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10 **SUPERIOR COURT OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

12	GRISELDA E. MOYA, an individual,)	Case No.: BC634191
13	appearing in representative capacity,)	
14	Plaintiff,)	STIPULATION FOR CLASS ACTION
15)	SETTLEMENT
16	vs.)	Filing Date: September 16, 2016
17	TOPSON DOWNS OF)	Trial Date: None Set
18	CALIFORNIA, INC., a California)	PAGA Notice Date: July 12, 2016
19	corporation; and DOES 1-25,)	
20	Defendants.)	
21)	
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STIPULATION FOR CLASS ACTION SETTLEMENT

1 This Stipulation for Class Action Settlement (“Stipulation”) is entered into as of the
2 last date signed by the Parties hereto and their counsel. It is entered into by and among
3 plaintiff Griselda E. Moya (“Plaintiff” or “Class Representative”), on behalf of herself and
4 all other similarly situated employees, as representative of the class, which is stipulated to
5 for purposes of this Settlement only, by and through her attorneys, the Law Offices of Gregg
6 A. Farley and the Law Offices of Sahag Majarian II (“Class Counsel”), and defendant
7 Topson Downs of California, Inc. (hereinafter “Topson Downs” or “Defendant”), by and
8 through its attorneys, LightGabler. The Class Representative and Defendant are collectively
9 referred to herein as “the Parties.”
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RECITALS

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13 A. On September 16, 2016, Plaintiff filed a Complaint, initiating a representative
14 action pursuant to the Labor Code Private Attorneys General Act, Labor Code Section 2698
15 *et seq.* (“PAGA”), against Defendant in the Los Angeles County Superior Court, entitled
16 *Griselda Moya v. Topson Downs of California, Inc.*, Case No. BC634191 (the “Lawsuit”).
17 On August 11, 2017, Plaintiff filed a First Amended Complaint (“FAC”) pursuant to a
18 stipulation between the parties, adding certain causes of action on behalf of the class.
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20 B. The FAC, filed on August 11, 2017, alleges causes of action for (1) failure to
21 provide meal and rest breaks and pay statutory penalties based thereon, (2) failure to pay
22 regular, overtime and minimum wages, (3) failure to provide and keep accurate and
23 complete wage statements, (4) waiting time penalties, including unpaid vacation wages at
24 termination, (5) unfair business practices, and (6) civil and statutory penalties (including
25 penalties pursuant to the PAGA).
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1 C. Plaintiff was formerly employed by Topson Downs as a non-exempt
2 employee. The operative FAC alleges claims on behalf of a putative class comprised of all
3 current and former employees of Defendant who were employed as hourly, non-exempt
4 employees at any of Defendant's locations anywhere in California, at any time from
5 September 16, 2012 to the date of preliminary approval of this settlement. The putative
6 class includes any and all temporary service employees and/or contract employees supplied
7 by a temporary services employer to Topson Downs during the class period.

8 D. On June 20, 2017, the Parties participated in a full-day mediation with a
9 private mediator specializing in the settlement of wage and hour class actions and PAGA
10 actions, Jeffrey Krivis of First Mediation Corporation in Los Angeles, California.
11 Thereafter, the Parties reached an agreement in principle on the essential terms of a
12 proposed settlement. That agreement is now set forth in complete and final form in this
13 Stipulation. At all times, the Parties' negotiations were adversarial, non-collusive, and at
14 arm's length.
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16 E. The Parties are sufficiently familiar with the facts of the Lawsuit and the
17 applicable law, so as to warrant settlement at this time. Defendant has provided Class
18 Counsel with selected timekeeping, employment and payroll records, policies and
19 information for Defendant's hourly, non-exempt employees in California covered by the
20 proposed settlement. Defendant has also produced its Person Most Qualified to testify at
21 deposition regarding various topics identified by Class Counsel. Class Counsel has also
22 retained consultants to analyze and calculate Defendant's potential liability, under various
23 assumptions, for the claims asserted in this Lawsuit.
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25 F. The Parties are represented by competent counsel, and have had the
26 opportunity to consult with counsel prior to the submission of this Stipulation to the Court.
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1 G. Nothing in this Stipulation, nor the fact of the Stipulation itself, shall be
2 construed or deemed an admission of liability, culpability, negligence or wrongdoing of any
3 kind on the part of Defendant with respect to the claims alleged in the Lawsuit.

4 H. Defendant denies all the claims and contentions alleged by the Class
5 Representative in the Lawsuit. Nonetheless, Defendant has concluded that further litigation
6 would be protracted and expensive, and would also divert management and employee time.
7 Defendant has taken into account the uncertainty and risks inherent in litigation, especially
8 in multi-party cases. Defendant has therefore concluded that it is desirable that the Lawsuit
9 be fully and finally settled in the manner and upon the terms and conditions set forth in this
10 Stipulation.

12 I. The Class Representative and Class Counsel believe that the claims asserted
13 in this Lawsuit have merit. Class Counsel, however, recognizes and acknowledges the
14 significant expense and length of continued proceedings necessary to prosecute the litigation
15 against Defendant through trials and through appeals. Class Counsel is also mindful of the
16 inherent problems of proof and possible defenses to the claims asserted and to class
17 certification. After careful consideration and mediation, Class Counsel has concluded that it
18 is desirable that this class action lawsuit be fully and finally settled in the manner and upon
19 the terms and conditions set forth in this Stipulation. Both Class Counsel and the Class
20 Representative believe that the settlement set forth in this Stipulation confers substantial
21 benefits upon the Settlement Class and each of the Class Members.

23 J. Both Parties agree that the Settlement set forth herein adequately balances the
24 risk of proceeding with the Lawsuit against any potential recovery for the Class Members,
25 and therefore the Settlement represents a reasonable, fair, and just compromise of the claims
26 asserted in the Lawsuit.
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1 K. Pursuant to California Evidence Code sections 1152 and 1154, this
2 Stipulation and any related documents filed or created in connection with it shall be
3 inadmissible in evidence in any proceeding, except as necessary to approve, interpret or
4 enforce this Stipulation, or as may specifically be permitted in Section 12.8 below.

5 **TERMS OF AGREEMENT**

6 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and
7 between the Class Representative, for herself and for the Class (as defined hereafter), and
8 Defendant that, subject to the conditions precedent set forth in Section 2 below, the Lawsuit
9 and the Released Claims shall be finally and fully compromised, released, resolved,
10 relinquished, discharged and settled and without any adverse findings or conclusions against
11 Defendant or anyone else, upon and subject to the terms and conditions of this Stipulation,
12 as follows:

13
14 **1. DEFINITIONS**

15 As used in this Stipulation, the following terms shall have the meanings specified
16 below:

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18 1.1 “Alleged Claims” shall mean, in the broadest sense possible, the claims that
19 were or could have been alleged against any entity or person arising out of or related to the
20 facts alleged in the FAC, or arising out of the same nucleus of operative facts. The Alleged
21 Claims include, but are not limited to the following claims: (i) failure to provide meal and
22 rest breaks and pay statutory penalties based thereon, (ii) failure to pay regular, overtime and
23 minimum wages, (iii) failure to provide and keep accurate and complete wage and hour
24 records, (iv) waiting time penalties, including unpaid vacation wages at termination, (v)
25 unfair business practices, and (vi) civil and statutory penalties (including penalties pursuant
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1 to the PAGA). The Alleged Claims include all claims to entitlement to damages, restitution,
2 penalties, interest, attorneys' fees, costs, declaratory and equitable relief.

3 1.2 "Claims Administrator" means CPT Group, Inc., which shall act as an
4 independent third party claims administrator.

5 1.3 "Claims Administration Costs" shall have the meaning set forth in Section
6 9.3 of this Stipulation.

7 1.4 "Class" and "Settlement Class" mean the class certified for purposes of
8 Settlement only, following the entry of an appropriate Order by the Court, consisting of all
9 current and former employees of Defendant who were employed as hourly, non-exempt
10 employees at any of Defendant's locations anywhere in California at any time during the
11 Class Period. The Class includes any and all temporary service employees and/or contract
12 employees supplied by a temporary services employer to Defendant during the Class Period.
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14 1.5 "Class Counsel" means Gregg A. Farley of the Law Offices of Gregg A.
15 Farley and Sahag Majarian, II, of the Law Offices of Sahag Majarian, II.

16 1.6 "Class Counsel Award" shall have the meaning set forth in Section 9.1 of this
17 Stipulation.
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19 1.7 "Class List" shall have the meaning set forth in Section 5.3 of this
20 Stipulation.

21 1.8 "Class Members" and "Participating Class Member" mean all Putative Class
22 Members who have not opted out of the Settlement after the Notice Period and who are
23 therefore in the Class that is certified for purposes of Settlement only, following the entry of
24 an appropriate Order by the Court.
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26 1.9 "Class Period" means the period from September 16, 2012 through the Date
27 of Preliminary Approval.
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1.10 “Class Representative” means Griselda E. Moya.

1.11 “Class Settlement Amount” shall have the meaning set forth in Section 4.1 of this Stipulation.

1.12 “Company” means defendant Topson Downs of California, Inc. (hereinafter “Topson Downs” or “Defendant”).

1.13 “Court” means the Superior Court of the State of California for the County of Los Angeles.

1.14 “Date of Final Approval” means the date the Court enters an order granting final approval of the Settlement.

1.15 “Date of Final Judgment” means the date the Court renders and enters the Judgment in the Lawsuit upon Final Approval of the Settlement.

1.16 “Date of Preliminary Approval” means the date the Court enters an order granting preliminary approval of the Settlement.

1.17 “Deemed Mailed” shall have the meaning set forth in Section 5.5 of this Stipulation.

1.18 “Defendant” means defendant Topson Downs of California, Inc.

1.19 “Effective Date” means the expiration of sixty-five (65) days after the Date of Final Judgment with no appeal from the Final Judgment having been filed in the interim, or, if any such appeal or appeals are filed, the resolution of any such appeals in a way that does not alter the terms of the Settlement.

1.20 “Enhancement Award” shall have the meaning set forth in Section 9.2 of this Stipulation.

1.21 “Final Approval Hearing” means the hearing at which the Court considers whether to grant final approval of the Settlement.

1 1.22 “Final Judgment” and/or “Judgment” means the judgment or order to be
2 rendered and entered by the Court in the Lawsuit upon Final Approval of the Settlement.

3 1.23 “Individual Class Member Payment” shall have the meaning set forth in
4 Section 4.5 of this Stipulation.

5 1.24 “Last Known Address” or “Last Known Email Address” means the most
6 recently recorded mailing address (or personal email address) for a Putative Class Member
7 as such information is contained in the electronic employment or personnel records
8 maintained or obtained by Defendant.

9 1.25 “Lawsuit” means the action styled *Griselda E. Moya v. Topson Downs of*
10 *California, Inc.*, Case No. BC634191 pending in the Los Angeles County Superior Court.

11 1.26 “Net Settlement Consideration” shall have the meaning set forth in Section
12 4.4 of this Stipulation.

13 1.27 “Notice of Class Action Settlement” shall have the meaning set forth in
14 Section 5.4 of this Stipulation.

15 1.28 “Notice Packets” shall have the meaning set forth in Section 5.4 of this
16 Stipulation.

17 1.29 “Notice Period” shall have the meaning set forth in Section 5.6 of this
18 Stipulation.

19 1.30 “Objection” shall have the meaning set forth in Section 6 of this Stipulation.

20 1.31 “PAGA Payment” shall have the meaning set forth in Section 4.3 of this
21 Stipulation.

22 1.32 “Participating Class Member” and “Class Member” mean each Putative Class
23 Member who does not submit a valid and timely Request for Exclusion.

24 1.33 The “Parties” means the Class Representative and the Defendant.

1 1.34 “Putative Class Members” shall mean all current and former employees of
2 Defendant who were employed as hourly, non-exempt employees at any of Defendant’s
3 locations anywhere in California at any time during the Class Period. Putative Class
4 Members include any and all temporary service employees and/or contract employees
5 supplied by a temporary services employer to Defendant during the Class Period.

6 1.35 “Reasonable Address Verification Measure” means the utilization of the
7 National Change of Address Database maintained by the United States Postal Service to
8 review the accuracy of and, if possible, update a mailing address.

9 1.36 “Released Claims” shall have the meaning set forth in Section 10.2 of this
10 Stipulation.

11 1.37 “Released Parties” means Topson Downs and each and all of Topson
12 Downs’s past and present parents, subsidiaries, affiliated companies and corporations, and
13 each and all of their respective past and present owners, directors, officers, managers,
14 employees, general partners, limited partners, principals, agents, insurers, reinsurers,
15 shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, joint
16 venturers, assigns, or related entities, and each and all of their respective executors,
17 successors, assigns and legal representatives.

18 1.38 “Request for Exclusion Form” shall have the meaning set forth in Section 5.4
19 of this Stipulation.

20 1.39 “Settlement” means the terms and conditions set forth in this Stipulation.

21 1.40 “Settlement Allocation Form” shall have the meaning set forth in Section 5.4
22 of this Stipulation.

23 1.41 “Stipulation” means this Stipulation for Class Action Settlement.

1.42 “Updated Address” means a mailing address that was updated via Reasonable
1 Address Verification measures or via an updated mailing address provided by the United
2 States Postal Service or a Putative Class Member.
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4 **2. CONDITIONS PRECEDENT TO EFFECTIVENESS OF STIPULATION**

5 The Parties enter into this Stipulation and the Settlement on a conditional basis.

6 2.1 This Stipulation will become final and effective only upon the occurrence of
7 all of the following events. Similarly, Defendant’s obligations under this Settlement will
8 become final and effective only upon occurrence of all of the following events.
9

10 (A) The Court enters an order granting preliminary approval of the
11 Settlement;

12 (B) Defendant elects not to exercise its limited rights to terminate this
13 Settlement pursuant to the grounds described in Section 3 of this
14 Stipulation;

15 (C) The Court certifies the Class for settlement purposes;

16 (D) The Court conducts a Final Approval Hearing;

17 (E) The Court enters a Final Judgment granting final approval of the
18 Settlement and Stipulation and holding that all claims specifically
19 covered by this Stipulation are released; and
20

21 (F) The Effective Date occurs, and any challenge to the Settlement,
22 whether by objection or appeal, is resolved in favor of enforcement of
23 the Settlement.
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25 This Stipulation shall be deemed null and void *ab initio* upon the failure of any of
26 these seven conditions to occur. In such event, neither this Stipulation, nor any negotiations
27 leading to this Settlement, nor any information exchanged solely for purposes of furthering
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1 settlement negotiations, will be used or construed by or against any Party as a determination,
2 admission or concession of any issue of law or fact; and the Parties hereto do not waive, and
3 instead expressly reserve, their respective rights regarding the prosecution and defense of the
4 Lawsuit, including all available defenses and affirmative defenses, and arguments that any
5 claim in the Lawsuit could not be certified as a class action and/or managed as a
6 representative action, as if this Settlement never existed.

7 2.2 The invalidation of any material term of this Settlement will invalidate this
8 Agreement in its entirety unless the Parties subsequently agree in writing that the remaining
9 provisions will remain in force and effect.

10 2.3 In the event of a timely appeal from a Final Judgment, the Judgment will be
11 stayed and all payments required under this Settlement, other than payments to the Claims
12 Administrator for services rendered, will not be paid pending the completion and final
13 resolution of the appeal, and any payments thereafter will: (i) occur only if the Final
14 Judgment is upheld after all appeals; and (ii) be distributed in a manner that is provided for
15 in this Settlement and in the Final Judgment.

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18 **3. CONDITIONAL CLASS CERTIFICATION**

19 For settlement purposes only, the Parties stipulate to class certification of the Class.
20 If the Court does not grant either/both preliminary and/or final approval of this Settlement,
21 the Parties agree that this conditional class certification will automatically be deemed
22 revoked. If five percent (5%) or more of the Putative Class Members opt out of the Class or
23 the Settlement, Defendant maintains the right, in its sole discretion, to revoke its consent to
24 this stipulation, which shall be of no further force or effect. Notice of revocation shall be
25 given to Class Counsel no later than ten (10) days after Defendant receives written notice of
26 the number of Putative Class Members who have timely opted out of the settlement. In that
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1 event, Defendant shall pay the Claims Administrator for any Claims Administration Costs
2 incurred prior to such revocation. If the court does not grant both preliminary and final
3 approval of this settlement, the Parties further stipulate that this and any future settlement
4 agreement shall not affect Defendant's ability to maintain that class certification is
5 inappropriate in this Lawsuit and/or that this Lawsuit cannot be managed as a representative
6 action.

7 **4. SETTLEMENT CONSIDERATION**

8 4.1 Subject to the claims procedures set forth below, Defendant agrees to pay: (i)
9 each Putative Class Member his or her individual share of the payment for resolution of the
10 PAGA claims in the Lawsuit, and (ii) each Participating Class Member his or her Individual
11 Class Member Payment as consideration for settlement of his or her other claims in the
12 Lawsuit. The Class Settlement Amount shall be the aggregate sum of eight hundred fifty
13 thousand dollars (\$850,000.00). Notwithstanding any other provision in this Stipulation, in
14 no event will Company be obligated to pay more than the Class Settlement Amount of eight
15 hundred fifty thousand dollars (\$850,000.00) to cover all Individual Class Member
16 Payments, Claims Administration Costs, PAGA Payments, Class Counsel Award, and
17 Enhancement Award. The Parties understand and agree that, upon the Effective Date of the
18 Settlement, no part of the Class Settlement Amount shall revert to Defendant under any
19 circumstances. Instead, upon the Effective Date, the entirety of the Class Settlement
20 Amount shall be distributed as set forth in this Stipulation. The Parties further understand
21 and agree that Participating Class Members shall not be required to submit any claim form,
22 including the Settlement Allocation Form, in order to receive an Individual Class Member
23 Payment pursuant to this Stipulation.
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1 4.2 Defendant agrees to pay an Enhancement Award of fifteen thousand dollars
2 (\$15,000.00) from the Class Settlement Amount to the Class Representative upon Class
3 Counsel's application and the Court's approval, pursuant to Section 9.2. The Class
4 Representative shall be issued an IRS Form 1099 for any Enhancement Award.

5 4.3 The Parties allocate a total of twenty-five thousand dollars (\$25,000.00) from
6 the Class Settlement Amount to settle claims for civil penalties pursuant to PAGA (the
7 "PAGA Payment"). California Labor Code section 2699(i) requires that the parties
8 distribute any settlement of PAGA claims as follows: 75% to the State Of California's
9 Labor Workforce Development Agency ("LWDA") for enforcement of labor laws and
10 education of employers, and 25% to "aggrieved employees." The Parties therefore allocate
11 eighteen thousand seven hundred fifty dollars (\$18,750.00) of the PAGA Payment to the
12 State of California LWDA, to be paid from the Class Settlement Amount by the Claims
13 Administrator. The remaining six thousand two hundred fifty dollars (\$6,250.00) of the
14 PAGA Payment shall be paid to the Putative Class Members on a per capita basis based on
15 the following formula: The Claims Administrator shall determine from information
16 provided by Defendant the total number of Putative Class Members who were employed by
17 Defendant during the period on and after July 12, 2015 (one year prior to Plaintiff's written
18 notice to the Labor Workforce Development Agency) and divide the \$6,250.00 allocated to
19 "aggrieved employees" by the total number of such Putative Class Members employed on
20 and after July 12, 2015, who shall be deemed "aggrieved employees" with respect to the
21 PAGA Payment. The Claims Administrator shall pay the quotient of this division to each
22 such Putative Class Member who is deemed an "aggrieved employee," in addition to any
23 other amounts to which those individuals may be entitled under this Stipulation. For the
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1 purpose of calculating applicable taxes, the Parties agree that the entirety of the PAGA
2 Payment constitutes penalties.

3 4.4 The “Net Settlement Consideration” shall be the amount of the Class
4 Settlement Amount available for distribution to the Participating Class Members after
5 subtracting the Class Counsel Award, Enhancement Award, PAGA Payment, Claims
6 Administration Costs, and the employer’s share of payroll taxes which are to be paid out of
7 the Class Settlement Amount.

8 4.5 Each Participating Class Member shall receive an Individual Class Member
9 Payment, less legally required withholdings, which is a share of the Net Settlement
10 Consideration calculated as follows:

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12 (A) The Claims Administrator shall determine from information provided by
13 Defendant the total number of work weeks worked by all such Participating
14 Class Members during the Class Period. The Claims Administrator shall then
15 divide the amount of the Net Settlement Consideration by the total number of
16 work weeks worked by such Participating Class Members during the Class
17 Period. The quotient of this division will be the amount per work week to be
18 paid to each such Participating Class Member for each work week worked
19 during the Class Period. Specifically, the Claims Administrator shall
20 multiply the amount per work week by the number of work weeks worked by
21 each such Participating Class Member during the Class Period and pay the
22 resulting product to each such Participating Class Member.

23
24 (B) For purposes of the foregoing calculations, Defendant shall be entitled
25 to estimate the number of work weeks worked by Participating Class
26 Members, individually and collectively as members of the Settlement Class,
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1 during the Class Period by referring to the time frames worked by
2 Participating Class Members during the Class Period or to any other available
3 data or information. For the purpose of calculating applicable taxes under
4 this formula, the Parties agree that twenty-five percent (25%) of the Net
5 Settlement Consideration shall be allocated to wages, and that the remaining
6 seventy-five percent (75%) of the Net Settlement Consideration constitutes
7 penalties and interest.

8 **4.6 Tax Matters.**

9
10 (A) The Claims Administrator shall issue an IRS Form W-2 to each
11 Participating Class Member for the portion of the payment that constitutes
12 wages, and shall issue an IRS Form 1099 to each Participating Class Member
13 for the portion of the payment that constitutes penalties and interest, and to
14 the Class Representative for any Enhancement Award. The Claims
15 Administrator shall also calculate all legally required withholdings from the
16 Individual Class Member Payments and shall withhold and remit such
17 amounts to the relevant taxing authorities. Defendant shall provide the
18 Claims Administrator with the necessary information to calculate these
19 required withholdings and any payroll taxes with respect to the Individual
20 Class Member Payments.
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22 (B) The employer's portion of any tax liability with respect to payments
23 required by this Stipulation shall be deducted from the Class Settlement
24 Amount, as calculated by the Claims Administrator. Payroll taxes shall not
25 be assessed on any portion of the Class Settlement Amount that is attributable
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1 to Claims Administration Costs, Class Counsel Award, the PAGA Payment,
2 penalties, interest or any Enhancement Award.

3 (C) The Class Representative and any Putative Class Member who
4 receives any payment pursuant to this Stipulation shall be responsible for
5 correctly characterizing such amounts for tax reporting purposes and shall be
6 solely responsible for any and all tax obligations associated with such receipt,
7 except as may be specifically set forth in this Section.

8 (D) The Claims Administrator shall issue a Form 1099 to Class Counsel
9 for any Class Counsel Award from the Class Settlement Amount. Class
10 Counsel shall be fully responsible for the payment of any taxes due on such
11 award.
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13 (E) Payments to Participating Class Members will not count as earnings
14 or compensation for purposes of any benefit plans (e.g., 401(k) plans,
15 retirement plans, etc.) sponsored by Defendant.
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17 **4.7 Unclaimed Portion of the Net Settlement Consideration**

18 The Parties will comply with the requirements of Civil Procedure Code Section 384
19 with respect to the handling and distribution of unpaid cash residue and unclaimed or
20 abandoned funds in this Settlement. Pursuant to Subsection (b)(1) of Section 384, the
21 Parties will request, upon a showing of good cause, that the Court order that all checks to
22 Putative Class Members and Participating Class Members not cashed within 120 days of
23 mailing escheat to the State of California Department of Industrial Relations Unclaimed
24 Wages Fund to be held and administered for the benefit of such Class Members. If the
25 Court declines to issue such an order, then the distribution of the proceeds of any and all un-
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1 cashed checks after the expiration of such 120-day period shall be in accordance with
2 Subsection (b)(3) of Section 384.

3 4.8 The Individual Class Member Payments shall be paid according to Sections
4 4.5 and 8 of this Stipulation.

5 **5. CLAIMS PROCEDURE**

6 5.1 The Parties designate CPT Group, Inc., as the Claims Administrator.

7 5.2. The Claims Administrator will be responsible for mailing the Notice Packets,
8 searching for appropriate contact information for Putative Class Members, collecting
9 documents from Putative Class Members, responding to inquiries from Putative Class
10 Members, and performing such other duties as the Parties may direct.

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12 5.3 **Putative Class Member List.** Not later than ten (10) days following the
13 Date of Preliminary Approval, Defendant will provide to the Claims Administrator, but not
14 Class Counsel, a list (the "Class List") identifying each Putative Class Member, his or her
15 social security number, his/her Last Known Address, his/her Last Known Email Address (if
16 any), and the estimated number of work weeks worked by each Putative Class Member
17 during the Class Period. At the same time, Defendant will provide to the Claims
18 Administrator, but not Class Counsel, a supplemental list (the "PAGA Aggrieved Employee
19 List") identifying each Putative Class Member employed by Defendant during any portion
20 of the period on or after July 12, 2015. The Claims Administrator shall keep all information
21 contained in the Class List and PAGA Aggrieved Employee List completely confidential,
22 shall not share such information with any other person or entity, and shall not use such
23 information for any purpose other than those expressly described in this Stipulation.
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5.4 **Notice to Putative Class Members**

(A) Not later than fourteen (14) days following receipt of the Class List and PAGA Aggrieved Employee List, the Claims Administrator shall send, via U.S. Mail and, if the Lists include a Last Known Email Address for that Putative Class Member, via email as well: (i) a Notice of Class Action Settlement substantially in the form of Exhibit “A” hereto; (ii) a Settlement Allocation Form substantially in the form of Exhibit “B” hereto; and (iii) a Request for Exclusion Form substantially in the form of Exhibit “C” hereto. Collectively, the Notice of Class Action Settlement, Settlement Allocation Form and Request for Exclusion Form shall be referred to herein as the "Notice Packet."

(B) Each Settlement Allocation Form shall be pre-printed with (i) the estimated share of the Net Settlement Consideration payable to that Putative Class Member pursuant to the terms of this Stipulation, (ii) the estimated share of the PAGA Payment, if any, payable to that Putative Class Member pursuant to the terms of this Stipulation, and (iii) the number of work weeks or any other employment data pertaining to that Putative Class Member on which the Claims Administrator relied to calculate these estimated payments.

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5.5 **Date of Mailing and Remailing**

(A) A Notice Packet shall be “Deemed Mailed” to the Putative Class Member to whom it was sent five (5) days after mailing, regardless of whether it is subsequently returned as undeliverable from the United States Postal Service. If a Notice Packet is returned to the Claims Administrator with a forwarding address, the Claims Administrator will re-send the Notice

1 Packet to the forwarding address affixed thereto, and the forwarding address
2 will be deemed the Updated Address for that Putative Class Member. If the
3 first mailing of the Notice Packet is returned without a forwarding address
4 within at least fourteen (14) days prior to the end of the Notice Period, the
5 Claims Administrator will immediately conduct a standard skip trace in an
6 effort to ascertain the current address for the particular Putative Class
7 Member in question. If a more recent or accurate address is found by this
8 method, the Claims Administrator will resend the Notice Packet to the new
9 address within three (3) calendar days of identifying the new address
10 information. If no new information is ascertained by means of a skip trace,
11 or if the Notice Packet is returned to the Claims Administrator after using an
12 address obtained from a standard skip trace, the Claims Administrator will
13 immediately perform a manual “in-depth skip trace” to locate a more recent
14 or accurate address. If a more recent or accurate address is found by this
15 method, the Claims Administrator will resend the Notice Packet to the new
16 address within three (3) calendar days of identifying the new address
17 information. All of the costs incurred relating to the skip traces described
18 above shall fall within the definition of Claims Administration Costs.

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21 (B) If the procedures set forth herein are followed and the intended
22 recipient of a Notice Packet still does not receive the Notice Packet, or any
23 portion thereof, the intended recipient will nevertheless be deemed a Class
24 Member and will be bound by all terms of the Settlement and the order of
25 final approval entered by the Court.
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5.6 **Opt-Out and Claims Procedure.**

(A) Putative Class Members shall have forty-five (45) days from the date that the Notice Packet is Deemed Mailed to the Putative Class Members (referred to hereafter as the “Notice Period”) to return the Settlement Allocation and/or Request for Exclusion Form by mail to the Claims Administrator. A Participating Class Member who does not submit a timely and valid Request for Exclusion Form is not required to return a completed Settlement Allocation Form in order to receive an Individual Class Member Payment. A Participating Class Member is required to return a completed Settlement Allocation Form only if the Participating Class Member disputes the number of work weeks or other information in the Settlement Allocation Form. The date of mailing of the Settlement Allocation Form or Request for Exclusion Form by a Putative Class Member is deemed to be the date the form is deposited in the U.S. Mail, postage prepaid, as evidenced by the postmark. If the last day of the Notice Period falls on a Sunday or legal holiday, the Notice Period shall be deemed to extend through the next business day.

(B) All Putative Class Members shall receive an individual share of the PAGA Payment. Any Putative Class Member who submits a timely and valid Request for Exclusion Form shall not receive an Individual Class Member payment under this Stipulation, and shall not be bound by the Release of Claims set forth in Section 10.2 and 10.3 of this Stipulation. All other Putative Class Members shall be deemed Class Members and shall be bound by all terms of this Stipulation and Settlement.

1 5.7 **Disputes Regarding Individual Shares.** Putative Class Members will be
2 entitled to dispute the number of work weeks or other data used to calculate their estimated
3 shares of the PAGA Payment and/or Net Settlement Consideration pre-printed on the
4 Settlement Allocation Form by: (i) signing the Settlement Allocation Form; (ii) indicating
5 in writing on the Settlement Allocation Form the proposed correction to the data used to
6 calculate their estimated shares of the PAGA Payment and/or Net Settlement Consideration;
7 and (iii) submitting satisfactory evidence to support their contention. In the event of a
8 dispute, the Parties shall meet and confer in good faith in an attempt to resolve that dispute.
9 If the dispute cannot be resolved, it shall be submitted to the Claims Administrator for
10 resolution and the decision of the Claims Administrator shall be final and binding. If a
11 dispute is resolved in the Putative Class Member's favor, the calculation of that Putative
12 Class Member's individual shares of the PAGA Payment and/or Net Settlement
13 Consideration will be revised accordingly.

14 5.8 Within seven (7) days after the expiration of the Notice Period the Claims
15 Administrator shall notify Class Counsel and Defendant's counsel of the Putative Class
16 Members who have opted out of the Class. The Claims Administrator shall identify these
17 Class Members by employee identification number only.

18 5.9 The Parties and their counsel shall not discourage any Putative Class Member
19 from participating in the Settlement and shall not encourage or discourage any Putative
20 Class Member with respect to objecting to or opting out of the Settlement.

21 **6. OBJECTIONS TO SETTLEMENT**

22 Any Putative Class Member who wishes to object to the Settlement must not "opt
23 out" of the Settlement by returning a Request for Exclusion Form. Any Putative Class
24 Member who wishes to object to the Settlement must also deliver a written objection (an
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1 “Objection”) to the Claims Administrator, no later than forty-five (45) days following the
2 date the Notice Packet is Deemed Mailed. The date of delivery of any written Objection is
3 deemed to be the date the objection is deposited in the U.S. Mail, postage pre-paid, as
4 evidenced by the postmark. The Objection must provide the full and complete Case
5 Number, and in clear and concise terms, the legal and factual arguments supporting the
6 objection. The Class Administrator will forward copies of any Objections received to Class
7 Counsel and to counsel for Defendant, and will also attach copies of such Objections to the
8 Class Administrator’s declaration described in Section 11.4 of this Stipulation. The Parties,
9 through their counsel, shall notify the Court of any Objections prior to the Final Approval
10 Hearing. Any Class Member who fails to file and serve a timely written Objection in the
11 manner described above will be deemed to have waived all objections to the Settlement and
12 will be foreclosed from contesting or attacking the validity of the Settlement (whether by
13 appeal or otherwise).
14

15 **7. ABSOLUTE DEADLINE FOR SETTLEMENT ALLOCATION FORMS,**
16 **REQUESTS FOR EXCLUSION, AND OBJECTIONS**
17

18 7.1 Notwithstanding any other provision of this Stipulation, any Settlement
19 Allocation Form, Request for Exclusion, or Objection by any Putative Class Member will be
20 considered untimely submitted if it is postmarked more than forty-five (45) days from the
21 date the Notice Packet was Deemed Mailed to that Putative Class Member or if it is received
22 by the Parties and/or Claims Administrator less than fifteen (15) days prior to the Final
23 Approval Hearing, unless the Parties agree otherwise.
24

25 7.2 Not later than seven (7) calendar days after the expiration of the Notice
26 Period, the Claims Administrator shall notify Class Counsel and Defendant’s counsel (by
27 employee identification number only) of: (a) the Putative Class Members who have opted
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1 out of the Class; (b) the details of any corrections or objections to the data used to calculate
2 their estimated shares of the PAGA Payment and/or Net Settlement Consideration pre-
3 printed on any Settlement Allocation Forms; (c) the amount of each individual share of the
4 PAGA Payment due to each Putative Class Member; and (d) the amount of each Individual
5 Class Member Payment due to each Participating Class Member.

6 **8. PAYMENT PROCEDURE**

7 8.1 As a condition of receiving any Individual Class Member Payment under this
8 Stipulation and Settlement, Putative Class Members must become a Participating Class
9 Member by not opting out of the Class, and by releasing the Released Claims. Plaintiff will
10 be issued her Individual Class Member Payment at the time the Claims Administrator issues
11 payments to all Class Members. All Putative Class Members will receive an individual
12 share of the PAGA Payment, regardless of whether they have become Participating Class
13 Members.
14

15 8.2 The Claims Administrator shall be responsible for mailing (i) the Individual
16 Class Member Payments to the Participating Class Members, and (ii) the individual shares
17 of the PAGA Payment to the Putative Class Members. Not later than ten (10) days
18 following the Effective Date, Defendant shall transfer the Class Settlement Amount to the
19 Claims Administrator. The Claims Administrator shall mail to each Participating Class
20 Member and/or Putative Class Member a check in the amount(s) calculated pursuant to
21 Sections 4.3, 4.5 and 7.2 of this Stipulation no later than ten (10) days thereafter. All such
22 checks will indicate on their face that they are void if not negotiated within ninety (90) days
23 of issuance. The Class Administrator will determine the appropriate method to be used to
24 calculate payroll tax withholdings. The expense of conducting such calculations shall be
25 considered part of the Claims Administration Costs.
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1 8.3 If a settlement check is returned to the Claims Administrator with a
2 forwarding address, the settlement check will be forwarded to the forwarding address. If a
3 settlement check is returned to the Claims Administrator without a forwarding address or is
4 otherwise undeliverable, the Claims Administrator will conduct a skip trace and re-mail the
5 returned check, and the expense of such search shall be part of the Claims Administration
6 Costs. If a Class Member contacts the Claims Administrator or counsel for either Party with
7 a new address within 30 days of the date the settlement checks are initially mailed to the
8 Class Members, the settlement check for that Class Member will be reissued and mailed to
9 the new address provided no later than 5 days after receipt of the new address for that Class
10 Member. Any such reissued check will indicate on its face that it is void if not negotiated
11 within sixty (60) days of its issuance.

13 8.4 If any interest is earned on any portion of the monies allocated to payments
14 under this Stipulation to Participating Class Members, Putative Class Members, Class
15 Counsel, the Class Representative, and/or the Claims Administrator, such interest shall be
16 paid to The State Bar of California, Legal Services Trust Fund Program, Department 05-
17 590, San Francisco, California 94139 and designated as a donation to the legal aid programs
18 funded the State Bar of California.

20 **9. ATTORNEYS' FEES AND COSTS, CLASS REPRESENTATIVE**
21 **ENHANCEMENT AWARD, AND COSTS OF NOTICE AND**
22 **ADMINISTRATION**

23 9.1 **Attorneys' Fees and Costs.**

24 (A) Plaintiff will request, and Defendant will not object to a request, that
25 the court approve: (i) an award of attorneys' fees in an amount equal to no
26 more than two hundred eighty-three thousand three hundred thirty-three
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1 dollars and thirty-three cents (\$283,333.33); and (ii) an award of reasonable
2 litigation costs of up to thirty-five thousand dollars (\$35,000.00) to Class
3 Counsel (collectively, the “Class Counsel Award”). In no event will the
4 Company be obligated to pay more than two hundred eighty-three thousand,
5 three hundred and thirty-three dollars and thirty-three cents (\$283,333.33)
6 with respect to attorneys’ fees.

7 (B) Defendant will not oppose Class Counsel’s request for the award of
8 attorney’s fees and reasonable litigation costs described in this section, and
9 agrees that the request is fair and reasonable under the circumstances of this
10 case.
11

12 9.2 **Enhancement Award.** Class Counsel will submit an application for fifteen
13 thousand dollars (\$15,000.00) as an “Enhancement Award” to the Class Representative for
14 her time, effort and participation in this Lawsuit as Class Representative. Defendant will not
15 oppose a motion for approval of such Enhancement Award, and agrees that the request is
16 fair and reasonable under the circumstances of this case.
17

18 9.3 **Claims Administration Costs.** “Claims Administration Costs” shall include
19 all costs and expenses due to the Claims Administrator in connection with its administration
20 of the claims including, but not limited to, preparing and mailing Notice Packets, locating
21 Class Members, processing Request for Exclusion Forms and Settlement Allocation Forms,
22 calculating withholdings and taxes, and calculating, administering and distributing payments
23 to Participating Class Members and/or Putative Class Members. All Claims Administration
24 Costs shall be paid from the Class Settlement Amount. The Claims Administration Costs
25 shall not exceed fourteen thousand five hundred dollars (\$14,500.00).
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10. **RELEASE OF CLAIMS**

A. **Release of Class Claims.**

10.1 **Terms of Release.** In consideration of the mutual promises contained herein, the Class Representative and the Class Members, on behalf of themselves and on behalf of their current, former, and future heirs, executors, administrators, attorneys, agents, and assigns, do hereby and forever fully and finally release, waive, acquit and discharge the Released Parties from the Released Claims, as defined below.

10.2 **Released Claims of Class Members and the Class Representative**

(A) Upon the Effective Date, all Participating Class Members will be deemed to have, and by operation of the Judgment will have, expressly waived and relinquished, to the fullest extent permitted by law, all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, whether known or unknown, that each Class Member had, now has, or may hereafter claim to have against the Released Parties, arising at any time during the Class Period, out of the facts, legal theories and alleged causes of action in the operative FAC for (i) failure to provide meal and rest breaks and pay statutory penalties based thereon, (ii) failure to pay regular, overtime and minimum wages, (iii) failure to provide accurate and complete wage statements and keep accurate and complete records, (iv) waiting time penalties, including unpaid vacation wages at termination, (v) unfair business practices, and (vi) civil and statutory penalties (including penalties pursuant to the PAGA).

(B) At a minimum, the released claims include, to the maximum extent permitted by law: (i) any claims and causes of action, whether known or unknown, that were or could have been alleged or asserted based on the facts and allegations alleged in the FAC filed in the Lawsuit or arising out of the same nucleus of operative facts, which include, but are not

1 limited to, the following: claims brought under California Labor Code Sections 201, 202,
2 203, 218.5, 218.6, 226, 226.3, 226.7, 510, 558, 1194, and/or 2698 *et seq.*, the applicable
3 Industrial Welfare Commission Wage Orders, the Fair Labor Standards Act, and all related
4 or corresponding federal laws, and all implementing regulations and interpreting guidance;
5 (ii) any claims that were or could have been brought under California Business and
6 Professions Code Section 17200 *et seq.* as unlawful, fraudulent or misleading based on the
7 claims, facts and allegations alleged in the Lawsuit (including, but not limited to, claims of
8 conduct unlawful under state or federal law); (iii) any other causes of action arising from or
9 related to purported meal and rest break violations, failure to pay penalties or premium
10 wages for meal or rest breaks not provided as required by law, failure to pay regular,
11 overtime and minimum wages as required by law, failure to pay wages, including vacation
12 wages, due at termination, failure to properly calculate wages and other benefits owed,
13 failure to provide and keep accurate and complete wage statements, or unfair business
14 practices, including related premiums, penalties, interest, punitive damages, costs, attorneys'
15 fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in
16 tort, contract, or pursuant to a statutory remedy (the "Released Claims"). This release
17 covers all such claims against any Released Party.
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19

20 **10.3 California Labor Code Section 206.5.** In connection with the above
21 Release, and in consideration of Defendant's payments of the sums provided herein, each
22 and every Class Member will be deemed also to have acknowledged and agreed that
23 California Labor Code Section 206.5 is not applicable to the Parties hereto or the Class
24 Members because there is a good faith dispute as to whether any wages are due at all to any
25 Class Member. Section 206.5 provides in pertinent part as follows:
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1 AN EMPLOYER SHALL NOT REQUIRE THE EXECUTION OF A RELEASE
2 OF A CLAIM OR RIGHT ON ACCOUNT OF WAGES DUE, OR TO BECOME DUE, OR
3 MADE AS AN ADVANCE ON WAGES TO BE EARNED, UNLESS PAYMENT OF
4 THOSE WAGES HAS BEEN MADE.

5 **10.4 Binding on State of California.**

6 The Parties intend that the release of PAGA claims in this Stipulation shall be
7 binding on the State of California. Upon the Effective Date, by virtue of the Court's
8 approval of this Stipulation, the State of California shall be deemed to have released any and
9 all claims for civil penalties against any Released Party based on a Released Claim.
10

11 **C. Mutual General Release by Plaintiff and Defendant.**

12 **10.5 Additional Released Claims.** In addition to the Released Claims, Plaintiff
13 releases any and all claims, known or unknown, contingent or accrued, against the Released
14 Parties arising out of any act or event that occurred prior to the date of execution of this
15 Stipulation.

16 Defendant releases any and all claims, known or unknown, contingent or accrued,
17 against Plaintiff arising out of any act or event that occurred prior to the date of execution of
18 this Stipulation.
19

20 The Parties waive the protections of California Civil Code § 1542, which provides:

21 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH
22 THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS
23 OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE,
24 WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY
25 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.
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1 The Parties acknowledge that either may hereafter discover facts in addition to or
2 different from those which it now knows or believes to be true, but each stipulates and
3 agrees that, upon the Effective Date, it will fully, finally and forever settle and release any
4 and all claims it may have against any Released Party (in the case of claims belonging to the
5 Class Representative) or against the Class Representative (in the case of claims belonging to
6 Defendant), whether known or unknown, suspected or unsuspected, contingent or non-
7 contingent, concealed or hidden, which now exist, or heretofore have existed upon any
8 theory of law or equity and without regard to the subsequent discovery or existence of such
9 different or additional facts.

10
11 Plaintiff agrees not to seek re-employment with Defendant or any parent, subsidiary,
12 affiliated or successor entities.

13 **10.6 Release of ADEA Claims.**

14 Plaintiff's general release of claims in Section 10.5 of this Stipulation includes a
15 release of any claim Plaintiff may have under the federal Older Workers Benefit Protection
16 Act ("OWBPA") and/or the federal Age Discrimination In Employment Act of 1967
17 ("ADEA"). Plaintiff is hereby advised that: (i) this waiver and release do not apply to any
18 rights or claims that may arise after the date she executes this Stipulation; (ii) she may
19 consult with an attorney prior to executing this Stipulation and is encouraged to do so; (iii)
20 she has at least twenty-one (21) days to consider this Stipulation (although she may by her
21 own choice execute this agreement earlier); (iv) she has seven (7) days following the
22 execution of this Stipulation to revoke her agreement to Section 10.5, in which case Sections
23 10.5 and 10.6 of this Stipulation shall be null and void, and the other provisions of this
24 Stipulation shall remain in full force and effect; and (v) Section 10.5 of this Stipulation shall
25 not be effective until she has executed this Stipulation and the period to revoke her
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1 agreement to Section 10.5 has expired. To revoke Plaintiff's agreement to Section 10.5 of
2 this Stipulation, Plaintiff (or her attorney) must notify Defendant's counsel in a writing
3 received by Defendant's counsel no more than 7 days after Plaintiff executes this agreement.

4 **D. Other Releases.**

5 **10.7 Claims By Participating Class Members Based on Stipulation.** In
6 addition to the terms of the Release outlined above, no Class Member will have any claim
7 against any of the Released Parties, the Defendant's counsel, the Class Representative, any
8 other Class Member, or Class Counsel, based on errors in administering claims or
9 performing the mailing or skip-tracing requirements under this Stipulation.
10

11 **11. COURT APPROVAL**

12 11.1 The Parties shall cooperate in seeking and obtaining Court approval of this
13 Settlement, as follows.

14 (A) Promptly after the execution of this Stipulation, Class Counsel shall submit to
15 the Court: (i) a fully executed copy of this Stipulation; (ii) a noticed motion seeking
16 the Court's preliminary approval of this Settlement; (iii) a proposed order granting
17 such preliminary approval and setting hearing for final approval; and (iv) any other
18 documents consistent with the Settlement reasonably necessary to obtain the Court's
19 approval of the Settlement. The Parties will ask the Court to maintain jurisdiction of
20 this matter for the purpose of monitoring compliance with and performance under
21 this Stipulation and any and all orders and judgments, including the Final Judgment,
22 entered by the Court.
23

24 (B) The Parties will also ask the Court to stay the Lawsuit, including all pending
25 litigation and discovery activity, all pending deadlines, and all Court proceedings in
26 the Lawsuit, other than a Motion For Preliminary Approval of the Settlement, a
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1 Motion for Final Approval of the Settlement, a Motion for the Class Counsel Award
2 and Enhancement Award or any other Order necessary to enforce the terms of this
3 Settlement, until the earlier of: (i) the date of Final Judgment; (ii) the date upon
4 which Defendant revokes its consent to this Stipulation; or (iii) the date the Court
5 denies a motion for preliminary approval with prejudice or a motion for final
6 approval with prejudice.

7 11.2 The Parties shall request that a Final Approval Hearing be set within a
8 reasonable time after the last day of the Notice Period.

9 11.3 Prior to the Final Approval Hearing, Class Counsel shall file with the Court
10 its motion for the Class Counsel Award and the Enhancement Award.

11 11.4 No later than 21 court days before the Final Approval Hearing, the Claims
12 Administrator shall provide Class Counsel and counsel for Defendant with a “declaration of
13 compliance” with the terms of this Settlement to be filed with the Court by Class Counsel.
14

15 11.5 Prior to the Final Approval Hearing, Class Counsel shall file a Motion for
16 Final Approval, Memorandum of Points and Authorities in Support of the Settlement, and
17 any other documents reasonably necessary to obtain the Court’s approval of the Settlement.
18

19 11.6 Upon final approval of the Settlement by the Court at or after the Final
20 Approval Hearing, the Parties shall present the Final Judgment to the Court for its approval.
21 After entry of the Final Judgment, the Court shall have continuing jurisdiction solely for
22 purposes of addressing: (i) the interpretation and enforcement of the terms of this
23 Stipulation; (ii) Settlement administration matters; and (iii) such post-Final Judgment
24 matters as may be appropriate under court rules or as set forth in this Stipulation.
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12. **MISCELLANEOUS PROVISIONS**

1 12.1 All of the Parties have been represented by counsel throughout all
2 negotiations that preceded the execution of this Stipulation, and this Stipulation is made with
3 the consent and advice of counsel.
4

5 12.2 The Parties and Class Members waive their right to seek any form of
6 appellate review over any order or judgment that is consistent with the terms of this
7 Stipulation.
8

9 12.3 This Stipulation may not be modified or amended, except in a writing that is
10 signed by the respective counsel of record for the Parties and approved by the Court.
11

12 12.4 This Stipulation and the exhibits attached hereto constitute the entire
13 agreement between the Parties concerning the subject matter hereof, and supersede and
14 replace all prior negotiations, understandings, memoranda of understanding and proposed
15 agreements, written and oral, relating thereto. No extrinsic oral or written representations or
16 terms shall modify, vary or contradict the terms of the Stipulation, although the Stipulation
17 may be modified in a writing, signed by duly authorized representatives of all Parties and
18 approved in writing by a final order of the Court. No waiver of any term, provision or
19 condition of this Stipulation, whether by conduct or otherwise, in any one or more instance
20 shall be deemed to be or construed as a further or continuing waiver of any such term,
21 provision or condition. The Parties and their respective counsel all participated in the
22 negotiation and drafting of this Stipulation and Settlement and had available to them the
23 advice and assistance of independent counsel. Thus, no Class Member may claim that any
24 ambiguity in this Stipulation or Settlement should be construed against Defendant.
25

26 12.5 This Stipulation shall be subject to, governed by, construed, enforced, and
27 administered in accordance with the laws of the State of California, without giving effect to
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1 the principles of conflict of laws, and shall be subject to the continuing jurisdiction of the
2 Court. This Stipulation shall be construed as a whole according to its fair meaning and
3 intent, and not strictly for or against any Party, regardless of who drafted or who was
4 principally responsible for drafting this Stipulation or any specific term or condition thereof.

5 12.6 This Stipulation may be executed in one or more counterparts, each of which
6 shall be deemed an original and together shall constitute one and the same instrument.

7 When each of the Parties has signed at least one such counterpart, this Stipulation shall
8 become effective and binding as to all of the Parties as of the day and year last written. Fax
9 or electronic signatures and copies of signatures shall be deemed as effective as originals.

10 12.7 Except as specifically provided herein, the Parties hereto will bear
11 responsibility for their own attorneys' fees and costs, taxable or otherwise, incurred by them
12 or arising out of this Lawsuit, and will not seek reimbursement thereof from any Party to this
13 Stipulation. If legal action arises out of this Stipulation or is necessary to enforce any of the
14 terms or provisions of this Stipulation, the prevailing party in the action shall be entitled to
15 recover its reasonable attorneys' fees and costs.

16 12.8 The Parties and their counsel agree that they will not issue any press releases
17 or press statements, post any internet disclosures, have any communications with the press
18 or media about the Lawsuit or this Stipulation, or otherwise publicize the terms of this
19 Settlement. Notwithstanding the foregoing: (i) Class Counsel shall be allowed to refer to
20 the Settlement in support of other court filings in other litigation, (ii) counsel for the Parties
21 shall be allowed to refer to the Settlement in communications with Class Members; (iii) the
22 Parties shall have the right to disclose the Settlement as may be required under federal or
23 state tax and/or securities laws or under Generally Accepted Accounting Principles; and (iv)
24 the Parties shall have the right to disclose the Settlement to third parties without identifying
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1 the case name, case number, or the names of any parties or released persons or entities. The
2 provisions of this paragraph do not apply to communications between a Party and a
3 Released Party.

4 12.9 Each individual signing this Stipulation warrants that he or she has the
5 authority and is expressly authorized to enter into this Stipulation on behalf of the party for
6 which that individual signs.

7 12.10 The Settlement shall be binding upon and inure to the benefit of the Parties'
8 respective successors, assigns, heirs, spouses, marital communities, executors,
9 administrators and legal representatives.

10 12.11 This Stipulation, any and all proceedings or documents arising out of or
11 relating thereto shall not be construed as an admission of the truth of any allegation or the
12 validity of any claim asserted or of any liability, nor shall this Stipulation, the Settlement
13 contained herein, nor any papers arising out of or relating thereto be offered or received in
14 evidence or in any way referred to in any civil or administrative proceeding other than such
15 proceedings as may be necessary to approve or enforce this Stipulation. The Class Members
16 are deemed by operation of the order of final approval of the Settlement to represent,
17 covenant and warrant that they have not directly or indirectly assigned, transferred,
18 encumbered, or purported to assign, transfer, or encumber to any person or entity any
19 portion of any liability, claim, demand, cause of action or rights herein released and
20 discharged.
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23 12.12 Even after the Final Judgment and notwithstanding it, this Court will have
24 and retain continuing jurisdiction over the Lawsuit and over all Parties and Class Members,
25 to the fullest extent necessary or convenient to enforce and effectuate the terms and intent of
26 this Settlement and all matters provided for in it, and to interpret it.
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1 12.13 The absolute maximum amount of money to be paid by the Company under
2 this Settlement is, in the aggregate (irrespective of how or to whom such monies are
3 distributed), eight hundred fifty thousand dollars (\$850,000.00). It is understood and agreed
4 that, irrespective of any other circumstances, in no event will the Company be obligated to
5 pay more than \$850,000.00.

6 **13. COOPERATION**

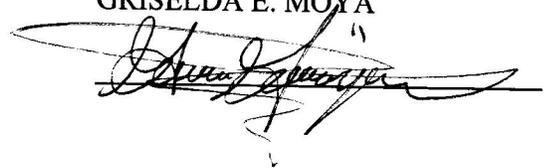
7 The Parties shall cooperate fully with one another in seeking Court approval of this
8 Stipulation (including all exhibits thereto) and to use their respective best efforts to
9 consummate the Settlement and cause the Judgment to be entered and to become final. No
10 Party to this Stipulation shall seek to evade his, her or its good faith obligations to seek
11 approval and implementation of this Settlement by virtue of any ruling, order, governmental
12 report or other development, whether in the Lawsuit, in any other litigation or otherwise that
13 hereafter might occur and might be deemed to alter the relative strengths of the Parties with
14 respect to any claims or defenses or their relative bargaining power with respect to
15 negotiating. The Parties and their respective counsel of record deem this Settlement to be
16 fair and reasonable and have arrived at this Settlement in arms-length negotiations taking
17 into account all relevant factors, present or potential.

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19
20 IN WITNESS WHEREOF, each of the undersigned has agreed to and accepted the
21 foregoing terms and conditions by executing this Stipulation as of the date indicated below.

22 IT IS SO AGREED.

23
24 Dated: 9/30/17

GRISELDA E. MOYA

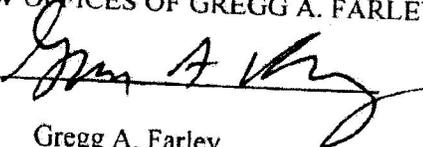


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1 Dated: Sept. 26 2017

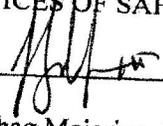
LAW OFFICES OF GREGG A. FARLEY

2 By: 
3 Gregg A. Farley

4 Attorneys for Plaintiff Griselda E. Moya

5 Dated: 9/27/17

6 LAW OFFICES OF SAHAG MAJARIAN

7 By: 
8 Sahag Majarian, II

9 Attorneys for Plaintiff Griselda E. Moya

10 Dated: _____

11 TOPSON DOWNS OF CALIFORNIA, INC.

12 Name: _____

13 Title: _____

14 Dated: _____

15 LIGHTGABLER

16 By: _____

17 Glenn J. Dickinson

18 Attorneys for Defendant Topson Downs of
19 California, Inc.

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Dated: _____

LAW OFFICES OF GREGG A. FARLEY

By: _____

Gregg A. Farley

Attorneys for Plaintiff Griselda E. Moya

Dated: _____

LAW OFFICES OF SAHAG MAJARIAN

By: _____

Sahag Majarian, II

Attorneys for Plaintiff Griselda E. Moya

Dated: 10/2/17

TOPSON DOWNS OF CALIFORNIA, INC.

Name: Camille Foster

Title: VP, Human Resources

Dated: 9/26/2017

LIGHTGABLER

By: Glenn J. Dickinson

Glenn J. Dickinson

Attorneys for Defendant Topson Downs of California, Inc.