

CLASS ACTION SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action Settlement Agreement (“Agreement”) is made by and between plaintiffs Meth Bandara, Justin Dungee, Cory Lee Granet, Thomas Price, Portia Bartley, Asha Doucet, and Laith A. De La Cruz (“Plaintiffs”) and defendants Bonobos, Inc. and Observatory Marketing, LLC (“Bonobos” and “Observatory,” respectively). The Agreement refers to Plaintiffs, Bonobos and Observatory collectively as “Parties,” or individually as a “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against Bonobos and Observatory captioned *Bandara et al. v. Bonobos, Inc. et al.*, Case No. 20STCV27353, initiated on July 21, 2020 and pending in the Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means ILYM, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to cover fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Class” means all persons who participated in Project 172/Evolve the Definition as talent (models and actors) in which the fitting days took place on March 23, 2018 through March 25, 2018, and the shoot took place on March 26, 2018 and March 27, 2018, and who were paid a daily rate for their participation in Project 172/Evolve the Definition.
- 1.5. “Class Counsel” means Frank H. Kim and Helen U. Kim, Helen Kim Law, APC and Dara Tabesh of Ecotech Law Group, P.C.
- 1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.7. “Class Data” means contact information for the Class Member or the Class Member’s agent as filled out by the Class Member on paperwork submitted to Bonobos and/or Observatory, which may include name, last-known mailing address, phone number, e-mail address and/or Social Security number but which cannot be verified by the Parties to be currently accurate, to be provided to the Administrator by Plaintiffs’ Counsel or Observatory.
- 1.8. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member.
- 1.9. “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.

- 1.10. “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 the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.11. “Class Period” means the period from July 21, 2016 to the date on which the Court signs the Preliminary Approval Order.
- 1.12. “Class Representatives” means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as Class Representatives.
- 1.13. “Class Representative Service Payment” means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.14. “Court” means the Superior Court of California, County of Los Angeles.
- 1.15. “Defendants” means Bonobos and Observatory. “Bonobos” means named Defendant Bonobos, Inc. and “Observatory” means named Defendant Observatory Marketing, LLC.
- 1.16. “Defense Counsel” means Liat Yamini of Jones Day and Jeffrey N. Williams of Wargo, French & Singer LLP.
- 1.17. “Effective Date” means the date by when both of the following have occurred: (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.
- 1.18. “Employee Taxes” means the Class Members’ share of all applicable payroll taxes or withholdings related to the wage portion of Individual Class Payments received under the Settlement. Plaintiffs and Participating Class Members bear full responsibility for payment of any personal income taxes, interest or penalties arising from Individual Settlement Payments or Incentive Awards paid to them.
- 1.19. “Employer Payroll Taxes” means Defendants’ share of applicable payroll taxes, such as FICA and FUTA, for that portion of the Individual Class Payments attributed to wages. Any payroll taxes owed by Defendants as a result of the

Individual Class Payments to Participating Class Members shall be paid out of the Gross Settlement Amount.

- 1.20. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.22. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.23. “Gross Settlement Amount” means a sum not to exceed Four Hundred Eighty Thousand Dollars and Zero Cents (\$480,000.00), which represents the maximum amount Defendants agree to pay under the Settlement, except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to fund the Qualified Settlement Fund, which will pay Individual Class Payments, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments, Employer Payroll Taxes, Employee Taxes, and any other costs or expenses related to the Settlement and the Administrator’s Expenses. Under no circumstances shall Defendants have an obligation to pay anything more than the Gross Settlement Amount.
- 1.24. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount, less an amount sufficient to pay the Employee and Employer Taxes required.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.27. “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.
- 1.28. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.29. “Plaintiffs” means Meth Bandara, Justin Dungee, Cory Lee Granet, Thomas Price, Portia Bartley, Asha Doucet, and Laith A. De La Cruz, i.e., the named plaintiffs in the Action.
- 1.30. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval

of the Settlement.

- 1.31. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval.
- 1.32. “Qualified Settlement Fund” shall mean the Qualified Settlement Fund established by the Claims Administrator for the benefit of the Class Members and from which all payments under this Settlement shall be paid.
- 1.33. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.
- 1.34. “Released Parties” means: Bonobos and Observatory, their respective parent companies, subsidiaries, affiliates and agents, and each of their respective former and present directors, officers, shareholders, owners, members, employees, attorneys, insurers, predecessors, successors, and assignees (in their individual and/or official capacities).
- 1.35. “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.
- 1.36. “Response Deadline” means thirty (30) days after the Administrator mails Notice to Class Members, and shall be the last date on which Class Members may:
(a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail an Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) days.
- 1.37. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS.

- 2.1. On July 21, 2020, Plaintiff Meth Bandara commenced the Action by filing a Complaint alleging causes of action against Defendants for numerous wage and hour claims under a joint employer theory regarding a photo/video commercial shoot or shoots entitled Project 172/Evolve the Definition. On January 26, 2021, Plaintiffs filed a First Amended Complaint against the Defendants alongside additional parties who they voluntarily dismissed shortly thereafter. Then, on May 21, 2021, Plaintiffs filed the Second Amended Complaint (the “Operative Complaint”). Bonobos and Observatory deny that they were the employers or joint employers of Plaintiffs or any Class Members, deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in in the Operative Complaint and deny any and all liability for the causes of action alleged in the Action.
- 2.2. On October 27, 2022, the Parties participated in a full day mediation presided over by Cynthia Remmers, which resulted in settlement of the entire action.

- 2.3. Prior to mediation, through formal and informal pre-mediation discovery, the Parties exchanged documents and information related to Project 172/Evolve the Definition. Bonobos served requests for production, special interrogatories, and notices of depositions on all Plaintiffs. Plaintiff Meth Bandara responded to Bonobos' requests for production, and was subsequently deposed. As a condition of mediation, Defendants produced to Plaintiffs 1,000+ pages of documents related to Project 172/Evolve the Definition including records of hours Class Members were on set, talent/release agreements for all Class Members and records of payments Class Members received for their participation in Project 172. 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.
- 2.4. The Court has not granted class certification. The Parties agreed to proceed to mediation before the class certification deadlines. No trial date had been set.
- 2.5. 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 9 below, Defendants will pay a combined total of \$480,000, and no more, as the Gross Settlement Amount. Bonobos will contribute \$240,000 towards the Gross Settlement Amount and no more, and Observatory will contribute \$240,000 towards the Gross Settlement Amount and no more. Bonobos and Observatory have no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Bonobos and/or Observatory.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Order granting Final Approval:
 - 3.2.1 To Plaintiffs. To Plaintiff Meth Bandara, for his lead role in prosecuting the Class claims, a Class Representative Service Payment of not more than \$10,000 (in addition to any Individual Class Payment Bandara is entitled to receive as a Participating Class Member). To the remaining Plaintiffs for their role in prosecuting the Class claims, a Class Representative Service Payment of not more than \$3,000 (in addition to any Individual Class Payment Plaintiffs are entitled to receive as Participating Class Members). Bonobos and Observatory will not oppose Plaintiffs' requests for Class Representative Service Payments that do not exceed these amounts. As part of the motion for Class Counsel Fees Payment and Class

Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for taxes owed on the Class Representative Service Payment.

- 3.2.2 To Class Counsel. A Class Counsel Fees Payment of not more than 33.33%, of the Gross Settlement Amount which is currently estimated to be \$160,000 and a Class Counsel Litigation Expenses Payment of not more than \$20,000, equivalent to actual costs expended by Class Counsel in this Action. Bonobos and Observatory will not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and hold Defendants harmless, and indemnify Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.2.3 To the Administrator. An Administrator Expenses Payment not to exceed \$8,000 (and currently estimated at \$6,050.90) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$8,000, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4 To Each Participating Class Member. An Individual Class Payment calculated by dividing the Net Settlement Amount by the total number of Participating Class Members during the Class Period.
- 3.2.4.1 Tax Allocation of Individual Class Payments. 25% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported by the Administrator on IRS W-2 Forms. 75% of each

Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest, penalties and the right of publicity claims (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported by the Administrator on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to the Individual Class Payments of Non-Participating Class Members in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.4.3 No Credit Toward Benefit Plans. The payments made to Class Members and to Plaintiffs, as well as any other payments made pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plans. Rather, it is the Parties' intention that this Settlement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Applicable Dates. There are no class workweeks at issue in this case. The Action arises from the fitting and shoot days for Project 172/Evolve the Definition. The fitting days occurred from March 23, 2018 to March 25, 2018. The video shoot days occurred on March 26, 2018 and March 27, 2018.

4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Plaintiff's Counsel and Observatory will deliver records including Class Data to the Administrator. 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. Plaintiff's Counsel, Observatory have a continuing duty to immediately notify Class Counsel if they discover 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 Plaintiff's Counsel and Observatory must

send the Class Data to the Administrator, Plaintiff's Counsel and Observatory 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. Bonobos and Observatory shall fully fund the Gross Settlement Amount, as provided in Paragraph 3.1 by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Bonobos and Observatory fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and Class Representative Service Payments shall not precede disbursement of Individual Class Payments.
 - 4.4.1 The Administrator will issue checks for the Individual Class 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). 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 Participating Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (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 Participating Class Member whose original check was lost or misplaced, as requested by the Participating Class Member prior to the void date.
 - 4.4.3 For any Participating Class Member whose Individual Class Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subdivision (b).

5. **RELEASES OF CLAIMS.** Effective on the date when Bonobos and Observatory fully fund the Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiffs' General Release. Plaintiffs, and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties both individually and collectively from any rights, claims, demands, liabilities, actions, causes of action, and grievances whether in law or in equity, suits, damages, losses, attorneys' fees, costs, and expenses, of whatever nature whatsoever, known or unknown, fixed or contingent, suspected or unsuspected that Plaintiffs now have, or may ever have had, against the Released Parties, including, but not limited to all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint ("Plaintiffs' General Release"), as well those arising from the alleged violation of any provision of common law, California law, and/or federal law which was or could have been raised based on the facts in Plaintiffs' operative complaint, including claims based on, but not limited to, the California Labor Code, California Code of Regulations, Title 8 Section 11000 et seq., the applicable Industrial Welfare Commission (IWC) Wage Orders, Business & Professions Code §§ 17200–17208, Civil Code § 3344, or any related damages, penalties, restitution, disgorgement, interest or attorneys' fees, that arose before or during the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' General Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

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

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

Plaintiffs waive any rights and benefits they may have under California Civil Code section 1542, or the law of any other state or jurisdiction, or common law principle, to the same or similar effect.

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims, rights, demands, liabilities, and causes of action of any kind, whether known or unknown, arising from the alleged

violation of any provision of common law, California law, and/or federal law which was or could have been raised based on the facts in Plaintiffs' operative complaint, including claims based on, but not limited to, the California Labor Code, California Code of Regulations, Title 8 Section 11000 et seq., the applicable Industrial Welfare Commission (IWC) Wage Orders, Business & Professions Code §§ 17200–17208, Civil Code § 3344, or any related damages, penalties, restitution, disgorgement, interest or attorneys' fees, that arose before or during the Class Period.

6. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals. Class Counsel shall take lead in drafting and compiling the Motion for Preliminary Approval and for filing of same.

6.1. Plaintiffs' Responsibilities. At least seven (7) days before the filing deadline, Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar*; (ii) a draft proposed Order Granting Preliminary Approval; (iii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (iv) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; and all facts relevant to any actual or potential conflict of interest with Class Members, or the Administrator; and (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Administrator.

6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion

for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns. Under no circumstances shall Defendants be required to increase the value of the Gross Settlement Fund.

7. SETTLEMENT ADMINISTRATION.

- 7.1. Selection of Administrator. The Parties have jointly selected Ilym Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, Ilym Group, Inc. 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, including paying Individual Class Payments, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments, Employer Payroll Taxes, Employee Taxes, and any other costs or expenses related to the Settlement and the Administrator's 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 and remitting payroll tax withholdings and providing reports to state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Parties agree that the Qualified Settlement Fund is intended to be a Qualified Settlement Fund under Section 468B of the Internal Revenue Code and Treas. Reg. §1.468B-1, 26 CFR § 1.468B-1, et seq., and will be administered by the Claims Administrator as such. With respect to the Qualified Settlement Fund, the Claims Administrator shall: (1) open and administer a settlement account in such a manner as to qualify and maintain the qualification of the Qualified Settlement Fund as a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code and Treas. Reg. §1.468B-1; (2) satisfy all federal, state and local income and other tax reporting, return, and filing requirements with respect to the Qualified Settlement Fund; and (3) satisfy out of the Qualified Settlement Fund all fees, expenses and costs incurred in connection with the opening and administration of the Qualified Settlement Fund and the performance of its duties and functions as described in this Agreement. The aforementioned fees, costs and expenses shall be treated as and included in the costs of administering the Qualified Settlement Fund and as Administration Costs.

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 class data has been received, and state the number of Class Members in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (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 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 payable to the Class Member, and the information used to calculate the amount. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than seven (7) 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 and Requests for Exclusion will be extended an additional fourteen (14) days beyond the sixty (60) 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, Bonobos, Observatory, 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 in person or by telephone, 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 fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever is 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 fax, email, or mail, a signed written Request for Exclusion not later than thirty (30) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her 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 faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 5.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement.

7.6. Objections to Settlement.

- 7.6.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- 7.6.2 Participating Class Members may send written objections to the

Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than thirty (30) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

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

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

7.7.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, 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, faxes and emails.

7.7.2 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 five (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).

7.7.3 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 received and/or resolved, and checks mailed for Individual Class 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.

7.7.4 Administrator's Declaration. Not later than fourteen (14) days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed 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 attaching 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.

7.7.5 Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Fund, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by class member name of all payments made under this Agreement. At least fifteen (15) 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.** The Parties estimate that, as of the date of this Settlement Agreement, there are approximately 172 Class Members.
9. **BONOBOS' AND OBSERVATORY'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, either Bonobos or Observatory may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Bonobos and/or Observatory withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that none of the Parties will have any further obligation to perform under this Agreement; provided, however, the Party withdrawing will remain responsible for paying all Settlement Administration Expenses incurred to that point. Bonobos and Observatory must notify Class Counsel and the Court of their election to withdraw not later than fourteen (14) days after the Administrator sends the final Exclusion List to Defense Counsel.
10. **MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel for comment not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any

disagreements concerning the Motion for Final Approval.

- 10.1. 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 five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2. 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 Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph. None of the Parties are obligation to accept a material modification to this Agreement, and under no circumstances shall Defendants be obligated to agree to an increased Settlement amount.
- 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration

Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of Class Representative Service Payments 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.

11. **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.

12. **ADDITIONAL PROVISIONS.**

12.1. No Admission of Liability or Class Certification 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 Bonobos and Observatory that they are the employers or joint employers of Plaintiffs and/or Class Members, that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted in the Operative Complaint; nor should it be intended or construed as an admission by Plaintiffs that Bonobos' and Observatory'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, Bonobos and Observatory reserve the right to contest certification of any class for any reasons, and Bonobos and Observatory reserve 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 Bonobos' and Observatory'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).

12.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Bonobos, Observatory 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 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Bonobos, Observatory and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other

communication, before the filing of the Motion for Preliminary Approval, with and third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

- 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Bonobos and Observatory, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form 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.
- 12.7. 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.
- 12.8. No Tax Advice. Neither Plaintiffs, Class Counsel, Bonobos, Observatory, 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.

- 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11. 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.
- 12.12. 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.
- 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during this Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Bonobos and Observatory in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received unless, prior to the Court's discharge of the Administrator's obligation, Bonobos and Observatory makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.
- 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Frank H. Kim
HELEN KIM LAW, APC
3435 Wilshire Blvd, Suite 2700
Los Angeles, CA 90010
Telephone: (323) 482-3300
Email: frank@helenkimlaw.com

Dara Tabesh
EcoTech Law Group, P.C.
5 Third Street, Suite 700
San Francisco, CA 94103
Telephone: (415) 503-9164
Email: daratabesh@ecotechlaw.com

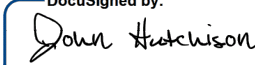
To Bonobos:

Liat L. Yamini
JONES DAY
555 South Flower Street
Fiftieth Floor
Los Angeles, CA 90071.2300
Telephone: +1.213.489.3939
Facsimile: +1.213.243.2539
Email: lyamini@jonesday.com

To Observatory:

Jeffrey N. Williams
WARGO, FRENCH & SINGER LLP
999 Peachtree Street, NE, Suite 1120
Atlanta, GA 30309
Tel: 310.853.6300
Fax: 310.853.6333
Email: jwilliams@wfslaw.com

- 12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. Pursuant to CCP section 583.330, the Parties further agree, upon the signing of this Agreement, to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

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Plaintiff Meth Bandara

For Bonobos, Inc.

Plaintiff Justin Dungee

For Observatory Marketing LLC

Plaintiff Cory Lee Granet

Plaintiff Thomas Price

Plaintiff Asha Doucet

Plaintiff Portia Bartley

Plaintiff Laith De La Cruz

Plaintiff Meth Bandara

For Bonobos, Inc.

Plaintiff Justin Dungee

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Brendan Shields-Shimizu
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For Observatory Marketing LLC

Plaintiff Cory Lee Granet

Plaintiff Thomas Price

Plaintiff Asha Doucet

Plaintiff Portia Bartley

Plaintiff Laith De La Cruz



Plaintiff Meth Bandara

For Bonobos, Inc.

Plaintiff Justin Dungee

For Observatory Marketing LLC

Plaintiff Cory Lee Granet

Plaintiff Thomas Price

Plaintiff Asha Doucet

Plaintiff Portia Bartley

Plaintiff Laith De La Cruz

Plaintiff Meth Bandara

DocuSigned by:

Justin Dungee

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Plaintiff Justin Dungee

DocuSigned by:

Cory Lee Granet

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Plaintiff Cory Lee Granet

DocuSigned by:

Thomas Price

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Plaintiff Thomas Price

DocuSigned by:

Asha Doucet

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Plaintiff Asha Doucet

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Portia Bartley

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Plaintiff Portia Bartley

DocuSigned by:

Laith D. De La Cruz

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Plaintiff Laith De La Cruz

For Bonobos, Inc.

For Observatory Marketing LLC