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11 *CO., INC., a California Corporation*

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21 Telephone: (213) 381-9988
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23 *Attorneys for Plaintiff MICHAEL JACKSON, an individual, and on*
24 *behalf of all others similarly situated*

25 [Additional counsel on following pages]

26 STATE OF CALIFORNIA

27 SUPERIOR COURT FOR THE COUNTY OF STANISLAUS

28 MICHAEL JACKSON and MONAE
NEGRETE, an individual, and on behalf of
all others similarly situated,

Plaintiffs,

v.

GRASPOINTNER MANAGEMENT CO.,
INC., a California Corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: CV-22-003478

**CLASS ACTION AND PRIVATE
ATTORNEYS GENERAL ACT ("PAGA")
SETTLEMENT AGREEMENT**

Complaint Filed: August 1, 2022
Trial Date: None Set

CLASS ACTION AND PRIVATE ATTORNEYS GENERAL ACT ("PAGA") SETTLEMENT
AGREEMENT

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 Cerritos, CA 90703
 9 Tel.: (213) 867-1908
 Fax.: (213) 402-6518

10 *Attorneys for Plaintiff MONAE NEGRETE,*
 11 *an individual, and on behalf of all others similarly*
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1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between
2 plaintiffs Monae Negrete (“Negrete”) and Michael Jackson (“Jackson”, collectively with Negrete,
3 “Plaintiffs”) and defendant Graspoiner Management Co., Inc. (“Defendant”). The Agreement
4 refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

5 **1. DEFINITIONS**

6 **1.1.** “Action” means the matters of *Jackson v. Graspoiner Management Co., Inc.*,
7 Stanislaus County Superior Court, Case No. CV-22-003478, and *Negrete v. Graspoiner*
8 *Management, Inc.*, Stanislaus County Superior Court, Case No. CV-22-003484, consolidated by the
9 Court on January 8, 2024, with the lead case being Case No. CV-22-003478.

10 **1.2.** “Administrator” means APEX Class Action Settlement Administration, the neutral
11 entity the Parties have agreed to appoint to administer the Settlement.

12 **1.3.** “Administration Expenses Payment” means the amount the Administrator will be
13 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
14 with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary
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16 **1.4.** “Aggrieved Employee” means a person directly employed by Defendant in
17 California and classified as a non-exempt employee who worked during the PAGA Period.

18 **1.5.** “Class” means all persons directly employed by Defendant in California and
19 classified as a non-exempt employee who worked during the Class Period.

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23 **1.7.** “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
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27 **1.8.** “Class Data” means each Class Member’s name, last-known mailing address, Social
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1 **1.9.** “Class Member” or “Settlement Class Member” means a member of the Class, as
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8 **1.11.** “Class Notice” means the Court-approved Notice of Class Action Settlement and
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14 Defendant agrees to pay under the Settlement, subject to (voluntary) increase as provided in Section
15 8 of this Agreement. The Gross Settlement Amount will be used to pay Individual Class Payments,
16 Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class
17 Counsel Litigation Expenses Payment, Class Representative Service Payment, and the
18 Administration Expenses Payment.

19 **1.24.** “Individual Class Payment” means a Participating Class Member’s pro rata share of
20 the Net Settlement Amount calculated according to the number of Class Pay Periods worked by the
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23 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked by
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27 **1.27.** “LWDA” means the California Labor and Workforce Development Agency.

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1 **1.28.** “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA
2 under Labor Code §2699, subd. (i).

3 **1.29.** “Net Settlement Amount” means the Gross Settlement Amount, less the following
4 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
5 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
6 Litigation Expenses Payment, and the Administration Expenses Payment.

7 **1.30.** “Non-Participating Class Member” means any Class Member who opts out of the
8 Settlement by sending the Administrator a valid and timely Request for Exclusion.

9 **1.31.** “Notice Packet” means the Class Notice (Exhibit A), the Request for Exclusion form
10 (Exhibit B), the Pay Period Dispute form (Exhibit C), and the Objection form (Exhibit D).

11 **1.32.** “Operative Complaint” means the consolidated First Amended Complaint filed by
12 Plaintiffs on January 19, 2024.

13 **1.33.** “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

14 **1.34.** “PAGA Pay Period” means any pay period during which an Aggrieved Employee
15 was employed directly by Defendant during the PAGA Period and received payment for wages for
16 work performed within the pay period.

17 **1.35.** “PAGA Period” means the period from August 1, 2021, through the date the Court
18 grants Preliminary Approval of the Settlement.

19 **1.36.** “PAGA Notice” means Plaintiff Monae Negrete’s June 10, 2022, and December 28,
20 2023, letters to Defendant and the LWDA providing notice pursuant to Labor Code §2699.3, subd.
21 (a).

22 **1.37.** “PAGA Penalties” means the \$100,000.00 allocated by the Parties to the settlement
23 of claims arising under PAGA, to be paid from the Gross Settlement Amount and allocated 25%
24 (\$25,000.00) to the Aggrieved Employees as Individual PAGA Payments and 75% (\$75,000.00) to
25 the LWDA as the LWDA PAGA Payment. If the Court approves PAGA Penalties of less than this
26 amount, the Administrator shall allocate the remainder to the Net Settlement Amount.

27 **1.38.** “Participating Class Member” means a Class Member who does not submit a valid
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1 **1.39.** “Plaintiffs” means Monae Negrete and Michael Jackson, the named plaintiffs in the
2 Action.

3 **1.40.** “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of
4 the Settlement.

5 **1.41.** “Released Class Claims” means the Released Claims being released as described in
6 Paragraph 5.4 below, which do not arise and/or are not assertable under PAGA.

7 **1.42.** “Released PAGA Claims” means the Released Claims being released as described in
8 Paragraph 5.4 below that arise and/or are assertable under PAGA.

9 **1.43.** “Released Parties” means: Defendant together with its present and former parents,
10 subsidiaries, affiliated entities, commonly owned or controlled entities, its present and former
11 owners, board members, officers, directors, trustees, shareholders, members, partners, employees,
12 agents, insurers, attorneys, representatives, heirs, executors, administrators, successors and assigns,
13 franchisors, and any individual or entity to whom liability for the claims released by Plaintiffs,
14 Released Class Claims, or Released PAGA Claim could be assigned pursuant to Labor Code §558.1,
15 or on a joint-employer, alter-ego, or other vicarious liability theory.

16 **1.44.** “Request for Exclusion” means a Class Member’s submission of a written request to
17 be excluded from the Class Settlement signed by the Class Member. A Request for Exclusion form
18 is attached as Exhibit B.

19 **1.45.** “Response Deadline” means 45 days after the Administrator mails Notice to Class
20 Members (plus an additional 14 days in the case of Class Members whose Notice Packets are resent
21 by the Administrator after being returned as undeliverable), and shall be the last date on which Class
22 Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email,
23 or mail his or her Objection to the Settlement.

24 **1.46.** “Settlement” means the disposition of the Action effected by this Agreement and the
25 Judgment.

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1 **2. RECITALS**

2 **2.1.** On August 1, 2022, Plaintiffs commenced this Action by filing separate complaints
3 alleging various causes of action arising under the California Labor Code and related laws. On
4 August 1, 2022, Plaintiff Michael Jackson filed his complaint. On August 1, 2022, Plaintiff Monae
5 Negrete filed her complaint. On January 8, 2024, the Court consolidated the matters filed by
6 Plaintiffs. On January 19, 2024, Plaintiffs filed the Operative Complaint. Defendant denies the
7 allegations in the Operative Complaint, denies any failure to comply with the law, and denies any
8 liability for the claims alleged in the Operative Complaint.

9 **2.2.** Pursuant to Labor Code §2699.3, subd.(a), Plaintiff Monae Negrete gave timely
10 written notice to Defendant and the LWDA by sending the PAGA Notice.

11 **2.3.** On June 20, 2023, the Parties participated in an all-day mediation presided over by
12 Hon. Howard R. Broadman (Ret.) which led to this Agreement to settle the Action.

13 **2.4.** Prior to mediation, Plaintiffs obtained, through informal discovery, the number of
14 Class Members, the number of Aggrieved Employees, the number of workweeks, the number of pay
15 periods, average rates of pay, sample time records, sample payroll records, written policies, and
16 related information. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval
17 set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot*
18 *Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

19 **2.5.** The Court has not granted class certification.

20 **3. MONETARY TERMS**

21 **3.1.** Gross Settlement Amount. Except as otherwise provided by Section 8 below,
22 Defendant agrees to pay \$2,950,000.00 and no more as the Gross Settlement Amount and to
23 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class
24 Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes)
25 prior to the deadline stated in Section 4.1.3 of this Agreement. The Administrator will disburse the
26 entire Gross Settlement Amount without asking or requiring Participating Class Members or
27 Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement
28 Amount will revert to Defendant.

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1 **3.2.** Payments from the Gross Settlement Amount. The Administrator will make and
2 deduct the following payments from the Gross Settlement Amount, in the amounts specified by the
3 Court in the Final Approval:

4 3.2.1. To Plaintiffs: Class Representative Service Payment to the Class
5 Representatives of not more than \$10,000.00 (in addition to any Individual Class Payment and
6 any Individual PAGA Payment the Class Representatives are entitled to receive as a
7 Participating Class Member and Aggrieved Employee). Defendant will not oppose Plaintiffs'
8 request for a Class Representative Service Payment that does not exceed this amount. As part of
9 the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs
10 will seek Court approval for any Class Representative Service Payments no later than 16 court
11 days prior to the Final Approval Hearing. If the Court approves a Class Representative Service
12 Payment less than the amount requested, the Administrator will retain the remainder in the Net
13 Settlement Amount. The Administrator will pay the Class Representative Service Payment using
14 IRS Form 1099. Plaintiffs assume full responsibility and liability for taxes owed on the Class
15 Representative Service Payment and agree to hold Defendant harmless, and indemnify
16 Defendant, from any dispute or controversy regarding any division, sharing, or taxation of any
17 of these payments.

18 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third,
19 which is currently estimated to be \$983,333.33 and a Class Counsel Litigation Expenses
20 Payment of not more than \$20,000.00. Defendant will not oppose requests for these payments
21 provided that do not exceed these amounts and the Class Counsel Litigation Expenses Payment
22 claimed are recoverable under statute. Plaintiffs and/or Class Counsel will file a motion for Class
23 Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior
24 to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a
25 Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator
26 will retain the remainder in the Net Settlement Amount. Defendant and Released Parties shall
27 have no liability to Class Counsel or any other Class Member's counsel arising from any claim
28 to any attorneys' fees or costs, aside from the Class Counsel Fees Payment and Class Counsel

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1 Litigation Expenses Payment, which shall be paid from the Gross Settlement Amount. The
2 Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment
3 using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for
4 taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses
5 Payment and agrees to hold Defendant harmless, and indemnify Defendant, from any dispute or
6 controversy regarding any division, sharing, or taxation of any of these payments.

7 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
8 \$55,000.00 except for a showing of good cause and as approved by the Court. To the extent the
9 Administration Expenses are less than \$55,000.00, or the Court approves payment less than
10 \$55,000.00 the Administrator will retain the remainder in the Net Settlement Amount.

11 3.2.4. To Each Participating Class Member: An Individual Class Payment
12 calculated by (a) dividing the Net Settlement Amount by the total number of Class Pay Periods
13 worked by all Participating Class Members during the Class Period and (b) multiplying the result
14 by each Participating Class Member's Class Pay Periods.

15 3.2.4.1. Tax Allocation of Individual Class Payments. 2.5% of each
16 Participating Class Member's Individual Class Payment will be allocated to settlement of
17 wage claims (the "Wage Portion"). The Wage Portions of Individual Class Payments are
18 subject to tax withholding and will be reported on an IRS W-2 Form. 2.5% of each
19 Participating Class Member's Individual Class Payment will be allocated to settlement of
20 reimbursement claims, and 95% of each Participating Class Member's Individual Class
21 Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage
22 Portion"). The Non-Wage Portions of Individual Class Payments are not subject to wage
23 withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume
24 full responsibility and liability for any employee-side payroll taxes owed on their Individual
25 Class Payment.

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1 3.2.4.2. Effect of Non-Participating Class Members on Calculation of
2 Individual Class Payments. Non-Participating Class Members will not receive any
3 Individual Class Payments. The Administrator will retain amounts equal to their Individual
4 Class Payments in the Net Settlement Amount for distribution to Participating Class
5 Members on a pro rata basis.

6 3.2.5. To the LWDA: \$75,000.00, the amount of the LWDA's 75% share of PAGA
7 Penalties.

8 3.2.6. To Each Aggrieved Employee: An Individual PAGA Payment calculated by
9 (a) dividing \$25,000.00 (the amount of the Aggrieved Employees 25% share of PAGA Penalties)
10 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the
11 PAGA Period and (b) multiplying the result by each Aggrieved Employees' PAGA Pay Periods.

12 3.2.6.1. Tax Allocation of Individual PAGA Payments. 100% of each
13 Aggrieved Employees' Individual PAGA Payment will be allocated to settlement of claims
14 for penalties and are not subject to wage withholdings and will be reported on IRS 1099
15 Forms. Aggrieved Employees assume full responsibility and liability for any employee-side
16 payroll taxes owed on their Individual PAGA Payment.

17 3.2.6.2. Effect of Non-Participating Class Members on Calculation of
18 Individual PAGA Payments. Non-Participating Class Members will receive an Individual
19 PAGA Payment to the extent they also qualify as an Aggrieved Employee. A Class
20 Member's status as a Non-Participating Class Member shall, therefore, have no effect on
21 his/her entitlement to Individual PAGA Payment nor shall such status change the
22 Administrator's calculation of Individual PAGA Payments.

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1 **4. SETTLEMENT FUNDING AND PAYMENTS.**

2 **4.1. Class Size.** Based on a review of its records through the date of mediation, Defendant
3 estimates there are 7,963 Class Members who collectively worked a total of 188,118 Pay Periods.

4 **4.2. Class Data.** Not later than 15 days after the Court grants Preliminary Approval of the
5 Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft
6 Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the
7 Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other
8 purpose, and restrict access to the Class Data to Administrator employees who need access to the
9 Class Data to effect and perform under this Agreement. Defendant has a continuing duty to
10 immediately notify Class Counsel if it discovers that the Class Data omitted class member
11 identifying information and to provide corrected or updated Class Data as soon as reasonably
12 feasible. Without any extension of the deadline by which Defendant must send the Class Data to the
13 Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to
14 reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

15 **4.3. Funding of Gross Settlement Amount.** Defendant shall fund the Gross Settlement
16 Amount and fund the amounts necessary to fully pay Defendant's share of payroll taxes on the Wage
17 Portions of the Individual Class Payments as calculated by the Administrator by transmitting the
18 Gross Settlement Amount and amounts necessary to fund Defendant's share of payroll taxes to the
19 Administrator, or as otherwise directed by the Administrator, no later than 120 days after the
20 Effective Date.

21 **4.4. Payments from the Gross Settlement Amount.** Within 30 days after Defendant funds
22 the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments,
23 all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment,
24 the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class
25 Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class
26 Counsel Litigation Expenses Payment, and the Class Representative Service Payment shall not
27 precede disbursement of Individual Class Payments and Individual PAGA Payments.

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1 **4.5.** The Administrator will issue checks for the Individual Class Payments and/or
2 Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage
3 prepaid. The face of each check shall prominently state the date (not less than 180 days after the
4 date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed
5 by the void date. The Administrator will send checks for Individual Class Payments and Individual
6 PAGA Payments to all Participating Class Members and Aggrieved Employees (including those for
7 whom Notice Packet was returned undelivered). The Administrator may send Participating Class
8 Members and Aggrieved Employees a single check combining the Individual Class Payment and
9 the Individual PAGA Payment.

10 **4.6.** The Administrator must conduct a Class Member Address Search for all Class
11 Members whose checks are returned undelivered without USPS forwarding address. Within 7 days
12 of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address
13 provided or to an address ascertained through the Class Member Address Search. The Administrator
14 need not take further steps to deliver checks to Class Members whose re-mailed checks are returned
15 as undelivered. The Administrator shall promptly send a replacement check to any Class Member
16 whose original check was lost or misplaced, as requested by the Class Member prior to the void
17 date.

18 **4.7.** For any Class Member whose Individual Class Payment check or Individual PAGA
19 Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the
20 funds represented by such checks to the Ronald McDonald House Charities Northern California and
21 American Red Cross California Gold Country, in equal amounts, thereby leaving no “unpaid
22 residue” subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

23 **4.8.** The payment of Individual Class Payments and Individual PAGA Payments shall not
24 obligate Defendant to confer any additional benefits or make any additional payments to Class
25 Members (such as 401(k) contributions, bonuses, vacation plans, sick leave plans, PTO plans,
26 regular rate of pay calculations, or other benefit plan) beyond those specified in this Agreement.

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1 **5. RELEASES OF CLAIMS**

2 **5.1. Effective Date of Release.** The releases described herein shall take effect upon the
3 Effective Date and shall cover the Class Period (for the Released Class Claims) and the PAGA
4 Period (for the Released PAGA Claims). However, such releases shall subsequently be invalidated
5 if, after the Effective Date, Defendant fails to fund the Gross Settlement Amount and employer-side
6 payroll taxes per the schedule set forth in this Agreement. Nonetheless, Defendant shall have the
7 right to enforce the releases set forth in this Agreement as to Plaintiffs, Participating Class Members,
8 Aggrieved Employees, and the LWDA, as applicable, without regard to their receipt of an Individual
9 Settlement Payment, Individual PAGA Payment, or the LWDA PAGA Payment, and prior to fully
10 funding the Gross Settlement Amount, so long as Defendant has complied with the procedures set
11 forth in this Agreement relating to the funding of the Gross Settlement Amount (as set forth in
12 Section 4.1.3 of this Agreement) as of the time it seeks to enforce a release. Further, any claims
13 released under this Agreement by Plaintiffs, Participating Class Members, Aggrieved Employees,
14 and the LWDA shall be deemed tolled for statute of limitations purposes between the Effective Date
15 and Defendant’s deadline to fund the Gross Settlement Amount and employer-side payroll taxes,
16 such that if the releases set forth herein are subsequently invalidated after the Effective Date due to
17 Defendant’s failure to fully fund the settlement, Plaintiffs’, Participating Class Members’,
18 Aggrieved Employees’, and the LWDA’s time to bring an action shall be extended between the
19 Effective Date and the date the settlement is invalidated (i.e., the date of Defendant’s failure to fund
20 the Gross Settlement Amount).

21 **5.2. Plaintiffs’ Release.** Plaintiffs and their respective former and present spouses,
22 representatives, agents, attorneys, heirs, administrators, successors, and assigns, as of the Effective
23 Date, generally release and discharge Released Parties from all claims, transactions, or occurrences
24 that occurred between or involving the parties through the date of Plaintiff’s execution of this
25 Agreement (“Plaintiffs’ Release”). Plaintiffs’ Release does not extend to any claims or actions to
26 enforce this Agreement, or to any claims for unemployment benefits, disability benefits, social
27 security benefits, or workers’ compensation benefits that arose at any time, or based on transactions
28 or occurrences after the Class Period and/or PAGA Period, whichever date is further into the future.

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1 Plaintiff Monae Negrete’s release does not extend to claims under the federal Age Discrimination
2 and Employment Act (“ADEA”). Plaintiffs acknowledge that they may discover facts or law
3 different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but
4 agree, nonetheless, that Plaintiffs’ Release shall be and remain effective in all respects,
5 notwithstanding such different or additional facts or Plaintiffs’ discovery of them. Plaintiff Michael
6 Jackson understands and agrees that by signing this Agreement he is giving up any and all legal
7 claims he has or may have against the Released Parties through his execution of his Agreement,
8 expressly including claims under the ADEA. Plaintiff Michael Jackson is advised to consult with
9 legal counsel regarding the waiver contained herein generally and specifically as to the waiver of
10 claims under the ADEA. Plaintiff Michael Jackson understands and agrees that he has been advised
11 in writing of his right to consult with an attorney before signing this Agreement. Plaintiff Michael
12 Jackson has twenty-one (21) days to consider this Agreement, although he may sign it at any time
13 prior to the expiration of the twenty-one (21) days. Plaintiff Michael Jackson may revoke this
14 Agreement at any time during the seven (7) days after he signs the Agreement. This Agreement
15 shall not become effective until the seven (7) day revocation period has passed.

16 **5.3.** Plaintiffs’ Waiver of Rights Under California Civil Code Section 1542. For purposes
17 of Plaintiffs’ Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits,
18 if any, of §1542 of the California Civil Code, which reads:

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

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22 **5.4.** Release by Participating Class Members and Aggrieved Employees: All
23 Participating Class Members and all Aggrieved Employees (who shall not have the right to opt out
24 of the release of the Released PAGA Claims) shall be bound by a release, as of the Effective Date,
25 of all claims alleged in the Operative Complaint or any of Plaintiffs’ PAGA Notice(s), or which
26 could have been alleged based on the facts alleged in the Operative Complaint or any of Plaintiff
27 Monae Negrete’s PAGA Notice(s), and which arose during the Class Period and PAGA Period.
28 Without limiting the foregoing, Released Claims shall include any and all claims or causes of action

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1 regarding unpaid wages, including but not limited to failure to pay minimum wages, straight time
2 wages, overtime compensation, double-time compensation, and interest; failure to timely pay
3 regular and final wages; failure to provide compliant meal, rest, and/or recovery periods; failure to
4 pay premiums at all or at the correct rate for any violation of meal, rest, and/or recovery period
5 obligations; invalid meal period waivers or on-duty meal period agreements; payment for all hours
6 worked; wage statements and paystubs, including wage statements and paystubs furnished or
7 available in physical, electronic, or other forms; failure to keep accurate records; unfair business
8 practices related thereto; and any and all related penalties, including recordkeeping penalties, wage
9 statement penalties, minimum wage penalties, waiting time penalties, and other statutory or civil
10 penalties associated with any of the foregoing. Further, such Released Claims shall include, but are
11 not limited to those claims arising under California Labor Code sections 201, 202, 203, 204, 204b,
12 206, 207, 208, 210, 218.5, 218.6, 221, 222, 223, 225.5, 226, 226.3, 226.7, 246, subd. (i), 248.5, 256,
13 510, 512, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 et seq., and 2699 et
14 seq., and/or those arising under the applicable Industrial Welfare Commission Wage Order(s)
15 (including but not limited to subsections 3, 4, 5, 7, 8, 9, 10, 11, 12, 18, and 20 of the applicable
16 Wage Order(s), such as IWC Wage Order 5-2001 [including the provisions of the California Code
17 of Regulations codifying the applicable Wage Order(s)], California Business Professions Code
18 §17200 et seq. (including, without limitation, §§17200 through 17208); California Civil Code
19 sections 3287 and 3289; California Code of Civil Procedure section 1021.5; all claimed or
20 unclaimed compensatory, consequential, incidental, liquidated, punitive and exemplary damages,
21 penalties, restitution, interest, costs and attorneys' fees, injunctive or equitable relief, and any other
22 remedies available at law or equity, and other amounts recoverable under said claims under
23 California law; and any related claims under the provisions of the Fair Labor Standards Act (29
24 USC §§201, et seq.) ("Released Claims").

25 **5.5.**Construction. The Parties intend that the releases be construed as broadly as possible.
26 The release excludes the release of claims not permitted by law.

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1 **5.6.** Resolution of Good Faith Dispute. The parties warrant and represent that the releases
2 for Participating Class Members and Aggrieved Employees resolve, pursuant to Labor Code §§206
3 and 206.5, and applicable case law (including but not limited to *Chindarah v. Pick Up Stix, Inc.*
4 (2009) 171 Cal.App.4th 796) a good faith dispute regarding any and all wages, if any, owed to
5 Participating Class Members / Aggrieved Employees through their last day of employment with
6 Defendant within the Class Period and PAGA Period.

7 **6.** MOTION FOR PRELIMINARY APPROVAL. Plaintiff shall prepare and file a motion
8 for preliminary approval (“Motion for Preliminary Approval”). Defendant shall not oppose the
9 motion, to the extent consistent with this Agreement.

10 **6.1.** Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
11 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
12 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
13 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code
14 §2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of
15 PAGA Settlement; (iii) a draft proposed Notice Packet; (iv) a signed declaration from the
16 Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its
17 willingness and ability to serve as an administrator in this matter, including information related to
18 its financial relationship with Class Counsel; (v) a signed declaration from Plaintiffs confirming
19 their willingness and competency to serve and disclosing all facts relevant to any actual or potential
20 conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from
21 each Class Counsel firm attesting to its competency to represent the Class Members; and (vii) its
22 timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations
23 (Labor Code §2699.3, subd. (a)), Operative Complaint (Labor Code §2699, subd. (l)(1)), this
24 Agreement (Labor Code §2699, subd. (l)(2))).

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1 **6.2. Responsibilities of Counsel.** Class Counsel is responsible for expeditiously finalizing
2 and filing the Motion for Preliminary Approval no later than 45 days after the full execution of this
3 Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for
4 appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is
5 responsible for delivering the Court’s Preliminary Approval to the Administrator.

6 **6.3. Duty to Cooperate.** If the Parties disagree on any aspect of the proposed Motion for
7 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
8 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or
9 by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
10 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
11 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting
12 in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the
13 Court’s concerns. However, no Party shall be obligated to consent to any material change (including
14 but not limited to changes to the Gross Settlement Amount or the releases set forth herein) in the
15 Agreement, whether or not such material change is caused or requested by the Court.

16 **7. SETTLEMENT ADMINISTRATION**

17 **7.1. Selection of Administrator.** The Parties have jointly selected APEX Class Action
18 Settlement Administration (“APEX”) to serve as the Administrator and verified that, as a condition
19 of appointment, APEX agrees to be bound by this Agreement and to perform, as a fiduciary, all
20 duties specified in this Agreement in exchange for the Administration Expenses Payment. The
21 Parties and their Counsel represent that they have no interest or relationship, financial or otherwise,
22 with the Administrator other than a professional relationship arising out of prior experiences
23 administering settlements.

24 **7.2. Qualified Settlement Fund.** The Administrator shall establish a settlement fund that
25 meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation
26 section 468B-1.

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1 **7.3. Notice to Class Members.**

2 7.3.1. No later than three (3) business days after receipt of the Class Data, the
3 Administrator shall notify Class Counsel that the list has been received and state the number of
4 Class Members, Aggrieved Employees, Class Pay Periods, and PAGA Pay Periods in the Class
5 Data.

6 7.3.2. Using best efforts to perform as soon as possible, and in no event later than
7 30 days after receiving the Class Data, the Administrator will send to all Class Members
8 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the
9 Notice Packet substantially in the forms attached to this Agreement as **Exhibits A, B, C, and**
10 **D.** The first page of the Class Notice shall prominently estimate the dollar amounts of any
11 Individual Class Payment and/or Individual PAGA Payment payable to the Class Member
12 and/or Aggrieved Employee, and the number of Class Pay Periods and PAGA Pay Periods (if
13 applicable) used to calculate these amounts.

14 7.3.3. Not later than 3 business days after the Administrator’s receipt of any Notice
15 Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice Packet
16 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
17 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Notice
18 Packet to the most current address obtained. The Administrator has no obligation to make further
19 attempts to locate or send Notice Packet to Class Members whose Notice Packet is returned by
20 the USPS a second time.

21 7.3.4. The deadlines for Class Members’ written objections, Challenges to Class
22 Pay Periods and/or PAGA Pay Periods (disputes), and Requests for Exclusion will be extended
23 an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class
24 Members whose notice is re-mailed. The Administrator will inform the Class Member of the
25 extended deadline with the re-mailed Notice Packet.

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1 7.3.5. If the Administrator, Defendant, or Class Counsel is contacted by or
2 otherwise discovers any persons who believe they should have been included in the Class Data
3 and should have received the Notice Packet, the Parties will expeditiously meet and confer in
4 person or by telephone, and in good faith. in an effort to agree on whether to include them as
5 Class Members. If the Parties agree, such persons will be Class Members entitled to the same
6 rights as other Class Members, and the Administrator will send a Notice Packet requiring them
7 to exercise options under this Agreement within the timeframes applicable to Class Members
8 whose Notice Packet is re-mailed by the Administrator.

9 7.4. Requests for Exclusion (Opt-Outs).

10 7.4.1. Class Members who wish to exclude themselves (opt-out of) the Class
11 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
12 Exclusion not later than 45 days after the Administrator mails the Notice Packet (plus an
13 additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
14 Exclusion is a letter from a Class Member or his/her representative that reasonably
15 communicates the Class Member’s election to be excluded from the Settlement and includes the
16 Class Member’s name, address and email address or telephone number. To be valid, a Request
17 for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. A
18 Request for Exclusion form, attached as Exhibit B, may be used for this purpose but is not
19 required.

20 7.4.2. The Administrator may not reject a Request for Exclusion as invalid because
21 it fails to contain all the information specified in the Class Notice. The Administrator shall accept
22 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of
23 the person as a Class Member and the Class Member’s desire to be excluded. The
24 Administrator’s determination shall be final and not appealable or otherwise susceptible to
25 challenge. If the Administrator has reason to question the authenticity of a Request for
26 Exclusion, the Administrator may demand additional proof of the Class Member’s identity. The
27 Administrator’s determination of authenticity shall be final and not appealable or otherwise
28 susceptible to challenge.

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1 7.4.3. Every Class Member who does not submit a timely and valid Request for
2 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
3 benefits and bound by all terms and conditions of the Settlement, including the Participating
4 Class Members' releases under Section 5.4 of this Agreement, regardless of whether the
5 Participating Class Member actually receives the Notice Packet, an Individual Class Payment,
6 objects to the Settlement, or disputes the pay periods set forth in the Class Notice.

7 7.4.4. Every Class Member who submits a valid and timely Request for Exclusion
8 is a Non-Participating Class Member and shall not receive an Individual Class Payment or have
9 the right to object to the class action components of the Settlement.

10 7.4.5. All Aggrieved Employees are entitled to all benefits and bound by all terms
11 and conditions of the Settlement as they pertain to PAGA claims, including the Aggrieved
12 Employees' releases under Section 5.4 of this Agreement, regardless of whether the Aggrieved
13 Employee actually receives the Notice Packet, an Individual PAGA Payment, objects to the
14 Settlement, or disputes the pay periods set forth in the Class Notice.

15 7.5. Challenges to Calculation of Pay Periods. Each Class Member shall have 45 days
16 after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members
17 whose Notice Packet is re-mailed) to challenge the number of Class Pay Periods and PAGA Pay
18 Periods (if any) allocated to the Class Member in the Class Notice. A Pay Period Dispute form,
19 attached as Exhibit C, may be used for this purpose but is not required. The Class Member may
20 challenge the allocation by communicating with the Administrator via fax, email, or mail. The
21 Administrator must encourage the challenging Class Member to submit supporting documentation.
22 In the absence of any contrary documentation, the Administrator is entitled to presume that the Class
23 Pay Periods and PAGA Pay Periods contained in the Class Data are correct. The Administrator's
24 determination of each Class Member's allocation of Class Pay Periods and/or PAGA Pay Periods
25 shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall
26 promptly provide copies of all challenges to calculation of Class Pay Periods and/or PAGA Pay
27 Periods and the Administrator's determination as to such challenges to Defense Counsel and Class
28 Counsel, except that any information provided to Class Counsel in relation to pay period disputes

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1 shall not contain any personal identifying information (e.g., names and contact information) of the
2 Class Members.

3 **7.6. Objections to Settlement.**

4 7.6.1. Only Participating Class Members may object to the class action components
5 of the Settlement and/or this Agreement, including contesting the fairness of the Settlement,
6 and/or amounts requested for the Class Counsel Fees Payment, the Class Counsel Litigation
7 Expenses Payment, and/or the Class Representative Service Payment.

8 7.6.2. Participating Class Members may send written objections to the
9 Administrator, by fax, email, or mail. In the alternative, Participating Class Members may
10 appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final
11 Approval Hearing. A Participating Class Member who elects to send a written objection to the
12 Administrator must do so not later than 45 days after the Administrator’s mailing of the Notice
13 Packet (plus an additional 14 days for Class Members whose Notice Packet was re-mailed). An
14 The Objection form attached as Exhibit D may be used for this purpose but is not required.

15 7.6.3. Non-Participating Class Members have no right to object to any of the class
16 action components of the Settlement.

17 **7.7. Administrator Duties.** The Administrator has a duty to perform or observe all tasks
18 to be performed or observed by the Administrator contained in this Agreement or otherwise.

19 7.7.1. Email Address, Fax Number, and Toll-Free Number. The Administrator will
20 establish and maintain and use an email address, fax number, and a toll-free telephone number
21 to receive Class Member emails, faxes, and calls.

22 7.7.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
23 promptly review Requests for Exclusion to ascertain their validity. Not later than 5 days after
24 the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall
25 email a list to Defense Counsel containing (a) the names and other identifying information of
26 Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b)
27 the names and other identifying information of Class Members who have submitted invalid
28 Requests for Exclusion; and, (c) copies of all Requests for Exclusion documentation submitted

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1 (whether valid or invalid). Upon request, the Administrator may provide summary information
2 regarding the information described in this section to Class Counsel, but shall not provide any
3 personal identifying information (e.g., names and contact information) to Class Counsel.

4 7.7.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
5 reports to Class Counsel and Defense Counsel that, among other things, tally the number of:
6 Notice Packets mailed or re-mailed, Notice Packets returned undelivered, Requests for
7 Exclusion (whether valid or invalid) received, objections received, challenges to Class Pay
8 Periods and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual
9 Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must
10 include the Administrator’s assessment of the validity of Requests for Exclusion and attach
11 copies of all Requests for Exclusion and objections received, except that any information
12 provided to Class Counsel shall not contain any personal identifying information (e.g., names
13 and contact information) of the Class Members.

14 7.7.4. Class Pay Period and/or PAGA Pay Period Challenges. The Administrator
15 has the authority to address and make final decisions consistent with the terms of this Agreement
16 on all Class Member challenges regarding the calculation of Class Pay Periods and/or PAGA
17 Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise
18 susceptible to challenge.

19 7.7.5. Administrator’s Declaration. Not later than 21 days before the date by which
20 Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator
21 will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in
22 Court attesting to its due diligence and compliance with its obligations under this Agreement,
23 including, but not limited to, its mailing of the Notice Packets, the Notice Packets returned as
24 undelivered, the re-mailing of Notice Packets, attempts to locate Class Members, the total
25 number of Requests for Exclusion it received (both valid or invalid), and the number of written
26 objections received. The Administrator shall provide along with such declaration the Exclusion
27 List with all personal identifying information (e.g., names and contact information) redacted.
28 The Administrator will supplement its declaration as needed or requested by the Parties and/or

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1 the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

2 7.7.6. Final Report by Administrator. Within 14 days after the Administrator
3 disburses the Gross Settlement Amount, the Administrator will provide Class Counsel and
4 Defense Counsel with a final report detailing its disbursements. All personal identifying
5 information (e.g., names and contact information) shall be redacted from the report. At least 15
6 days before any deadline set by the Court, the Administrator will prepare, and submit to Class
7 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its
8 disbursement of all payments required under this Agreement. Class Counsel is responsible for
9 filing the Administrator’s declaration in Court.

10 8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE. If the number of Class
11 Members exceeds 7,963 by 12.5% (i.e., 8,958) by the date of Preliminary Approval, or the number
12 of Class Pay Periods exceeds 188,118 by 12.5% (i.e., 211,633) by the date of Preliminary Approval,
13 whichever figure is more favorable to Defendant (“the Pro Rata Increase Threshold”), the Gross
14 Settlement Amount will increase pro rata per additional class member above 8,958 or additional pay
15 period above 211,633, whichever figure Defendant elects to use, but only to the extent Defendant
16 does not choose a date earlier than the date of Preliminary Approval as the end of the Class Period
17 to avoid any pro rata increase. If the Pro Rata Increase Threshold is triggered, Defendant shall have
18 the exclusive right to choose an earlier date than the date of Preliminary Approval as the end of the
19 Class Period to avoid triggering any pro rata increase. The PAGA Period shall extend through the
20 date of Preliminary Approval and shall not be subject to any pro rata increase.

21 9. DEFENDANT’S RIGHT TO WITHDRAW. Defendant shall have the right at its sole
22 discretion to terminate the settlement if more than 5% of Class Members timely elect to opt out of
23 the settlement, as determined by the Administrator. If Defendant exercises its right under this
24 Section, Defendant shall be solely liable for administrative costs incurred by the Administrator.
25 Defendant must notify Class Counsel of its election to terminate the settlement within 21-days after
26 the Administrator sends the final Exclusion List to Defense Counsel. Termination of this Agreement
27 may be achieved by Defense Counsel providing written notice to Class Counsel of Defendant’s
28 intent to terminate the settlement.

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1 **10. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared
2 Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement
3 that includes a request for approval of the PAGA settlement under Labor Code §2699, subd. (l), a
4 proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final
5 Approval”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than 14
6 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will
7 expeditiously meet and confer in person or by telephone, and in good faith, to resolve any
8 disagreements concerning the Motion for Final Approval.

9 **10.1. Response to Objections.** Each Party retains the right to respond to any objection
10 raised by a Participating Class Member, including the right to file responsive documents in Court
11 no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
12 by the Court.

13 **10.2. Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final
14 Approval on any material change to the Agreement (including, but not limited to, the scope of
15 releases or changes to the Gross Settlement Amount), the Parties shall expeditiously work together
16 in good faith to address the Court’s concerns and endeavor to revise the Agreement as necessary to
17 obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class
18 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses
19 Payment and/or Administrator Expenses Payment shall not constitute a material modification to the
20 Agreement within the meaning of this section. No party shall be obligated to consent to any material
21 change in the Agreement, whether or not such material change is caused or requested by the Court.

22 **10.3. Continuing Jurisdiction of the Court.** The Parties agree that, after entry of Judgment,
23 the Court will retain jurisdiction over the Parties, the Action, and the Settlement solely for purposes
24 of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
25 and (iii) addressing such post-Judgment matters as are permitted by law.

26 **10.4. Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and
27 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
28 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their

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1 respective counsel, and all Participating Class Members who did not object to the Settlement as
2 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
3 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for
4 new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the
5 right to oppose such motions, writs or appeals.

6 **10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment.** If the
7 reviewing appellate court vacates, reverses, or modifies the Judgment in a manner that requires a
8 material modification of this Agreement (including, but not limited to, the scope of releases or
9 changes to the Gross Settlement Amount), this Agreement shall be null and void. The Parties shall
10 nevertheless expeditiously work together in good faith to address the appellate court’s concerns and
11 to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any administration
12 expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
13 the Court’s award of the Class Representative Service Payment, the Class Counsel Fees Payment,
14 and/or the Class Counsel Litigation Expenses Payment shall not constitute a material modification
15 of the Judgment within the meaning of this section, as long as the Gross Settlement Amount remains
16 unchanged. However, no party shall be obligated to consent to any material change in the
17 Agreement, whether or not such material change is caused or requested by the reviewing Court.

18 **11. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil
19 Procedure §384, the Parties will work together in good faith to jointly submit a proposed amended
20 judgment.

21 **12. ADDITIONAL PROVISIONS.**

22 **12.1. No Admission of Liability, Class Certification or Representative Manageability for**
23 **Other Purposes.** This Agreement represents a compromise and settlement of highly disputed claims.
24 Nothing in this Agreement is intended or should be construed as an admission by Defendant that
25 any of the allegations in the Operative Complaint have merit or that Defendant has any liability for
26 any claims asserted. Nor shall this Agreement be intended or construed as an admission by Plaintiff
27 that Defendant’s defenses in the Action have merit. The Parties agree that class certification and
28 representative treatment is for purposes of this Settlement only. If, for any reason the Court does

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1 grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to
2 contest certification of any class for any reasons, Defendant reserves all available defenses to the
3 claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds
4 available and to contest Defendant's defenses. The Settlement, this Agreement and Parties'
5 willingness to settle the Action will have no bearing on, and will not be admissible in connection
6 with, any litigation (except for proceedings to enforce or effectuate the Settlement and this
7 Agreement).

8 **12.2. Confidentiality.**

9 12.2.1. Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree
10 that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will
11 not disclose, disseminate and/or publicize, or cause or permit another person to disclose,
12 disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically
13 or generally, to any person, corporation, association, government agency, or other entity except:
14 (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this
15 Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report
16 income to appropriate taxing authorities; (4) in response to a court order or subpoena; (5) in
17 response to an inquiry or subpoena issued by a state or federal government agency; or, (6) to
18 Class Members for purposes of informing them about this Settlement and its procedures.
19 Thereafter, Class Counsel further agrees to keep this Settlement confidential. Class Counsel
20 shall not disclose this Settlement to current or former employees of Defendant, to the media, or
21 on any websites, blogs, social media, and/or online platforms. Exceptions to Class Counsel's
22 obligation of confidentiality are (i) disclosures necessary to comply with the law, judicial
23 processes, or for financial planning or tax preparation purposes; (ii) to the extent needed to
24 enforce this Agreement; (iii) disclosures to a court for purposes of describing its qualifications
25 as counsel; or, (iv) to Class Members for purposes of informing them about this Settlement and
26 its procedures. Each Party agrees to immediately notify the other Party of any judicial or agency
27 order, inquiry, or subpoena seeking such information.

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1 **12.3. No Solicitation.** The Parties agree that they and their respective counsel and
2 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
3 from the Judgment. Nothing in this section shall be construed to restrict the Parties or their respective
4 counsel's ability to communicate with Class Members for purposes of informing them about this
5 Settlement and its procedures.

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

10 **12.5. Cooperation.** The Parties and their counsel will cooperate with each other and use
11 their best efforts, in good faith, to implement the Settlement. In the event the Parties are unable to
12 agree upon the form or content of any document necessary to implement the Settlement, or on any
13 modification of the Agreement that may become necessary to implement the Settlement, the Parties
14 will seek the assistance of their mediator and/or the Court for resolution. Nothing in this section
15 shall be construed as obligating the Parties to consent to any material change in the Agreement,
16 whether or not such material change is caused or requested by the Court or the reviewing Court.

17 **12.6. No Prior Assignments.** The Parties separately represent and warrant that they have
18 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
19 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action,
20 or right released and discharged by the Party in this Settlement.

21 **12.7. No Tax Advice.** Plaintiffs, Class Counsel, Defendant, and Defense Counsel are not
22 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
23 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part
24 10, as amended) or otherwise.

25 **12.8. Modification of Agreement.** This Agreement, and all parts of it, may be amended,
26 modified, changed, or waived only by an express written instrument signed by all Parties, and
27 approved by the Court.

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1 **12.9.** Agreement Binding on Successors. This Agreement will be binding upon, and inure
2 to the benefit of, the successors of each of the Parties.

3 **12.10.** Applicable Law. All terms and conditions of this Agreement and its exhibits will be
4 governed by and interpreted according to the internal laws of the state of California, without regard
5 to conflict of law principles.

6 **12.11.** Cooperation in Drafting. The Parties have cooperated in the drafting and preparation
7 of this Agreement. This Agreement will not be construed against any Party on the basis that the
8 Party was the drafter or participated in the drafting.

9 **12.12.** Confidentiality. To the extent permitted by law, all agreements made, and orders
10 entered during Action and in this Agreement relating to the confidentiality of information shall
11 survive the execution of this Agreement.

12 **12.13.** Use and Return of Class Data. Information provided to Class Counsel pursuant to
13 California Evidence Code §1152, and all copies and summaries of the Class Data provided to Class
14 Counsel by Defendant in connection with the mediation, other settlement negotiations, or in
15 connection with the Settlement, may be used only with respect to this Settlement, and no other
16 purpose, and may not be used in any way that violates any existing contractual agreement, statute,
17 or rule of court. Not later than 90 days after the Effective Date, Class Counsel shall destroy all paper
18 and electronic versions of Class Data received from Defendant unless, prior to the Effective Date,
19 Defendant makes a written request to Class Counsel for the return, rather than the destruction, of
20 Class Data.

21 **12.14.** Headings. The descriptive heading of any section or paragraph of this Agreement is
22 inserted for convenience of reference only.

23 **12.15.** Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement
24 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
25 weekend or federal holiday, such date or deadline shall be on the first business day thereafter.

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1 **12.16.** Notice. All written notices, demands or other communications between the Parties in
2 connection with this Agreement shall be addressed as follows: To Plaintiffs:

3 Brandon J. Sweeney, Esq.
4 **THE SWEENEY LAW FIRM, APC**
5 15303 Ventura Blvd., Suite 900
6 Sherman Oaks, CA 94103
7 (818) 380-3051
8 bsweeney@thesweeneylawfirm.com

9 Jonathan J. Moon, Esq.
10 **THE LAW OFFICE OF JONATHAN J. MOON**
11 18000 Studebaker Road, Suite 700
12 Cerritos, CA 90703
13 (213) 867-1908
14 jmoon@jmoonlaw.com

15 Justin F. Marquez, State Bar No. 262417
16 Christina M. Le, State Bar No. 237697
17 Arsiné Grigoryan, State Bar No. 319517
18 **WILSHIRE LAW FIRM**
19 3055 Wilshire Blvd., 12th Floor
20 Los Angeles, California 90010
21 Telephone: (213) 381-9988
22 justin@wilshirelawfirm.com
23 cle@wilshirelawfirm.com
24 agrigoryan@wilshirelawfirm.com

25 To Defendant:
26 Ian B. Wieland, Esq.
27 Michael J. Conway II, Esq.
28 **SAGASER, WATKINS & WIELAND PC**
29 5260 N Palm Ave, Ste. 400
30 Fresno, CA 93704
31 (559) 421-7000
32 ian@sw2law.com
33 mikec@sw2law.com

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SAGASER, WATKINS & WIELAND PC
ATTORNEYS AT LAW
5280 North Palm Avenue, Suite 400
Fresno, California 93704
Telephone: (559) 421-7000

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

2/20/2024

Dated: January __, 2024

MONAE NEGRETE

By: DocuSigned by:
Monae Negrete
A17460304D1A4FE

2/29/2024

Dated: January __, 2024

MICHAEL JACKSON

By: DocuSigned by:
Michael Jackson
E58F56554E11427

February

Dated: ~~January~~ 20, 2024

GRASPOINTNER MANAGEMENT CO.,
INC.

By: 
Dennis Graspoiner

Approved as to Form

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Dated: February 29, 2024

WILSHIRE LAW FIRM

By: 
Attorneys for Plaintiff

Dated: February 20, 2024

THE SWEENEY LAW FIRM, APC

By: 
Attorneys for Plaintiff


Dated: February 20, 2024

**THE LAW OFFICE OF JONATHAN J.
MOON**

By: 
Attorneys for Plaintiff

Dated: March 5, 2024

SAGASER, WATKINS & WIELAND PC

By: 
Ian B. Wieland
Michael J. Conway II
Attorneys for Defendant,
GRASPOINTNER MANAGEMENT CO.,
INC., a California Corporation

SAGASER, WATKINS & WIELAND PC

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5260 North Palm Avenue, Suite 400
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NOTICE OF CLASS ACTION SETTLEMENT

Jackson, et al. v. Graspoiner Management Co., Inc.

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Graspoiner Management Co., Inc.’s records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced matter.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the settlement, your legal rights may be affected.

This Notice is designed to advise you of your rights and options with respect to the settlement.

By order of the Superior Court of California for the County of Stanislaus (the “Court” or “Stanislaus Superior Court”), you are notified that: preliminary approval of a class action settlement reached between Michael Jackson and Monae Negrete (“Plaintiffs”) and Defendant Graspoiner Management Company, Inc. (“Defendant”), was granted on **[Preliminary Approval Date]**, in the consolidated case entitled *Jackson, et al. v. Graspoiner Management Co., Inc.*, Stanislaus Superior Court Case No. CV-22-003478 (“Action”), which may affect your legal rights.

If you are a Class Member, you need not take any action to receive a settlement payment, but you have the opportunity to request exclusion from the settlement (in which case you will not receive payment under the settlement), object to the settlement, and/or dispute the pay periods credited to you, if you so choose, as explained more fully in Section III below.

I. IMPORTANT DEFINITIONS

“**Action**” means the matters of *Jackson v. Graspoiner Management Co., Inc.*, Stanislaus Superior Court, Case No. CV-22-003478, and *Negrete v. Graspoiner Management, Inc.*, Stanislaus Superior Court, Case No. CV-22-003484, consolidated by the Stanislaus Superior Court on **[INSERT DATE]**.

“**Aggrieved Employee**” means a person directly employed by Defendant in California and classified as a non-exempt employee who worked during the PAGA Period.

“**Class**” means all persons directly employed by Defendant in California and classified as a non-exempt employee who worked during the Class Period. .

“**Class Member**” means a member of the Class.

“**Class Period**” means the period from August 1, 2018, through **[PRELIMINARY APPROVAL DATE, OR OTHER DATE SELECTED BY DEFENDANT]**.

“**Defendant**” means Defendant Graspoiner Management Co., Inc.

“**PAGA Period**” means the period from August 1, 2021, through the **[PRELIMINARY APPROVAL DATE]**.

II. BACKGROUND OF THE ACTION

On August 1, 2022, Plaintiffs Michael Jackson and Monae Negrete commenced a class action and Private Attorneys General Act (“PAGA”) suit against Defendant by filing their complaints in Stanislaus Superior Court, Case No. CV-22-003478 (*Lead Case*), consolidated with Stanislaus Superior Court, Case No. CV-22-003484, respectively. On **[INSERT DATE]**, the Stanislaus Superior Court consolidated the cases into a single action.

Plaintiffs alleged that Defendant violated the California Labor Code and California Business and Professions Code with respect to themselves and the Class Members by, among other things, failing to properly pay for all hours worked, including minimum and overtime wages, failing to provide legally-compliant meal and rest periods or premium pay in lieu thereof, failing to provide reimbursements for business expenses, and failing to provide accurate wage statements..

Collectively, Plaintiffs seek, among other things, recovery of unpaid wages and meal and rest period premiums, restitution, declaratory relief, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the allegations in the Action or that it violated any law, and contends that it, at all times, fully complied with all applicable federal, state, and local laws. Defendant has entered into the settlement described in this notice for the purpose of avoiding further expense associated with defending the lawsuit and interruptions to its business.

Plaintiffs and Defendant participated in one full-day mediation session with a respected wage and hour class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement" or "Settlement Agreement").

On **[Preliminary Approval Date]**, the Court entered an order preliminarily approving the Settlement. The Court has appointed APEX Class Action Settlement Administration as the administrator of the settlement ("Settlement Administrator"), Plaintiffs as representatives of the Class ("Class Representative"), and the following law firms as counsel for the Class ("Class Counsel"):

Brandon Sweeney
The Sweeney Law Firm, APC
15303 Ventura Blvd., Suite 900
Sherman Oaks, California 91403
Telephone: (818) 380-3051
Facsimile: (818) 380-3001
Email: bsweeney@thesweeneylawfirm.com

Justin F. Marquez
Christina M. Le
Arsine Grigoryan
Wilshire Law Firm
3055 Wilshire Blvd., 12th Floor
Los Angeles, California
Sherman Oaks, California 94103
Telephone: (213) 381-9988
Facsimile: (213) 381-9989
Email: justin@wilshirelawfirm.com

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiffs or to Class Members. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total Gross Settlement Amount is Two Million Nine Hundred and Fifty Thousand Dollars and Zero Cents (\$2,950,000.00) (the "Gross Settlement Amount"). The portion of the Gross Settlement Amount that is available for payment to Class Members who do not timely and validly request exclusion from the settlement ("Participating Class Members") is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to Court approval : (1) attorneys' fees in the amount of up to \$983,333.33.00 and reimbursement of litigation costs and expenses in the amount not to exceed \$20,000.00 to Class Counsel ("Attorneys' Fees and Costs"); (2) service awards to Plaintiffs Michael Jackson and Monae Negrete in the amount of up to \$10,000.00 to each Plaintiff ("Service Payment"); (3) fees and expenses of administration of the Settlement to the Settlement Administrator in an amount not to exceed \$55,000.00 ("Settlement Administration Fees"); and (4) \$100,000.00, which sum is allocated by the Parties to resolve the PAGA claims.