Defendants shall pay the Maximum Settlement Amount of \$350,000 for the class and representative claims in the Action, which Defendants agree to pay, on an all-in an non-reversionary basis, for the class and representative claims in the Action, which is inclusive of any Class Counsel Award, PAGA Payment, Service Award to Plaintiff, and Claims Administration Expenses.

39. The Settlement Agreement provides that any and all claims for PAGA penalties alleged in the Action have been settled for \$35,000. Seventy-five percent (\$26,250) shall be paid to the LWDA, and twenty-five percent (\$8,750) shall be distributed to Aggrieved Employees.

40. The Settlement Administrator Expenses shall not exceed \$4,000 and will be deducted from the Total Settlement Amount upon approval by the Court.

41. At the final approval stage, Plaintiff's counsel will apply to the Court for a Service Award of \$5,000 for Plaintiff Julie Dean in recognition of her service to the Class.

42. Plaintiff's counsel will apply to the Court for an award of attorneys' fees not to exceed thirty-five percent of the Maximum Settlement Amount, or \$122,500, plus actual litigation costs, which are estimated to be no more than \$25,000.

43. The Net Settlement Amount or Net Settlement Fund is the Maximum Settlement Amount minus the Class Counsel Award, Service Award to Plaintiff, PAGA Payment, and Claims Administration Costs. The Net Settlement Amount is currently estimated to be \$158,500, and the PAGA Settlement allocated to PAGA Employees is projected to be an additional \$8,750, as follows:

Maximum Settlement Amount	\$350,000.00
Less PAGA Payment	-\$35,000.00
Less Claims Administrator Expenses	-\$4,000.00
Less Service Award	-\$5,000.00
Less Attorneys' Fees	-\$122,500.00
Less Litigation costs	-\$25,000.00
NET SETTLEMENT AMOUNT	\$158,500.00
PAGA Payment	\$35,000.00
Less Payment to LWDA	-\$26,250.00
PAYMENT TO AGGRIEVED EMPLOYEES	\$8,750.00

44. This is not a claims-made Settlement. Settlement Class Members will receive a portion of the Net Distribution Fund as long as they do not opt out of the Settlement. All Aggrieved Employees will receive their portion of the PAGA Payment.

45. The Settlement is also non-reversionary. Under no circumstances will the Maximum Settlement Amount or any portion of it revert back to Defendant.

46. The release is limited to claims actually alleged or that could have been alleged in the Action based on the facts and theories alleged in the Action. Should Settlement Class Members have claims that are not based on the facts and theories alleged in the Complaint, they will not be released by this Settlement.

NOTICE PROCEDURE

47. The Parties have agreed that Apex Class Action will serve as the Claims Administrator. Apex Class Action has successfully administered a large number of wage and hour class action settlements in an efficient and effective manner. Apex Class Action has provided a bid of \$3,995.00 for the proposed administrative work. Plaintiff's counsel considered four bids before choosing Apex Class Action.

48. The Claims Administrator will mail a Class Notice, including a computation of the amount of each Class Member's share of the Net Settlement Fund and PAGA Payment, to all Class

Members, whose names and last known addresses Defendants will provide to the Claims Administrator. The Class Notice is attached as Exhibit A to the Settlement Agreement.

49. The Class Notice informs Class Members of their right to object or opt out of the Settlement without soliciting extraneous information. The Class Notice provides clear instructions for Class Members to object to the Settlement, opt out of the Settlement, or dispute the computation of the Class Member's share of the Net Distribution Fund and PAGA Payment.

50. The Class Notice informs Class Members about the Action, the terms of the Settlement, the scope of the release, the right to receive a payment, the right to opt out of the Settlement, the right to object to the Settlement, how Individual Settlement Shares and Individual PAGA Payments are calculated, how to challenge the data used to calculate the Individual Settlement Shares and Individual PAGA Payments, and the date, time, and location of the final approval hearing. It also provides the contact information of Class Counsel to answer questions, contact information of the Claims Administrator to answer questions, the URL for the Court's electronic filing and service website, and the Court's address. The Class Notice is therefore crafted to ensure that Class Members are alerted to the terms of the Settlement.

51. Class Members will have sixty days to postmark objections, disputes, and requests for exclusion. The Claims Administrator will evaluate and resolve disputes from Class Members regarding the number of workweeks attributed to them. Individuals who do not submit valid and timely requests for exclusion will be deemed Settlement Class Members.

52. Class Members who submit valid and timely requests for exclusion will not be Settlement Class Members and will not be bound by the terms of the Settlement. However, Class Members who are Aggrieved Employees and worked during the PAGA Period from between July 20, 2022, through the date of final approval of the Settlement cannot opt out of the PAGA Payment.

CALCULATION OF PAYMENTS AND DISTRIBUTION TO CLASS MEMBERS

53. Each Settlement Class Member will receive a pro-rata share of the Net Settlement Fund based on the number of semi-monthly periods the Class Member was employed by Defendants during the Class Period (the "Individual Settlement Share"). Each Class Member's number of semi-

1 monthly periods will be based on the number of semi-monthly periods between July 14, 2019, or the
2 date of execution of their respective Project Director Agreements (whichever is later) and the date of
3 Preliminary Approval or the date their respective relationships ended with Defendants (whichever is
4 earlier), contained in the records kept by Defendants in the ordinary course of business during the
5 Class Period. Individual Settlement Shares will be characterized as 20 percent for reimbursement of
6 expenses, 60 percent penalties, and 20 percent interest. Each Class Member's gross settlement award
7 will be reported on a 1099 Form.

8 54. Aggrieved Employees will receive an Individual PAGA Payment that consists of a
9 pro-rata share of twenty-five percent of the PAGA Payment (\$8,750) based on the number of semi-
10 monthly periods between July 20, 2022, or the date of execution of their respective Project Director
11 Agreements (whichever is later) and the date of Preliminary Approval or the date their respective
12 relationships ended with Defendants (whichever is earlier). The Individual PAGA Payment to be
13 made to each Aggrieved Employee shall be calculated by multiplying the value of a semi-monthly
14 period by the number of semi-monthly periods worked by the Aggrieved Employee during the
15 PAGA Period. Individual PAGA Payments will be allocated as one hundred percent penalties to be
16 reported on IRS Form 1099. The remaining seventy-five percent of the PAGA Payment (\$26,250) of
17 the PAGA Payment will be distributed to the LWDA.

18 **A CY PRES BENEFICIARY IS APPROPRIATE**

19 55. Here, the Settlement proposes that the Court designate Legal Aid at Work as the *cy*
20 *pres* beneficiary. Redistributing any uncashed checks to Class Members would result in additional
21 Claims Administration Expenses.

22 56. Under Code of Civil Procedure section 384, subdivision (b), *cy pres* awards may be
23 made to “nonprofit organizations or foundations to support projects that will benefit the class or
24 similarly situated persons, or that promote the law consistent with the objectives and purposes of the
25 underlying cause of action . . . or to nonprofit organizations providing civil legal services to the
26 indigent.” In support of their motion for final approval, Plaintiff will submit declarations establishing
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1 that Legal Aid at Work is a qualified cy pres designee under section 384 because it is a “nonprofit
2 organization[] providing civil legal services to the indigent.”

3 57. Plaintiff’s counsel has no involvement in the governance of Legal Aid at Work.

4 **THE REASONABLE VALUATION OF THE CLAIMS AT ISSUE**

5 58. Settlement Class Members will receive an award based on the number of semi-
6 monthly periods between July 14, 2019, or the date of execution of their respective Project Director
7 Agreements (whichever is later) and the date of Preliminary Approval or the date their respective
8 relationships ended with Defendants (whichever is earlier). PAGA Employees will also receive an
9 award based on the number of semi-monthly periods between July 20, 2022, or the date of execution
10 of their respective Project Director Agreements (whichever is later) and the date of Preliminary
11 Approval or the date their respective relationships ended with Defendants (whichever is earlier). The
12 Settlement therefore provides meaningful relief for the disputed Labor Code violations and will
13 result in a substantial benefit to all Settlement Class Members.

14 59. Prior to engaging in settlement discussions, Plaintiff’s counsel calculated Defendants’
15 maximum exposure. Plaintiff’s counsel reviewed the class member spreadsheet that Defendants
16 produced and calculated Defendants’ total potential exposure for each claim alleged. Plaintiff’s
17 counsel then assigned a reasonable settlement value to each of the claims asserted on behalf of Class
18 Members.

19 60. With respect to the likelihood of class certification, Plaintiff’s counsel took into
20 account the various factors, including the fact that Project Directors each had different working
21 relationships with Freemodel and with clients.

22 61. The Total Settlement Amount of \$350,000 is consistent with the aggregate reasonable
23 settlement value of the Class Members’ claims. That aggregate reasonable settlement value is
24 approximately \$211,610, including the PAGA claims.

25 **i. Misclassification**

26 62. All of Plaintiff’s claims hinge on whether Freemodel misclassified its Project
27 Directors under California Law. Plaintiff contends that under both the ABC test and the *Borello* test,

1 Freemodel misclassified its Project Directors as independent contractors. Plaintiff argues that Project
2 Directors were not free from the control and direction of Freemodel, and that they performed work
3 that was within the usual course of Freemodel's business.

4 63. Plaintiff also claims that Project Directors were not customarily engaged in an
5 independently established trade, occupation, or business of the same nature as that involved in the
6 work performed because the non-compete clause in Freemodel's contracts prohibited them from
7 doing design work outside of their work with Freemodel. Additionally, Plaintiff contends that
8 Freemodel cannot demonstrate the business-to-business exception codified in Labor Code section
9 2776 applied. Among other reasons, Freemodel set Project Directors' rates, and Freemodel provided
10 the tools that Project Directors had to use to perform their work.

11 64. In response, Defendants argue that Project Directors, not Freemodel, controlled all
12 aspects of their design and management work. Defendants also argue that Project Directors provided
13 Freemodel clients services that differed from the services that Freemodel provided. Additionally,
14 Defendants claim that many Project Directors had their own businesses and/or worked as Project
15 Directors outside of their work with Freemodel. Defendants maintain that these fact-specific
16 arguments would have required individual analysis that would have posed a significant challenge for
17 class certification.

18 65. Plaintiff factored Defendants' arguments into her damages analysis as follows:

19 **ii. Failure To Pay Minimum Wages**

20 66. Plaintiff alleges that because Class Members were misclassified, they were not paid
21 for all hours worked. Specifically, Plaintiff alleges that Defendants required Project Directors to
22 attend a meeting every other week, which lasted for approximately one hour. Defendants did not
23 pay Project Directors for that time. Plaintiff estimates that Class Members collectively worked 1,245
24 months total during the class period. Assuming two meetings per month for each Class Member at a
25 rate of \$15 per hour, Defendants owe Class Members \$37,350 for unpaid wages for these meetings.

26 67. In response, Defendants argue that some of these meetings were optional and that all
27 Class Members did not attend all of the meetings. Furthermore, because Defendants did not keep
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1 attendance records of these meetings, nor was there a written policy demonstrating that these
2 meetings were mandatory, determining whether there was a minimum wage violation would require
3 an individual determination.

4 68. Additionally, Defendants argue that there is no way to calculate how many additional
5 hours Class Members worked for which they were not paid. Class Members set their own hours and
6 did not work according to any established schedule. Class Members typically did not record the
7 hours they worked. Therefore, determining whether there was a minimum wage violation for each
8 Class Member would require an individual determination, rendering class certification difficult if not
9 impossible.

10 69. Under these circumstances, it is reasonable to discount the value of this claim by 60
11 percent (multiplying by .4) to account for the risks involved in certifying a class and maintaining
12 certification through trial and by an additional 50 percent (multiplying by .5) to account for the risk
13 that Defendants would prevail on their defenses.

14 70. Accordingly, the reasonable settlement value of the failure to pay minimum wages
15 claim is \$7,470.00.

16 **iii. Failure To Pay Overtime Wages**

17 71. Plaintiff alleges that Defendants failed to properly pay overtime and double time as
18 required by California law.

19 72. In response, Defendants argue that there is no way to calculate whether or how many
20 overtime hours Class Members worked. Class Members set their own hours and did not work
21 according to any established schedule. Class Members typically did not record the hours they
22 worked, so no records of Class Member schedules exist to prove liability. Thus, Defendants contend
23 that this claim would require an individualized inquiry that would preclude class certification.

24 73. Plaintiff therefore estimates that the reasonable settlement value of this claim is zero.

25 **iv. Failure To Provide Off-Duty Meal Periods**

26 74. Labor Code sections 226.7 and 512 and the IWC Wage Orders, including IWC Wage
27 Order 4-2001 (Cal. Code Reg, tit. 8, § 11010, subds. 11(A) and 12(A)), prohibit employers from
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1 employing an employee for more than five hours without a meal period of at least thirty minutes
2 unless the employee works less than six hours.

3 75. Plaintiff estimates that Class Members collectively worked 1,245 months total during
4 the class period. Assuming ten missed meal periods per month for each Class Member at a rate of
5 \$15 per hour, Defendants owe Class Members \$186,750 for missed meal periods.

6 76. Here, Defendants contend that there is no way to calculate how many meal periods
7 Class Members missed. Class Members set their own hours and did not work according to any
8 established schedule. Class Members typically did not record the hours they worked or when they
9 took meal periods, so no records of Class Member schedules exist to prove liability. Additionally,
10 this claim would require an individualized inquiry that would preclude class certification.

11 77. Under these circumstances, it is reasonable to discount the value of this claim by 60
12 percent (multiplying by .4) to account for the risks involved in certifying a class and maintaining
13 certification through trial and by an additional 50 percent (multiplying by .5) to account for the risk
14 that Defendants would prevail on their defenses.

15 78. Plaintiff therefore estimates that the reasonable settlement value of this claim is
16 \$37,350.

17 **v. Failure To Authorize And Permit Rest Periods**

18 79. Labor Code § 226.7 and the IWC Wage Orders, including IWC Wage Order 4-2001
19 (Cal. Code Reg., tit. 8, § 11010, subd. 12(A)), prohibit employers from employing an employee for
20 more than four hours, or a major fraction thereof, without a rest period of at least ten minutes, unless
21 the employee works less than three and one-half hours.

22 80. Plaintiff estimates that Class Members collectively worked 1,245 months total during
23 the class period. Assuming ten missed meal periods per month for each Class Member at a rate of
24 \$15 per hour, Defendants owe Class Members \$186,750 for missed meal periods.

25 81. However, as with meal periods, Defendants contend that there is no way to calculate
26 how many rest periods Class Members missed. Class Members set their own hours and did not work
27 according to any established schedule. Class Members typically did not record the hours they
28

1 worked or whether they took any rest periods, so no records of Class Member schedules exist to
2 prove liability. Additionally, this claim would require an individualized inquiry that would preclude
3 class certification.

4 82. Under these circumstances, it is reasonable to discount the value of this claim by 60
5 percent (multiplying by .4) to account for the risks involved in certifying a class and maintaining
6 certification through trial and by an additional 50 percent (multiplying by .5) to account for the risk
7 that Defendants would prevail on their defenses.

8 83. Plaintiff therefore estimates that the reasonable settlement value of this claim is
9 \$37,350.

10 **vi. Failure To Provide Wage Statements**

11 84. Plaintiff alleges that Defendants failed to provide Class Members with two wage
12 statements per month. Plaintiff thus calculates that Defendants owe Project Directors \$220,400 for
13 wage statement penalties (capping penalties at a maximum of \$4,000 per Project Developer).

14 85. Defendants argue that Project Directors were independent contractors and therefore
15 Defendants did not have to provide them with wage statements. Should Defendants prevail on this
16 argument, Class Members would not be able to recover any penalties under section 226, subdivision
17 (e). It is therefore reasonable to discount the wage statement claim by sixty percent (multiplying by
18 .4) to account for the risks involved in certifying a class and maintaining certification through trial,
19 and by an additional 50 percent (multiplying by .5) to account for the risks that Defendants will
20 prevail on their defenses.

21 86. Accordingly, the reasonable settlement value of the wage statement claim is \$44,080.

22 **vii. Failure To Reimburse Business Expenses**

23 87. Plaintiff alleges that Defendants violated Labor Code section 2802 by not
24 reimbursing Class Members for expenses associated with their jobs. These expenses included the
25 cost of cellular phones, internet, and mileage.

26 88. Defendants argue that Project Directors were independent contractors and thus that
27 Defendants did not have to reimburse them for their expenses.

1 89. Plaintiff calculated unreimbursed expenses at \$50 per month for cell phone and \$50
2 per month for internet. Accordingly, the Project Directors' estimated unreimbursed business
3 expenses total 1,245 x \$100, or \$124,500.

4 90. Should Defendants prevail on their arguments regarding Project Directors' status as
5 independent contractors, Class Members would not be able to recover any penalties under section
6 2802. It is therefore reasonable to discount the wage statement claim by sixty percent (multiplying
7 by .4) to account for the risks involved in certifying a class and maintaining certification through
8 trial, and by an additional 50 percent (multiplying by .5) to account for the risks that Defendants will
9 prevail on their defenses.

10 91. Accordingly, the reasonable settlement value of the reimbursement claim is \$24,900.

11 **viii. Waiting Time Penalties**

12 92. Plaintiff alleges that because Defendants did not pay Class Members for all of their
13 time worked or for their meal and rest breaks, it also failed to pay all compensation owed upon the
14 Class Members' termination or resignation from employment. In order to prevail on this claim,
15 Plaintiff would therefore have to (1) certify a class based upon the underlying conduct
16 (misclassification), (2) prevail on claims for unpaid wages, and (3) prove that Defendants' conduct
17 was willful.

18 93. At the time of settlement, 33 Project Directors had terminated their employment with
19 Freemodel. Freemodel failed to pay those Project Directors all wages owed at the conclusion of
20 their employment. Pursuant to Labor Code section 203, and assuming a \$15 hourly rate, Plaintiff
21 estimates that Freemodel is therefore liable for waiting time penalties in the amount of \$118,800.

22 94. Defendants argue that the waiting time penalties claim is derivative of Plaintiff's
23 overtime, meal period, and rest break claims, which, for the reasons set forth above, will fail either at
24 the class certification stage or at the liability state, or both. Defendants further contend that Plaintiff
25 cannot prove the "willful" prong needed to obtain waiting time penalties because there is a good
26 faith dispute as to whether any unpaid wages are due.

1 95. It is therefore reasonable to discount the wage statement claim by sixty percent
2 (multiplying by .4) to account for the risks involved in certifying a class and maintaining
3 certification through trial, and by an additional 50 percent (multiplying by .5) to account for the risks
4 that Defendants will prevail on their defenses.

5 96. Accordingly, the reasonable settlement value of the waiting time penalties claim is
6 \$23,760.

7 **ix. Unfair Competition and Unfair Business Practices Claim**

8 97. Plaintiff's claim for violation of the Unfair Competition Law, Business and
9 Professions Code section 17200 (the "UCL"), is based on the same Labor Code violations as their
10 other claims. If the Court were to rule against Plaintiff on the predicate claims, the UCL claim would
11 also fall. In addition, the damages for Plaintiff's UCL claim are co-extensive with the damages for
12 her other claims. This claim therefore does not add to the case's settlement value.

13 **x. PAGA Penalties**

14 98. The Parties have agreed to allocate \$35,000 of the Settlement to PAGA penalties.

15 99. California Labor Code section 226.8, subdivisions (a) and (c) provide for a civil
16 penalty of between \$10,000 and \$25,000 for each employee who is willfully misclassified. Plaintiff's
17 counsel used the records provided by Defendants to determine that 89 Class Members were possibly
18 misclassified during the PAGA Period, from July 20, 2022, to present. Plaintiff multiplied 89 by
19 \$10,000 to come to a total of \$890,000 in PAGA Penalties for misclassification.

20 100. In light of Defendants' strenuous arguments in opposition to Plaintiff's
21 misclassification claim, it is reasonable to discount the PAGA misclassification case by 60 percent
22 (multiplying by .4) to account for the risks involved in the misclassification claim, and by an
23 additional 75 percent (multiplying by .25) to account for the risk of the Court finding that
24 Freemodel's actions were not willful.

25 101. Furthermore, Courts have broad discretion to reduce penalty amounts under PAGA. It
26 is thus reasonable to discount the PAGA misclassification penalties by an additional 70 percent
27 (multiplying by .3) to account for the discretionary nature of PAGA penalties.

1 102. Accordingly, the reasonable settlement value of the misclassification PAGA claim is
2 \$26,700.

3 103. With respect to the other PAGA claims, Plaintiff calculates the maximum potential
4 amount to be approximately \$1,830,500.³ However, to recover that amount, Plaintiff would have to
5 prevail both on the misclassification issue and on the underlying claims. Furthermore, there is
6 substantial risk that the Court would reduce any PAGA penalties because of Freemodel's arguments
7 regarding good faith. For these reasons, the reasonable settlement value of the non-misclassification
8 PAGA claims is approximately \$10,000.

9 104. Therefore, the allocation of \$35,000 to PAGA penalties is fair, reasonable, and
10 adequate. Plaintiff has notified the LWDA of the PAGA-related provisions of the Settlement. She
11 will notify the Court if she receives any response from the LWDA regarding the Settlement.

12 **PLAINTIFFS' COUNSEL RECOMMENDS APPROVAL OF THE SETTLEMENT**

13 105. Plaintiff and Plaintiff's counsel have vigorously prosecuted this case and will
14 continue to do so. Information gathered from Plaintiff's counsel's investigation and discovery
15 informed counsel's assessment of the merits and risks of the case and the benefits of the Settlement.
16 Plaintiff's counsel conducted a thorough investigation into the facts of the Action. Based on an
17 independent investigation and evaluation, Plaintiff's counsel believe that the Settlement is fair,
18 reasonable, and adequate, and is in the best interest of the Class Members in light of all known facts
19 and circumstances, including the risk of significant delay, the risk that Defendants will prevail on its
20 defenses, and potential appellate issues.

21 106. Class Members can easily be identified from Freemodel's business records.
22
23

24 ³ This is the sum of the following penalties under PAGA: \$890,000 for misclassification (found by
25 multiplying a \$10,000 penalty by 89, for each aggrieved employee); \$209,000 for failure to
26 reimburse business expenses (found by multiplying a \$100 penalty by the 1,045 collective number of
27 months aggrieved employees worked during the PAGA period by two [to account for bi-monthly
28 pay periods]); \$209,000 for failure to pay minimum wages (found by multiplying a \$100 penalty by
the 1,045 collective number of months aggrieved employees worked during the PAGA period by
two [to account for bi-monthly pay periods]); and \$522,500 for failure to provide wage statements
(found by multiplying a \$250 penalty by the 1,045 collective number of months aggrieved
employees worked during the class period by two [to account for bimonthly pay periods]).

107. Freemodel represents that there are approximately 89 Class Members that all performed work for Freemodel at various times within the Class Period, rendering it impracticable to bring all Class Members before the Court.

108. Plaintiff's claims are predicated on allegedly unlawful policies including Defendant's classification and compensation scheme.

109. Plaintiff's claims are typical of those held by Class Members. Plaintiff entered into a Project Director Agreement with Freemodel and worked as Project Directors for Freemodel during the Class Period. She was classified as an independent contractor and was subject to Freemodel's compensation plan and other relevant wage and hour policies and was injured by the same challenged policies that injured the Class.

110. Plaintiff and her counsel will adequately represent the Class, as there are no conflicts between Plaintiff and the Class Members she seeks to represent, and Plaintiff possesses claims that are in line with those of the Class. Plaintiff's counsel also have extensive experience in wage and hour class action litigation. Therefore, Plaintiffs' counsel are well-qualified to represent Plaintiffs and the Class Members.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 20, 2024, in Oakland, California.

Hunter Pyle

EXHIBIT 1

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and JOHN GERALD GARNER

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

JULIE DEAN, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

FREEMODEL, INC.; JOHN GERALD
GARNER; and DOES 1 through 10, inclusive,

Defendants.

) CASE NO. 23CV038315

)
) Assigned for All Purposes to
) The Hon. Michael Markman
) Department 23

) **STIPULATION OF SETTLEMENT**

) Trial Date: Not Set
) Complaint Filed: July 14, 2023
) FAC Filed: October 25, 2023
)
)
)

1 This Stipulation of Settlement, including Exhibit A (the “Settlement,” “Settlement
2 Agreement,” or “Agreement”), is made and entered into by, between, and among Plaintiff
3 JULIE DEAN (“Plaintiff”) on behalf of herself and the Settlement Class Members, on the one
4 hand, and Defendants FREEMODEL, INC. (“Freemodel”) and JOHN GERALD GARNER
5 (collectively, “Defendants”) on the other hand. Plaintiff and Defendants (the “Parties”) enter
6 into this Agreement to effect a full and final settlement and preclusive judgment resolving all
7 claims brought or that could have been brought against Defendants based on the factual
8 allegations alleged in the case *Julie Dean v. Freemodel, Inc. et al.* (Superior Court of the State
9 of California, County of Alameda, No. 23CV038315) (the “Action”). This Agreement is
10 intended to fully and finally compromise, resolve, discharge, and settle the Released Claims,
11 as defined and on the terms set forth below, and to the full extent reflected here, subject to the
12 Court’s approval.

13 **1. RECITALS**

14 This Agreement is made in consideration of the following facts:

15 1.1 WHEREAS, on July 14, 2023, Plaintiff Julie Dean commenced the Action by
16 filing a Class Action Complaint asserting causes of action for: (1) Failure to Reimburse
17 Business Expenses; (2) Failure to Pay Minimum Wages; (3) Failure to Pay Overtime Wages;
18 (4) Failure to Provide Off-Duty Meal Periods; (5) Failure to Authorize and Permit Rest
19 Periods; (6) Failure to Provide Accurate Wage Statements; and (7) Unlawful Business
20 Practices;

21 1.2 WHEREAS, on July 20, 2023, Plaintiff notified Defendants and the Labor and
22 Workforce Development Agency (“LWDA”) of Defendants’ alleged violations under the
23 Private Attorneys General Act (“PAGA”), Labor Code section 2698 *et seq.*;

24 1.3 WHEREAS, on October 25, 2023, Plaintiff Julie Dean filed a First Amended
25 Complaint asserting causes of action for: (1) Failure to Reimburse Business Expenses; (2)
26 Failure to Pay Minimum Wages; (3) Failure to Pay Overtime Wages; (4) Failure to Provide
27 Off-Duty Meal Periods; (5) Failure to Authorize and Permit Rest Periods; (6) Failure to
28 Provide Accurate Wage Statements; (7) Unlawful Business Practices; (8) Wrongful

1 Termination in Violation of Public Policy; (9) Breach of Contract; and (10) Penalties Under
2 the Private Attorneys General Act;

3 1.4 WHEREAS the Parties engaged in an exchange of information, documents, and
4 reviewing and analyzing data made available by Defendants, which enabled the Parties to
5 thoroughly evaluate Plaintiff's claims, the PAGA claim, the claims of the putative Class,
6 Defendants' defenses, and the likely outcomes, risks, and expense of pursuing litigation;

7 1.5 WHEREAS, on February 14, 2024, the Parties attended a private mediation with
8 mediator Hon. Ronald Sabraw (Ret.), and, although the case did not resolve at that mediation,
9 subsequently reached the terms of this arm's-length Settlement;

10 1.6 WHEREAS, a bona fide dispute exists as to whether any wages or penalties are
11 due from Defendants to any putative Class Member, to the LWDA, or to any allegedly
12 aggrieved employees;

13 1.7 WHEREAS, the Parties desire to compromise and settle all issues and claims
14 that have been or could have been brought against Defendants based on the factual allegations
15 of the Action, including all claims brought on a putative class and representative basis in the
16 Action;

17 1.8 WHEREAS, the Parties further agree that this Agreement, the fact of this
18 Settlement, any terms of this Agreement, and any documents filed in connection with the
19 Settlement shall not constitute, or be offered, received, claimed, construed, or deemed as an
20 admission, finding, or evidence of: (i) any wrongdoing by any Released Parties; (ii) any
21 violation of any statute or law by Released Parties; (iii) any liability on the claims or
22 allegations in the Action on the part of any Released Parties; (iv) any waiver of Defendants'
23 right to arbitration or the enforceability of any arbitration agreement; or (v) the propriety of
24 certifying a class or pursuing representative relief under PAGA in the Action or any other civil
25 or administrative proceeding; and this Agreement shall not be used by any person for any
26 purpose whatsoever in any administrative or legal proceeding, including but not limited to
27 arbitrations, other than a proceeding to enforce the terms of this Agreement;

1.9 NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND AGREED by Plaintiff, for herself and on behalf of the Settlement Class Members, defined below, and Aggrieved Employees, defined below, and by Defendants that, subject to the approval of the Court, the Action shall be settled and compromised, and the Released Claims shall be finally and fully compromised and settled as to the Released Parties in the manner and upon the terms and conditions set forth in this Agreement.

2. DEFINITIONS

Unless otherwise defined herein, capitalized terms used in this Agreement have these meanings:

2.1 “Action” means the case *Julie Dean v. Freemodel, Inc. et al.* (Superior Court of the State of California, County of Alameda, No. 23CV038315).

2.2 “Aggrieved Employees” is defined as all individuals who entered into Project Director Agreements with Freemodel, Inc. and/or worked as Project Directors for Freemodel, Inc. in California between July 20, 2022, through the date of Preliminary Approval of the parties’ settlement agreement by the Court.

2.3 “Claims Administrator” means Apex Class Action.

2.4 “Claims Administrator Expenses” means the maximum amount to be paid to the Claims Administrator, which shall not exceed four thousand dollars (\$4,000.00). All Claims Administrator Expenses are to be paid exclusively from the Maximum Settlement Amount.

2.5 “Class Members” means: all individuals who entered into Project Director Agreements with Freemodel, Inc. and/or worked as Project Directors for Freemodel, Inc. in California between July 14, 2019, and the date of preliminary approval of the parties’ settlement agreement by the Court (the “Class Period”).

2.6 “Class Period” means July 14, 2019, through the date of preliminary approval of the Parties’ Settlement Agreement by the Court.

2.7 “Class Counsel” means Hunter Pyle and Andrea A. Núñez of Hunter Pyle Law.

2.8 “Class Counsel Award” means the attorneys’ fees and reimbursement of litigation costs and expenses awarded by the Court to Class Counsel to fully satisfy all claims for attorneys’ fees and costs incurred by Plaintiff to litigate and settle this Action.

2.9 “Class Information” means information regarding Class Members that Defendants will in good faith compile from their records and provide to the Claims Administrator. Class Information shall be provided in a Microsoft Excel spreadsheet and shall include each Class Member’s full name, last known mailing address, and applicable semi-monthly pay periods. Because Class Members’ private information is included in the Class Information, the Claims Administrator shall maintain the Class Information in confidence, shall limit access to the information only to those employees of the Claims Administrator with a need to use the Class Information as part of the administration of the Settlement, and shall use and disclose the Class Information only for purposes of this Settlement.

2.10 “Class Notice” means the Notice of Class Action Settlement to be provided to Class Members, substantially in the form attached as “Exhibit A.”

2.11 “Complete and General Release” means a release of the Released Parties from all claims, including but not limited to any claims actual or potential, known or unknown, which arise under or relate to, or are based on Dean’s working relationship with Freemodel and the termination thereof, any and all contracts, promises, representations and statements to, from or between the Parties, the common laws of any state, Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, all federal Civil Rights Acts, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Americans with Disabilities Act, the Employee’s Retirement Income Security Act of 1974, and all other state and federal statutes, and all conduct of Freemodel’s past or present managers, officers and directors, whether in their individual or representative capacities.

The Complete and General Release also means that Plaintiff Julie Dean voluntarily waives the provisions, rights, and benefits of Section 1542 of the California Civil Code and of any law, regulation or provision of any code of civil procedure of any other jurisdiction which

1 is similar, comparable, or equivalent to Section 1542 of the California Civil Code, which
2 provides as follows:

3 A general release does not extend to claims that the creditor or releasing party does
4 not know or suspect to exist in his or her favor at the time of executing the release
5 and that, if known by him or her, would have materially affected his or her
6 settlement with the debtor or released party.

7 2.12 “Court” means the Alameda County Superior Court.

8 2.13 “Effective Date” means the first business day upon which the latest of the
9 following dates: (i) if no Class Member files an objection or, if they have filed objections, such
10 objections have been withdrawn, then the date the Court enters an order granting final
11 approval of the Agreement; (ii) if a Class Member files an objection to the Agreement that has
12 not been withdrawn, and if an appeal, review or writ is not sought from the order granting final
13 approval of the Agreement, then sixty-one calendar days after service of notice of entry of the
14 order; or (iii) if an appeal, review or writ is sought from the order, then the business day after
15 the court of last resort to which any appeal is taken has affirmed the order or the appeal,
16 review or writ is dismissed or denied, and the order is no longer subject to further appeal or
17 judicial review.

18 2.14 “Final Approval Date” means the date of the Court’s order finally approving this
19 Settlement.

20 2.15 “Final Approval Hearing” means the hearing at or after which the Court will
21 make a final decision as to whether the Settlement is fair, reasonable, and adequate, and
22 therefore is finally approved by the Court.

23 2.16 “Final Approval Order” means the Court’s order finally approving this
24 Settlement.

25 2.17 “Individual PAGA Payment” means Aggrieved Employees’ pro rata share of
26 25% of the PAGA Payment.

27 2.18 “Individual Settlement Payment” means the gross payment of each Settlement
28 Class Member’s Individual Settlement Share and Individual PAGA Payment, if applicable.

2.19 “Individual Settlement Share” means the pro rata payment of the Net Settlement Amount to each Settlement Class Member.

2.20 “Judgment” means the judgment to be entered in the Action upon final approval of the Settlement.

2.21 “Mailed Notice Date” means the date of the initial mailing of the Class Notice to Class Members.

2.22 “Net Settlement Amount” available to the Class Members for Distribution means the Gross Settlement less payment of (1) Class Counsel Award; (2) Service Award to Plaintiff; (3) PAGA Payment; and (4) Claims Administration Costs.

2.23 “PAGA Payment” means a total payment of \$35,000 as consideration for the PAGA Release. The PAGA Payment will be allocated exclusively as penalties under Labor Code section 2699, et seq. of which 75% (\$26,250) will be paid to the LWDA and the remainder (\$8,750) of which will be distributed to the Aggrieved Employees. The PAGA Payment shall be payable from the Maximum Settlement Amount.

2.24 “PAGA Period” means July 20, 2022, through the date of Preliminary Approval of the parties’ settlement agreement by the Court.

2.25 “PAGA Release” means and refers to the release provided by Plaintiff acting in their capacity as private attorneys general on behalf of the State of California, and on behalf of the Labor and Workforce Development Agency and the Aggrieved Employees. The PAGA Release shall operate to release and discharge the Released Parties from any claim for civil penalties pursuant to the California Labor Code Private Attorneys General Act of 2004, Labor Code section 2698 *et seq.* that arose during the PAGA Period, as asserted in the Action, or that could have been asserted based on the facts, claims, causes of action, and legal theories that were asserted in the Action and identified in the LWDA letters. This shall specifically include claims for: Labor Code §§ 226, 226.2, 226.7, 510, 512, 1182.11–1182.13, 1194, 1194.2, 1197, 1198, and 2802 and the related IWC Wage Order No. 4-2001 and Business & Professions Code §§ 17200, et seq. claims based on alleged violations of these Labor Code and Wage Order provisions and all other claims, such as those under the California Labor

Code, Wage Orders, regulations, and/or other provisions of law, that could have been pleaded based on the facts asserted in the Action, including: (1) Failure to Reimburse Business Expenses; (2) Failure to Pay Minimum Wages; (3) Failure to Pay Overtime Wages; (4) Failure to Provide Off-Duty Meal Periods; (5) Failure to Authorize and Permit Rest Periods; (6) Failure to Provide Accurate Wage Statements; (7) Unlawful Business Practices; (8) Civil Penalties Pursuant to PAGA as described in Plaintiff's letter to the LWDA, dated July 20, 2023, as well as interest, fees, and costs ("Released Claims").

2.26 "Plaintiff" means Julie Dean.

2.27 "Preliminary Approval" means entry of the Preliminary Approval Order.

2.28 "Preliminary Approval Order" means the order granting preliminary approval of this Settlement Agreement.

2.29 "Released Claims" means all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, from July 14, 2019, through the date of preliminary approval of the parties' settlement agreement by the Court ("Relevant Time Period"), known or unknown, suspected or unsuspected, that each participating class member had, now has, or may hereafter claim to have during the Relevant Time Period against Defendants, its agents, officers, employees, directors, owners, subsidiaries, DBA's, affiliates and predecessor, successor, and parent companies ("Released Parties"), and that were asserted in the Action, or that arise from or could have been asserted based on any of the facts alleged in Plaintiff's First Amended Complaint ("Complaint") and/or Notice to the California Labor Workforce Development Agency, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law. The Released Claims specifically include, but are not limited to Labor Code §§ 226, 226.2, 226.7, 510, 512, 1182.11–1182.13, 1194, 1194.2, 1197, 1198, and 2802 and the related IWC Wage Order No. 4-2001 and Business & Professions Code §§ 17200, et seq. claims based on alleged violations of these Labor Code and Wage Order provisions) and all other claims, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law, that could have been pleaded based on the facts asserted in the Action, including: (1) Failure to

1 Reimburse Business Expenses; (2) Failure to Pay Minimum Wages; (3) Failure to Pay
2 Overtime Wages; (4) Failure to Provide Off-Duty Meal Periods; (5) Failure to Authorize and
3 Permit Rest Periods; (6) Failure to Provide Accurate Wage Statements; (7) Unlawful Business
4 Practices; (8) Civil Penalties Pursuant to PAGA as described in Plaintiff's letter to the LWDA,
5 dated July 20, 2023, as well as interest, fees, and costs.

6 2.30 "Released Parties" means Defendants, its agents, officers, employees, directors,
7 owners, subsidiaries, DBA's, affiliates and predecessor, successor, and parent companies.

8 2.31 "Response Deadline" means the date by which a Class Member may: (i) request
9 to be excluded from the Settlement; (ii) object to the Settlement; or (iii) dispute the number of
10 Semi-Monthly Periods credited to him or her. The Response Deadline shall be sixty (60)
11 calendar days after the Mailed Notice Date and shall be specifically identified and set forth in
12 the Preliminary Approval Order and Class Notice. The Response Deadline may be extended in
13 the event the Class Notice is re-mailed to any Class Members as set forth in section 6. In the
14 event the Class Notice is re-mailed, the Claims Administrator shall advise the Class Member
15 that they have an additional ten (10) calendar days from the original Response Deadline to
16 submit a response (the "Extended Response Deadline").

17 2.32 "Service Award" means the amounts approved by the Court to be paid to
18 Plaintiff, in addition to Plaintiff's respective Individual Settlement Payment. The Service
19 Award payable to Plaintiff Julie Dean shall not exceed \$5,000 and shall be payable from the
20 Maximum Settlement Amount.

21 2.33 "Settlement Class Members" means all Class Members who do not opt out of
22 this Settlement.

23 2.34 "Maximum Settlement Amount" means a total of three-hundred and fifty
24 thousand dollars \$350,000.00 for the class and representative claims in the Action, which
25 Defendants agree to pay, on an all-in an non-reversionary basis, for the class and
26 representative claims in the Action, which is inclusive of any Class Counsel Award, PAGA
27 Payment, Service Award to Plaintiff, and Claims Administration Expenses.

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.

3. CERTIFICATION FOR SETTLEMENT PURPOSES ONLY

3.1 Certification of Class: Solely for the purposes of this Settlement, the Parties stipulate and agree that the Court may certify the Class.

3.2 Appointment of Class Representative: Solely for the purposes of this Settlement, the Parties stipulate and agree that Plaintiff Julie Dean shall be appointed representative of the Class.

3.3 Appointment of Class Counsel: Solely for the purposes of this Settlement, the Parties stipulate and agree that Class Counsel shall be approved as counsel for Settlement Class Members.

3.4 Appointment of Claims Administrator: Solely for the purposes of this Settlement, the Parties stipulate and agree that Apex Class Action shall be appointed to serve as Claims Administrator. The Claims Administrator shall be responsible for establishing a toll-free telephone number by which Class Members can inquire about the Settlement and a Post Office Box for receipt of Class Members’ communications; preparing, printing and mailing the Class Notice; receiving and reviewing requests for exclusion, objections, or disputes submitted by Class Members; calculating Individual Settlement Shares and Individual PAGA Payments; calculating and paying any and all payroll tax or other required withholdings from the wage portion of the Individual Settlement Shares as required under this Agreement and applicable law; providing weekly status reports to Defendants’ counsel and Class Counsel; providing a due diligence declaration for the Court prior to the Final Approval Hearing; mailing Individual Settlement Payments, the Service Award, the Class Counsel Award, and 75% of the PAGA Payment to the LWDA; printing and providing Plaintiff, Class Counsel, and Settlement Class Members with IRS Forms W-2 or 1099 as required under this Agreement and applicable law; providing a due diligence declaration for submission to the Court upon the completion of the Settlement; and for other tasks as the Parties mutually agree. The Parties

1 agree to cooperate in the settlement administration process and to make all reasonable efforts
2 to control and minimize Claims Administrator Expenses.

3 3.5 Conditional Nature of Stipulation for Certification: Solely for the purposes of
4 this Settlement, the Parties stipulate and agree to the certification of the Class. Should for
5 whatever reason the Settlement not become effective, the fact that the Parties were willing to
6 stipulate to certification as part of the Settlement shall have no bearing on, and shall not be
7 admissible in connection with, the issue of whether the Class should be certified in a non-
8 Settlement context in this Action or in any other lawsuit. Defendants expressly reserve its right
9 to oppose any claim or class certification in this or any other action should this Settlement not
10 become effective.

11 3.6 The Parties agree to stay all proceedings in the Action, except those proceedings
12 necessary to implement and complete the Settlement, from the date that this Settlement
13 Agreement is executed by Plaintiff until such time as the Parties shall agree in writing that the
14 stay is lifted, which stay shall extend the time within which this action must be brought to trial
15 pursuant to California Code of Civil Procedure section 583.310, et seq.

16 **4. NON-REVERSIONARY SETTLEMENT CONSIDERATION**

17 4.1 Defendants' total monetary obligation under this Settlement is the Maximum
18 Settlement Amount (\$350,000) and is non-reversionary. This is an "all in" number that
19 includes, without limitation, all monetary benefits and payments for Settlement Class
20 Members, Service Award, the Class Counsel Award, Claims Administrator Expenses, the
21 PAGA Payment, and all other claims for interest, fees, and costs. Under no circumstances shall
22 Defendants be required to pay anything more than the Maximum Settlement Amount. In no
23 event shall Defendants be liable for making any payments under this Settlement, or for
24 providing any relief to the Settlement Class Members, before the Effective Date of this
25 Agreement. Within thirty (30) calendar days of the Effective Date, Defendants will transfer the
26 Maximum Settlement Amount to the Claims Administrator. Such funding is conditioned on
27 the Claims Administrator providing valid transmission instructions.

1 4.2 Defendants agree not to oppose Plaintiff Julie Dean's application for a Service
2 Award in an amount up to \$5,000. Any Service Award awarded by the Court shall be paid
3 from the Maximum Settlement Amount. If the Court awards less than the full Service Award,
4 the unawarded funds shall become part of the Net Settlement Fund.

5 4.3 Plaintiff shall seek a Class Counsel Award from the Court, consisting of
6 attorneys' fees in an amount of up to \$122,500 and all litigation costs and expenses incurred
7 subject to proof in an amount not to exceed \$25,000. Defendants agree not to oppose a request
8 for these amounts. Any Class Counsel Award awarded by the Court shall be paid from the
9 Maximum Settlement Amount. Any portion of the Class Counsel Award that is not approved
10 by the Court and awarded to Class Counsel shall become part of the Net Settlement Fund.

11 4.4 The Parties agree to allocate thirty-five thousand dollars (\$35,000) for the PAGA
12 Payment, of which 75% or \$26,250 shall be paid to the LWDA, and the remaining 25% or
13 \$8,750 shall be paid to Aggrieved Employees on a pro rata basis based on the number of semi-
14 monthly periods between July 20, 2022, or the date of execution of their respective Project
15 Director Agreements (whichever is later) and the date of Preliminary Approval or the date
16 their respective relationships ended with Defendants (whichever is earlier), and irrespective of
17 whether or not they request exclusion from the Settlement. The PAGA Payment shall be paid
18 from the Maximum Settlement Amount. Any portion of the PAGA Payment that is not
19 approved by the Court shall become part of the Net Settlement Fund.

20 4.5 The Claims Administrator Expenses are estimated not to exceed four thousand
21 dollars (\$4,000). The Claims Administrator Expenses shall be paid from the Maximum
22 Settlement Amount. Any portion of the Claims Administrator Expenses not actually incurred
23 by the Claims Administrator shall become part of the Net Settlement Fund.

24 4.6 The Claims Administrator shall calculate the Individual Settlement Shares based
25 on the Class Information provided to the Claims Administrator by Defendants. Payment of
26 Individual Settlement Shares to Settlement Class Members will be made from the Net
27 Settlement Fund as follows:

(a) The allocation of the Net Settlement Fund shall be made pursuant to a formula by which each Class Member receives a pro rata portion of the Net Settlement Amount based on the number of semi-monthly periods between July 14, 2019, or the date of execution of their respective Project Director Agreements (whichever is later) and the date of Preliminary Approval or the date their respective relationships ended with Defendants (whichever is earlier), and irrespective of whether or not they request exclusion from the Settlement.

(b) Each Class Member's number of semi-monthly periods will be derived by Defendants based on the records kept by Defendants in the ordinary course of business during the Class Period. Individual Settlement Shares shall be characterized as 20 percent for reimbursement of expenses, 60 percent penalties, and 20 percent interest. Each Class Member's gross settlement award will be reported on a 1099 Form.

4.7 Aggrieved Employees will receive an Individual PAGA Payment that consists of a pro rata share of 25% of the PAGA Payment based on the number of semi-monthly periods between July 20, 2022, or the date of execution of their respective Project Director Agreements (whichever is later) and the date of Preliminary Approval or the date their respective relationships ended with Defendants (whichever is earlier). The Individual PAGA Payment to be made to each Aggrieved Employee shall be calculated by multiplying the value of a semi-monthly period by the number of semi-monthly periods worked by the Aggrieved Employee during the PAGA Period.

4.8 Settlement Class Members may dispute the number of semi-monthly periods with which they have been credited, as reflected in their respective Class Notices. In order to dispute semi-monthly periods, Settlement Class Members must submit a written letter returned to the Claims Administrator by mail at the specified address, postmarked on or before the Response Deadline. The written letter must: (a) contain the case name and number of the Action; (b) be signed by the Settlement Class Member; (c) contain the full name, address, telephone number, and the last four digits of the Social Security Number of the disputing

1 Settlement Class Member; (d) clearly state that the Settlement Class Member disputes the
2 number of semi-monthly periods credited to them and what they contend is the correct number
3 to be credited to them; and (e) include information or attached documentation demonstrating
4 that the amount of semi-monthly periods that they contend should be credited to them are
5 correct. The date of the postmark on the submission will be the exclusive means to determine
6 whether a dispute has been timely submitted. Absent evidence rebutting the accuracy of
7 Defendants' records and data as they pertain to the number of semi-monthly periods to be
8 credited to a disputing Settlement Class Member, Defendants' records will be presumptively
9 determinative in any dispute over entitlement to payment or over membership in the Class.
10 However, if a Class Member produces information or documents to the contrary, the Claims
11 Administrator will evaluate the materials submitted by the Class Member and the Claims
12 Administrator will resolve and determine the number of eligible semi-monthly periods that the
13 disputing Settlement Class Member should be credited with under the Settlement. The Claims
14 Administrator's decision on such disputes will be final and non-appealable.

15 4.9 Individual PAGA Payments will be allocated as one hundred percent (100%)
16 penalties to be reported on IRS Form 1099.

17 4.10 Settlement Class Members (except Plaintiff with respect to her Service Award
18 and Individual Settlement) are not eligible to receive any compensation other than the
19 Individual Settlement Payments discussed above.

20 4.11 The Claims Administrator shall never be empowered to make payments to Class
21 Members exceeding the total Net Settlement Fund or deviate from the payment formula agreed
22 upon by the Parties.

23 4.12 Amounts paid to Plaintiff and Settlement Class Members pursuant to this
24 Settlement Agreement shall be deemed to be paid to such Settlement Class Members and
25 Aggrieved Employees solely in the year in which such payments actually are received by the
26 Settlement Class Members and Aggrieved Employees. It is expressly understood and agreed
27 that such Individual Settlement Payment and Individual PAGA Payments will not be utilized
28 to calculate any additional compensation or any additional benefits under any compensation or

1 benefit plans to which any Settlement Class Member or PAGA Employee may be eligible,
2 including, but not limited to: bonus, contest or commissions plans; profit-sharing plans, bonus
3 plans, 403(b) and 457 plans, deferred compensation plans; vacation plans, sick leave plans,
4 PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement
5 Agreement will not affect any rights, contributions, or amounts to which any Settlement Class
6 Members or Aggrieved Employees may be entitled under any compensation or benefit plans.

7 4.13 In consideration of her Service Award, Plaintiff Julie Dean, individually and on
8 behalf of her heirs, estates, trustees, executors, administrators, representatives, agents,
9 successors, and assigns, and anyone claiming through them or acting or purporting to act on
10 her behalf, agrees to provide a Complete and General Release.

11 4.14 In exchange for the consideration provided by Defendants, Plaintiff Julie Dean,
12 acting in the capacity of a representative of the State of California and on behalf of the group
13 of Aggrieved Employees, and Aggrieved Employees agree to release any and all claims
14 pursuant to the PAGA Release.

15 4.15 In exchange for the consideration provided by Defendants, Settlement Class
16 Members, individually and on behalf of their heirs, estates, trustees, executors, administrators,
17 representatives, agents, successors, and assigns, and anyone claiming through them or acting
18 or purporting to act on their behalf, will agree to forever release, discharge, and hold harmless
19 each and all of the Released Parties for the Released Claims during the Class Period.

20 4.16 All releases identified herein shall be null and void if Defendants fail to fully
21 fund the Maximum Settlement Amount. The releases identified herein shall become effective
22 on the date on which Defendant fully funds the Maximum Settlement Amount.

23 4.17 Any uncashed settlement compensation left after distributing the Net Settlement
24 Amount and after the 180-day period for negotiating checks will constitute a *cy pres* fund to be
25 distributed to Legal Aid at Work, subject to Court approval.

26 4.18 Defendants will not receive reversion of any part of the Maximum Settlement
27 Amount, unless the Settlement is not finally approved by the Court with the terms materially
28 identical to the terms articulated in this Agreement. In the event the Settlement is void per this

term, or is not given final approval by the Court, Defendants will bear only one half of the already-accrued costs of the Claims Administrator.

5. PROCEDURE FOR REQUESTING PRELIMINARY APPROVAL OF THE SETTLEMENT

5.1 After execution of this Settlement Agreement, Plaintiff shall promptly submit a motion for preliminary approval of the Settlement to the Court, along with the Settlement Agreement. Plaintiff will provide the proposed motion to Defendants' counsel of record no less than five (5) calendar days before the motion is filed for review and comment. Plaintiff's motion for preliminary approval shall request that the Court enter a preliminary approval order. Drafts of the motion for preliminary approval, including the proposed preliminary approval order, shall be provided to Defendants' counsel at least five (5) court days before the documents are filed and approved of in writing before being filed.

5.2 The Preliminary Approval Order shall:

- Conditionally certify the Settlement Class for settlement purposes;
- Preliminarily appoint Plaintiff as representative of the proposed Settlement Class;
- Preliminarily approve Class Counsel to represent the Settlement Class;
- Appoint Apex Class Action as the Claims Administrator and order the Claims Administrator to provide notice of the Settlement as outlined in this Agreement;
- Stay all litigation of the Action pending the Final Approval Hearing, except as necessary to implement and effectuate the Settlement; and
- Order that the preliminary approval of the Settlement, conditional certification of the Settlement Class, and all actions associated with them, are undertaken on the condition that they shall be vacated if the Settlement Agreement is disapproved in whole or in part by the Court, or any appellate court or other court of review, in which event the Settlement 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

1 Party of liability or non-liability or of the certifiability of a litigation class or the
2 appropriateness of maintaining a representative action.

3 5.3 The motion for preliminary approval shall request: the Final Approval Hearing;
4 that any determination on the request for a Class Counsel Award and Service Award be set no
5 earlier than forty-five (45) calendar days after the Response Deadline; and that Plaintiff be
6 permitted to file Plaintiff's motion for final approval of the Settlement no later than sixteen
7 (16) court days before the Final Approval Hearing.

8 5.4 At the same time that Plaintiff files the motion for preliminary approval, Class
9 Counsel will submit the Settlement Agreement to the LWDA.

10 **6. PROCEDURE FOR PROVIDING NOTICE OF SETTLEMENT**

11 6.1 No more than thirty (30) calendar days after Preliminary Approval, Defendants
12 shall provide the Claims Administrator with the Class Information for purposes of sending the
13 Class Notice to Class Members.

14 6.2 No more than forty-five (45) calendar days after Preliminary Approval, the
15 Claims Administrator shall mail the Class Notice to Class Members via first-class regular U.S.
16 mail. Prior to mailing, the Claims Administrator will perform a search based on the National
17 Change of Address Database to update and correct for any known or identifiable address
18 changes. For each Class Notice returned as undeliverable without a forwarding address, the
19 Claims Administrator will perform a single computer or "skiptrace" search to obtain an
20 updated address. All Class Members' names and postal mail addresses obtained through these
21 sources shall be protected as confidential and not used for purposes other than the notice and
22 administration of this Settlement. The address determined by the Claims Administrator as the
23 current mailing address shall be presumed to be the best mailing address for each Class
24 Members. The Claims Administrator shall promptly re-mail the Class Notice to any Class
25 Member whose original notice was returned because of a wrong address within three (3)
26 business days of obtaining an updated address and advise the Class Member of the Extended
27 Response Deadline.

1 6.3 If any Class Notice to a Class Member is returned to the Claims Administrator
2 with a forwarding address, the Claims Administrator shall forward the postal mailing to that
3 address within three (3) business days. Class Members whose Class Notices are re-mailed
4 shall have an additional ten (10) calendar days from the original Response Deadline to submit
5 a response (the Extended Response Deadline). The Claims Administrator will advise Class
6 Members of the Extended Response Deadline where applicable.

7 6.4 The Claims Administrator shall continue to obtain updated mailing addresses for
8 any undeliverable Class Notices until the Response Deadlines. The Claims Administrator shall
9 maintain a log detailing the instances Class Notices are returned as undeliverable, re-mailed,
10 and when applicable, returned again.

11 6.5 The Class Notice shall include a statement as to the number of semi-monthly
12 periods credited to the Class Member, where applicable, as well as an explanation of how the
13 Workweeks will be used to calculate the Individual Settlement Shares and Individual PAGA
14 Payments if applicable.

15 6.6 The Class Notice will inform Class Members that, unless they submit a request
16 to be excluded from the Settlement, they will become Settlement Class Members and will
17 receive Individual Settlement Payments under the Agreement.

18 6.7 The Class Notice will inform Class Members of their right to request exclusion
19 from the Settlement or to object to the Settlement, dispute the amount of semi-monthly periods
20 credited to them, and of the procedure for doing so. The Class Notice will also inform Class
21 Members that if they request exclusion from the Class, they may not also object to the
22 Settlement or dispute the number of Workweeks credited to them. The Class Notice will
23 inform PAGA Employees that all claims to PAGA penalties are settled by operation of law
24 and that they are not able to exclude themselves from the PAGA Release and will receive an
25 Individual PAGA Payment whether or not they request exclusion from the Action and the
26 Settlement.

27 6.8 Class Members will have sixty (60) days from the mailing of the Class Notice to
28 submit a request for exclusion or objections (which periods shall run concurrently).

1 6.9 The Parties agree that the procedures set forth in this Section comply with all
2 due process requirements, constitute reasonable and best practicable notice under the
3 circumstances, and constitute an appropriate and sufficient effort to locate current addresses
4 for Class Members such that no additional efforts to do so shall be required.

5 6.10 No more than ten (10) calendar days after the Response Deadline or Extended
6 Response Deadline in the event the Class Notice is re-mailed, the Claims Administrator shall
7 provide a declaration of due diligence confirming: its dissemination of the Class Notice in
8 accordance with the notice procedures of this Agreement; all attempts by the Claims
9 Administrator to locate Class Members; the number of delivered and undeliverable Class
10 Notices; the number of objections received and copies of same; the number of requests for
11 exclusion received and copies of same; and the number of semi-monthly periods payment
12 disputes received. Class Counsel shall be responsible for filing the due diligence declaration
13 with the Court.

14 **7. PROCEDURE FOR REQUESTING EXCLUSION**

15 7.1 All requests for exclusion will be submitted to the Claims Administrator, who
16 will timely certify jointly to Plaintiff's counsel and Defendants' counsel the forms that were
17 timely and correctly submitted.

18 7.2 Class Members who wish to exclude themselves from (or "opt out" of) the
19 Settlement must submit timely, signed written requests for exclusion from the Settlement to
20 the Claims Administrator that includes the Class Member's name, a clear and unequivocal
21 statement that the individual wishes to be excluded from the Settlement, and the Class
22 Member's signature.

23 7.3 The request for exclusion must be mailed to the Claims Administrator at the
24 address provided in the Class Notice and must be postmarked no later than the Response
25 Deadline. The date of the postmark on the envelope containing the request for exclusion shall
26 be the exclusive means used to determine whether a request for exclusion has been timely
27 submitted.

1 7.4 The Claims Administrator shall immediately notify Class Counsel and counsel
2 for Defendants by email and phone if the number of timely-submitted requests for exclusion
3 reaches ten percent (10%) of all Class Members. If Class Members representing more than
4 10% of the total semi-monthly in the Class Period submit exclusion forms of any kind,
5 Defendants may exercise the option to rescind and revoke the entire Settlement Agreement by
6 sending written notice to Class Counsel that it revokes the Settlement within ten (10) calendar
7 days after notice from the Claims Administrator. However, if Defendants exercise this option,
8 it will be responsible for paying all settlement administration costs incurred to date.

9 7.5 All Class Members who do not opt out of the Settlement shall be bound by the
10 Final Approval Order and Judgment even if they never received the Class Notice or other
11 actual notice of this Settlement. However, if a Class Member's information was not part of the
12 Class Information that Defendants provided to the Claims Administrator, Defendants shall
13 provide additional funding sufficient to fully fund the share the Class Member would have
14 otherwise been entitled to receive under the terms of this Agreement.

15 7.6 Plaintiff agrees not to request exclusion from the Settlement.

16 7.7 The Parties agree there is no statutory or other right for any Aggrieved
17 Employee to opt out or otherwise exclude themselves from the settlement and release of the
18 PAGA Claims.

19 **8. PROCEDURE FOR WRITTEN OBJECTION**

20 8.1 Any Class Member who has not opted out of the Settlement and who wishes to
21 submit a written objection to the fairness, reasonableness, or adequacy of this Agreement must
22 provide the written objection to the Claims Administrator, who shall immediately forward it to
23 Class Counsel and counsel for Defendants by the Response Deadline or Extended Response
24 Deadline.

25 8.2 All written objections and supporting papers must be postmarked no later than
26 the Response Deadline or Extended Response Deadline if applicable. The date of the postmark
27 on the envelope containing the objection shall be the exclusive means used to determine
28

whether the written objection has been timely submitted. The Parties shall file all objections with the Court prior to the Final Approval Hearing.

8.3 The objection should contain at least the following: (i) the objector's full name, address, telephone number, last four digits of their Social Security number, and signature; (ii) the name and case number of the Action; (iii) a statement of the specific legal and factual basis for each objection argument; and (iv) a statement whether the objector intends to appear at the Final Approval Hearing, either remotely, in person, or through counsel, and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number.

8.4 All written objections, supporting papers, or notices of intent to appear at the Final Approval Hearing must: (a) clearly identify the case name and number (*Julie Dean v. Freemodel, Inc., John Gerald Garner* (Superior Court of the State of California, County of Alameda, No. 23CV038315)); (b) be submitted to the Court either by mailing the objection to Clerk of the Court, Superior Court of California, County of Alameda, 1225 Fallon Street Oakland, California 94612, or by filing in person at the same location; (c) also be mailed to the Claims Administrator; and (d) be filed and postmarked on or before the Response Deadline or Extended Response Deadline if applicable.

8.5 Class Members who object to the Settlement shall remain Settlement Class Members and shall be deemed to have voluntarily waived their right to pursue an independent remedy against Defendants and the Released Parties for the Released Claims if the Court grants final approval of the Settlement. To the extent any Settlement Class Member objects to the Settlement, and such objection is overruled in whole or in part, those Settlement Class Members will be forever bound by the Final Approval Order and Judgment if the Court grants final approval of the Settlement.

8.6 The Parties agree there is no statutory or other right for any Aggrieved Employee to object to the PAGA Release portion of the Settlement.

9. PROCEDURE FOR REQUESTING FINAL APPROVAL OF THE SETTLEMENT

1 9.1 Promptly after receipt of the declaration of due diligence from the Claims
2 Administrator, Plaintiff shall file a motion requesting final approval of the Settlement, along
3 with a proposed Final Approval Order. Drafts of the motion for final approval of the
4 Settlement and proposed Final Approval Order shall be provided to Defendants' counsel at
5 least five (5) court days before the documents are filed and approved of in writing before it is
6 filed.

7 9.2 The Final Approval Order shall adjudge, among other things, that:

- 8 • The Claims Administrator has fulfilled its initial notice and reporting duties
9 under the Settlement and that the Class Notice: (i) constituted the best
10 practicable notice; (ii) constituted notice that was reasonably calculated under
11 the circumstances to apprise Class Members of the pendency of the Action and
12 their right to exclude themselves from or object to the proposed Settlement and
13 to appear at the Final Approval Hearing; (iii) was reasonable and constituted
14 due, adequate, and sufficient notice to all persons entitled to receive notice; and
15 (iv) met all applicable requirements of due process and any other applicable
16 rules or law;
- 17 • The Settlement is fair, reasonable, and adequate;
- 18 • Plaintiff and Class Counsel may adequately represent the Settlement Class for
19 the purpose of entering into and implementing the Agreement;
- 20 • The Claims Administrator is to execute the distribution of proceeds pursuant to
21 the terms of this Agreement;
- 22 • Legal Aid at Work is approved as the *cy pres* beneficiary;
- 23 • The Final Approval Order and Judgment shall be final and entered forthwith;
- 24 • Without affecting the finality of the Final Approval Order and Judgment, the
25 Court retains continuing jurisdiction over Plaintiff, Defendants, and Settlement
26 Class Members, as to all matters concerning the administration, consummation,
27 and enforcement of this Settlement Agreement;

- As of the Effective Date of the Release, Plaintiff and Settlement Class Members compromised, settled, discharged, and provided the release of the Released Class Claims during the applicable time period against Defendants and the Released Parties and are bound by the provisions of this Settlement Agreement;
- Aggrieved Employees are still bound by the PAGA Release portion of the Settlement and the State's claims for civil penalties pursuant to PAGA are also extinguished.
- This Settlement Agreement and the Final Approval Order and Judgment are binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings that encompass Plaintiff's and Settlement Class Members' claims released herein, and that are maintained by or on behalf of Plaintiff and Settlement Class Members;
- The Settlement provided for herein, and any proceedings undertaken 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 collective, or that PAGA representative claims may validly be pursued;

9.3 In a separate motion to be heard at the same time as the Final Approval Hearing, Class Counsel shall request entry of an Order approving the Class Counsel Award and the Service Award to Plaintiff. Any Class Counsel Award or Service Award shall be paid exclusively from the Maximum Settlement Amount.

9.4 The Parties expressly agree that the Court's approval or denial of any request for a Service Award is not a material condition to this Agreement and is to be considered by the Court separately from the fairness, reasonableness, adequacy, and good faith of the Settlement. Any order or proceeding relating to the application by Class Counsel of a Service Award shall not operate to terminate or cancel this Agreement. To the extent the Court awards less than the amount of the requested Service Award, the consideration referenced herein shall not be affected, and the requirement for or validity of an executed Complete and General Release by

Plaintiff Julie Dean shall remain in force and effect. To the extent the Court awards less than the amount of the requested Service Award, any remaining amount will be redistributed amongst participating Class Members on a pro rata basis.

10. PROCEDURE FOR EXECUTING THE SETTLEMENT IF/WHEN IT BECOMES EFFECTIVE

10.1 Defendants shall provide payment to the Claims Administrator as provided in section 4.1.

10.2 Within thirty (30) calendar days of receipt of the Maximum Settlement Amount, the Claims Administrator shall distribute the following payments: (a) full payment to Plaintiff of Plaintiff's Court-approved Service Award; (b) full payment to the LWDA for its 75% portion of the PAGA Payment; (c) full payment of the Court-approved Claims Administrator Expenses; (d) full payment of the Individual Settlement Payments to Settlement Class Members; (e) full payment to Aggrieved Employees of their 25% portion of the PAGA Payment; and (f) the Court-approved Class Counsel Award to Class Counsel.

10.3 The Claims Administrator shall prepare all tax forms related to any and all employer taxes incurred by Defendants as a result of this Settlement, shall inform Defendants and their Counsel of the amounts owed, shall collect the necessary funds from Defendants and remit them to the requisite taxing authorities.

10.4 If any Individual Settlement Payments are not cashed, deposited, or negotiated on or before the Void Date, then thirty (30) calendar days after the Void Date, the Claims Administrator shall void the uncashed checks and shall transmit the funds to Legal Aid at Work.

10.5 Upon completion of administration of the Settlement, the Claims Administrator will provide a written declaration under oath to certify completion to the Court and counsel for all Parties. Class Counsel shall file the declaration with the Court to confirm full satisfaction of the Settlement.

10.6 The Individual Settlement Payments cashed shall be reported by the Claims Administrator to the applicable governmental authorities on IRS Form 1099s if required. The

1 portions allocated to the Service Award shall likewise be reported on IRS Form 1099s by the
2 Claims Administrator. The Claims Administrator shall be responsible for issuing copies of all
3 IRS Forms for Plaintiff and Settlement Class Members.

4 10.7 The Parties make no representation as to the tax treatment or legal effect of the
5 payments called for here, and Plaintiff and the Settlement Class Members are not relying on
6 any statement, representation, or calculation by any of the Parties, their counsel, or the Claims
7 Administrator in this regard. Plaintiff and Settlement Class Members understand and agree
8 that they will be solely responsible for payment of any taxes and penalties assessed on the
9 payments described herein and will hold Plaintiff, Class Counsel, Defendants, Defendants'
10 counsel, and the Released Parties free and harmless from and against any claims resulting
11 from the tax treatment of payments under this Agreement. Plaintiff and the Settlement Class
12 Members acknowledge and agree that no provision of this Settlement, and no written
13 communication or disclosure between or among the Parties or their attorneys and other
14 advisers, is or was intended to be, nor will any such communication or disclosure constitute or
15 be construed or be relied upon as, tax advice within the meaning of United States Treasury
16 Department Circular 230 (31 C.F.R. Part 10, as amended).

17 10.8 Payments and tax reporting by the Claims Administrator in the manner described
18 above shall be deemed conclusive of compliance with this Settlement Agreement as to all
19 Settlement Class Members. No Settlement Class Members shall have any claim against the
20 Plaintiff, Class Counsel, Defendants, Defendants' counsel, or the Claims Administrator for
21 distributions made substantially in accordance with this Settlement Agreement or orders of the
22 Court.

23 **11. EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF**
24 **SETTLEMENT AGREEMENT**

25 11.1 If the Court does not approve the Settlement as set forth in this Settlement
26 Agreement, or if the Court enters the Judgment and appellate review is sought, and on such
27 review, the entry of Judgment is vacated, modified in any way, or reversed, or if the Final
28 Approval Order does not otherwise become Final, then this Settlement Agreement shall be

1 cancelled and terminated, unless all Parties, in their sole discretion within thirty (30) days from
2 the date such ruling becomes final, provide written notice to all other Parties of their intent to
3 proceed with the Settlement under the terms of the Judgment as it may be modified by the
4 Court or any appellate court.

5 11.2 In the event that: (i) the Settlement is not approved, is overturned, or is
6 materially modified by the Court or on appeal; (ii) the Judgment does not become Final; or
7 (iii) this Settlement Agreement is terminated, cancelled, or fails to become effective pursuant
8 to this Agreement, then: (a) the Parties stipulate and agree that the Settlement, the Class
9 Information, and all documents exchanged and filed in connection with the Settlement shall be
10 treated as inadmissible mediation communications under Cal. Evid. Code §§ 1115 *et seq.*; (b)
11 the Settlement shall be without force and effect upon the rights of the Parties, and none of its
12 terms shall be effective or enforceable, with the exception of this paragraph, which shall
13 remain effective and enforceable; (c) the Parties shall be deemed to have reverted to their
14 respective status prior to execution of this Agreement; (d) all Orders entered in connection
15 with the Settlement, including the certification of the Class, shall be vacated without prejudice
16 to any Party's position on the issue of class certification, the issue of amending the complaint,
17 or any other issue, in this Action or any other action, and the Parties shall be restored to their
18 litigation positions existing on the date of execution of this Agreement; and (e) the Parties
19 shall proceed in all respects as if the Settlement Agreement and related documentation and
20 orders had not been executed, and without prejudice in any way from the negotiation or fact of
21 the Settlement or the terms of the Settlement Agreement. The Settlement, all documents,
22 orders, and evidence relating to the Settlement, the fact of their existence, any of their terms,
23 any statement or report concerning the Settlement Agreement, its existence, or their terms, any
24 negotiations, proceedings, acts performed, or documents executed pursuant to or in furtherance
25 of the Settlement Agreement shall not be admissible in any proceeding, and shall not be
26 offered, received, or construed as evidence of a presumption, concession, or an admission of
27 liability, of unenforceability of any arbitration agreement, of the certifiability of a litigation
28

1 class, or otherwise used by any person for any purpose whatsoever, in any trial of this Action
2 or any other action or proceedings.

3 **12. ADDITIONAL PROVISIONS**

4 12.1 Exhibit A to this Agreement, the Class Notice, is an integral part of the
5 Settlement and is incorporated by reference as though fully set forth herein.

6 12.2 Unless otherwise noted, all references to “days” in this Agreement are to
7 calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend
8 or federal legal holiday, such date or deadline shall be on the first business day thereafter.

9 12.3 The Parties to the Settlement agree that the terms of the Settlement were
10 negotiated at arm’s length and in good faith by the Parties, resulted from an arm’s-length
11 mediation session, and reflect a settlement that was reached voluntarily based upon adequate
12 information and sufficient discovery and after consultation with experienced legal counsel.

13 12.4 Plaintiff, Class Counsel, Defendants, and counsel for Defendants have concluded
14 that the Settlement constitutes a fair, reasonable, and adequate resolution of the claims that
15 Plaintiff asserted against Defendants, including the claims on behalf of the Class Members,
16 and that it promotes the best interests of the Class Members.

17 12.5 To the extent permitted by law and unless otherwise necessary to seek Court
18 approval of this Settlement Agreement, all agreements made and orders entered during the
19 course of the Action relating to the confidentiality of information shall survive this Settlement
20 Agreement.

21 12.6 The waiver by one Party of any breach of this Settlement Agreement by any
22 other Party shall not be deemed a waiver of any other prior or subsequent breach of this
23 Settlement Agreement.

24 12.7 The Parties may not amend or modify any provision of this Settlement
25 Agreement except by written agreement signed by counsel for the Parties and subject to any
26 necessary Court approval.

27 12.8 All notices, demands, and other communications to be provided concerning this
28 Settlement Agreement shall be in writing and delivered by receipted delivery and by email at

the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendants:

**GORDON REES SCULLY
MANSUKHANI, LLP**

Linh T. Hua, Esq.
Simran Virdi, Esq.
633 West Fifth Street
52nd Floor
Los Angeles, CA 90071
Telephone: (213) 576-5000
Facsimile: (213) 680-4470
lhua@grsm.com
svirdi@grsm.com

if to Plaintiff:

HUNTER PYLE LAW

Hunter Pyle, Esq.
Andrea A. Núñez, Esq.
505 14th Street, Suite 600
Oakland, California 94612
Telephone: (510) 444-4400
Facsimile: (510) 444-4410
hunter@hunterpylelaw.com
anunez@hunterpylelaw.com

12.9 This Settlement Agreement, including its Exhibits, constitutes the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits, other than the representations, warranties, and covenants contained and memorialized in this Settlement Agreement and its Exhibits.

12.10 This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile, electronic, and scanned copies of the signature page, shall be deemed to be one and the same instrument.

12.11 The Parties and their respective counsel agree that they will use their best efforts to obtain all necessary approvals of the Court required by this Agreement. The Parties agree that Plaintiff will submit to the Court a Motion for Preliminary Approval of this Settlement containing all of the terms and conditions contained herein notwithstanding any new legal developments regarding the Released Claims or PAGA Release.

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

1 12.13 In the event of any dispute arising out of the performance or breach of any
2 provision of this Settlement Agreement, the prevailing party in such disputes shall be entitled
3 to recover his, her, or its reasonable attorneys' fees and costs incurred arising from the dispute,
4 provide that the prevailing party gives 30 days written notice before commencing legal action
5 regarding any failure to perform or breach of any provision of this Settlement Agreement.

6 12.14 This Settlement Agreement shall not be construed more strictly against one Party
7 than another merely because of the fact that it may have been prepared by counsel for one of
8 the Parties. It is recognized that because of the arm's-length negotiations resulting in the
9 Settlement Agreement, all Parties have contributed substantially and materially to the
10 preparation of the Settlement Agreement.

11 12.15 Except where this Settlement Agreement itself provides otherwise, all terms,
12 conditions, and Exhibits are material and necessary to this Settlement Agreement and have
13 been relied upon by the Parties in entering into this Settlement Agreement.

14 12.16 This Settlement Agreement shall be governed by California law. Any action
15 based on this Settlement Agreement, or to enforce any of its terms, shall be venued in the
16 Alameda County Superior Court, which shall retain jurisdiction over all such disputes. All
17 Parties to this Settlement Agreement shall be subject to the jurisdiction of this Court for all
18 purposes related to this Settlement Agreement.

19 12.17 The Court shall retain continuing and exclusive jurisdiction over the Parties to
20 this Settlement Agreement for the purpose of the administration and enforcement of this
21 Settlement Agreement.

22 12.18 The headings used in this Settlement Agreement are for the convenience of the
23 reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

24 12.19 In construing this Settlement Agreement, the use of the singular includes the
25 plural (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).
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SO STIPULATED.

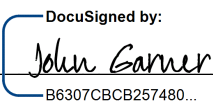
Date: _____, 2024

JULIE DEAN

Plaintiff

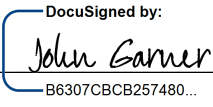
Date: August 8th, 2024

JOHN GERALD GARNER

Defendant  DocuSigned by:
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Date: August 8th, 2024

FREEMODEL, INC.

By:  DocuSigned by:
B6307CBCB257480...
John Garner
Title: CEO

APPROVED AS TO FORM

Date: _____, 2024

HUNTER PYLE LAW PC

Hunter Pyle
Andrea A. Núñez

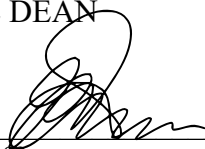
Attorneys for Plaintiff Julie Dean and the
putative class and aggrieved employees

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SO STIPULATED.

Date: August 12, 2024

JULIE DEAN



Plaintiff

Date: _____, 2024

JOHN GERALD GARNER

Defendant

Date: _____, 2024

FREEMODEL, INC.

By: _____
Title: _____

APPROVED AS TO FORM

Date: August 12, 2024

HUNTER PYLE LAW PC



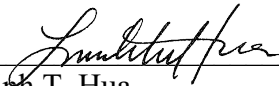
Hunter Pyle
Andrea A. Núñez

Attorneys for Plaintiff Julie Dean and the
putative class and aggrieved employees

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DATE: August 15, 2024

GORDON REES SCULLY
MANSUKHANI, LLP



Lin T. Hua
Simran Virdi

Attorneys for Defendants John Gerald
Garner and Freemodel, Inc.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT
SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ALAMEDA

Julie Dean v. Freemodel, Inc. et al., No. 23CV038315

You are receiving this Notice because you entered into a Project Director Agreement with Freemodel, Inc. and/or worked as a Project Director for Freemodel, Inc. in California between July 14, 2019, and the date of preliminary approval of the parties' settlement agreement by the Court (the "Class Period").

Current and former Project Directors for Freemodel, Inc. who fall in the above definition are referred to in this Notice as "Class Members."

Additionally, Class Members who were Project Directors for Freemodel, Inc. at any time during the period of July 20, 2022, through the date of Preliminary Approval of the parties' settlement agreement by the Court are referred to in this Notice as "Aggrieved Employees" under PAGA. "PAGA" refers to the Private Attorneys General Act.

All Aggrieved Employees are also Class Members; however, not all Class Members are Aggrieved Employees. Those Class Members who stopped working for Freemodel, Inc. before July 20, 2022, are not Aggrieved Employees.

The Superior Court of California, County of Alameda, authorized this Notice.
This is not a solicitation from a lawyer.

- This Notice contains important information about your legal rights as part of a class and PAGA action settlement. Please read it fully and carefully.
- Julie Dean is a former employee who filed a lawsuit against Freemodel, Inc. ("Freemodel") and John Gerald Garner. She is called "Plaintiff" in this Notice. Freemodel and John Gerald Garner are collectively referred to as "Defendants."
- The lawsuit is pending in the Superior Court of California, County of Alameda (Case No. 23CV038315) (the "Action"). Plaintiff, Freemodel, and John Gerald Garner are collectively referred to as the "Parties."
- Plaintiff's allegations are brought on her own behalf and on behalf of all Class Members and Aggrieved Employees, as defined in this Notice.
- Plaintiff has asserted a variety of claims, described in more detail below, against Defendants that pertain to misclassification and other alleged wage and hour violations.
- Defendants deny Plaintiff's allegations and deny that they violated the law in any manner and contend that their policies and practices have complied with the law at all times.
- The Court has not decided whether Defendants did anything wrong. The Court also has not decided whether Plaintiff's claims have merit.

- Under the proposed Stipulation of Settlement (“Settlement”), Defendants will pay a total of \$350,000 to be apportioned and paid among Class Members, after deductions for Court-approved payments for attorneys’ fees and costs, service payments to the Plaintiff, payment to the State of California for civil penalties under PAGA, and settlement administration costs.

YOUR OPTIONS	
Do Nothing	You will receive a proportionate share of the Settlement if final approval is granted and will give up any right to bring any claims in the future that are part of the Settlement.
Opt Out of the Settlement	If you opt yourself out of the Settlement, you will not receive an Individual Settlement Payment, but you will retain the right to assert claims that are included in the Settlement. By doing so, you will bear the risk that you may lose those claims. To opt out, you must timely write to the Settlement Administrator and follow the procedures described below. However, you may not exclude yourself from the PAGA Release, and the PAGA claims described in this Notice will be released even if you opt-out of the Settlement.
Object to the Settlement	If you disagree with any aspect of this Settlement, you may assert your objections by timely writing to the Settlement Administrator and filing with the Court your objection according to the procedures described below. If you opt out, you may not object. If you object, you will still be bound by the Settlement if it is approved by the Court.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and that approval becomes final, which may be after appeals (if any) are resolved. Please be patient.

BASIC INFORMATION

1. Why did I get this Notice, and why should I read this Notice?

The records of Freemodel indicate that you are a Class Member. If the Court approves the Settlement, you will receive a payment, and your legal rights will be affected. Thus, you have a right to information about the Settlement and your legal rights. That is the intent of this Notice.

2. What is this lawsuit about?

Plaintiff has asserted the following claims against Defendants on behalf of Class Members:

(1) Failure to reimburse business expenses; (2) failure to pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide off-duty meal periods; (5) failure to authorize and permit rest periods; (6) failure to provide accurate wage statements; and (7) unlawful business practices.

Plaintiff has asserted the following claims against Defendants on behalf of Aggrieved Employees:

Civil penalties pursuant to PAGA.

All of these claims are referred to in this Notice collectively as the “Released Claims.” They are detailed below in Section 12.

Defendants deny that the Claims are valid, deny that the Court should permit Plaintiff to bring the Claims on behalf of the Class Members and Aggrieved Employees, and contend that they complied with the law at all times.

3. What is a class action?

In a class action, one or more people sue on behalf of people who they allege have similar claims.

4. Why is there a settlement?

The Court has not yet decided in favor of Plaintiff or Defendants on the Claims being settled. Plaintiff believes she could recover a significant amount of business expenses, wages, penalties, and interest on behalf of the Class Members if she were to win at trial. On the other hand, Defendants deny all liability and believe that Plaintiff will not win anything in the case. After extensive negotiations, both sides have agreed to the Settlement of the Claims.

Plaintiff and Defendants have entered into the proposed settlement agreement voluntarily. The purpose of the Settlement is so that the risks and costs of trial, for both sides, are eliminated.

The Court has given its preliminary approval of the Settlement as fair and reasonable to the Class Members.

5. How do I know if I am part of the Settlement?

Everyone who fits this description is a Class Member: all individuals who entered into Project Director Agreements with Freemodel, Inc. and/or worked as Project Directors for Freemodel, Inc. in California between July 14, 2019, and the date of preliminary approval of the parties' settlement agreement by the Court (the "Class Period").

6. Are there exceptions to being included?

Yes. If you are a Class Member, you may opt out as stated in Section 13 below. If you do not opt out, you will receive part of the Settlement if approved.

However, if you are a PAGA Employee, you are not able to exclude yourself from the PAGA Release and you will receive an Individual PAGA Payment, whether or not you request exclusion from the Action and the Settlement. All claims for PAGA penalties are settled by operation of law.

7. What if I'm still not sure if I am included?

If you are still not sure whether you are included, you can call the Settlement Administrator at [Number] or write to the Settlement Administrator at [address]. You also may contact Class Counsel identified below for more information.

8. How much money is the Settlement for, and how is it allocated?

In exchange for the release of claims against them and final disposition of the Action, Defendants will pay a total of three-hundred and fifty thousand dollars and zero cents (\$350,000.00) ("Maximum Settlement Amount"). Plaintiff is asking the Court to approve the following payments that, if approved, will be deducted from the Maximum Settlement Amount.

- **Class Representative Service Award:** For acting as the Class Representative, Plaintiff will request from the Court a service award of no more than five thousand dollars and zero cents (\$5,000.00) in recognition of and as compensation for her efforts, such as starting the Action, volunteering time to assist with the Action, and providing information and documents, as well as risks she assumed in starting and assisting with the prosecution of the Action.
- **Class Counsel Award:** Class Counsel will request from the Court no more than one hundred twenty-two thousand, five hundred dollars and zero cents (\$122,500.00) as attorneys' fees for litigation and resolution of the Action. Class Counsel will also request from the Court reimbursement for actual litigation costs advanced on behalf of the class

members, which will be no more than twenty-five thousand dollars and zero cents (\$25,000.00).

- **PAGA Payment:** Defendants will pay a total payment of thirty-five thousand dollars and zero cents (\$35,000.00) as consideration for the PAGA Release. The PAGA Payment will be allocated exclusively as penalties under Labor Code section 2699, *et seq.* of which 75% (\$26,250.00) will be paid to the California Labor & Workforce Development Agency and the remainder (\$8,750.00) of which will be distributed to the Aggrieved Employees. The PAGA Payment shall be payable from the Maximum Settlement Amount.
- **Claims Administrator Expenses:** The costs of settlement administration will not exceed four thousand dollars and zero cents (\$4,000.00), which pays for tasks such as mailing and tracking this Notice, mailing checks and tax forms, and reporting to the parties and the Court. Any amount ordered by the Court for settlement administration will be paid from the Maximum Settlement Amount.

After Court-approved payments for attorneys' fees and costs, Plaintiff's service award, if any, the PAGA Payment to be paid to the State, and settlement administration costs are deducted from the Maximum Settlement Amount, the remaining "Net Settlement Amount" will be distributed to Class Members.

The Settlement Administrator will apportion the Net Settlement Amount to be paid to Class Members based on their number of semi-monthly periods worked during the Class Period, as explained below.

9. How much will my payment be, and what is the information used to calculate my share?

Based on the calculation described above, it is currently estimated that your share of the Settlement will be [amount].

This amount could change based on how many Class Members opt out or based on further determinations by the Claims Administrator or rulings by the Court.

If you are entitled to an Individual Settlement Payment, the Settlement Administrator will allocate twenty percent (20%) as reimbursement of expenses, twenty percent (20%) as interest, and sixty percent (60%) as penalties, all of which will be reported on IRS Form 1099, if applicable ("Individual Settlement Payment").

If you are entitled to an Individual PAGA Payment under the Settlement, the Claims Administrator will allocate one hundred percent (100%) of the PAGA payment as penalties, which will be reported on IRS Form 1099 ("Individual PAGA Payment").

No other tax or deductions will be taken out of your share of the Settlement. Ultimately, you are responsible for all tax liability in relation to payments to you under the Settlement.

This Notice is not tax advice. Do not ask Class Counsel or Defendants or its counsel for tax advice, as they will not provide it. You should consult your own tax advisor.

Freemodel's records show that the following information is pertinent to the calculation of your estimated share of the Settlement:

- Your number of semi-monthly periods during the Class Period is [number].
- Your number of semi-monthly periods during the "PAGA Period" (July 20, 2022, through the date of Preliminary Approval of the parties' settlement agreement by the Court) is [number].

If you disagree with this information, you must notify the Claims Administrator by writing to them at the address set forth in paragraph 7. Be sure to include your full name, email address, mailing address, telephone number, last four digits of your social security number, and all supporting documentation, and sign your document.

Your notification must be signed and postmarked no later than [60 days from mailing]. After inquiring further of Freemodel, the Claims Administrator will make a final decision of dispute.

10. How can I get a payment?

You do not need to do anything to qualify for a payment. It is important that you immediately notify the Claims Administrator if your mailing address is different from the address to which this Notice was sent, or if that address changes.

11. When will I receive a payment?

Payments will be distributed under a schedule established by the Settlement and by the Court. Presently, the expected date of payment is estimated to be [date]. This could change depending on factors influencing the Claims Administrator's tasks, any objections to the Settlement, and actions by the Court.

12. What am I giving up to get a payment?

In exchange for the Settlement payment, each Class Member (except those who properly opt out) will release the following Released Claims: all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, from July 14, 2019, through the date of preliminary approval of the parties' settlement agreement by the Court ("Relevant Time Period"), known or unknown, suspected or unsuspected, that each participating class member had, now has, or may hereafter claim to have during the Relevant Time Period against Defendants, its agents, officers, employees, directors, owners, subsidiaries, DBA's, affiliates and predecessor, successor, and parent companies, ("Released Parties") and that were asserted in the Action, or that arise from or could have been asserted based on any of the facts alleged in Plaintiff's First Amended Complaint ("Complaint") and/or Notice to the California Labor Workforce Development Agency, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation,

common law, or other source of law (“the Released Claims”). The Released Claims specifically include, but are not limited to Labor Code §§ 226, 226.2, 226.7, 510, 512, 1182.11–1182.13, 1194, 1194.2, 1197, 1198, and 2802 and the related IWC Wage Order No. 4-2001 and Business & Professions Code §§ 17200, et seq. claims based on alleged violations of these Labor Code and Wage Order provisions) and all other claims, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law, that could have been pleaded based on the facts asserted in the Action, including: (1) Failure to Reimburse Business Expenses; (2) Failure to Pay Minimum Wages; (3) Failure to Pay Overtime Wages; (4) Failure to Provide Off-Duty Meal Periods; (5) Failure to Authorize and Permit Rest Periods; (6) Failure to Provide Accurate Wage Statements; (7) Unlawful Business Practices; (8) Civil Penalties Pursuant to PAGA as described in Plaintiff’s letter to the LWDA, dated July 20, 2023, as well as interest, fees, and costs. The enumeration of these specific statutes shall neither enlarge or narrow the scope of *res judicata* based on the claims that were asserted in the Action or could have been asserted in the Action based on the facts and circumstances alleged in any complaint on file in the Action.

13. How do I opt out of the Settlement?

To exclude yourself from the Settlement, you must send a signed letter by mail to the Claims Administrator stating words to the effect of “I wish to be excluded from the Settlement Class.” You must also include your name, signature, mailing address, and telephone number.

Your request to opt out of the Settlement must be postmarked no later than [60 days from mailing] to the Claims Administrator at the address in paragraph 7.

If you ask to be excluded, you will not be legally bound by the Settlement if approved. You will not get any Individual Settlement Payment from the Settlement, and you will not be allowed to object to the Settlement.

14. If I don’t exclude myself, can I sue Defendants for the same thing later?

No. Unless you exclude yourself, you will give up any right to sue Defendants for the claims that this Settlement resolves. If you have a pending lawsuit for the same claims that are being settled against Defendants, speak to your lawyer in that case immediately. You must exclude yourself from this Settlement in order to continue your own lawsuit if it involves the same claims. However, you are not able to exclude yourself from the PAGA Release.

15. If I exclude myself, can I get money from this Settlement? Will any money be returned to Defendants?

No. If you exclude yourself, you will not receive any money from this Settlement except for your Individual PAGA Payment if you are an Aggrieved Employee. If you exclude yourself from the Settlement, the monies you would have received will be distributed on a pro-rata basis to all the other Class Members. No money will revert to Defendants.

16. Who is my legal representative in this case?

The Court has appointed as Class Counsel the following attorneys:

HUNTER PYLE LAW, PC

Hunter Pyle, Esq.
Andrea A. Núñez, Esq.
505 14th Street, Suite 600
Oakland, California 94612
Telephone: (510) 444-4400
Facsimile: (510) 444-4410
hunter@hunterpylelaw.com
anunez@hunterpylelaw.com

You will not be charged for the work performed by these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you have questions about this Settlement, you may contact Class Counsel. They will consult with you and attempt to answer your questions. Do not contact Defendants with any questions about the Settlement.

17. How do I object to the Settlement?

If you are a Class Member and do not opt out, you can object to the Settlement if you don't like any part of it. However, the Court cannot order a larger settlement. The Court can only approve or deny the proposed Settlement.

If the Court denies approval, no settlement payments will be sent out, and the Action will continue. If that is what you want, you must object. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views.

To object to the Settlement, you must send a written objection to the Court no later than **[60 days from mailing]** and to the Claims Administrator at the address in paragraph 7. Your objection must include your full name, address, telephone number, the last four digits of your Social Security Number, and your signature, as well as the case name and number. It must set forth, in clear and concise terms, a statement of the specific reasons why you believe the Court should find that the Settlement is not in the best interest of the Class Members and the reasons why the Settlement should not be approved. Your objection must state whether it applies only to the objector, to a specific subset of the class, or to the entire class.

If you also wish to appear at the Fairness Hearing, in person or through an attorney, you must *also* file a notice of your intention to appear at the same time as the objection is filed. You must state whether you plan to appear either remotely, in person, or through counsel, and, if through counsel, submit a statement identifying that counsel by name, bar number, address, and telephone number.

Unless otherwise ordered by the Court, you will not be entitled to speak at the Final Approval Hearing unless you have submitted a timely written objection and notice of intention to appear.

18. What's the difference between objecting and opting out?

Objecting is simply saying that you don't like something about the Settlement and do not want it approved. Opting out is saying that you don't want to be part of the Class and participate in the Settlement of the Class Claims. If you opt out, you have no basis to object because the case no longer affects you.

19. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at [REDACTED] a.m. on [REDACTED], in Department 23 of the Alameda County Superior Court, located at 1225 Fallon Street Oakland, CA 94612. At this hearing, the Court will make a final decision as to whether the Settlement is fair, reasonable, and adequate. If you or other Class Members object to the Settlement, the Court will consider the objections. At or after the hearing, the Court will decide whether to grant final approval to the Settlement. At the Fairness Hearing, the Court may continue the hearing to another date without additional notices being sent out.

20. Do I have to come to the hearing?

No. Class Counsel will answer questions the Judge may have. You are welcome to come at your own expense. If you properly submit an objection, you do not have to come to Court to talk about it. As long as you properly submit your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

21. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. You cannot appear and speak at the hearing if you opt out.

22. What happens if I do nothing at all?

If you do nothing, or fail to act timely, you'll receive your share of the Settlement, but you will be barred from bringing the Released Claims against Defendants as described in paragraph 12.

23. Can Freemodel retaliate against me for participating in this Settlement?

California law makes it unlawful to retaliate against you for participating in a lawsuit like this one.

This Notice is intended as a summary and does not fully describe this action, the claims, the defenses, or the proposed Settlement, which is subject to the terms and conditions of the Stipulation of Settlement filed with the Court and as preliminarily approved by the Court. For the precise terms and conditions of the Settlement, you are referred to the detailed Stipulation of Settlement, which is on file with the Clerk of the Court. The pleadings and other records in this Action, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Alameda's Electronic Filing and Service Website at <https://eportal.alameda.courts.ca.gov/>, or (b) in person at the George E. McDonald Hall of Justice | 2233 Shore Line Drive | Alameda, CA 94501, between the hours of 8:30 a.m. and 3:00 p.m. on weekdays, excluding Court holidays and closures.

For further information, you may call or contact the Claims Administrator (see paragraph 7) or Class Counsel (see paragraph 16). Do not contact Defendants.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR DEFENDANTS OR ITS COUNSEL WITH INQUIRIES.

Date: _____

This Notice has been approved by the Judge of the Superior Court of California, County of Alameda, responsible for overseeing and deciding this case.