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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

ZAKKERY ALLEN SMITH and FAIZA
SAID HAWK, on behalf of others similarly
situated and the State of California under the
Private Attorneys General Act,

Plaintiffs,

v.

GRAPHIC BUSINESS SOLUTIONS, INC.
and DOES 1 through 50, inclusive,

Defendant.

Case No. 37-2024-00027166-CU-OE-CTL

Hon. James A. Mangione

Dept. 75

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: June 10, 2024

Trial Date: None Set

1 **PETTIT KOHN INGRASSIA LUTZ & DOLIN PC**

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1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiffs Zakkery Allen Smith (“Plaintiff Smith) and Faiza Said Hawk (“Plaintiff
3 Hawk”) (collectively, “Plaintiffs”) and Defendant Graphic Business Solutions, Inc.
4 (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or
5 individually as “Party.”

6 **1. DEFINITIONS**

7 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against
8 Defendant, captioned *Zakkery Allen Smith and Faiza Said Hawk v. Graphic Business Solutions,*
9 *Inc.*, Case No. 24CU020587C, initiated on June 10, 2024, and pending in San Diego Superior
10 Court.

11 1.2. “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties
12 have agreed to appoint to administer the Settlement.

13 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
14 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
15 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
16 Preliminary Approval of the Settlement.

17 1.4. “Aggrieved Employee” means a person employed by Defendant in California and
18 classified as a non-exempt, hourly-paid employee who worked for Defendant during the PAGA
19 Period.

20 1.5. “Class” means all persons employed by Defendant in California and classified as a non-
21 exempt, hourly-paid employee who worked for Defendant during the Class Period.

22 1.6. “Class Counsel” means David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group,
23 P.C., as well as Nicholas J. Ferraro and Lauren N. Vega of Ferraro Vega Employment Lawyers,
24 Inc.

25 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
26 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
27 expenses, respectively, incurred to prosecute the Action.

28 1.8. “Class Data” means Class Member identifying information in Defendant’s custody,

possession, or control, including the Class Member's (1) name; (2) last known address(es); (3) last known telephone number(s); (4) last known Social Security Number(s); and (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

1.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. "Class Period" means the period from June 10, 2020 through July 8, 2025.

1.13. "Class Representative" means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. "Class Representative Service Payment" means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of. San Diego.

1.16. "Defendant" means named defendant Graphic Business Solutions, Inc..

1.17. "Defense Counsel" means Christine Y. Clark and Nicole D. Allen of Pettit Kohn Ingrassia Lutz & Dolin PC.

1.18. "Effective Date" means the later of: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the

Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final Approval.

1.22. “Gross Settlement Amount” means \$375,000.00 (Three Hundred Seventy-Five Dollars and Zero Cents.) which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 8.1 below, and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and Administrator’s Expenses.

1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

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

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

1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel

Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

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

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

1.31. “PAGA Period” means the period from May 30, 2023 through July 8, 2025.

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

1.33. “PAGA Notices” means Plaintiffs’ respective letters to Defendant and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$9,375) and the 75% to the LWDA (\$28,125) in settlement of PAGA claims.

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

1.36. “Plaintiffs” means Zakkery Allen Smith and Faiza Said Hawk, the named plaintiffs in the Action.

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

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

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

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

1.41. “Released Parties” means: Defendant, and each of its former, present and future owners, parents, and subsidiaries, and all of its current, former, and future officers, directors, members,

managers, employees, consultants, partners, shareholders, joint ventures, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

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

1.43. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline has expired.

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

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

2. RECITALS

2.1. On May 30, 2024, Plaintiff Smith filed with the LWDA and served on Defendant a notice under Labor Code section 2699.3 stating Plaintiffs Smith intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for alleged Labor Code violations (“Smith PAGA Notice”).

2.2. On June 10, 2024, Plaintiff Smith filed his class action complaint against Defendant in the San Diego County Superior Court, case number 37-2024-0027166-CU-OE-CTL. In his complaint, Plaintiff Smith alleged the following causes of action: (1) Minimum Wage Violations, (2) Failure to Pay All Overtime Wages, (3) Meal Period Violations, (4) Rest Period Violations, (5) Paid Sick Leave Violations, (6) Untimely Payment of Wages, (7) Wage Statement Violations, (8) Waiting Time Penalties, (9) Failure to Reimburse Business Expenses, and (10) Unfair Competition. (“Smith Action”).

2.3. On June 20, 2024, Plaintiff Hawk filed with the LWDA and served on Defendant a notice

1 under Labor Code section 2699.3 stating Plaintiff Hawk intended to serve as a proxy of the
2 LWDA to recover civil penalties on behalf of Aggrieved Employees for alleged Labor Code
3 violations (“Hawk PAGA Notice” and with the Smith PAGA Notice, the “PAGA Notices”).

4 2.4. On August 5, 2024, Plaintiff Smith filed his First Amended Class and Representative
5 Action Complaint against Defendant in the Smith Action in the San Diego County Superior
6 Court. In his amended complaint, Plaintiff Smith alleged the following causes of action: (1)
7 Minimum Wage Violations, (2) Failure to Pay All Overtime Wages, (3) Meal Period Violations,
8 (4) Rest Period Violations, (5) Paid Sick Leave Violations, (6) Untimely Payment of Wages, (7)
9 Wage Statement Violations, (8) Waiting Time Penalties, (9) Failure to Reimburse Business
10 Expenses, (10) Unfair Competition; and (11) Civil Penalties under the Private Attorneys General
11 Act (Labor Code §§ 2698 *et seq.*) (“Plaintiff Smith’s First Amended Complaint”).

12 2.5. On September 16, 2024, Plaintiff Hawk filed her class action complaint against Defendant
13 in the San Diego County Superior Court, case number 24CU01195C. In her complaint, Plaintiff
14 Hawk alleged the following causes of action: (1) Failure to Pay Overtime Wages, (1) Failure to
15 Pay Minimum Wages, (3) Failure to Provide Meal Periods, (4) Failure to Provide Rest Periods,
16 (5) Waiting Time Penalties, (6) Wage Statement Violations, (7) Failure to Timely Pay Wages,
17 (8) Failure to Indemnity, (9) Violation of Labor Code § 227.3, and (10) Unfair Competition.
18 (“Plaintiff Hawk’s Class Complaint”)(“Hawk Class Action”).

19 2.6. On November 1, 2024, Plaintiff Hawk filed a separate Complaint under the Labor Code
20 Private Attorneys General Act of 2004 for Civil Penalties under Labor Code Sections 210, 226.3,
21 558, 1174.5, 1197.1, and 2699 against Defendants in the San Diego County Superior Court, case
22 number 24CU020587C (“PAGA Complaint”). In her PAGA complaint, Plaintiff Hawk alleged
23 a single cause of action for civil penalties under California Labor Code sections 2698 *et seq.*
24 (“Plaintiff Hawk’s PAGA Complaint”) (“Hawk PAGA Action”).

25 2.7. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

26 2.8. Parties agreed to stay formal discovery and instead exchanged documents and data
27 informally, including (a) time records, payroll records, employee handbooks, and personnel files
28 relevant to the claims and a sampling of documents, data, and information related to Plaintiffs’

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

2.9. The Parties participated in a private mediation on April 8, 2025, conducted by Monique Ngo-Bonnici, Esq., which resulted in a settlement in principle resolving all class and PAGA claims in the Smith Action, Hawk Class Action, and Hawk PAGA Actions.

2.10. As part of the Settlement, the Parties agreed to file an amended complaint in the Smith Action to include all claims in the Hawk Class Action and Hawk PAGA Action and thereafter dismiss the Hawk Class Action and Hawk PAGA Action without prejudice, thereby effectively consolidating the three actions. The Second Amended Complaint filed by Plaintiffs in the Smith Action shall be the "Operative Complaint" and the Smith Action shall be the lead case name and number of the consolidated Actions.

2.11. The Court has not granted class certification.

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

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below, Defendant promises to pay \$375,000.00 as the Gross Settlement Amount, unless increased pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

1 in the Final Approval:

2 3.2.1. To Plaintiffs: Class Representative Service Payment to Plaintiffs of not more than
3 \$10,000 to each plaintiff, for a total of \$20,000.00 to Plaintiffs, in addition to any
4 Individual Class Payment and any Individual PAGA Payment Plaintiffs are entitled to
5 receive as a Participating Class Member. Defendant will not oppose Plaintiffs' request
6 for a Class Representative Service Payment that does not exceed this amount. As part
7 of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment,
8 Plaintiffs will seek Court approval for any Class Representative Service Payments prior
9 to the Final Approval Hearing. If the Court approves a Class Representative Service
10 Payment less than the amount requested, the Administrator will retain the remainder in
11 the Net Settlement Amount. The Administrator will pay the Class Representative
12 Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and
13 liability for employee taxes owed on the Class Representative Service Payment.

14 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the
15 Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this
16 Agreement, is currently estimated to be \$131,250.00 and a Class Counsel Litigation
17 Expenses Payment of not more than \$50,000.00. Defendant will not oppose requests for
18 these payments provided that do not exceed these amounts. Plaintiffs and/or Class
19 Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class
20 Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves
21 a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less
22 than the amounts requested, the Administrator will allocate the remainder to the Net
23 Settlement Amount. Released Parties shall have no liability to Class Counsel or any
24 other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee
25 Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will
26 pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one
27 or more IRS 1099 Forms. Class Counsel assume full responsibility and liability for taxes
28 owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses

1 Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute
2 or controversy regarding any division or sharing of any of these Payments. There will
3 be no additional charge of any kind to either the Settlement Class Members or request
4 for additional consideration from Defendant for such work unless, Defendant materially
5 breaches this Agreement, including any term regarding funding, and further efforts are
6 necessary from Class Counsel to remedy said breach, including, without limitation,
7 moving the Court to enforce the Agreement. Should the Court approve attorneys' fees
8 and/or litigation costs and expenses in amounts that are less than the amounts provided
9 for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

10 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
11 \$6,000.00 except for a showing of good cause and as approved by the Court. To the
12 extent the Administration Expenses are less or the Court approves payment less than
13 \$6,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

18 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
19 Class Member's Individual Class Payment will be allocated to settlement of
20 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
21 withholding and will be reported on an IRS W-2 Form. The 80% of each
22 Participating Class Member's Individual Class Payment will be allocated to
23 settlement of claims for interest and penalties (the "Non-Wage Portion"). The
24 Non-Wage Portions are not subject to wage withholdings and will be reported
25 on IRS 1099 Forms. Participating Class Members assume full responsibility
26 and liability for any employee taxes owed on their Individual Class Payment.

27 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
28 Class Payments. Non-Participating Class Members will not receive any

Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$37,500.00 to be paid from the Gross Settlement Amount, with 75% (28,125.00) allocated to the LWDA PAGA Payment and 25% (\$9,375.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$9,375.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 109 Class Members who collectively worked a total of 11,289 Workweeks, and 73 Aggrieved Employees who worked a total of 2,736 PAGA Pay Periods.

4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator

employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator in three installments: (1) the first installment payment of \$187,500.00 shall be made within 90 days of Final Approval of the Settlement, (2) the second installment payment of \$93,750.00 shall be made within 90 days of the first installment payment, and (3) the third and final installment payment of \$93,750.00 shall be made within 90 days of the second installment payment. Defendant's share of payroll taxes shall be determined by the Settlement Administrator chosen by Plaintiffs.

4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments, and the Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator

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

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

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the *cy pres* recipient, Legal Aid at Work, 180 Montgomery Street, Suite 600, San Francisco, California 94104 for use in any county in need in California.

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses or other employment benefits) beyond those specified in this Agreement. Defendant will also separately pay the employer's share of payroll taxes as required by law, which is not

1 included in the Gross Settlement Amount.

2 **5. RELEASE OF CLAIMS**

3 Effective upon entry of Judgment, the Order granting Final Approval of this Settlement,
4 and on the date when Defendant fully fund the entire Gross Settlement Amount and fund all
5 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs,
6 Class Members, and Class Counsel will release claims against all Released Parties as follows:

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

20 5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For
21 purposes of Plaintiffs' Release only, Plaintiffs expressly waive and relinquish the
22 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
23 which reads:

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

27 5.2. Release by Participating Class Members: For the duration of the Class Period, all
28 Participating Class Members, on behalf of themselves and their respective former and present

1 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the
2 Released Parties from all claims that were alleged, or reasonably could have been alleged, based
3 on the facts stated in the Operative Complaint.

4 5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not
5 release any other claims, including claims for vested benefits, wrongful termination, violation of
6 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
7 workers' compensation, or claims based on facts occurring outside the Class Period.

8 5.4. Release by Aggrieved Employees: For the duration of the PAGA Period, all Aggrieved
9 Employees are deemed to release, on behalf of themselves and their respective former and present
10 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
11 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been
12 alleged, based on the facts stated in the Operative Complaint and the PAGA Notices.

13 **6. MOTION FOR PRELIMINARY APPROVAL**

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

17 6.1. Defendant's Declaration in Support of Preliminary Approval. Within 7 days of full
18 execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
19 declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or
20 potential conflicts of interest with the Administrator and Cy Pres Recipient.

21 6.2. Plaintiffs' Responsibilities. Plaintiffs will prepare and to deliver to Defense Counsel all
22 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
23 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
24 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor
25 Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and
26 Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from
27 the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting
28 to its willingness to serve; competency; operative procedures for protecting the security of Class

1 Data; amounts of insurance coverage for any data breach, defalcation of funds or other
2 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
3 and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense
4 Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve
5 and disclosing all facts relevant to any actual or potential conflicts of interest with Class
6 Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to
7 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA
8 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
9 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,
10 subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class
11 Members and the Administrator.

12 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
13 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
14 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
15 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
16 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
17 Administrator.

18 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
19 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
20 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
21 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
22 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
23 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
24 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
25 Court's concerns.

26 **7. SETTLEMENT ADMINISTRATION**

27 7.1. Selection of Administrator. Plaintiffs have selected Phoenix Settlement Administrators
28 to serve as the Administrator and verified that, as a condition of appointment, Phoenix Settlement

Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

7.4. Notice to Class Members

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

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

7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a

forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

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

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or their representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it

1 fails to contain all the information specified in the Class Notice. The Administrator
2 shall accept any Request for Exclusion as valid if the Administrator can reasonably
3 ascertain the identity of the person as a Class Member and the Class Member's desire
4 to be excluded. The Administrator's determination shall be final and not appealable or
5 otherwise susceptible to challenge. If the Administrator has reason to question the
6 authenticity of a Request for Exclusion, the Administrator may demand additional proof
7 of the Class Member's identity. The Administrator's determination of authenticity shall
8 be final and not appealable or otherwise susceptible to challenge.

9 7.5.3. Every Class Member who does not submit a timely and valid Request for
10 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
11 to all benefits and bound by all terms and conditions of the Settlement, including the
12 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,
13 regardless whether the Participating Class Member actually receives the Class Notice
14 or objects to the Settlement.

15 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
16 Non-Participating Class Member and shall not receive an Individual Class Payment or
17 have the right to object to the class action components of the Settlement. Because future
18 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
19 Participating Class Members who are Aggrieved Employees are deemed to release the
20 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
21 PAGA Payment.

22 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
23 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
24 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
25 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge
26 the allocation by communicating with the Administrator via mail. The Administrator must
27 encourage the challenging Class Member to submit supporting documentation. In the absence
28 of any contrary documentation, the Administrator is entitled to presume that the Workweeks

1 contained in the Class Notice are correct so long as they are consistent with the Class Data. The
2 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
3 Periods shall be final and not appealable or otherwise susceptible to challenge. The
4 Administrator shall promptly provide copies of all challenges to calculation of Workweeks
5 and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination
6 the challenges.

7 **7.7. Objections to Settlement**

8 7.7.1. Only Participating Class Members may object to the class action components of
9 the Settlement and/or this Agreement, including contesting the fairness of the
10 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
11 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

12 7.7.2. Participating Class Members may send written objections to the Administrator, by
13 mail. In the alternative, Participating Class Members may appear in Court (or hire an
14 attorney to appear in Court) to present verbal objections at the Final Approval Hearing.
15 A Participating Class Member who elects to send a written objection to the
16 Administrator must do so not later than 45 days after the Administrator's mailing of the
17 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
18 mailed).

19 7.7.3. Non-Participating Class Members have no right to object to any of the class action
20 components of the Settlement.

21 **7.8. Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be
22 performed or observed by the Administrator contained in this Agreement or otherwise.

23 7.8.1. **Website, Email Address and Toll-Free Number.** The Administrator will maintain
24 and use an internet website to post information of interest to Class Members including
25 the date, time and location for the Final Approval Hearing and copies of the Settlement
26 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
27 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
28 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,

the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.

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

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

7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5. Administrator’s Declaration. Before the date by which Plaintiffs is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class

Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 109 Class Members and 11,289 Total Workweeks during the Class Period and (2) there are 146 Aggrieved Employees who worked 2,736 Pay Periods during the PAGA Period.

8.1. Increase in Workweeks. Defendant represents that there are no more than 11,289 Workweeks worked during the Class Period. In the event the number of Workweeks worked increases by more than 10%,(i.e., an additional 1,129 Workweeks worked for a total of 12,418 Workweeks), then Defendant shall make an election that one of the following occur: (1) either the GSA shall be increased proportionally by the Workweeks worked in excess of 12,418, multiplied by the Workweek Value; or (2) the Class Period and PAGA Period (as well as the end date for the release period) will end on the date that the number of Workweeks worked by Class

Members, when starting from the first day of the Class Period, reaches 12,418 Workweeks worked by Class Members. The Workweek Value shall be calculated by dividing the GSA by 11,289 and, thus, the Parties agree that the Workweek Value amounts to, and the settlement amounts, to \$33.22 per Workweek ($\$375,000 / 11,289$ Workweeks). Thus, for example, should Defendant elect the former of the two options, and there are 13,547 Workweeks in the Class Period, then the GSA shall be increased by \$37,472.16. $((13,547 \text{ Workweeks} - 12,419 \text{ Workweeks}) \times \$33.22 / \text{Workweek})$. Defendant must exercise its selection pursuant to this Paragraph at least 60 days before the first set Motion for Preliminary Approval or it will be assumed Defendant has elected Option 1 in this Paragraph. Any said election may be reflected by declaration testimony, an addendum of the settlement, or an amendment thereto. Thus, for example, should there be 13,547 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by \$37,472.16 $((13,547 - 12,418) \times \$33.22)$

9. MOTION FOR FINAL APPROVAL

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

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

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

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

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

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

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

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

10. AMENDED JUDGMENT

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

11. ADDITIONAL PROVISIONS

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

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

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

10 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
11 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
12 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s
13 ability to communicate with Class Members in accordance with Class Counsel’s ethical
14 obligations owed to Class Members.

15 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
16 together with its attached exhibits shall constitute the entire agreement between the Parties
17 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
18 inducements made to or by any Party.

19 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
20 represent that they are authorized by Plaintiffs and Defendant, respectively, to take all
21 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
22 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
23 terms of this Agreement including any amendments to this Agreement.

24 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
25 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
26 Settlement Agreement, submitting supplemental evidence and supplementing points and
27 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
28 or content of any document necessary to implement the Settlement, or on any modification of the

Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

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

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

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

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

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

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

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

1 the execution of this Agreement

2 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
3 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant
4 in connection with the mediation, other settlement negotiations, or in connection with the
5 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
6 be used in any way that violates any existing contractual agreement, statute, or rule of court.

7 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
8 inserted for convenience of reference only and does not constitute a part of this Agreement.

9 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
10 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
11 weekend or federal legal holiday, such date or deadline shall be on the first business day
12 thereafter.

13 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
14 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
15 be accepted as an original. All executed counterparts and each of them will be deemed to be one
16 and the same instrument if counsel for the Parties will exchange between themselves signed
17 counterparts. Any executed counterpart will be admissible in evidence to prove the existence
18 and contents of this Agreement.

19 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
20 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
21 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
22 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
23 process.

24 11.19. Severability. In the event that one or more of the provisions contained in this Agreement
25 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
26 illegality, or unenforceability shall in no way effect any other provision if Defendant’s Counsel
27 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
28 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this

Agreement.

IT IS SO AGREED:

Zakkery Smith

Josh Hamilton

Plaintiff, Zakkery Allen Smith

For Defendant, Graphic Business Solutions, Inc.
DBA House of Magnets

Faiza Hawk

Plaintiff, Faiza Said Hawk

AGREED AS TO FORM ONLY:

Bibiyan Law Group, P.C.

Pettit Kohn Ingrassia Lutz & Dolin P.C.

Vedang J. Patel

Christine Y. Clark

David D. Bibiyan

Vedang J. Patel

Counsel for Plaintiff Faiza Said Hawk

Christine Y. Clark

Nicole D. Allen

Counsel for Defendant Graphic Business
Solutions, Inc.

Ferraro Vega Employment Lawyers, Inc.

Nicholas J. Ferraro

Nicholas J. Ferraro

Lauren N. Vega

Xavier L. Woodford

Counsel for Plaintiff Zakkery Allen Smith

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