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16

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **FOR THE COUNTY OF SANTA CLARA**

19

20 PASSION JOHNSON, an individual, on behalf of  
herself and others similarly situated,

Case No. 20CV364694

21 **PLAINTIFF,**

**STIPULATION OF SETTLEMENT  
RE: CLASS & REPRESENTATIVE  
ACTION**

22 v.

23 DAL GLOBAL SERVICES, LLC, a Delaware  
Limited Liability Company; and DOES 1 thru 50,  
24 inclusive,

25 **DEFENDANTS.**

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1 This Stipulation of Settlement (“Stipulation” or “Settlement”) is made and entered into, as of the  
2 date set forth below, between Plaintiff Passion Johnson (“Plaintiff”)—on behalf of herself, as  
3 representative of the proposed Class described herein, and as the authorized proxy and agent for the State  
4 of California—and Defendant DAL Global Services, LLC (“Defendant”) (collectively, the “Parties”).

5 **1. THE CONDITIONAL NATURE OF THIS STIPULATION**

6 1.1 This Stipulation and all associated exhibits or attachments are made for the sole purpose of  
7 settling the above-captioned action. This Stipulation and the Settlement it evidences are made in  
8 compromise of disputed claims. Because the Settlement involves the resolution of class claims, this  
9 Settlement must receive preliminary and final approval by the Court. Accordingly, the Parties enter into  
10 this Stipulation and associated Settlement on a conditional basis. If the Court does not enter the  
11 Judgment, the proposed Judgment does not become a Final Judgment for any reason, and/or the Effective  
12 Date does not occur, this Stipulation shall be deemed null and void ab initio; it shall be of no force or  
13 effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the negotiation,  
14 terms and entry of the Stipulation shall remain subject to the provisions of Federal Rule of Evidence 408,  
15 California Evidence Code sections 1119 and 1152, and any other analogous rules of evidence that are  
16 applicable, as shall the Memorandum of Understanding signed by the Parties on October 27, 2020.

17 1.2 Defendant denies all claims as to liability, damages, penalties, interest, fees, restitution,  
18 injunctive relief and all other forms of relief as well as the class and representative allegations asserted in  
19 the Action, as that term is defined below. Defendant has agreed to resolve the Action via this Stipulation,  
20 but to the extent this Stipulation is deemed void or the Effective Date does not occur, Defendant does not  
21 waive, but rather expressly reserves, all rights to challenge all such claims and allegations in the Action  
22 upon all procedural, merit, and factual grounds, including, without limitation, the ability to challenge class  
23 treatment on any grounds, as well as asserting any and all other privileges and potential defenses.  
24 Plaintiff agrees not to argue or present any argument, and hereby waives any argument that, based on this  
25 Stipulation, Defendant cannot contest class certification on any grounds whatsoever, or assert any and all  
26 other privileges or potential defenses if this Action were to proceed. Similarly, to the extent this  
27 Stipulation is deemed void or the Effective Date does not occur, Plaintiff does not waive, but rather  
28 expressly reserves, all rights to move and argue for class certification and all merits determinations in her

1 favor and in favor of the class and/or PAGA Aggrieved Employees. To the extent this Stipulation is  
2 deemed void or the Effective Date does not occur, Defendant agrees not to argue or present any argument,  
3 and hereby waives any argument that, based on this Stipulation, Plaintiff cannot seek certification or  
4 assert any arguments in support of the merits of her claims.

5 **2. DEFINITIONS**

6 The following terms, when used in this Stipulation of Settlement, shall have the following meanings:

7 2.1 “Action” means the above captioned action, identified as *Passion Johnson v. DAL Global*  
8 *Services, LLC*, Superior Court of California, County of Santa Clara, Case No. 20CV364694.

9 2.2 “Settlement Administrator” means CPT GROUP, INC.

10 2.3 “Class” means all persons employed by Defendant in non-exempt positions in California at  
11 any time from July 31, 2018, through March 1, 2021, or the Preliminary Approval Date, whichever date is  
12 earlier.

13 2.4 “Class Counsel” means Ackermann & Tilajef, P.C. and Winston Law Group, P.C.

14 2.5 “Class Member” means any individual who is a member of the Class.

15 2.6 “Class Period” means the period of time from July 31, 2018, through March 1, 2021, or the  
16 Preliminary Approval Date, whichever date is earlier.

17 2.7 “Class Representative” means Plaintiff Passion Johnson.

18 2.8 “Class Representative Released Claims” means any and all claims, obligations, demands,  
19 actions, rights, causes of action, and liabilities against the Releasees, of whatever kind and nature,  
20 character, and description, whether in law or equity, whether sounding in tort, contract, federal, state  
21 and/or local law, statute, ordinance, regulation, common law, or other source of law or contract, whether  
22 known or unknown, and whether anticipated or unanticipated, including all unknown claims covered by  
23 California Civil Code section 1542, as quoted in Section 5.8.3 below, that could be or are asserted based  
24 on the Class Representative’s employment by or termination from Defendant, arising at any time up to  
25 and including the Preliminary Approval Date, for any type of relief, including, without limitation, claims  
26 for minimum or overtime wages, premium pay, business expenses, other damages, penalties (including,  
27 but not limited to, waiting time penalties), liquidated damages, punitive damages, interest, attorneys’ fees,  
28 litigation and other costs, expenses, restitution, and equitable and declaratory relief. The Class

1 Representative Released Claims include, but are not limited to, the Released Claims, as well as any other  
2 claims under any provision of the FLSA, the California Labor Code, any applicable California Industrial  
3 Welfare Commission Wage Order, or any city or county Living Wage Ordinances.

4 2.9 “Court” shall mean the Superior Court of California, County of Santa Clara.

5 2.10 “Database” means an electronic list of each Class Member, including each person’s name,  
6 last known address, social security number, and number of eligible workweeks during the Class Period.

7 2.11 “Defendant’s Counsel” means Morgan, Lewis & Bockius LLP.

8 2.12 “Effective Date” means the date on which the Judgment becomes a Final Judgment.

9 2.13 “Final Approval Date” means the date on which the Court enters the Judgment.

10 2.14 “Final Approval Hearing” means a hearing set by the Court for the purpose of (i)  
11 determining the fairness, adequacy, and reasonableness of the Stipulation terms and associated Settlement  
12 pursuant to class action procedures and requirements; (ii) determining the amount of the award of  
13 attorneys’ fees and costs to Class Counsel; (iii) determining the amount of the Service Payment to the  
14 Class Representative; and (iv) entering the Judgment.

15 2.15 “Final Judgment” means the latest of the following dates: (i) if no Class Member files an  
16 objection to the Settlement, then the date the Court enters Judgment; (ii) if a Class Member files an  
17 objection to the Settlement that is not withdrawn, then the date immediately after the applicable date for  
18 seeking appellate review of the Court’s order of final approval of the Settlement has expired, assuming no  
19 appeal or request for review is filed; and (iii) if a Class Member files an appeal or petition for review  
20 following disposition of an objection, the date of the final resolution of that appeal or request for review  
21 (including any requests for rehearing and/or petitions for writ of certiorari) resulting in the final judicial  
22 approval of the Settlement. Notwithstanding the foregoing, any proceeding, order, or appeal pertaining  
23 solely to the award of attorneys’ fees, attorneys’ costs, or any Service Payment shall not by itself in any  
24 way delay or preclude the Judgment from becoming a Final Judgment or the Settlement from becoming  
25 “Effective.”

26 2.16 “First Amended Complaint” means the operative First Amended Complaint filed in the  
27 Action.

28 2.17 “FLSA” means the Fair Labor Standards Act.

1           2.18   “Gross Settlement Amount” is the sum of Four Hundred Twenty-Five Thousand Dollars  
2 and Zero Cents (\$425,000.00), which represents the amount payable in this Settlement by Defendant,  
3 which includes, without limitation, attorneys’ fees and costs, costs of settlement administration by the  
4 Settlement Administrator, Service Payment to the Class Representative, payment to the LWDA in the  
5 amount of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for its share of PAGA  
6 penalties, and the amounts payable to Participating Class Members. This amount does not, however,  
7 include Defendant’s share of payroll taxes, which shall remain Defendant’s responsibility.

8           2.19   “Judgment” means the judgment and order of final approval to be executed and filed by the  
9 Court pursuant to this Stipulation following the Final Approval Hearing.

10          2.20   “LWDA” means the State of California Labor & Workforce Development Agency.

11          2.21   “Net Settlement Amount” means the Gross Settlement Amount less attorneys’ fees and  
12 costs, costs of settlement administration by the Settlement Administrator, Service Payment to the Class  
13 Representative, and payment to the LWDA in the amount of Seven Thousand Five Hundred Dollars and  
14 Zero Cents (\$7,500.00) for its share of PAGA penalties.

15          2.22   “Non-Participating Class Member” means a Class Member who submits a valid and timely  
16 Opt-Out Request to be excluded from the Settlement.

17          2.23   “Notice of Settlement” shall mean the document attached hereto as **Exhibit A**.

18          2.24   “Opt-Out Request” means a signed written request to be excluded from the Settlement.

19          2.25   “PAGA” means the California Labor Code Private Attorneys General Act.

20          2.26   “Participating Class Member” means a Class Member who does not submit a valid and  
21 timely Opt-Out Request to be excluded from the Settlement.

22          2.27   “Preliminary Approval Date” means the date the Court enters the Preliminary Approval  
23 Order.

24          2.28   “Preliminary Approval Order” means an order of the Court preliminarily approving the  
25 Stipulation and the exhibits thereto, and providing for notice to the Class, an opportunity to opt of the  
26 Class, an opportunity to submit timely objections to the Settlement, and setting a hearing on the final  
27 fairness of the terms of settlement, including approval of the Service Payment and attorneys’ fees and  
28

1 costs. A draft copy of the Parties’ proposed Preliminary Approval Order is attached hereto as **Exhibit B**,  
2 and may be amended by the Parties prior to submission to the Court or per the Court’s instructions.

3 2.29 “Qualified Settlement Fund” means a qualified settlement fund under Section 468B of the  
4 Internal Revenue Code established by the Settlement Administrator for the purpose of administering this  
5 Settlement.

6 2.30 “Released Claims,” as to each member of the Settlement Class, shall mean any and all  
7 claims against Releasees that were or could have been pled based on the allegations in the First Amended  
8 Complaint, including, but not limited to, claims based on hours worked, minimum wage, overtime, wage  
9 statements, final pay, timing of pay, record retention, expense reimbursement, unfair competition, and  
10 statutory and civil penalties, that accrued or accrue through March 1, 2021, or the Preliminary Approval  
11 Date, whichever date is earlier, whether based on California’s Wage Orders, the California Labor Code,  
12 including, but not limited to, Sections 201, 202, 203, 204, 210, 226, 226.3, 510, 558, 1174, 1174.5, 1194,  
13 1197, 1197.1, 1198, 2802, 2698, 2699 *et seq.* (PAGA), other penalties, related tort, contract, and punitive  
14 damages claims, claims for interest, attorneys’ fees, litigation and other costs, expenses, restitution, and  
15 equitable and declaratory relief, violations of California Business & Professions Code §§ 17200 *et seq.*  
16 and/or violations of the FLSA, 29 U.S.C. §§ 201 *et seq.*, including, but not limited to, §§ 206, 211(c) and  
17 215(a).

18 2.31 “Releasees” mean Defendant and each of its past or present direct and/or indirect, officers,  
19 directors, managers, employees, agents, representatives, attorneys, insurers, partners, investors,  
20 shareholders, members, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors,  
21 successors, and/or assigns, in their personal, individual, official, and/or corporate capacities.

22 2.32 “Service Payment” means the amount approved by the Court to be paid to the Class  
23 Representative in recognition of the Class Representative’s efforts in coming forward as Class  
24 Representative and participating in the Action.

25 2.33 “Settlement Administration Costs” means the fees and expenses reasonably incurred by the  
26 Settlement Administrator as a result of the procedures and processes expressly required by this  
27 Stipulation.

1           2.34   “Settlement Class” shall mean all Class Members who do not timely send a signed valid  
2 Opt-Out Request that is received by the Settlement Administrator.

3           2.35   “Settlement Payment” means the amount due each Participating Class Member under the  
4 terms of this Stipulation.

5           2.36   “Stipulation” or “Settlement” shall mean this Stipulation of Settlement, signed by all the  
6 Parties and their counsel.

7 **3.       DESCRIPTION OF THE LITIGATION**

8           3.1     On March 4, 2020, Plaintiff Passion Johnson filed a putative PAGA representative action  
9 in Santa Clara Superior Court seeking civil penalties on behalf of the State of California and allegedly  
10 aggrieved employees of Defendant. The Action alleges that Defendant violated the following Labor Code  
11 sections 201-203, 204 and 210, 226, 226.3, 510, 1174, 1174.5, 1194, 1197, 1197.1, 2802, 2698 *et. seq.*,  
12 and the applicable IWC Wage Order, 9-2001. In January 2021, Plaintiff filed a First Amended Complaint  
13 adding putative class claims based on the same underlying allegations as in the original Complaint. Prior  
14 to filing this Action, Plaintiff sent notice of alleged Labor Code violations to the LWDA pursuant to  
15 Labor Code §2699.3(a)(1).

16           3.2     The Parties conducted their respective fact investigations and exchanged documents and  
17 information about the claims and defenses before mediating the Action.

18           3.3     On October 27, 2020, the Parties attended a full-day mediation conducted by an  
19 experienced wage and hour mediator, Lisa Klerman. On that same day the Parties executed a  
20 Memorandum of Understanding to resolve all claims that were pled or could have been pled based on the  
21 factual and legal allegations contained in the operative complaint or any amendments thereto. At all  
22 times, the Parties’ settlement negotiations have been non-collusive, adversarial, and at arm’s length.

23 **4.       POSITION OF THE PARTIES**

24           4.1     Plaintiff contends that Defendant failed to pay all minimum and overtime wages due, did  
25 not pay wages in a timely manner, did not pay all wages due upon termination, did not maintain accurate  
26 records, did not provide accurate, itemized wage statements, and did not provide expense reimbursement  
27 for necessary business expenses. Plaintiff also contends that their claims are suitable to meet the class  
28 certification requirements and may be pursued on a representative basis under PAGA.

1           4.2     Defendant contends that its wage and hour policies, including those regarding payment for  
2 time worked, overtime pay, timing and reporting of pay, and expense reimbursement, are lawful and have  
3 been lawful throughout the Class Period. Defendant further contends that Plaintiff's claims do not meet  
4 the requirements for class certification and may not be pursued on a representative basis under PAGA.

5           4.3     Each party vigorously disputes the other party's contentions, but these contentions have  
6 been taken into account in assessing the risks of litigation and the benefits of reaching a settlement.

7           4.4     The Parties agree that the above-described exchange of information and evaluation are  
8 sufficient to assess the merits of the respective Parties' positions and to compromise the claims on a fair  
9 and equitable basis. Based on their own independent investigations and evaluations, Class Counsel is of  
10 the opinion that the Settlement with Defendant for the consideration and under the terms set forth below,  
11 considering the strengths and weaknesses of the claims on the merits is fair, reasonable, and adequate in  
12 light of all known facts and circumstances, and is in the best interests of the Class.

13           4.5     Class Counsel has also weighed the monetary benefit under the Settlement to the Class  
14 against the expenses and length of continued proceedings that would be necessary to prosecute the Action  
15 against Defendant through class certification, trial and possible appeals. Class Counsel has also taken into  
16 account the uncertain outcome and risk of any litigation, especially in complex actions such as class  
17 actions, as well as the difficulties and delay inherent in such litigation. Therefore, Class Counsel has  
18 determined that the settlement set forth in this Stipulation is in the best interests of the Class.

19 **5.     OPERATIVE TERMS OF SETTLEMENT**

20           The Parties agree as follows:

21           5.1     Class Certification for Settlement Purposes

22                 5.1.1   The Parties stipulate, for settlement purposes only, to the conditional certification  
23 by the Court of the Class, as defined above.

24                 5.1.2   If, for any reason, the Court does not approve this Stipulation, fails to enter the  
25 Judgment, or if this Stipulation is terminated for any other reason, no class will have been certified and  
26 Defendant shall retain the right to dispute the appropriateness of class certification. This Stipulation shall  
27 not be construed as an admission that Plaintiff could meet any of the class action requirements.



1           5.2    Gross Settlement Amount

2                   5.2.1   Defendant shall pay Four Hundred Twenty-Five Thousand Dollars and Zero Cents  
3   **(\$425,000.00)** as the Gross Settlement Amount to resolve the Action on a class-wide and representative  
4   basis, as described more fully below. The Gross Settlement Amount includes the Settlement  
5   Administration Costs estimated not to exceed Sixteen-Thousand Five Hundred Dollars and Zero Cents  
6   **(\$16,500.00)**, reasonable attorneys' fees not to exceed one third (1/3) of the Gross Settlement Amount  
7   (estimated at **\$141,666.65**) plus costs as determined by the Court for Class Counsel, the Service Payment  
8   to the Class Representative (not to exceed Seven Thousand Five Hundred Dollars and Zero Cents  
9   **(\$7,500.00)**), and a payment of Seven Thousand Five Hundred Dollars and Zero Cents (**\$7,500.00**) to the  
10   LWDA for its share of PAGA penalties, with the remainder to pay the Settlement Payments to  
11   Participating Class Members pursuant to Section 5.7 below.

12           5.3    Service Payment to Class Representative

13                   5.3.1   The Service Payment to the Class Representative will, subject to Court approval, be  
14   paid by Defendant in an amount not to exceed Seven Thousand Five Hundred Dollars and Zero Cents  
15   (\$7,500.00) from the Gross Settlement Amount for service and assistance to the Class. Defendant will not  
16   oppose the Class Representative's request for Service Payment not to exceed this amount. The Service  
17   Payment to the Class Representative will be in addition to her Settlement Payment.

18                   5.3.2   Because the Service Payment represents payment to the Class Representative for  
19   service to the Class Members, payroll taxes will not be withheld from the Service Payment. The  
20   Settlement Administrator will report the Service Payment on a Form 1099, and any other required tax  
21   forms, and will provide them to the Class Representative and to the pertinent taxing authorities as required  
22   by law. The Class Representative assumes full responsibility for paying all taxes, federal and state, if any,  
23   due as a result of the Service Payment and agrees to indemnify Defendant for any such taxes owed by  
24   them.

25           5.4    Attorneys' Fees and Costs

26                   5.4.1   Class Counsel shall apply to the Court for an award of reasonable attorneys' fees  
27   not to exceed one third (1/3) of the Gross Settlement Amount (estimated at \$141,666.65) plus reasonable  
28   costs from the Gross Settlement Amount, which Defendant will not oppose.

1           5.5    Submissions to the LWDA & Payment to the LWDA for PAGA

2           5.5.1   At the same time as they submit this Stipulation to the Court for preliminary  
3 approval, Class Counsel shall submit a copy of this Stipulation to the LWDA, as required by California  
4 Labor Code § 2699(l)(2).

5           5.5.2   Within ten (10) days following the Effective Date, Class Counsel shall submit a  
6 copy of the Judgment entered by the Court to the LWDA, as required by California Labor Code §  
7 2699(l)(3).

8           5.5.3   Within twenty-eight (28) days following the Effective Date, the Settlement  
9 Administrator shall pay Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) from the  
10 Gross Settlement Amount to the LWDA as its share of the settlement attributable to claims for civil  
11 penalties brought under PAGA.

12           5.6    Settlement Administrator

13           5.6.1   The Settlement Administration Costs shall be paid out of the Gross Settlement  
14 Amount and is anticipated not to exceed Sixteen-Thousand Five-Hundred Dollars (\$16,500.00). The  
15 Settlement Administration Costs shall include: all costs of administering the Settlement, including, but  
16 not limited to, all tax document preparation, custodial fees, and accounting fees incurred by the Settlement  
17 Administrator; all costs and fees associated with preparing, issuing and mailing any and all notices and  
18 other correspondence to Class Members and/or Participating Class Members; all costs and fees associated  
19 with communicating with Class Members, Class Counsel, and Defendant’s Counsel; all costs and fees  
20 associated with computing, processing, reviewing, and paying the Settlement Payments, and resolving  
21 disputed claims; all costs and fees associated with calculating tax withholdings and payroll taxes, making  
22 related payment to federal and state tax authorities, and issuing tax forms relating to payments made under  
23 the Settlement; all costs and fees associated with preparing any tax returns and any other filings required  
24 by any governmental taxing authority or agency; all costs and fees associated with preparing any other  
25 notices, reports, or filings to be prepared in the course of administering Settlement Payments; maintaining  
26 a case website; and any other costs and fees incurred and/or charged by the Settlement Administrator in  
27 connection with the execution of its duties under this Stipulation.

1           5.6.2 The actions of the Settlement Administrator shall be governed by the terms of this  
2 Stipulation and any orders of the Court.

3           5.6.3 In the event that either Defendant’s Counsel or Class Counsel take the position that  
4 the Settlement Administrator is not acting in accordance with the terms of the Stipulation, such party shall  
5 meet and confer first with opposing counsel and/or, if necessary with the Settlement Administrator to  
6 attempt to resolve the issue. Should those efforts fail, counsel shall jointly approach the Court.

7           5.7    Calculation of Settlement Payments

8           5.7.1 The Net Settlement Amount shall be distributed to Class Members as follows:

9           (a)    Class Member distributions shall be divided among all Class Members on a pro rata  
10 basis, based on the ratio of the number of weeks worked by each Class Member during the  
11 Class Period to the total number of weeks worked by all Class Members during the Class  
12 Period.

13           (b)    Any settlement checks which are not cashed after one-hundred eighty (180) days  
14 following issuance shall be void. If the residual amount of uncashed checks is greater than  
15 \$35,000, then this amount shall go into a pool of funds to be divided, pro rata, among all  
16 Class Members who previously cashed their check. If the residual amount of uncashed  
17 checks is \$35,000 or less, the residual amount will be handled in accordance with Code of  
18 Civil Procedure Section 384 and donated to CASA of Los Angeles (Court Appointed  
19 Special Advocates for Children - <https://casala.org>) as the *cy pres* beneficiary of this  
20 Settlement.

21           5.7.2 The payments set forth in 5.7.1 shall be allocated for tax reporting purposes as five  
22 percent (5%) wages and ninety-five percent (95%) statutory damages, penalties, and interest.

23           5.7.3 The Parties recognize that the Settlement Payments to be paid to Class Members  
24 reflect the settlement of a dispute over claimed penalties, interest, wages, and other alleged damages.

25           5.7.4 Only Participating Class Members shall be entitled to a Settlement Payment. The  
26 Settlement Administrator shall withhold, from each Participating Class Member’s Settlement Payment,  
27 such Participating Class Member’s share of applicable payroll taxes. Participating Class Members will  
28 receive an IRS Form W-2 for the five percent (5%) portion of the Settlement Payment allocated as wages,

1 and an IRS Form 1099 for the ninety-five percent (95%) portion of the Settlement Payment allocated as  
2 interest and penalties. The Settlement Administrator will issue Form W-2s and 1099s to the Participating  
3 Class Members. Defendant's share of payroll taxes will remain Defendant's responsibility, and shall not  
4 be funded from the Gross Settlement Amount. Participating Class Members will be responsible for  
5 paying personal income taxes, if any, owed on the amounts they receive.

6           5.7.5 The Settlement Payments and the Service Payment will not count or be counted for  
7 determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday  
8 pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any  
9 eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by  
10 Releasees, unless otherwise required by law.

11           5.8 Releases

12           5.8.1 Upon the Effective Date, Plaintiff and each member of the Settlement Class shall be  
13 deemed to have fully, finally, and forever released the Releasees from all Released Claims through March  
14 1, 2021, or the Preliminary Approval Date, whichever date is earlier.

15           5.8.2 Upon the Effective Date, the Class Representative shall be deemed to have fully,  
16 finally, and forever released Releasees from all Class Representative Released Claims through the  
17 Preliminary Approval Date.

18           5.8.3 In addition, upon the Effective Date, the Class Representative shall be deemed to  
19 have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and  
20 benefits she may otherwise have had relating to the Class Representative Released Claims pursuant to  
21 Section 1542 of the California Civil Code, which provides as follows:

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

25   6.    **NOTICE TO CLASS**

26           6.1 Preliminary Approval

27           6.1.1 Class Counsel shall submit to the Court a motion for preliminary approval of the  
28 Settlement by the Court. Plaintiff shall be responsible for drafting and filing the motion for preliminary

1 approval. Plaintiff will provide Defendant with a draft copy of the motion for preliminary approval at  
2 least five (5) days before the filing of the motion(s). The Court's preliminary approval of this Settlement  
3 shall be embodied in a Preliminary Approval Order certifying the Class, preliminarily approving the  
4 Settlement and providing for Notice of Settlement to be mailed to the Class in the general form attached  
5 hereto as **Exhibit A**, and which will also set the date for the Final Approval Hearing.

6           6.2    Notice

7                   6.2.1   Within forty-five (45) days after the Court issues the Preliminary Approval Order,  
8 Defendant shall provide the Database to the Settlement Administrator. The Database shall be based on  
9 Defendant's payroll, personnel, and/or other business records and provided in a format acceptable to the  
10 Settlement Administrator. The Settlement Administrator shall maintain the Database, and all data  
11 contained with the Database, as private and confidential and shall not disclose such data to any persons or  
12 entities other than Defendant's Counsel, except that relevant information may be provided to Class  
13 Counsel to the extent necessary to address a disputed claim or to respond to a specific inquiry from a  
14 Class Member. This data is being supplied solely for purposes of the administration of the Settlement and  
15 hence cannot be used by the Settlement Administrator or Class Counsel for any purpose other than to  
16 administer the Settlement. The Parties agree that the information in the Database will not be used to  
17 solicit Class Members to file any claim, charge or complaint of any kind whatsoever against Defendant, or  
18 for any other purpose other than to administer the Settlement as provided herein. Upon receipt of the  
19 Database, the Settlement Administrator shall check with the U.S. Postal Service National Change of  
20 Address Database and update any addresses with any new information found regarding the location of  
21 Class Members.

22                   6.2.2   Class Members shall not be required to file claim forms.

23                   6.2.3   The Settlement Administrator will mail via first class mail the Notice of Settlement  
24 directly to the last known address of each Class Member within fourteen (14) days of receiving the  
25 Database from Defendant. The Settlement Administrator will also establish a settlement website which  
26 will include the Settlement Agreement and a summary of the settlement terms within fourteen (14) days of  
27 receiving the Database from Defendant.

1           6.2.4 Unless the Settlement Administrator receives the Notice of Settlement returned as  
2 undeliverable from the U.S. Postal Service, the Notice Packet shall be deemed received by the Class  
3 Member to whom it was sent.

4           6.2.5 In the event that after the first mailing of the Notice and prior to the Final Approval  
5 Hearing, any Notice is returned to the Settlement Administrator by the U.S. Postal Service with a  
6 forwarding address for the recipient, the Settlement Administrator shall remain such notice to that  
7 forwarding address within three (3) days.

8           6.2.6 In the event that after the first mailing of the Notice and prior to the Final Approval  
9 Hearing, any Notice is returned to the Settlement Administrator by the U.S. Postal Service without a  
10 forwarding address, the Settlement Administrator shall perform a standard skip-trace using the Class  
11 Member's social security number, address, and/or telephone number in an effort to ascertain the current  
12 address and/or telephone number of the Class Member. If a current address is ascertained, the Settlement  
13 Administrator shall remain the Notice within three (3) days.

14           6.2.7 Class Members, except for Plaintiff, will have forty-five (45) days from the initial  
15 date of mailing the Notice of Settlement within which to opt-out of the Settlement. Class Members who  
16 wish to exercise this option must timely submit an Opt-Out Request to the Settlement Administrator. The  
17 Opt-Out Request must be postmarked on or before forty-five (45) days from the date of mailing the  
18 Notice. Class Members who do not timely submit an executed Opt-Out Request shall be part of the  
19 Settlement Class and bound by the Settlement. Class Members who timely submit an executed Opt-Out  
20 Request shall have no further role in the Action, and for all purposes they shall be regarded as if they  
21 never were a party to this Action or a Class Member, and thus they shall not be entitled to any payment as  
22 a result of this Settlement and shall not be entitled to or permitted to assert an objection to the Settlement.  
23 The Notice of Settlement shall advise Class Members of their ability to opt-out of the Settlement and of  
24 the consequence thereof. Neither the Parties nor any of their counsel will solicit any Class Member to  
25 submit an Opt-Out Request. An Opt-Out Request must be signed and dated to be valid.

26           6.2.8 The Notices of Settlement shall inform each Class Members of his/her number of  
27 eligible workweeks pursuant to Defendant's records. Class Members may dispute the reported eligible  
28 workweeks if they believe they worked more workweeks in the Class Period than Defendant's records

1 show by submitting information and documentation to the Settlement Administrator no later than forty-  
2 five (45) days after being mailed the Class Notice and Share Form by the Settlement Administrator. The  
3 Settlement Administrator will jointly work with Plaintiff and Defendant to resolve the dispute in good  
4 faith. If Plaintiff and Defendant cannot agree over the shifts to be credited, the Settlement Administrator  
5 shall make the final decision based on the information presented by the Settlement Class Member and  
6 Defendant. If a Settlement Class Member submits both a dispute and an Opt-Out request, the Settlement  
7 Administrator shall make reasonable attempts to clarify as if the Opt-Out request were deficient. If the  
8 Class Member fails to cure the deficiency, the Opt-Out request shall be disregarded and the claim will be  
9 paid, and the Class Member will become bound by the judgment.

10           6.2.9 Class Members will have forty-five (45) days from the date of mailing the Notice of  
11 Settlement within which to file an objection to the Settlement. Only Class Members who have not filed  
12 an Opt-Out Request may object to the Settlement. To object, a Class Member must submit a written  
13 objection to the Settlement Administrator. The Settlement Administrator shall forward copies of any  
14 objections to Class Counsel and Defendant's Counsel within three (3) days of receipt. Class Counsel shall  
15 submit copies of any objections received to the Court in conjunction with the filing of the motion for Final  
16 Approval of the Settlement. The Notice of Settlement shall advise Class Members that if they do not file  
17 a timely objection, the Court may, in its discretion, decline to consider any late or oral objections. The  
18 Parties and their counsel agree that they will not solicit, encourage, counsel, or advise any individual to  
19 object to the Settlement.

20           6.2.10 Beginning two weeks after the date the Notices of Settlement are mailed, the  
21 Settlement Administrator shall provide to Class Counsel and Defendant's Counsel a weekly status report  
22 which will be cumulative, reflecting the names and the number of Class Members who have filed Opt-Out  
23 Requests, as well as information about how many Notices have been mailed to forwarding addresses,  
24 returned as undeliverable, and/or remailed.

25           6.2.11 If more than five percent (5%) of the total number of Class Members submit  
26 timely and valid Opt-Out Requests, then Defendant shall have the option to void the Settlement in its sole  
27 discretion. To exercise this option, Defendant must send written notification to Class Counsel within  
28 fourteen (14) days of receiving a report from the Settlement Administrator informing Defendant that the

1 total number of timely and valid Opt-Out Requests is more than five percent (5%). If Defendant chooses  
2 to exercise this option, the effect will be precisely the same as if Final Judgment did not occur, as  
3 discussed herein, and all Settlement Administration Costs incurred by the Settlement Administrator  
4 through that date will be paid by Defendant.

5           6.2.12 At least seven (7) days prior to the deadline for filing the motion for Final  
6 Approval of the Settlement, the Settlement Administrator shall provide Class Counsel and Defendant's  
7 Counsel a declaration of due diligence and proof of mailing with regard to the mailing of the Notice and  
8 the number of completed Opt-Out Requests.

9           6.3    Final Approval

10           6.3.1 Prior to the Final Approval Hearing, Plaintiff will move the Court for entry of the  
11 Final Approval Order and Judgment (a) certifying the Class for Settlement purposes only, (b) finding the  
12 Settlement fair, reasonable, adequate, and in the best interests of the Class Members, (c) approving Class  
13 Counsel's application for an award of attorneys' fees and costs, (d) approving the Class Representative's  
14 application for Service Payment, (e) approving the payment of reasonable Settlement Administration  
15 Costs, (f) ordering the Parties to comply with the terms of the Settlement Agreement; (g) retaining  
16 jurisdiction for the purpose of enforcing the terms of the Settlement Agreement; and (h) permanently  
17 releasing and barring any further Released Claims by Class Members who do not opt-out of the  
18 Settlement. The Parties expressly agree that the Court will retain jurisdiction to enforce the terms of the  
19 Settlement and the Final Approval Order. The Parties and their counsel shall make all reasonable efforts  
20 to secure entry of the Judgment. The proposed Final Approval Order and Judgment shall be lodged with  
21 the Court no later than seven (7) days before the Final Approval Hearing. Plaintiff shall be responsible  
22 for drafting and filing the motion for Final Approval and for entry of the Judgment. Plaintiff will provide  
23 Defendant with a draft copy of the motion(s) at least five (5) days before the filing of the motion(s).

24           6.3.2 Class Representative and Class Counsel agree that they shall draft and file the  
25 necessary papers for approval of the Service Payment and attorneys' fees and costs. Defendant will not  
26 oppose the amount of the Service Payment and attorneys' fees and costs sought, as long as they are  
27 consistent with the Stipulation. If the Court (or any appellate court) awards less than the amount  
28 requested for attorneys' fees and/or costs, or less than the amount requested for the Service Payment for



1 the Class Representative, only the awarded amounts shall be paid and shall constitute satisfaction of the  
2 obligations of Defendant under this Stipulation. If Class Counsel file a timely appeal regarding the  
3 amount of Class Counsel fees and/or costs or Service Payment approved by the Court, the Settlement  
4 Administrator shall hold the difference between the amount requested and the amount awarded in escrow,  
5 in an interest-bearing account until such appeal has been fully resolved. Any unawarded amounts shall be  
6 added to the Net Settlement Amount for distribution to the Participating Class Members, pursuant to  
7 Section 6.4.

8           6.3.3 If an appeal results in an order materially modifying, setting aside, or vacating any  
9 portion of the Stipulation, with the exception of any modification of the amount of attorneys' fees or costs  
10 to be paid to Class Counsel, or the amounts of the Service Payment paid to the Class Representative, each  
11 party adversely impacted by the order shall have the absolute right, at its sole discretion, to treat such  
12 order as an event permanently preventing the occurrence of Final Judgment. To exercise this right, the  
13 party must inform the other party and the Settlement Administrator, in writing, of the exercise of this  
14 right, within fourteen (14) days of receiving notice of any order modifying, setting aside, or vacating any  
15 portion of the Stipulation. Before either Party elects to exercise its right to treat such order as an event  
16 permanently preventing the occurrence of Final Judgment that Party must meet and confer in good faith  
17 with the other Party to determine if an agreement can be reached modifying this Settlement to the mutual  
18 satisfaction of the Parties.

19           6.3.4 If Final Judgment does not occur, or if this Stipulation is terminated or canceled  
20 pursuant to its terms, the Parties to this Stipulation shall be deemed to have reverted to their respective  
21 status as of the date and time immediately prior to the execution of this Stipulation. Notwithstanding any  
22 other provision of this Stipulation, no order of the Court, or modification or reversal on appeal of any  
23 order of the Court, reducing the amount of any attorneys' fees or costs to be paid by Defendant to Class  
24 Counsel, or reducing the amount of the Service Payment paid to the Class Representative, shall constitute  
25 grounds for cancellation or termination of the Stipulation, or grounds for limiting any other provision of  
26 the Judgment.

27           6.4    Funding and Distribution of the Settlement Proceeds  
28

1           6.4.1 Within fifteen (15) business days after the Effective Date, Defendant shall pay Four  
2 Hundred Twenty-Five Thousand Dollars and Zero Cents (\$425,000.00) into the Qualified Settlement  
3 Fund. The Gross Settlement Amount is fully non-reversionary.

4           6.4.2 Within twenty-eight (28) days after the Effective Date, the Settlement  
5 Administrator shall issue Settlement Payments to Participating Class Members in the form of a check,  
6 which shall become null and void if not deposited within one hundred eighty (180) days of issuance. The  
7 Settlement Administrator will mail all settlement checks to the last known address of each Participating  
8 Class Member. No settlement checks will be mailed to those Class Members whose Notice was returned  
9 as undeliverable with no valid address ascertained as provided in paragraph 6.2.6. Any Class Member  
10 who is not mailed an initial Settlement Payment pursuant to this paragraph shall nevertheless be bound by  
11 the Judgment and release of Claims. For all such Class Members, the value of their Settlement Payments  
12 shall be included in the Net Settlement Amount to be allocated to Participating Class Members. The  
13 initial check shall contain release language printed on the back of the check and shall be accompanied by  
14 a cover letter informing the Participating Class Member of the possibility of a second check. In the event  
15 a second check is sent, this will be accompanied by a cover letter explaining why the Participating Class  
16 Member is receiving it. In the event that a Settlement Payment is returned by the U.S. Postal Service with  
17 a forwarding address, the Settlement Administrator shall remail the check within three (3) days. In the  
18 event that a Settlement Payment is returned by the U.S. Postal Service as undeliverable, the Settlement  
19 Administrator shall perform a standard skip-trace and shall remail the check within three (3) days if a  
20 current address can be ascertained.

21           6.4.3 After one hundred eighty (180) days of issuance, funds from undeposited checks  
22 will be held by the Settlement Administrator; if the Class Member to whom the undeposited check is  
23 issued does not contact Class Counsel or the Settlement Administrator concerning his or her settlement  
24 payment within one-hundred eighty (180) days of issuance, the Stipulation, including its release, will be  
25 binding on that Class Member, and the amount of that Class Member's settlement payment will revert  
26 back to the Qualified Settlement Fund and either will be redistributed to the Settlement Class or paid as a  
27 cy pres award pursuant to Section 5.7.1(b). During the 180-day check-cashing period, the Settlement  
28 Administrator shall provide bi-weekly reports to Class Counsel and Defendant's Counsel regarding the

1 number of checks cashed and the total value of Settlement Payments remaining uncashed. To the extent  
2 there is a second distribution to the Settlement Class, all payments in connection with the second  
3 distribution shall be characterized as non-wages for tax purposes.

4           6.4.4 Within twenty-eight (28) days of the Effective Date, the Settlement Administrator  
5 shall pay the Court-approved Attorneys' Fees and Costs to Class Counsel. Class Counsel shall provide to  
6 the Settlement Administrator the pertinent taxpayer identification number and Form W-9 within fourteen  
7 (14) days after the Effective Date.

8           6.4.5 Within twenty-eight (28) days of the Effective Date, the Settlement Administrator  
9 shall send a check by mail for the Court-approved Service Payment to the Class Representative, care of  
10 Class Counsel.

11           6.4.6 Within two hundred and ten (210) days of issuance of the settlement checks, the  
12 Class Administrator shall provide to Class Counsel and Defendant's Counsel a report as to the amount of  
13 funds remaining in the Settlement Fund. Within thirty (30) days of such report, Class Counsel and  
14 Defendant's Counsel shall determine whether a second distribution or *cy pres* is warranted per Section  
15 5.7.1(b). In the event of a second distribution, such distribution shall be made within thirty (30) days of  
16 the determination.

17           6.4.7 The Settlement Administrator shall calculate the employer's share of payroll taxes  
18 on the portion of the Settlement Payments to Participating Class Members that is allocated to wages, and  
19 shall communicate this amount to Defendant. Within fourteen (14) days of the notification of such  
20 amount and wiring instructions, Defendant shall make an additional payment to the Settlement  
21 Administrator (the "Payroll Tax Payment"), which shall be in addition to the Gross Settlement Amount.  
22 The Settlement Administrator shall remit and report the applicable portions of the Payroll Tax Payment to  
23 the appropriate taxing authorities on a timely basis pursuant to its duties and undertakings set forth in  
24 Section 5.6. Defendant agrees to reasonably cooperate with the Settlement Administrator to the extent  
25 necessary to determine the amount of the Payroll Tax Payment required under this Section.

26 **7. MISCELLANEOUS PROVISIONS**

27           7.1 The Parties agree to cooperate fully with one another to accomplish and implement the  
28 terms of this Settlement. Such cooperation shall include, but not be limited to, execution of such other

1 documents and the taking of such other action as may reasonably be necessary to fulfill the terms of this  
2 Settlement. The Parties to this Settlement shall exercise reasonable efforts, including all efforts  
3 contemplated by this Settlement and any other efforts that may become necessary by Court order, or  
4 otherwise, to effectuate this Settlement and the terms set forth herein.

5 7.2 The Parties hereto agree that the terms and conditions of this Stipulation are the result of  
6 lengthy, intensive, arm's-length negotiations between the Parties and that this Stipulation shall not be  
7 construed in favor of or against any party by reason of the extent to which any party or its counsel  
8 participated in the drafting of this Stipulation.

9 7.3 The Parties and their counsel agree that no comments of any kind regarding the Settlement,  
10 the Settlement Memorandum of Understanding, the Settlement-related documents, or the Settlement  
11 negotiations (including without limitation, the negotiations in the course of mediation), may be made at  
12 any time to the press/media, unless the Parties agree otherwise in writing. Notwithstanding the foregoing,  
13 Defendant shall have the right to disclose the Settlement and its terms for accounting or public filing  
14 purposes, or to otherwise comply with any public reporting duties and that Class Counsel may post Court  
15 documents only on Class Counsel's website. The Parties' counsel shall also retain the right to discuss the  
16 Settlement with the Parties.

17 7.4 Plaintiff, by signing this Stipulation, is bound by the terms herein and further agrees not to  
18 request to be excluded from the Settlement and not to object to any terms of this Stipulation. Any such  
19 request for exclusion or objection shall therefore be void and of no force or effect. Defendant and  
20 Plaintiff waive their rights to file an appeal, writ, or any challenge whatsoever to the terms of this  
21 Stipulation, except Plaintiff and Class Counsel have the right to appeal any order denying, in whole or in  
22 part, their application for the award of attorneys' fees and costs and/or the Service Payment.

23 7.5 Plaintiff agrees that this Settlement fully and finally resolves any and all claims that were  
24 pled or could have been pled based on the factual and legal allegations contained in the operative  
25 complaint or any amendments thereto and arising during the Class Period.

26 7.6 Neither Class Counsel nor any other attorneys acting for, or purporting to act for, the Class,  
27 Class Members, or Plaintiff, may recover or seek to recover amounts for fees, costs, or disbursements  
28

1 from the Releasees or from the Gross Settlement Amount as related to the Released Claims except as  
2 expressly provided herein.

3 7.7 This Stipulation may not be changed, altered, or modified, except in writing signed by the  
4 Parties or their counsel and approved by the Court. This Stipulation may not be discharged except by  
5 performance in accordance with its terms or by a writing used by the Parties hereto.

6 7.8 This Stipulation shall be binding upon and inure to the benefit of the Parties hereto and  
7 their respective heirs, trustees, executors, administrators, successors, and assigns.

8 7.9 The signatories hereto represent that they are fully authorized to enter into this Stipulation  
9 and bind the Parties hereto to the terms and conditions hereof.

10 7.10 The Parties hereto represent, covenant, and warrant that they have not directly or indirectly,  
11 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity  
12 any portion of any liability, claim, demand, action, cause of action or rights released and discharged by  
13 this Stipulation.

14 7.11 Because the members of the proposed Class are so numerous, the Parties agree that it is  
15 impossible or impractical to have each Class Member sign this Stipulation. It is agreed that, for purposes  
16 of seeking approval of the Class Settlement, this Stipulation may be executed on behalf of the proposed  
17 Class by Class Counsel.

18 7.12 This Stipulation shall become effective upon its execution by all of the undersigned. The  
19 Parties may execute this Stipulation in counterparts, and execution of counterparts shall have the same  
20 force and effect as if all Parties had signed the same instrument.

21 7.13 The Court shall retain jurisdiction with respect to the implementation and enforcement of  
22 the terms of the Stipulation, and all Parties hereto submit to the jurisdiction of the Court for purposes of  
23 implementing and enforcing the Settlement embodied in the Stipulation. Any action to enforce this  
24 Stipulation shall be commenced and maintained only in the Court.

25 7.14 Paragraph titles or captions contained in the Stipulation are inserted as a matter of  
26 convenience and for reference, and in no way define, limit, extend, or describe the scope of this  
27 Stipulation, or any provision thereof.

1           7.15 This Stipulation, which expressly incorporates the Parties' October 27, 2020,  
2 Memorandum of Understanding attached as Exhibit C, contains the entire agreement between the Parties  
3 relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous  
4 agreements, understandings, representations, and statements, whether oral or written and whether by a  
5 party or such party's legal counsel, are merged herein. To the extent that any of the terms or conditions  
6 contained in this Stipulation may contradict or conflict with any of the terms or conditions of the  
7 Memorandum of Understanding, it is expressly understood and agreed that the terms of this Stipulation  
8 shall take precedence and supersede the Memorandum of Understanding. No rights hereunder may be  
9 waived except in writing.

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[SIGNATURE PAGE FOLLOWS]

1 IN WITNESS WHEREOF, this Stipulation is executed by the Parties and their duly authorized  
2 attorneys, as of the day and year herein set forth.

3  
4  
5 DATED: February 5, 2021

DocuSigned by:  
Passion Johnson  
P B1228D342F8245C... itiff

6  
7 ACKERMANN & TILAJEF, P.C.

8  
9 DATED: January 31, 2021

By:

DocuSigned by:  
Craig S. Ackermann  
I 8F3C75CDEED5444B... ann  
Attorneys for Plaintiff and the Class

10  
11 WINSTON LAW GROUP, P.C.

12  
13 DATED: January 31, 2021

By:

DocuSigned by:  
David Winston  
I 01858B8CDB12406...  
Attorneys for Plaintiff and the Class

14  
15  
16 DATED: \_\_\_\_\_, 2021

DAL Global Services, LLC

17  
18 By: \_\_\_\_\_  
19 Title: \_\_\_\_\_

20  
21 DATED: \_\_\_\_\_, 2021

MORGAN, LEWIS & BOCKIUS LLP

22  
23 By: \_\_\_\_\_

Attorneys for Defendant

1 IN WITNESS WHEREOF, this Stipulation is executed by the Parties and their duly authorized  
2 attorneys, as of the day and year herein set forth.

3  
4  
5 DATED: \_\_\_\_\_, 2021

\_\_\_\_\_  
Passion Johnson, Plaintiff

6  
7 ACKERMANN & TILAJEF, P.C.

8  
9 DATED: \_\_\_\_\_, 2021

By:

\_\_\_\_\_  
Craig J. Ackermann  
Attorneys for Plaintiff and the Class

10  
11 WINSTON LAW GROUP, P.C.

12  
13 DATED: \_\_\_\_\_, 2021

By:

\_\_\_\_\_  
David S. Winston  
Attorneys for Plaintiff and the Class

14  
15  
16 DATED: January 29, 2021

DAL Global Services, LLC

17  
18 By:  
19 Title:

Bryan Stillwagon  
\_\_\_\_\_  
VP & Assoc. General Counsel

20  
21 DATED: 2/1, 2021

MORGAN, LEWIS & BOCKIUS LLP

22  
23 By:

[Signature]  
\_\_\_\_\_  
Attorneys for Defendant



# **EXHIBIT A**

**(Intentionally Omitted - Superseded by Amendment, Exhibit A)**

# **EXHIBIT B**

**(Intentionally Omitted - Superseded by Amendment, Exhibit B)**

# **EXHIBIT C**

**SETTLEMENT TERM SHEET / MEMORANDUM OF UNDERSTANDING (“MOU”)**

***Johnson v. DAL Global Services, LLC*  
Santa Clara Superior, Case No. 20CV364694**

The parties in the above action agree to settle their case on the following terms:

1. The “Class” consists of all persons employed by DAL Global Services, LLC (“DGS” or “Defendant”) in non-exempt positions in California at any time from July 31, 2018, through March 1, 2021, or the date of preliminary approval of this settlement, whichever date is earlier (the “Class Period”). “Class Members” are those who are part of the Class.

2. This settlement is entered into on the understanding that the approximate total number of Class Members as of August 22, 2020, is 2,058.

3. Plaintiff shall file a motion for preliminary approval of the proposed class settlement and there will be a statement of non-opposition by Defendant as to the certification of the Class for the purpose of settlement.

4. The gross settlement amount is \$425,000, inclusive of payments to the Class, attorney’s fees, litigation costs, the enhancement payment to the class representative, a payment of \$10,000 to the State of California under Labor Code Section 2699 *et seq.* for its share of PAGA civil penalties, and the costs of a third-party settlement administrator (hereafter “Gross Settlement Amount”). Defendant’s share of the payroll taxes on the wage portion of the Settlement Payments to Class members shall be paid on top of the Gross Settlement Amount.

5. Settlement payments to Class Members will be distributed from the “Net Settlement Amount,” which is the Gross Settlement Amount less attorneys’ fees and costs, costs of settlement administration by the third-party settlement administrator, the enhancement payment to the class representative, and payment to the State of California under Labor Code Section 2699 *et seq.* for its share of PAGA civil penalties.

6. For tax reporting purposes, settlement payments to class members will be allocated five percent (5%) wages and ninety-five percent (95%) statutory damages, penalties,

and interest. These settlement payments reflect a settlement of a dispute over claimed penalties, interest, wages, and other alleged damages.

7. There shall be no reversion to Defendant.

8. There shall be no claims process. All Class Members who do not opt out shall be mailed a settlement payment, to their last known address or to such further addresses as are identified through reasonable skip tracing efforts. After an initial distribution, the settlement administrator will notify the parties of the amount of any uncashed settlement funds, and the parties will determine whether a second distribution to those Class Members who cashed their checks from the initial distribution or a *cy pres* award is warranted. The settlement agreement shall include reasonable efforts to identify new addresses for Class Members who do not cash their initial settlement checks within a certain period of time. Any unclaimed portion of the Net Settlement Amount will be donated to an agreed-upon *cy pres* beneficiary.

9. There will be a statement of non-opposition by Defendant as to an award of attorneys' fees to class counsel of up to 1/3 of the Gross Settlement Amount and to an additional award of actual litigation costs up to \$12,000. Even in the event that the Court reduces or does not approve the requested award to Plaintiffs' counsel for attorney's fees and costs, Plaintiffs' counsel shall not have the right to revoke this MOU or this settlement, and it will remain binding.

10. There will be a statement of non-opposition by Defendant as to an enhancement award to class representative Passion Johnson, not to exceed \$7,500, in exchange for executing a settlement agreement and general release including a Civil Code §1542 waiver. The enhancement payment to the class representative will be characterized as a non-wage payment and reported on a Form 1099.

11. The settlement and release by Class Members covers claims that were pled or could have been pled based on the factual and legal allegations contained in the operative complaint or any amendments thereto and arising during the Class Period. Plaintiff's forthcoming First Amended Complaint, which shall be filed by Stipulation, shall contain Class

Action and PAGA representative claims for Defendant's alleged violations of Labor Code sections 201-203, 204 and 210, 226, 226.3, 510, 1174, 1174.5, 1194, 1197, 1197.1, 2802, 2698 et. Seq, and the applicable IWC Wage Order, 9-2001.

12. If more than five percent (5%) of the total number of Class Members submit timely and valid requests to opt out of the settlement, then Defendant shall have the option to void the settlement in its sole discretion.

13. Within fifteen (15) business days after the date the Court enters the Order of Final Approval of the class settlement, Defendant will deposit the Gross Settlement Amount, plus applicable employer-side payroll taxes, into a qualified settlement fund under Section 468B of the Internal Revenue Code established by the third-party settlement administrator for the purpose of administering the settlement. The parties will mutually agree on a third-party settlement administrator and will jointly manage the settlement administrator's work. The parties agree that communications to and from the third-party settlement administrator will include both Plaintiffs' counsel and Defendant's counsel.

14. The parties will cooperate in defining a suitable plan of allocation of the Net Settlement Fund among Class Members and in finalizing the terms of a formal settlement document to be prepared initially by Defendant's counsel. In the event that the parties are unable to reach a mutually agreeable resolution to any dispute concerning the formal settlement document, despite their best efforts, they will consult Lisa Klerman, Esq.

15. The Effective Date of the Settlement Agreement shall be the later of (a) the Court's final approval of the Settlement Agreement, if no objections have been filed, (b) the time of appeal has expired if an objection has been filed, (c) or the final resolution of any appeal that has been filed.

16. This settlement does not constitute an admission of liability. DGS denies any liability. The parties agree that this is a settlement of disputed claims and that California Labor Code Section 206.5 is therefore inapplicable.



17. Neither Plaintiff nor Class Counsel shall cause to be publicized, directly or indirectly, any discussion resulting in or the existence of this MOU or its terms in any type of mass media, including, but not limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts, newspapers, website postings, messages on the Internet, Facebook, Twitter or any other social media. This provision does not apply to any publications ordered by the Court.

18. Any settlement shall remain confidential until a motion for preliminary approval is filed with the court, although the Parties may inform the Court that a proposed class settlement has been reached.

19. The Named Plaintiff in this action, Passion Johnson, agrees to participate in this settlement and agrees not to opt out of the settlement. The Named Plaintiff further agrees that this settlement fully and finally resolves and all claims that were pled or could have been pled based on the factual allegations contained in the operative complaint or any amendments thereto.

20. The parties shall use their best efforts to meet the following schedule for completion of the settlement:

Notify Court of settlement	November 2020
Fully executed long form settlement agreement completed and signed	December 2020
Motion for preliminary approval filed by	January 2020
Preliminary approval hearing	February 2020

21. It is agreed that until such time that the stipulated class action settlement agreement is executed by the Parties, this executed memorandum of understanding shall be treated as an enforceable settlement agreement pursuant to California Code of Civil Procedure section 664.6. The Parties agree to work cooperatively to effectuate the terms of this

settlement. The Parties shall negotiate a long form Stipulation of Settlement in good faith, including terms regarding the Court approval and settlement administration process.

This agreement is executed by the parties and their duly authorized attorneys as of the day and year set forth below:

*On Behalf of Plaintiff and the Class:*

10/28/2020  
Dated: October 27, 2020

DocuSigned by:  
*Passion Johnson*  
B1228D342F6245C...  
Passion Johnson, Plaintiff

WINSTON LAW GROUP, P.C.

Dated: October 27, 2020

DocuSigned by:  
*David Winston*  
01856B8CDB12406...  
David S. Winston  
Attorneys for Plaintiff and the Class

ACKERMANN & TILAJEF, P.C.

Dated: October 27, 2020

DocuSigned by:  
*Craig Ackermann*  
6F3C75CDED5444B...  
Craig Ackermann  
Attorneys for Plaintiff and the Class

*On Behalf of Defendant DAL Global Services, LLC:*

Dated: October 27, 2020

DocuSigned by:  
*Larry Wexler*  
E5327DFE3D0E40D...  
Name: Larry Wexler  
Title: Associate General Counsel (on behalf of Defendant)

MORGAN LEWIS & BOCKIUS LLP

Dated: October 27, 2020

DocuSigned by:  
*Robert Jon Hendricks*  
EC8180191D31465...  
Robert Jon Hendricks, Esq.  
Attorneys for Defendant DAL Global Services, LLC

**FIRST AMENDMENT TO STIPULATION  
OF SETTLEMENT RE: CLASS & REPRESENTATIVE ACTION**

*Passion Johnson v. Dal Global Services, LLC*  
Case No. 20cv364694 (Santa Clara Superior Court)

This First Amendment (this “Amendment”) to the STIPULATION OF SETTLEMENT RE: CLASS & REPRESENTATIVE ACTION (“Settlement Agreement”)<sup>1</sup> is made and entered into by Plaintiff PASSION JOHNSON (“Plaintiff”), individually on behalf of others similarly situated, and DAL GLOBAL SERVICES, LLC (“Defendant”) (Plaintiff and Defendant are collectively referred to herein as “the Parties”), by and through their undersigned counsel.

WHEREAS, Plaintiff’s Motion for Preliminary Approval of Class action is due for filing on February 8, 2021, and on February 3, 2021 the Court issued and served its new Guidelines for Motions Relating to Preliminary and Final Approval of Class Actions;

WHEREAS, the Parties wish to amend the Settlement Agreement to conform with the Court’s new guidelines;

NOW THEREFORE, the Parties agree to amend the Settlement Agreement as follows:

1. Section 5.7(b) of the Settlement Agreement is hereby amended and replaced with the following:

(b) Any settlement checks which are not cashed after one-hundred eighty (180) days following issuance shall be void. If the residual amount of uncashed checks is greater than \$35,000, then this amount shall go into a pool of funds to be divided, pro rata, among all Class Members who previously cashed their check. If the residual amount of uncashed checks is \$35,000 or less, the residual amount will be handled in accordance with Code of Civil Procedure Section 384 and donated to **Child Advocates of Silicon Valley** (<https://childadvocatessv.org/>) as the *cy pres* beneficiary of the Settlement, or another non-profit organization as the Parties and/or their counsel may agree upon in writing before final approval of the Settlement.

2. The time periods for Class Members to respond to the Notice (i.e., opt out, object, or dispute workweeks), as set forth in Sections 6.2.7, 6.2.8, and 6.2.9 of the Settlement Agreement, are hereby increased from forty-five (45) days to sixty (60) days.

3. The revised Notice attached hereto as **Exhibit A** shall replace and supersede the Notice attached as **Exhibit A** to the Settlement Agreement. All references in the Settlement Agreement to the “Notice” shall hereby refer to **Exhibit A** to this Amendment.

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<sup>1</sup>All capitalized terms used herein and not otherwise defined in this Amendment shall have the meanings set forth in the Settlement Agreement.

4. The revised proposed Preliminary Approval Order attached hereto as **Exhibit B** shall replace and supersede the Preliminary Approval Order attached as **Exhibit B** to the Settlement Agreement. All references in the Settlement Agreement to the “Preliminary Approval Order” shall hereby refer to **Exhibit B** to this Amendment.

5. In accordance with Section 7.7 of the Settlement Agreement, which provides that the Settlement may be modified by a writing signed by the Parties’ counsel, the modifications herein are so stipulated by the Parties, by and through their respective undersigned counsel.

6. To the extent that any of the terms or conditions contained in this Amendment may contradict or conflict with any of the terms or conditions of the Settlement Agreement, it is expressly understood and agreed that the terms of this Amendment shall take precedence and supersede the Settlement Agreement.

ACKERMANN & TILAJEF, P.C.  
WINSTON LAW GROUP, P.C.

MORGAN, LEWIS & BOCKIUS LLP

DocuSigned by:  
*Sam Vahedi*  
E923DECCAEB41B...

Sam Vahedi, Esq.  
*Attorneys for Plaintiff and the Class*

DocuSigned by:  
*Andrew P. Frederick*  
E0A48640FE6A46F...

Andrew P. Frederick, Esq.  
*Attorneys for Defendant*

# **EXHIBIT A**

**NOTICE OF CLASS ACTION SETTLEMENT**  
*Johnson v. DAL Global Services, LLC*  
Santa Clara County Superior Court Case No. 20CV364694

TO: <<NAME>>.

This Notice provides important information about your legal rights with respect to proposed settlement in the class action lawsuit brought by Passion Johnson (“Plaintiff”) DAL Global Services, LLC (“Defendant”). This is not a solicitation; it is a court-ordered notice. **Please read it carefully.**

***What is this Notice About?***

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Johnson v. DAL Global Services, LLC*, pending in the Superior Court of the State of California for the County of Santa Clara, Case No. 20CV364694 (the “Action”). The purpose of this Notice of Settlement (“Notice”) is to describe the case, and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

A hearing concerning the fairness of the Settlement will be held before the Honorable Sunil R. Kulkarni on <<DATE>> at <<TIME>>a.m./p.m. at the following address: Santa Clara Superior Court, Downtown Superior Court, 191 North First Street San Jose, CA 95113, Department 1, to determine whether the case should be settled. The date and time of the Final Fairness Hearing may change without further notice to the Class. Updated information regarding the date and time of the hearing will be posted on the case website at [URL].

**AS A CLASS MEMBER, YOU ARE ELIGIBLE TO RECEIVE A PAYMENT UNDER THE SETTLEMENT AND WILL BE BOUND BY THE RELEASE OF CLAIMS DESCRIBED IN THIS NOTICE, UNLESS YOU REQUEST TO BE EXCLUDED FROM THE SETTLEMENT, AS EXPLAINED BELOW.**

***Who is affected by this proposed Settlement?***

The Court has certified, for settlement purposes, the following class (the “Class”):

“All persons employed by Defendant in non-exempt positions in California at any time from July 31, 2018, through <<END\_DATE>>.”

According to the records of Defendant, you are a member of the Class (“Class Member”).

***What is this case about?***

In the Action, Plaintiff alleges on behalf of herself and a putative class of non-exempt employees in California the following claims against Defendant: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to pay wages timely; (4) failure to pay all wages due to discharged and quitting employees; (5) failure to maintain required employment records; (6) failure to furnish accurate itemized wage statements; (7) failure to indemnify for necessary expenditures incurred in the discharge of duties; (8) unfair and unlawful business practices; and (9) civil penalties. The Action asserts claims for unpaid wages, statutory penalties, civil penalties under the California Labor Code Private Attorneys General Act (“PAGA”), restitution, interest, attorneys’ fees, and costs.

Defendant is confident that it has strong legal and factual defenses to these claims, but it recognizes the risks, distractions, and costs associated with litigation. Defendant contends that its wage and hour policies, including those regarding payment for time worked, overtime pay, and expense reimbursement are lawful and have been lawful throughout the Class Period. Defendant also contends that Plaintiff’s claims do not meet the requirements for class certification.

This Settlement is the result of good faith, arm’s length negotiations between Plaintiff and Defendant, through their respective attorneys. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of the Class Members. The Settlement is a compromise and is not an admission of liability on the part of Defendant.

***Who are the attorneys representing the Parties?***

**The attorneys for the Class Representative in the Action (“Class Counsel”) are:**

Craig J. Ackermann Sam Vahedi Ackermann & Tilajef, P.C. 1180 South Beverly Drive, Suite 610 Los Angeles, CA 90035 Telephone: (310) 277-0614	David S. Winston Winston Law Group, P.C. 1180 South Beverly Drive, Suite 320 Los Angeles, CA 90035 Telephone: (424) 288-4568
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**The attorneys for Defendant are:**

Robert Jon Hendricks  
Andrew P. Frederick  
Morgan, Lewis & Bockius LLP  
One Market, Spear Street Tower  
San Francisco, CA 94105  
Telephone: (415) 442-1000

***What are the Settlement terms?***

Subject to final Court approval, Defendant will pay \$425,000 (the “Gross Settlement Amount”) for: (a) settlement payments to Class Members; (b) the Court-approved service payment to the Class Representative; (c) the Court-approved Class Counsel’s fees and costs; (d) the costs of administering the Settlement; and (e) payment to the California Labor Workforce Development Agency for its share of PAGA penalties.

**Class Members’ Settlement Payments.** After deductions from the Gross Settlement Amount for attorneys’ fees and costs, the service payment to the Class Representative, the payment to the California Labor & Workforce Development Agency, and the costs of administering the Settlement, there will be a Net Settlement Amount. From this Net Settlement Amount, Defendant will make a payment (“Settlement Payment”) to each Class Member who does not opt out of the Settlement Class as follows: Class Member distributions shall be divided among all Class Members on a pro rata basis, based on the ratio of the number of weeks worked by each Class Member during the Class Period, to the total number of weeks worked by all Class Members during the Class Period. If the residual amount of uncashed checks is greater than \$35,000, then this amount shall go into a pool of funds to be divided, pro rata, among all Class Members who previously cashed their check. If the residual amount of uncashed checks is \$35,000 or less, the residual amount will be handled in accordance with Code of Civil Procedure Section 384 and provided to a child advocacy program as contemplated in the statute.

For tax reporting purposes, Settlement Payments to Class Members will be allocated five percent (5%) as wages and ninety-five percent (95%) as statutory damages, penalties, and interest. Defendant’s share of payroll taxes will remain Defendant’s responsibility, and will not be funded from the Gross Settlement Amount.

None of the Parties or attorneys makes any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

If this Notice mailed to a Class Member is returned as undeliverable, and if the Settlement Administrator cannot locate a valid address for the Class Member with reasonable efforts, that Class Member will not be mailed a check, and the money that would have gone to that Class Member will be redistributed to the other Participating Class Members whose Notices were not returned as undeliverable.

**Class Counsel Attorneys’ Fees and Costs, Class Representative Service Payments, and Administrative Costs.** Class Counsel will ask the Court to award attorneys’ fees up to 33-1/3% of the Gross Settlement Amount, and reasonable litigation costs. In addition, Class Counsel will ask the Court to authorize a service payment of up to \$7,500 for the Class Representative in addition to the Class Representative’s portion of the Net Settlement Amount. The Parties estimate the cost of administering the Settlement will be \$<<ADMIN\$>>. A payment in the amount of \$7,500 will also be made to the State of California Labor & Workforce Development Agency for its share of PAGA penalties.

***What is my estimated Settlement Payment?***

While the precise amount of your Settlement Payment is not known at this time, based on the number of weeks you worked in a class position during the Class Period, your Settlement Payment is estimated as follows:

Eligible workweeks: <<WORKWEEKS>>

Estimated Settlement Payment: <<AMOUNT>>

***What claims are being released by the proposed Settlement?***

Upon the Effective Date of the Settlement, Plaintiff and each member of the Settlement Class shall be deemed to have fully, finally, and forever released the Releasees from all Released Claims through the date of the Preliminary Approval Order. "Settlement Class" shall mean all Class Members who do not timely send a signed valid Opt-Out Request that is received by the Settlement Administrator. "Releasees" shall mean Defendant and each of its past, present and/or future, direct and/or indirect, officers, directors, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, members, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, and/or assigns, in their personal, individual, official, and/or corporate capacities. "Released Claims," as to each member of the Settlement Class, shall mean any and all claims against Releasees that were or could have been pled based on the allegations in the First Amended Complaint, including, but not limited to, claims based on hours worked, minimum wage, overtime, wage statements, final pay, timing of pay, record retention, expense reimbursement, unfair competition, and statutory and civil penalties, that accrued or accrue through March 1, 2021, or the Preliminary Approval Date, whichever date is earlier, whether based on California's Wage Orders, the California Labor Code, including, but not limited to, Sections 201, 202, 203, 204, 210, 226, 226.3, 510, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802, 2698, 2699 *et seq.* (PAGA), other penalties, related tort, contract, and punitive damages claims, claims for interest, attorneys' fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief, violations of California Business & Professions Code §§ 17200 *et seq.* and/or violations of the FLSA, 29 U.S.C. §§ 201 *et seq.*, including, but not limited to, §§ 206, 211(c) and 215(a).

***What are my options in this matter?***

You have the following options under this Settlement:

**Remain in the Class.** If you wish to remain in the Class and be eligible to receive a payment under the Settlement, you do not need to do anything. You will be included in the Class automatically. By remaining in the Class and receiving settlement monies, you consent to the release of claims that are asserted or could have been asserted based on the allegations of the First Amended Complaint, including claims for wages, penalties, liquidated damages, interest, attorneys' fees, costs and equitable relief.

Any amount paid to Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Releasees, unless otherwise required by law.

**Opt Out of the Class.** If you do not want to be part of the Settlement, you must submit a signed written request to be excluded from the Settlement ("Opt-Out Request") to the Settlement Administrator. To be valid, your Opt-Out Request must be postmarked on or before <<60-DAYS>>, must state your name, and must include a clear statement that you request exclusion and do not wish to participate in the settlement. If you do not timely submit a signed Opt-Out Request (as evidenced by the postmark), your Opt-Out Request will be rejected, you will be deemed a member of the Settlement Class, and you will be bound by the release of Released Claims as described in the "What claims are being released by the proposed Settlement?" section above and all other Settlement terms. If the Opt-Out Request is sent from within the United States, it must be sent through the United States Postal Service by First-Class U.S. Mail, or the equivalent. If you timely submit a signed Opt-Out Request, you will have no further role in the Action, and for all purposes, you will be regarded as if you never were either a party to this Action or a Class Member, and thus you will not be entitled to any payment from the Settlement and will not be entitled to or permitted to assert an objection to the Settlement.

**Object to the Settlement.** You may object to the proposed Settlement in writing. You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, provided you notify the Court of your intention to do so. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must (a) clearly identify the case name and number *Johnson v. DAL Global Services, LLC*, Santa Clara County Superior Court Case No. 20CV364694), (b) be submitted to the Court either



by mailing the objection to: Clerk of the Court, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, or by filing in person at the same location; (c) also be mailed to the law firms identified above, and (d) be filed or postmarked on or before **<<60-DAYS>>**. You must sign your objection and include your name, address, and telephone number.

Even if you submit an objection, you will be bound by the terms of the Settlement, including applicable releases as set forth above, unless the Settlement is not finally approved by the Court.

**Dispute Your Eligible Workweeks.** If you believe that your eligible workweeks reported above are inaccurate, you may dispute the workweeks by submitting a written correspondence to the Settlement Administrator at **<<ADDRESS>>** stating the number of workweeks you believe you worked during the Class Period (i.e., from July 31, 2018, through **<<END\_DATE>>**) and attach any and all relevant documentation supporting your dispute. Disputed must be postmarked no later than **<<60-DAYS>>**. Upon receipt of your dispute, a determination will be made as to the correct number of eligible workweeks.

***What is the next step in the approval of the Settlement?***

The Court will hold a Final Approval Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the settlement administration costs, and the service payment to the Class Representative on **<<DATE>>**, at **<<TIME>>** in Department 1, Santa Clara Superior Court, Downtown Superior Court, 191 North First Street San Jose, CA 95113. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive a share of the Settlement.

***How can I get additional information?***

"The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Santa Clara's Electronic Filing and Service Website at [www.scefiling.org](http://www.scefiling.org), or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday excluding Court holidays and closures. More information and important Court documents, including this Notice, are available on the case website, at **<<URL>>**. You can also request a copy of the Stipulation of Settlement from Class Counsel, at the address listed above. Any questions regarding this Notice should be directed to the Settlement Administrator or to Class Counsel at the addresses listed above in this Notice. For more information you may also call the Settlement Administrator toll-free at **<<NUMBER>>**.

***What should I do if my address changes?***

If you received this Notice at an address other than the address shown on the Notice, or if your address changes, please promptly contact the Settlement Administrator toll-free at [NUMBER]. This will ensure that you receive further notices about this settlement, and that you receive your Settlement Payment if the settlement is approved by the Court.

**PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE ADMINISTRATION PROCESS.**

**BY ORDER OF THE SANTA CLARA SUPERIOR COURT**

# **EXHIBIT B**

**ACKERMANN & TILAJEF, P.C.**

Craig J. Ackermann (SBN 229832)  
cja@ackermanntilajef.com  
Sam Vahedi (SBN 282660)  
sv@ackermanntilajef.com  
1180 South Beverly Drive, Suite 610  
Los Angeles, California 90035  
Phone: (310) 277-0614  
Fax: (310) 277-0635

**WINSTON LAW GROUP, P.C.**

David S. Winston, Esq. (SBN 301667)  
david@employmentlitigators.com  
1180 South Beverly Drive, Suite 320  
Los Angeles, California 90035  
Phone: (424) 288-4568  
Fax: (424) 532-4062

*Attorneys for Plaintiff and all others similarly situated*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA CLARA**

PASSION JOHNSON, an individual, on behalf of  
herself and others similarly situated,

PLAINTIFF,

v.

DAL GLOBAL SERVICES, LLC, a Delaware  
Limited Liability Company; and DOES 1 thru 50,  
inclusive,

DEFENDANTS.

Case No. 20CV364694

**[PROPOSED]  
ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS AND PAGA  
ACTION SETTLEMENT**

Dept.: 1  
Judge: Hon. Sunil R. Kulkarni

Action Filed: March 4, 2020

1 **RECITALS**

2 Plaintiff PASSION JOHNSON's ("Plaintiff") Motion for Preliminary Approval of Class Action  
3 Settlement came before this Court on March 4, 2021. The Court, having fully reviewed Plaintiff's Motion  
4 for Preliminary Approval of Class Action Settlement, and the supporting Points and Authorities and  
5 Declarations filed in support thereof, including the Stipulation of Settlement Re: Class & Representative  
6 Action and First Amendment thereto (collectively referred to as the "Settlement Agreement") and Notice  
7 of Settlement ("Notice"), and for good cause appearing, HEREBY MAKES THE FOLLOWING  
8 FINDINGS AND DETERMINATIONS:

9 **FINDINGS**

10 1. The Settlement falls within the range of reasonableness of a settlement which could  
11 ultimately be given final approval by this Court, and appears to be presumptively valid, subject only to  
12 any objections that may be raised at the Final Approval Hearing and final approval by this Court. The  
13 Court notes that defendant DAL GLOBAL SERVICES, LLC ("Defendant") has agreed to create a  
14 common fund of \$425,000 to cover (a) settlement payments to Class Members who do not validly opt  
15 out; (b) a \$7,500 payment to the State of California, Labor & Workforce Development Agency for its  
16 share of the settlement of claims for penalties under the Private Attorneys General Act; (c) a service  
17 payment of up to \$7,500 for Class Representative Passion Johnson; (d) Class Counsel's attorneys' fees,  
18 not to exceed 33-1/3% of the Gross Settlement Amount, and actual litigation expenses incurred by Class  
19 Counsel; and (e) Settlement Administration Costs anticipated not to exceed Sixteen-Thousand Five-  
20 Hundred Dollars \$16,500.

21 2. The Court finds and concludes that the Settlement is the result of arms-length negotiations  
22 between the parties conducted after Class Counsel had adequately investigated Plaintiff's claims and  
23 become familiar with their strengths and weaknesses. The assistance of an experienced mediator in the  
24 settlement process further confirms that the Settlement is non-collusive. The Court further finds that the  
25 settlement of Plaintiff's representative claims under the California Private Attorneys General Act, Cal.  
26 Labor Code §§2698 *et seq.*, is fair and reasonable and is approved.

27 3. The Court finds that the Notice, a copy of which is attached as **Exhibit A** hereto, comports  
28 with all constitutional requirements including those of due process. The Court further finds that the

1 Notice adequately advises the Class about the class action; the terms of the proposed settlement, the  
2 benefits available to each Class Member, and the proposed fees and costs to Class Counsel; each Class  
3 Member's right to object or opt out of the settlement, and the timing and procedures for doing so;  
4 preliminary Court approval of the proposed settlement; and the date of the Final Approval hearing as well  
5 as the rights of Class Members to file documentation in support of or in opposition to and appear in  
6 connection with said hearing. The Court further finds that the mailing of the Notice to each Class  
7 Member's last known address, with appropriate skip tracing and mail forwarding for Notices returned as  
8 undeliverable, as specifically described in the Settlement Agreement, constitutes reasonable notice to  
9 Class Members of their rights with respect to the class action and proposed settlement.

10 4. The Court finds that Ackermann & Tilajef, P.C. and Winston Law Group, P.C. will fairly  
11 and adequately represent the Class, and appoints them as Class Counsel.

12 5. The Court finds that Plaintiff Passion Johnson will fairly and adequately represent the  
13 Class, and appoints her as Class Representative.

14 6. The Court finds that CPT Group, Inc. is an experienced settlement administrator.

15 GOOD CAUSE APPEARING THEREFORE, THE COURT ORDERS AS FOLLOWS:

16 **ORDER**

17 7. The Court grants preliminary approval of the Settlement based upon the terms set forth in  
18 the Settlement Agreement (including the First Amendment thereto), which is attached as **Exhibit 1** to the  
19 Declaration of Craig J. Ackermann, and is incorporated in full by this reference and made a part of this  
20 Order. The Settlement appears to be fair, adequate, and reasonable to the Class. All capitalized terms  
21 defined in the Settlement Agreement shall have the same meaning when used in this Order.

22 8. In accordance with the Settlement Agreement, the Court hereby certifies the following  
23 class for purposes of settlement: *All current and former non-exempt employees of DAL Global Services,*  
24 *LLC, who worked at any time in California from July 31, 2018, through March 1, 2021, or the date of*  
25 *this Order, whichever date is earlier.* The Court hereby finds and concludes that the Class satisfies all of  
26 the requirements for class certification. Because certification of the Class is proposed in the context of a  
27 settlement, the Court need not inquire whether the case, if tried as a class action, would present  
28 intractable management problems.

1           7.       The Court approves CPT Group, Inc. (“Settlement Administrator”) to perform the duties  
2 of the Settlement Administrator as set forth in this Order and the Settlement Agreement.

3           9.       Within forty-five (45) days of the issuance of this Order, Defendant shall provide the  
4 Settlement Administrator with the Class Member Database, as specified in the Settlement Agreement.

5           10.      Within fourteen (14) days after receipt of the Database, the Settlement Administrator shall  
6 mail the Notice in the manner specified in the Settlement Agreement.

7           11.      The Court orders that any request for exclusion from the Settlement must be postmarked  
8 no later than sixty (60) days after the Notice is initially mailed to Class Members, and must be received  
9 by the Settlement Administrator to be valid.

10          12.      If more than 5% of the total number of Class Members submit timely and valid opt-out  
11 requests, Defendant shall have the option to void the settlement. To exercise this option, Defendant’s  
12 Counsel must send written notification to Class Counsel within fourteen (14) days of receiving a report  
13 from the Settlement Administrator of the total number of timely and valid opt-out requests received from  
14 Class Members.

15          13.      Any Class Member who does not timely and validly request exclusion from the settlement  
16 may object to the Settlement Agreement. Any objection must be in writing, and must be mailed to the  
17 Settlement Administrator. Such objection shall include the name and address of the Class Member and  
18 the basis of the objection, and must be signed by the Class Member. To be timely, the objection must be  
19 postmarked no later than sixty (60) days after the Notice is initially mailed to the Class. The Court may,  
20 in its discretion, decline to consider any objections not submitted in the manner described in this Order.

21          14.      The Final Approval Hearing shall be held before this Court on  
22 \_\_\_\_\_ at \_\_\_\_\_ in Department 1, to consider the fairness,  
23 adequacy, and reasonableness of the proposed settlement preliminarily approved by this Order, and to  
24 consider the motion of Class Counsel for an award of reasonable attorneys’ fees and costs and Class  
25 Representative service payment.

26          15.      Any party to this case, including any Class Member, may be heard in person or by  
27 counsel, to the extent allowed by the Court, in support of, or in opposition to, the Court’s determination  
28 of the good faith, fairness, reasonableness, and adequacy of the proposed settlement, the requested

1 attorneys' fees and costs, the requested Class Representative service payment, and any order of final  
2 approval and Judgment regarding such settlement, fees, costs, and payments; provided however, that no  
3 person shall be heard in opposition to such matters unless such person has complied with the conditions  
4 set forth in the Notice.

5 17. The Court orders that if for any reason the Court does not execute and file an order of final  
6 approval and judgment, or if such a final approval order is reversed, the Settlement Agreement and the  
7 proposed settlement which is the subject of this Order and all evidence and proceedings had in  
8 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the  
9 litigation as more specifically set forth in the Settlement Agreement.

10 18. The Court orders that the Settlement Agreement shall not be construed as an admission or  
11 evidence of liability.

12 19. Pending further order of this Court, all proceedings in this matter except those  
13 contemplated herein and in the Settlement Agreement are stayed.

14 20. The Court expressly reserves the right to adjourn or continue the Final Approval Hearing  
15 without further notice to Class Members.

16  
17 **IT IS SO ORDERED.**

18  
19  
20 Date: \_\_\_\_\_

\_\_\_\_\_  
HON. SUNIL R. KULKARNI  
Superior Court Judge