

BIBIYAN LAW GROUP, P.C.

David D. Bibiyán (SBN 287811)

david@tomorrowlaw.com

Vedang J. Patel (SBN 328647)

vedang@tomorrowlaw.com

1460 Westwood Blvd.

Los Angeles, California 90024

Telephone: (310) 438-5555; Facsimile: (310) 300-1705

Attorneys for Plaintiff, JANICE DENISE KHINOO,
Individually and on behalf of all other similarly situated

MESSNER REEVES, LLP.

Kathleen Carter

KCarter@messner.com

Jeffrey Gillette

JGillette@messner.com

611 Anton Blvd, Suite 450

Costa Mesa, CA 92626

Office: 949-612-9128; Fax: 949-438-2304

Attorneys for Defendant, ASPIRANET

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF STANISLAUS

JANICE DENYSE KHINOO, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

ASPIRANET, a California Corporation; and
DOES 1 through 100, inclusive,

Defendant.

CASE NO.: CV-23-007641 and related
Case No. CV-24-001726

[Assigned for all purposes to the Hon. John
D. Freeland in Department 23]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: December 28, 2023

Trial Date: None Set

This “Class and PAGA Settlement Agreement” (“Agreement”) is made by and between plaintiff Janice Denyse Khinoo (“Plaintiff”) and defendant Aspiranet (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS

1.1. “Action” or “Actions” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant, captioned *Khinoo v. Aspiranet*, Case No. CV-23-007641, initiated on December 28, 2023 (“Class Action”), and the Plaintiff’s lawsuit alleging PAGA violations against Defendant, captioned *Khinoo v. Aspiranet*, Case No. CV-24-001726, initiated on March 4, 2024 (“PAGA Action”) and deemed related to Case No. CV-23-007641 by order dated August 12, 2024, with both cases pending in Superior Court of the State of California, County of Stanislaus.

1.2. “Administrator” means ILYM Group, Inc. 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 reimburse its reasonable 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. “Aggrieved Employee” means a person employed by Defendant in California and classified as a non-exempt, hourly-paid employee who worked for Defendant during the PAGA Period.

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

1.6. “Class Counsel” means David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, P.C.

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

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 “Notice of Proposed Class Action Settlement and Date for Final Approval Hearing”, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from December 28, 2019 through September 17, 2024, subject to paragraph 8.1 of this Agreement.

1.13. “Class Representative” means the named Plaintiff in the Actions 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 Actions and providing services in support of the Actions.

1.15. “Court” means the Superior Court of California, County of Stanislaus.

1.16. “Defendant” means named defendant Aspiranet.

1.17. “Defense Counsel” means Kathleen Carter and Jeffrey Gillette of Messner Reeves, LLP.

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

1 Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members
2 objects to the Settlement, the day after the deadline for filing a notice of appeal from the
3 Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court
4 affirms the Judgment and issues a remittitur.

5 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

6 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval
7 of the Settlement.

8 1.21. ///

9 1.22. “Gross Settlement Amount” means \$1,775,000.00 (One Million Seven Hundred Seventy-
10 Five Thousand Dollars and Zero Cents) which is the total amount Defendant agrees to pay under
11 the Settlement, except as provided in Paragraph 8.1 below and any and all employer payroll taxes
12 owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount
13 will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA
14 Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class
15 Representative Service Payment, and Administration Expenses Payment.

16 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
17 Net Settlement Amount calculated according to the number of Workweeks worked during the
18 Class Period.

19 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of
20 the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during
21 the PAGA Period.

22 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

23 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
24 entitled, under Labor Code section 2699, subd. (i).

25 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA
26 under Labor Code section 2699, subd. (i).

27 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
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1 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
2 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
3 Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be
4 paid to Participating Class Members as Individual Class Payments.

5 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Class
6 portion of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

7 1.30. “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked
8 for Defendant for at least one day during the PAGA Period, based on hire dates, re-hire dates (as
9 applicable), and termination dates (as applicable).

10 1.31. “PAGA Period” means the period from December 28, 2022 through the end of the Class
11 Period.

12 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

13 1.33. “PAGA Notice” means Plaintiff’s December 28, 2023 letter to Defendant and the LWDA,
14 providing notice pursuant to Labor Code section 2699.3 subd. (a).

15 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the
16 Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$22,187.50) and the 75%
17 to the LWDA (\$66,562.50) in settlement of PAGA claims.

18 1.35. “Participating Class Member” means a Class Member who does not submit a valid and
19 timely Request for Exclusion from the Class portion of the Settlement.

20 1.36. “Plaintiff” means Janice Denyse Khinoo the named plaintiff in the Actions.

21 1.37. “Preliminary Approval” means the Court’s order granting preliminary approval of the
22 Settlement.

23 1.38. “Preliminary Approval Order” means the proposed order granting Preliminary Approval
24 of the Settlement.

25 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2
26 below.

27 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4
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below.

1.41. “Released Parties” means: Defendant, and each of its former, present and future owners, parents, affiliates and subsidiaries, and all of their current, former, and future officers, directors, members, board members, managers, employees, consultants, partners, shareholders, joint venturers, 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 portion of the Settlement signed by the Class Member.

1.43. “Response Deadline” means forty-five (45) days after the Administrator mails Class 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 Class portion of the Settlement, or (b) mail his or her objection to the Class portion of 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 Actions 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 December 28, 2023, Plaintiff filed a notice with the LWDA and served the same on Defendant, stating that she intended to serve as a proxy of the LWDA for various Labor Code violations (“PAGA Notice”).

2.2. On December 28, 2023, Plaintiff commenced this Action by filing a proposed class action complaint for damages against Defendant for: failure to pay overtime and minimum wages; failure to provide meal periods, rest periods, or compensation in lieu thereof; waiting time penalties; wage statement violations; failure to timely pay wages, failure to indemnify for

business expenses, violation of labor code § 227.3, and unfair competition. On March 4, 2004, Plaintiff filed a PAGA complaint alleging Labor Code violations and seeking PAGA Penalties.

2.3. Thereafter, the Parties agreed to exchange informal discovery and attend mediation for both Actions.

2.4. Prior to mediation Plaintiff obtained, through informal discovery: (a) time and payroll records for 100% of Class Members; and (b) Defendant's relevant wage and hour policy records.

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

2.6. On September 17, 2024, the Parties participated in an all-day mediation presided over by Nikki Tolt, Esq. The mediation was successful, and the Parties agreed to globally resolve all class and PAGA claims in the Action.

2.7. The Court has not granted class certification.

2.8. 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. Defendant has not conducted any independent research into other case filings.

3. MONETARY TERMS

3.1. Gross Settlement Amount. Defendant promises to pay \$1,775,000.00 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 Plaintiff: Class Representative Service Payment to Plaintiff of not more than
3 \$7,500.00 in addition to any Individual Class Payment and any Individual PAGA
4 Payment Plaintiff is entitled to receive as a Participating Class Member. Defendant will
5 not oppose Plaintiff's request for a Class Representative Service Payment that does not
6 exceed this amount. As part of the motion for Class Counsel Fees Payment and Class
7 Counsel Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
8 Representative Service Payment prior to the Final Approval Hearing. If the Court
9 approves a Class Representative Service Payment less than the amount requested, the
10 Administrator will retain the remainder in the Net Settlement Amount. The
11 Administrator will pay the Class Representative Service Payment using IRS Form 1099.
12 Plaintiff assumes full responsibility and liability for employee taxes owed on the Class
13 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 \$621,250.00 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. Plaintiff and/or Class
19 Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class
20 Counsel Litigation Expenses Payment prior to the Final Approval Hearing. If the Court
21 approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses
22 Payment less than the amounts requested, the Administrator will allocate the remainder
23 to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel
24 or any other Plaintiff's counsel arising from any claim to any portion any Class Counsel
25 Fees Payment and/or Class Counsel Litigation Expenses Payment. The Administrator
26 will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses
27 Payment using one or more IRS 1099 Forms. Class Counsel assume full responsibility
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1 and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel
2 Litigation Expenses Payment and holds Defendant harmless, and indemnifies
3 Defendant, from any dispute or controversy regarding any division or sharing of any of
4 these payments. There will be no additional charge of any kind to either the Settlement
5 Class Members or request for additional consideration from Defendant for such work
6 unless, Defendant materially breaches this Agreement, including any term regarding
7 funding, and further efforts are necessary from Class Counsel to remedy said breach,
8 including, without limitation, moving the Court to enforce the Agreement. Should the
9 Court approve Class Counsel Fees Payments and/or Class Counsel Litigation Expenses
10 Payments that are less than the amounts provided for herein, then the unapproved
11 portion(s) shall be a part of the Net Settlement Amount.

12 3.2.3. To the Administrator: An Administration Expenses Payment not to exceed
13 \$13,950.00 except for a showing of good cause and as approved by the Court. To the
14 extent the Administration Expenses Payment is less or the Court approves payment less
15 than \$13,950.00, the Administrator will retain the remainder in the Net Settlement
16 Amount.

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

21 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
22 Class Member's Individual Class Payment will be allocated to settlement of
23 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
24 withholding and will be reported on an IRS W-2 Form. 80% of each
25 Participating Class Member's Individual Class Payment will be allocated to
26 settlement of claims for interest and penalties (the "Non-Wage Portion"). The
27 Non-Wage Portions are not subject to wage withholdings and will be reported
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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 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 \$88,750.00 to be paid from the Gross Settlement Amount, with 75% (\$66,562.50) allocated to the LWDA PAGA Payment and 25% (\$22,187.50) 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 \$22,187.50 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on a review of its records at the time of the mediation, Defendant estimated there were 1,510 Class Members who collectively worked a total of 117,955 Workweeks, and 874 of Aggrieved Employees who worked a total of 16,356 PAGA Pay Periods.

1 4.2. Class Data. Not later than 30 days after the Court grants Preliminary Approval,
2 Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel
3 spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the
4 Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other
5 purpose, and restrict access to the Class Data to Administrator employees who need access to the
6 Class Data to effect and perform under this Agreement. Defendant has a continuing duty to
7 immediately notify Class Counsel if it discovers that the Class Data omitted Class Member
8 identifying information and to provide corrected or updated Class Data as soon as reasonably
9 feasible. Without any extension of the deadline by which Defendant must send the Class Data
10 to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good
11 faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

12 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
13 Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by
14 transmitting the funds to the Administrator no later than 30 days after the Effective Date.

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

23 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
24 Individual PAGA Payments and send them to the Class Members via First Class U.S.
25 Mail, postage prepaid. The face of each check shall prominently state the date (not less
26 than 180 days after the date of mailing) when the check will be voided. The
27 Administrator will cancel all checks not cashed by the void date. The Administrator
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1 will send checks for Individual Settlement Payments to all Participating Class Members
2 (including those for whom Class Notice was returned undelivered). The Administrator
3 will send checks for Individual PAGA Payments to all Aggrieved Employees including
4 Non-Participating Class Members who qualify as Aggrieved Employees (including
5 those for whom Class Notice was returned undelivered). The Administrator may send
6 Participating Class Members a single check combining the Individual Class Payment
7 and the Individual PAGA Payment. Before mailing any checks, the Administrator must
8 update the recipients' mailing addresses using the National Change of Address
9 Database.

10 4.4.2. The Administrator must conduct a Class Member Address Search for all Class
11 Members whose checks are returned undelivered without USPS forwarding address.
12 Within 7 days of receiving a returned check, the Administrator must re-mail checks to
13 the USPS forwarding address provided or to an address ascertained through the Class
14 Member Address Search. The Administrator need not take further steps to deliver
15 checks to Class Members whose re-mailed checks are returned as undelivered. The
16 Administrator shall promptly send a replacement check to any Class Member whose
17 original check was lost or misplaced, requested by the Class Member prior to the void
18 date.

19 4.4.3. For any Class Member whose Individual Class Payment check or Individual
20 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
21 shall transmit the funds represented by such checks to the *cy pres* recipient, Legal Aid
22 at Work.

23 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
24 not obligate Defendant to confer any additional benefits or make any additional
25 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
26 specified in this Agreement.
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5. RELEASE OF CLAIMS

Effective upon Judgment, Final Approval, and on the date when Defendant fully funds the entire Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

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

5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release only, Plaintiff expressly waives 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.

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

representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the complaint filed in the Class Action including: (1) all claims for failure to pay overtime wages; (2) all claims for failure to pay minimum wages; (3) all claims for failure to provide meal periods, or compensation in lieu thereof; (4) all claims for failure to provide compliant rest periods, or compensation in lieu thereof (5) all claims for the failure to pay wages due upon termination or resignation; (6) all claims for non-compliant wage statements; (7) failure to timely pay wages; (8) failure to reimburse business expenses; (9) failure to pay vested vacation; and (10) all claims asserted through California Business & Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in the complaint filed in the Class Action. (Released Class Claims.)

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

5.4. Release by Aggrieved Employees: For the duration of the PAGA Period, all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA Penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the complaint filed in the PAGA Action and the PAGA Notice. (Released PAGA Claims.) The Released PAGA Claims are further released by Plaintiff in her representative capacity as an authorized proxy and agent for the State of California and the LWDA and as private attorney general acting on behalf of herself and the Aggrieved Employees, for civil penalties under the PAGA.

6. MOTION FOR PRELIMINARY APPROVAL

The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval).

1 6.1. ///

2 6.2. Plaintiff's Responsibilities. Plaintiff will prepare and to deliver to Defense Counsel all
3 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
4 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
5 Settlement under *Dunk/Kullar* and a request for approval of the PAGA portion of the Settlement
6 under Labor Code Section 2699, subd. (f)(2)); (ii) a draft Preliminary Approval Order; (iii) a
7 draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not
8 to exceed" bid for administering the Settlement and attesting to its willingness to serve;
9 competency; operative procedures for protecting the security of Class Data; amounts of insurance
10 coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any
11 actual or potential conflicts of interest with Class Members; and the nature and extent of any
12 financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration
13 from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant
14 to any actual or potential conflicts of interest with Class Members; (v) a signed declaration from
15 each Class Counsel firm attesting to its competency to represent the Class Members; its timely
16 transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor
17 Code section 2699.3, subd. (a)), complaint in the PAGA Action, case no. CV-24-001726 (Labor
18 Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and
19 (vi) all facts relevant to any actual or potential conflict of interest with Class Members and the
20 Administrator.

21 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
22 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
23 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
24 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
25 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
26 Administrator.

27 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
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1 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
2 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
3 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
4 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
5 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
6 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
7 Court's concerns.

8 **7. SETTLEMENT ADMINISTRATION**

9 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve
10 as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees
11 to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
12 Agreement in exchange for the Administration Expenses Payment. The Parties and their
13 Counsel represent that they have no interest or relationship, financial or otherwise, with the
14 Administrator other than a professional relationship arising out of prior experiences
15 administering settlements.

16 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
17 Identification Number for purposes of calculating payroll tax withholdings and providing reports
18 state and federal tax authorities.

19 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
20 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section
21 468B-1.

22 7.4. Notice to Class Members

23 7.4.1. No later than three (3) business days after receipt of the Class Data, the
24 Administrator shall notify Class Counsel that the list has been received and state the
25 number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods
26 in the Class Data.

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

9 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice
10 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
11 using any forwarding address provided by the USPS. If the USPS does not provide a
12 forwarding address, the Administrator shall conduct a Class Member Address Search,
13 and re-mail the Class Notice to the most current address obtained. The Administrator
14 has no obligation to make further attempts to locate or send Class Notice to Class
15 Members whose Class Notice is returned by the USPS a second time.

16 7.4.4. The deadlines for Class Members’ written objections, challenges to Workweeks
17 and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional
18 15 days beyond the 45 days otherwise provided in the Class Notice for all Class
19 Members whose notice is re-mailed. The Administrator will inform the Class Member
20 of the extended deadline with the re-mailed Class Notice.

21 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
22 discovers any persons who believe they should have been included in the Class Data
23 and should have received Class Notice, the Parties will expeditiously meet and confer,
24 and in good faith, in an effort to agree on whether to include them as Class Members.
25 If the Parties agree, such persons will be Class Members entitled to the same rights as
26 other Class Members, and the Administrator will send, via email or overnight delivery,
27 a Class Notice requiring them to exercise options under this Agreement not later than
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1 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, which
2 ever are later.

3 7.5. Requests for Exclusion (Opt-Outs).

4 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
5 must send the Administrator, by mail, a signed written Request for Exclusion not later
6 than 45 days after the Administrator mails the Class Notice (plus an additional 15 days
7 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
8 from a Class Member or his/her representative that reasonably communicates the Class
9 Member's election to be excluded from the Class portion of the Settlement and includes
10 the Class Member's name, address and email address or telephone number. To be valid,
11 a Request for Exclusion must be timely postmarked by the Response Deadline.

12 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
13 fails to contain all the information specified in the Class Notice. The Administrator
14 shall accept any Request for Exclusion as valid if the Administrator can reasonably
15 ascertain the identity of the person as a Class Member and the Class Member's desire
16 to be excluded. The Administrator's determination shall be final and not appealable or
17 otherwise susceptible to challenge. If the Administrator has reason to question the
18 authenticity of a Request for Exclusion, the Administrator may demand additional proof
19 of the Class Member's identity. The Administrator's determination of authenticity shall
20 be final and not appealable or otherwise susceptible to challenge.

21 7.5.3. Every Class Member who does not submit a timely and valid Request for
22 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
23 to all benefits and bound by all terms and conditions of the Settlement, including the
24 Participating Class Members' releases under Paragraphs 5.2 and 5.3 of this Agreement,
25 regardless whether the Participating Class Member actually receives the Class Notice
26 or objects to the Class portion of the Settlement.

27 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
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1 Non-Participating Class Member and shall not receive an Individual Class Payment or
2 have the right to object to the class action components of the Settlement. Because future
3 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
4 Participating Class Members who are Aggrieved Employees are deemed to release the
5 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
6 PAGA Payment.). All Aggrieved Employees will be bound to the PAGA Settlement
7 and will be issued their Individual PAGA Payment, irrespective of whether they submit
8 a Request for Exclusion.

9 7.6. Challenges to Calculation of Workweeks and PAGA Pay Periods. Each Class Member
10 shall have 45 days after the Administrator mails the Class Notice (plus an additional 15 days for
11 Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks and
12 PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class
13 Member may challenge the allocation by communicating with the Administrator via mail. The
14 Administrator must encourage the challenging Class Member to submit supporting
15 documentation. In the absence of any contrary documentation, the Administrator is entitled to
16 presume that the Workweeks and PAGA Pay Periods contained in the Class Notice are correct
17 so long as they are consistent with the Class Data. The Administrator's determination of each
18 Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final and not
19 appealable or otherwise susceptible to challenge. The Administrator shall promptly provide
20 copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense
21 Counsel and Class Counsel and the Administrator's determination the challenges.

22 7.7. Objections to the Class portion of the Settlement

23 7.7.1. Only Participating Class Members may object to the class action components of
24 the Settlement and/or this Agreement, including contesting the fairness of the Class
25 portion of the Settlement, and/or amounts requested for the Class Counsel Fees
26 Payment, Class Counsel Litigation Expenses Payment and/or Class Representative
27 Service Payment.

1 7.7.2. Participating Class Members may send written objections to the Administrator, by
2 mail. In the alternative, Participating Class Members may appear in Court (or hire an
3 attorney to appear in Court) to present verbal objections at the Final Approval Hearing.
4 A Participating Class Member who elects to send a written objection to the
5 Administrator must do so not later than 45 days after the Administrator's mailing of the
6 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
7 mailed).

8 7.7.3. Non-Participating Class Members have no right to object to any of the class action
9 components of the Settlement.

10 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
11 performed or observed by the Administrator contained in this Agreement or otherwise.

12 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
13 and use an internet website to post information of interest to Class Members including
14 the date, time and location for the Final Approval Hearing and copies of the Agreement,
15 Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the
16 Motion for Final Approval, the motion for Class Counsel Fees Payment, Class Counsel
17 Litigation Expenses Payment and Class Representative Service Payment, the Final
18 Approval and the Judgment. The Administrator will also maintain and monitor an email
19 address and a toll-free telephone number to receive Class Member calls and emails.

20 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
21 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
22 Not later than 5 days after the expiration of the deadline for submitting Requests for
23 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
24 containing (a) the names and other identifying information of Class Members who have
25 timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and
26 other identifying information of Class Members who have submitted invalid Requests
27 for Exclusion; (c) copies of all Requests for Exclusion submitted (whether valid or
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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 PAGA 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 PAGA 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 PAGA 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 Plaintiff is required to file the Motion for Final Approval, 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 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 Administrator.** Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel

1 and Defense Counsel with a final report detailing its disbursements by employee
2 identification number only of all payments made under this Agreement. At least 7 days
3 before any deadline set by the Court, the Administrator will prepare, and submit to Class
4 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting
5 to its disbursement of all payments required under this Agreement. Class Counsel is
6 responsible for filing the Administrator's declaration in Court.

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

8 Based on its records, Defendant estimates that, as of the date of the mediation, (1) there
9 were 1,510 Class Members and 117,955 total Workweeks during the Class Period and (2) there
10 were 874 Aggrieved Employees who worked 16,356 PAGA Pay Periods during the PAGA
11 Period.

12 8.1. Increase in Workweeks. Defendant estimates there were 117,955 Workweeks worked
13 during the Class Period. In the event the number of Workweeks during the Class Period increases
14 by more than 5%, then at Defendant's election: (1) the Gross Settlement Amount shall be
15 increased proportionally by the Workweeks worked in the Class Period in excess of 123,852 (i.e.
16 $117,955 + 5,897$) Workweeks multiplied by the Workweek value; or (2) the Class Period shall
17 end on the date the number of Workweeks reaches 123,852. The Workweek count shall be
18 calculated by dividing the originally agreed-upon Gross Settlement Amount (\$1,775,000.00) by
19 117,955, which amounts to a Workweek value of \$15.00. Defendant shall make its elections no
20 later than 21 days after receiving sufficient information from the Administrator indicating the
21 number of Workweeks has exceeded 123,852.

22 **9. DEFENDANT'S RIGHT TO WITHDRAW**

23 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds
24 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw
25 from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void
26 ab initio, have no force or effect whatsoever, and that neither Party will have any further
27 obligation to perform under this Agreement; provided, however, Defendant will remain
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1 responsible for paying all Administration Expenses Payments incurred as of the date Defendant
2 makes this election to withdraw. Defendant must notify Class Counsel and the Court of its
3 election to withdraw not later than thirty (30) days after the Administrator sends the final
4 Exclusion List to Defense Counsel; late elections will have no effect.

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6 **10. MOTION FOR FINAL APPROVAL**

7 Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for
8 final approval of the Settlement that includes a request for approval of the PAGA portion of the
9 Settlement under Labor Code section 2699, subd. (l), a proposed final approval order and a
10 proposed judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of
11 these documents to Defense Counsel 7 days prior to filing the Motion for Final Approval. Class
12 Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve
13 any disagreements concerning the Motion for Final Approval.

14 10.1. Response to Objections. Each Party retains the right to respond to any objection raised
15 by a Participating Class Member, including the right to file responsive documents in Court no
16 later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
17 by the Court.

18 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
19 Approval on any material change to the Settlement (including, but not limited to, the scope of
20 release to be granted by Class Members), the Parties will expeditiously work together in good
21 faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final
22 Approval. The Court’s decision to award less than the amounts requested for the Class
23 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
24 Expenses Payment, and/or Administrator Expenses Payment, shall not constitute a material
25 modification to the Agreement within the meaning of this paragraph.

26 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
27 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
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(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, including Defendant's obligation to fund the Settlement, will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.

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 Payment reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify 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

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.

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12. ADDITIONAL PROVISIONS

12.1. 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 Actions have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Actions 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 reserve the right to contest certification of any class for any reasons, and Defendant reserve all available defenses to the claims in the Actions, and Plaintiff reserves 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 Actions 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. No Public Comment. The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the fact, amount or terms of the Settlement. Class Counsel further agrees not to use the Settlement or any of its terms for any marketing or promotional purposes. Nothing herein will restrict Class Counsel from including publicly available information regarding this Settlement in future judicial submissions regarding Class Counsel's qualifications and experience. Further, Class Counsel will not include, reference or use the Settlement for any marketing or promotional purposes, either before or after the motion for preliminary approval is filed. Nothing herein shall 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

1 ability to communicate with Class Members in accordance with Class Counsel's ethical
2 obligations owed to Class Members.

3 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
4 together with its attached exhibits shall constitute the entire agreement between the Parties
5 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
6 inducements made to or by any Party.

7 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
8 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
9 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
10 its terms, and to execute any other documents reasonably required to effectuate the terms of this
11 Agreement including any amendments to this Agreement.

12 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
13 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
14 Agreement, submitting supplemental evidence and supplementing points and authorities as
15 requested by the Court. In the event the Parties are unable to agree upon the form or content of
16 any document necessary to implement the Settlement, or on any modification of the Agreement
17 that may become necessary to implement the Settlement, the Parties will seek the assistance of
18 mediator Nikki Tolt for resolution.

19 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not
20 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
21 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
22 action, or right released and discharged by the Party in this Settlement.

23 12.8. No Tax Advice/Liability. Neither Plaintiff, Class Counsel, Defendant nor
24 Defense Counsel intend for anything in this Settlement Agreement to constitute advice regarding
25 taxes or taxability, nor shall anything in this Settlement Agreement be relied on as such.
26 Plaintiffs, Participating Class Members, and Aggrieved Employees are not relying on any
27 statement, representation, or calculation by Defendants, Defendants' Counsel, the Settlement
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1 Administrator, or Class Counsel in this regard. Plaintiffs, Participating Class Members, and
2 Aggrieved Employees understand and agree that Plaintiffs, Participating Class Members, and
3 Aggrieved Employees are solely responsible for the payment of any taxes and penalties assessed
4 on the payments described in this Settlement Agreement. Plaintiff, Participating Class Members,
5 and Aggrieved Employees should consult with their tax advisors concerning the tax
6 consequences of any payment they receive under the Settlement. United States Treasury
7 Department Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT
8 (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH
9 PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING
10 PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO
11 PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN
12 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
13 ATTORNEYS AND OTHER ADVISORS, IS OR WAS INTENDED TO BE, NOR WILL ANY
14 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
15 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
16 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
17 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS
18 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
19 ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT
20 ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE
21 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
22 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
23 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY
24 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
25 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER
26 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
27 OF ANY SUCH ATTORNEY’S OR ADVISOR’S TAX STRATEGIES (REGARDLESS OF
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1 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
2 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
3 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
4 SETTLEMENT AGREEMENT.

5 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
6 modified, changed, or waived only by an express written instrument signed by all Parties or their
7 representatives, and approved by the Court.

8 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
9 the benefit of, the successors of each of the Parties.

10 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
11 governed by and interpreted according to the internal laws of the state of California, without
12 regard to conflict of law principles.

13 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
14 this Agreement. This Agreement will not be construed against any Party on the basis that the
15 Party was the drafter or participated in the drafting

16 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
17 in the Actions and in this Agreement relating to the confidentiality of information shall survive
18 the execution of this Agreement

19 12.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
20 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant
21 in connection with the mediation, other settlement negotiations, or in connection with the
22 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
23 be used in any way that violates any existing contractual agreement, statute, or rule of court. Not
24 later than ninety (90) days after the date when the Court discharges the Administrator's obligation
25 to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall
26 destroy, all paper and electronic versions of Class Data received from Defendants unless, prior
27 to the Court's discharge of the Administrator's obligation, Defendant makes a written request to
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1 Class Counsel for the return, rather than the destructions, of Class Data.

2 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
3 inserted for convenience of reference only and does not constitute a part of this Agreement.

4 12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
5 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
6 weekend or federal legal holiday, such date or deadline shall be on the first business day
7 thereafter.

8 12.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
9 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
10 be accepted as an original. All executed counterparts and each of them will be deemed to be one
11 and the same instrument if counsel for the Parties will exchange between themselves signed
12 counterparts. Any executed counterpart will be admissible in evidence to prove the existence
13 and contents of this Agreement.

14 12.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
15 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
16 agree that upon the signing of this Agreement, pursuant to CCP section 583.330, to extend the
17 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
18 process.

19 12.19. Severability. In the event that one or more of the provisions contained in this Agreement
20 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
21 illegality, or unenforceability shall in no way effect any other provision if Defendant’s Counsel
22 and Class Counsel, on behalf of the Parties and the Class Members, mutually elect in writing to
23 proceed as if such invalid, illegal, or unenforceable provision had never been included in this
24 Agreement.

25 12.20. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement is
26 a fair, adequate and reasonable settlement of this Action and have arrived at this Settlement after
27 extensive arms-length negotiations, taking into account all relevant factors, present and potential.
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1 The Parties further acknowledge that they are each represented by competent counsel and that
2 they have had an opportunity to consult with their counsel regarding the fairness and
3 reasonableness of this Settlement Agreement.

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5 **IT IS SO AGREED:**

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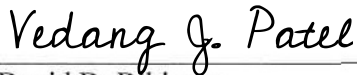
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8 Plaintiff, Janice Denyse Khinoo



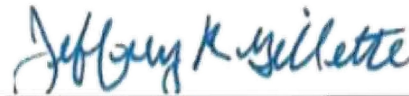
For Defendant, Aspiranet

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11 **AGREED AS TO FORM ONLY:**

08/01/2025

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13 David D. Bibiyan
14 Vedang J. Patel
Counsel for Plaintiff



Kathleen Carter
Jeffrey Gillette
Counsel for Defendant

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