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11 DISH NETWORK SERVICE L.L.C., DISH
NETWORK CORPORATION, and DISH
12 NETWORK CALIFORNIA SERVICE
CORPORATION

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SAN DIEGO**
15 **CENTRAL DIVISION**

16 JOSE TAJONAR, on behalf of
17 himself and all others similarly
situated, and on behalf of the general
18 public,

19 Plaintiffs,

20 v.

21 ECHOSPHERE L.L.C., et al.

22 Defendants.
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27
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Case No: 37-2014-00041384-CU-OE-
CTL

CLASS ACTION

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND
RELEASE**

JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

This joint stipulation of class action settlement and release (this “**Stipulation of Settlement**”) is made and entered into by and between Plaintiff Jose Tajonar (“**Plaintiff**,” “**Tajonar**,” or “**Class Representative**”), individually and on behalf of all others similarly situated (collectively, the “**Plaintiffs**”), and Defendants, Echosphere L.L.C., DISH Network L.L.C., Dish Network Service L.L.C., DISH Network Corporation, and Dish Network California Service Corporation (collectively, “**Defendants**”), subject to the terms and conditions hereof and the Court’s approval.

A. Definitions.

1. “**AAA**” has the meaning set forth in Section B(9).
2. “**Actions**” means, collectively, the First State Court Action, the Second State Court Action, the Federal Action, and the Arbitration Action.
3. “**Administrative Costs**” has the meaning set forth in Section C(1)(a).
4. “**Arbitration Action**” has the meaning set forth in Section B(9).
5. “**Claim Form(s)**” has the meaning set forth in Section F(2).
6. “**Claims**” has the meaning set forth in Section E(1).
7. “**Claims Deadline**” has the meaning set forth in Section F(7).
8. “**Class Counsel**” means Thomas Rutledge, Esq., counsel of record for Plaintiff, Plaintiffs, the aggrieved employees pursuant PAGA, and the putative Settlement Class.
9. “**Class Member(s)**” means, collectively, the Wage Statement Settlement Class Members and the Non-Exempt Settlement Class Members who do not timely complete in all respects, sign and mail an Exclusion Form.
10. “**Class Notice**” has the meaning set forth in Section F(2).
11. “**Class Notice Materials**” has the meaning set forth in Section F(2).
12. “**Class Period**” means: (a) for the Wage Statement Settlement Class, the period of time beginning on October 17, 2013 through and including December 25,

2014; and (b) for the Non-Exempt Settlement Class, the period of time beginning on September 23, 2010 through and including November 29, 2016.

13. “**Class Settlement Amount**” has the meaning set forth in Section F(13).

14. “**Defendants**” has the meaning set forth in the Introduction.

15. “**Effective Date**” means the first date upon which all of the following terms and conditions of this Stipulation of Settlement have been met or have occurred or have been mutually waived by written agreement by the Parties:

(a) All Parties have executed this Stipulation of Settlement;

(b) The Court has certified both the Non-Exempt Settlement Class and the Wage Statement Settlement Class;

(c) The Court has entered the Preliminary Approval Order;

(d) The Court has entered a Final Approval Order; and

(e) There has occurred (i) the passage of sixty-one (61) calendar days following the date on which the Court enters the Final Approval Order, and no formal objection to this Stipulation of Settlement was filed before the Final Approval Order was entered; (ii) in the event that one (1) or more formal objections to entry of the Final Approval Order are timely filed, the expiration of the time to appeal from the Final Approval Order without the filing or notice of an appeal; (iii) the final non-appealable dismissal of any appeal from the Final Approval Order; (iv) if a ruling or decision has been entered by an appellate court affirming the Final Approval Order in a form substantially the same as to that of the Final Approval Order entered by the Court, the time to petition for review to the United States Supreme Court and/or the California Supreme Court with respect to such ruling or decision has expired; and (v) if a petition for review to the United States Supreme Court or the California Supreme Court with respect to the Final Approval Order has been filed, the petition has been denied or, if granted, has resulted in the Court’s affirming the Final Approval Order in a form substantially the same as the form of the Final Approval Order entered by the Court.

1 16. “**Eligible Non-Exempt Pay Period(s)**” has the meaning set forth in
2 Section C(1)(e)ii.a.

3 17. “**Eligible Wage Statement Pay Period(s)**” has the meaning set forth in
4 Section C(1)(e)i.a.

5 18. “**Exclusion Form(s)**” has the meaning set forth in Section F(2).

6 19. “**Federal Action**” has the meaning set forth in Section B(4).

7 20. “**FAC**” has the meaning set forth in Section D.

8 21. “**Federal Court**” has the meaning set forth in Section B(7).

9 22. “**Fee Award**” has the meaning set forth in Section (C)(1)(h).

10 23. “**Final Approval Order**” means the Court’s entry of a final order
11 approving this Stipulation of Settlement, including all settlement considerations as set
12 forth in this Stipulation of Settlement: (1) releasing the Released Parties from (a) the
13 Non-Exempt Released Claims of each of the Class Members within the Non-Exempt
14 Settlement Class, (b) the Wage Statement Released Claims of each of the Class
15 Members within the Wage Statement Settlement Class, and (c) the Released Claims of
16 Plaintiff; and (2) dismissing with prejudice the Second State Court Action.

17 24. “**First State Court Action**” has the meaning set forth in Section B(1).

18 25. “**Former Employee(s)**” means any and all individuals who are not
19 employed by Defendants as of the Preliminary Approval Date.

20 26. “**Incentive Award**” has the meaning set forth in Section (C)(1)(g).

21 27. “**Individual Payment Amount(s)**” has the meaning set forth in Section
22 C(1)(e).

23 28. “**LWDA**” has the meaning set forth in Section C(1)(a).

24 29. “**Maximum Gross Settlement Amount**” has the meaning set forth in
25 Section C(1)(a).

26 30. “**Maximum Net Settlement Proceeds**” has the meaning set forth in
27 Section (C)(1)(b).

28

1 31. “**Mediation Agreement**” means that certain Mediation Agreement
2 signed by the Parties on November 29, 2016.

3 32. “**Non-Exempt Pay Period Rate**” has the meaning set forth in Section
4 C(1)(e)ii.b.

5 33. “**Non-Exempt Released Claims**” has the meaning set forth in Section
6 E(1).

7 34. “**Non-Exempt Settlement Class**” shall consist of the collective group of
8 Non-Exempt Settlement Class Members.

9 35. “**Non-Exempt Settlement Class Member(s)**” means any and all
10 individuals employed by Defendants in the State of California as a Field Service
11 Specialist I, II, III, and/or IV and/or a DISH Tech 1, 2, 3, and/or 4 during the
12 applicable Class Period; provided, however, that an individual who has previously
13 released Defendants from any claims released by the Non-Exempt Settlement Class
14 herein is not a “Non-Exempt Settlement Class Member.”

15 36. “**PAGA**” means the Private Attorneys General Act of 2004, Cal. Labor
16 Code, § 2698, *et. seq.*

17 37. “**Participating Class Member(s)**” has the meaning set forth in Section
18 C(1)(d).

19 38. “**Parties**” or “**Party**” means Plaintiff, Plaintiffs, the Wage Statement
20 Settlement Class, the Non-Exempt Settlement Class, and/or Defendants, as the case
21 may be.

22 39. “**Plaintiff**,” “**Tajonar**,” and “**Class Representative**” have the meaning
23 set forth in the Introduction.

24 40. “**Plaintiff Released Claims**” has the meaning set forth in Section E(3).

25 41. “**Plaintiffs**” has the meaning set forth in the Introduction.

26 42. “**Preliminary Approval Order**” means the Court’s entry of an order
27 preliminarily approving the settlement set forth in this Stipulation of Settlement.
28

1 43. “**Preliminary Approval Date**” means the date on which the Court enters
2 the Preliminary Approval Order.

3 44. “**Released Claims**” has the meaning set forth in Section E(3).

4 45. “**Released Parties**” has the meaning set forth in Section E(1).

5 46. “**Second State Court Action**” means the lawsuit entitled “JOSE
6 TAJONAR, individually and on behalf of himself and on behalf of all others similarly
7 situated, Plaintiff, v. ECHOSPHERE L.L.C., a Colorado limited liability company;
8 DISH NETWORK L.L.C., a Colorado limited liability company; DISH NETWORK
9 SERVICE L.L.C., a Colorado limited liability company; DISH NETWORK
10 CORPORATION, a Nevada corporation; DISH NETWORK CALIFORNIA
11 SERVICE CORPORATION, a Colorado Corporation, and DOES 1 through 50,
12 inclusive, Defendants,” designated Case No. 37-2014-00041384-CU-OE-CTL,
13 pending before the Superior Court of the State of California, County of San Diego,
14 Central Division.

15 47. “**Settlement Administrator**” means Phoenix Settlement Administrators,
16 or any other third-party class action settlement claims administrator agreed to by the
17 Parties and approved by the Court for the purposes of administering the Settlement.
18 The Parties each represent that they do not have any financial interest in the
19 Settlement Administrator or otherwise have a relationship with the Settlement
20 Administrator that could create a conflict of interest. All disputes relating to the
21 Settlement Administrator’s performance of its duties shall be referred to the Court, if
22 necessary, which will have continuing jurisdiction over the terms and conditions of
23 this Stipulation of Settlement until all payments and obligations contemplated by this
24 Stipulation of Settlement have been fully performed.

25 48. “**Settlement Class**” means, collectively, the Wage Statement Settlement
26 Class and the Non-Exempt Settlement Class.

27 49. “**Settlement Payments**” has the meaning set forth in Section C(1)(a).
28

1 50. “**Stipulation of Settlement**” has the meaning set forth in the
2 Introduction.

3 51. “**Vacation of the Settlement**” has the meaning set for in Section B(16).

4 52. “**Wage Statement Pay Period Rate**” has the meaning set forth in
5 Section C(1)(e)i.b.

6 53. “**Wage Statement Released Claims**” has the meaning set forth in
7 Section E(2).

8 54. “**Wage Statement Settlement Class**” means the collective group of
9 Wage Statement Settlement Class Members.

10 55. “**Wage Statement Settlement Class Member(s)**” means any and all
11 individuals employed by Defendants in the State of California at any time during
12 applicable Class Period; provided, however, an individual who has previously released
13 Defendants from any claims released by the Wage Statement Settlement Class is not a
14 “Wage Statement Settlement Class Member.”

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16 **B. General.**

17 1. On August 19, 2014, Plaintiff filed a Complaint against Defendants on
18 behalf of himself in the Superior Court of California for the County of San Diego,
19 Case No. 37-2014-00027744-CU-OE-CTL (the “**First State Court Action**”).

20 2. On September 23, 2014, Plaintiff filed a First Amended Complaint in the
21 First State Court Action on behalf of himself and all other employees similarly
22 situated. Plaintiff’s First Amended Complaint alleged causes of action for: (a) Failure
23 to Provide Access to Employee Payroll and Personnel Records (Labor Code §§ 226,
24 432 and 1198.5); (b) Failure to Pay Overtime and Double-Time Compensation (Labor
25 Code §§ 510, 1194, 1198, 2699, *et. seq.*, and the applicable Wage Order); (c) Failure
26 to Provide Meal Periods within the Required Time (Labor Code §§ 226.7, 512, 1198,
27 2699, *et. seq.*, and the applicable IWC Wage Order); (d) Failure to Make Payments
28 within the Required Time (Labor Code §§ 201, 202, 204, 1198, and Penalties Pursuant

1 to Labor Code §§ 203 and 2699, *et. seq.*); (e) Failure to Provide Accurate Wage
2 Statements (Labor Code §§ 226 and 2699, *et. seq.*); (f) Failure to Maintain Required
3 Records (Labor Code §§ 1174, 1174.5, 1198 and Wage Order No. 4); (g) PAGA for
4 violations of Labor Code §§ 201, 202, 203, 204 and/or 204.2, 226, 226.7, 432, 510,
5 512, 558, 1174, 1194, 1197, 1198 and 1198.5); and (h) Unfair Business Practices
6 (Business & Professions Code § 17200, *et. seq.*).

7 3. On October 8, 2014, Plaintiff served Defendants with a Second Amended
8 Class Action Complaint in the First State Court Action, adding “Dish Network
9 California Service Corporation” as an additional named Defendant. Although the
10 Second Amended Complaint was never officially filed in San Diego County Superior
11 Court, the Second Amended Complaint alleged the same eight (8) causes of action as
12 the First Amended Complaint, including seeking class relief and remedies pursuant to
13 PAGA.

14 4. On November 17, 2014, Defendants successfully removed the First State
15 Court Action to the United States District Court for the Southern District of
16 California, Case No. 3:14-cv-02732-LAB-RBB (the “**Federal Action**”), and the First
17 State Court Action is no longer pending.

18 5. On December 8, 2014, Plaintiff filed the Second State Court Action,
19 asserting only claims under PAGA.

20 6. On April 17, 2015, the Superior Court of California for the County of
21 San Diego issued an order staying the Second State Court Action.

22 7. On August 10, 2015, the United States District Court for the Southern
23 District of California (the “**Federal Court**”) entered an order dismissing the Federal
24 Action and compelling Plaintiff’s claims to individual arbitration.

25 8. On June 28, 2016, the Federal Court entered an order reversing its
26 August 10, 2015 order, and referring the Federal Action, and the question of class
27 arbitrability, to arbitration. On August 31, 2016, the Federal Court dismissed the
28 Federal Action without prejudice and the matter is no longer pending.

1 9. On or about July 18, 2016, Plaintiff filed a claim with the American
2 Arbitration Association (“AAA”), seeking arbitration of Plaintiff’s individual claims
3 as well as the question of class arbitrability. That matter was designated as AAA Case
4 No: 01-16-0002-8326 (the “**Arbitration Action**”). On March 7, 2017, AAA closed
5 the Arbitration Action and the matter is no longer pending.

6 10. On September 23, 2016, at the Parties’ request, AAA placed the matter in
7 abeyance through December 1, 2016 so that the Parties could attempt to resolve their
8 dispute through mediation.

9 11. On November 29, 2016, the Parties participated in a mediation with
10 highly-regarded mediator Jeffery Ross, Esq. The mediation session resulted in a
11 tentative settlement in principle to resolve all Actions.

12 12. Defendants deny any liability or wrongdoing of any kind associated with
13 the claims alleged in the Actions, and further deny that the Second State Court Action
14 is appropriate for class treatment for any purpose other than this settlement.
15 Defendants contend that they have complied at all times with all applicable laws,
16 including, without limitation, the California Labor Code, the Industrial Welfare
17 Commission Wage Orders, and the California Business and Professions Code. It is
18 Defendants’ position that, if this case were to be litigated, class certification would be
19 inappropriate.

20 13. Plaintiffs contend that Defendants violated the California Labor Code,
21 the Industrial Welfare Commission Wage Orders, and the California Business and
22 Professions Code, and that this case is appropriate for class certification.

23 14. The Parties represent they have conducted a thorough investigation into
24 the facts and law during the prosecution of the Actions.

25 15. Based on their own independent investigation and evaluation, the Parties
26 are of the opinion (and will so represent) that settlement for the consideration and
27 onthe terms and conditions set forth in this Stipulation of Settlement is fair,
28 reasonable, and adequate and is in the best interest of the Settlement Class in light of

1 all known facts and circumstances, including the risk of significant delay, the risk the
2 Settlement Class will not be certified by the Court, and the defenses asserted by
3 Defendants.

4 16. The Parties agree that the classes described herein may be conditionally
5 certified and that any motion for preliminary approval seeking, inter alia, certification
6 of a class is only for purposes of the settlement. Certification of the Settlement Class
7 and appointment of the Class Representative and Class Counsel by the Court shall
8 only be binding with respect to the settlement of the Second State Court Action. In
9 the event that the Effective Date does not occur for any reason, then: (a) the settlement
10 contained herein shall be vacated, including, without limitation, certification of the
11 Settlement Class and appointment of Class Representative and Class Counsel, and the
12 Second State Court Action shall proceed as though the certification and appointments
13 had never occurred; and (b) Section (D) expressly survives and Plaintiffs shall
14 withdraw and dismiss the FAC without prejudice so as to put the Parties back to the
15 identical position they were in as of November 29, 2016(subparts (a) – (b), together, a
16 “**Vacation of the Settlement**”).

17 17. As of the execution date of this Stipulation of Settlement, the only
18 remaining Action that has not been dismissed or closed is the Second State Court
19 Action, which will be dismissed with prejudice in accordance with the terms and
20 conditions of this Stipulation of Settlement.

21 **C. Terms and Conditions of this Stipulation of Settlement.**

22 1. The financial terms and conditions of this Stipulation of Settlement are as
23 follows:

24 (a) **Maximum Gross Settlement Amount:** Subject to Section C(1)(c),
25 the “**Maximum Gross Settlement Amount**” means the maximum total amount that
26 Defendants will be obligated to pay in connection with this Stipulation of Settlement,
27 which is Five Million Dollars (\$5,000,000), and includes the following: (i) payments
28 to Participating Class Members (such payments, collectively, the “**Settlement**”

1 **Payments**”); (ii) the Fee Award; (iii) any and all awards to the Class Representative,
2 including, without limitation, the Incentive Award, as approved by the Court; (iv) the
3 payment to the California Labor and Workforce Development Agency (“**LWDA**”)
4 pursuant to PAGA; (v) all fees, costs, and expenses of administration of this
5 Stipulation of Settlement (such fees, costs, and expenses, collectively, the
6 “**Administrative Costs**”); and (vi) the employee portion of all applicable tax
7 withholdings including, without limitation, FICA, FUTA and other employment-
8 related taxes and withholding of federal, state and local income taxes. The Maximum
9 Gross Settlement Amount does not include the employer payroll taxes due as a result
10 of wages to be paid in connection with this Stipulation of Settlement.

11 (b) **Maximum Net Settlement Proceeds:** “**Maximum Net**
12 **Settlement Proceeds**” means an amount equal to: (i) the Maximum Gross Settlement
13 Amount, minus (ii) the amounts approved and awarded by the Court for (A) the Fee
14 Award; (B) the Incentive Award; (C) the payment to the LWDA pursuant to PAGA;
15 and (D) the Administrative Costs. The Parties acknowledge and agree that Maximum
16 Net Settlement Proceeds shall be the maximum funds available to pay all timely and
17 valid claims of Participating Class Members and the employee payroll taxes due on
18 any such payments.

19 (c) **Size of Class:** This Stipulation of Settlement is premised upon
20 Defendants’ representation that the Non-Exempt Settlement Class is comprised of One
21 Thousand Three Hundred Twelve (1,312) members and the Wage Statement
22 Settlement Class is comprised of One Thousand Three Hundred Forty-Four (1,344)
23 members. In the event that the data that Defendants provide to the Settlement
24 Administrator increases the total number of members of the Settlement Class by more
25 than ten percent (10%), then: (i) for the two (2) business day period of time that
26 immediately follows Defendants’ presentation of such data to the Settlement
27 Administrator, Defendants shall have the option of paying a pro-rata increase of the
28 Maximum Net Settlement Proceeds, and shall communicate its decision to Class

Counsel via telephone; and (ii) in the event that Defendants do not avail themselves of the option set forth in the immediately preceding sentence, then for the two (2) business day period of time immediately following Defendants' communication in subpart (i), Plaintiff shall have the option to vacate this settlement, and shall communicate its decision to Defendants' counsel via telephone. In the event that Plaintiff elects to vacate this settlement, then a Vacation of the Settlement shall occur.

(d) **Participating Class Members: "Participating Class Member(s)"** means: (i) any and all Class Members who are current employees of Defendants as of the Preliminary Approval Date; and (ii) any and all Class Members who are Former Employees of Defendants who timely complete in all respects, sign and mail a Claim Form.

(e) **Calculation of the Individual Payment Amounts: "Individual Payment Amount(s)"** means, collectively, the portion of the Maximum Net Settlement Proceeds distributable to each Participating Class Member. Each Participating Class Member shall be mailed his or her Individual Payment Amount at his or her last known address. The Individual Payment Amount for each Participating Class Member shall be calculated as the sum of the Individual Payment Amount for such Participating Class Member in their capacity as a Wage Statement Settlement Class Member (if applicable), as calculated below, and the Individual Payment Amount for such Participating Class Member in their capacity as a Non-Exempt Settlement Class Member (if applicable), as calculated below; provided, however, in the event that the total Individual Payment Amount for a given Participating Class Member would be for an amount less than One Hundred Dollars (\$100), then such Participating Class Member shall be tendered an Individual Payment Amount equal to One Hundred Dollars (\$100).

1 i. Wage Statement Settlement Class

2 a. Based on their records, Defendants will determine
3 with reasonable accuracy the number of Eligible Wage Statement Pay Periods during
4 which each Wage Statement Settlement Class Member was employed by Defendants.
5 “**Eligible Wage Statement Pay Period(s)**” for a particular Wage Statement
6 Settlement Class Member means any and all wage periods occurring during the
7 applicable Class Period during which such Wage Statement Settlement Class member
8 was employed by Defendants in the State of California for one (1) or more days.

9 b. Twenty Percent (20%) of the Maximum Net
10 Settlement Proceeds will be divided by the total number of Eligible Wage Statement
11 Pay Periods worked by all Wage Statement Settlement Class Members in the
12 aggregate. This will yield the amount to be available to each Wage Statement
13 Settlement Class Member per Eligible Wage Statement Pay Period and shall be
14 referred to as the “**Wage Statement Pay Period Rate.**”

15 c. Each Wage Statement Settlement Class Member who
16 is a Participating Class Member shall be tendered an Individual Payment Amount
17 equal to the product of his or her total number of Eligible Wage Statement Pay
18 Periods multiplied by the Wage Statement Pay Period Rate.

19 ii. Non-Exempt Settlement Class

20 a. Based on their records, Defendants will determine
21 with reasonable accuracy the number of Eligible Non-Exempt Pay Periods during
22 which each Non-Exempt Settlement Class Member was employed by Defendants.
23 “**Eligible Non-Exempt Pay Period(s)**” for a particular Non-Exempt Settlement Class
24 Member means any and all wage periods occurring during the applicable Class Period
25 during which such Non-Exempt Settlement Class Member was employed by
26 Defendants for one (1) or more days as a Field Service Specialist I, II, III, and/or IV
27 and/or a DISH Tech 1, 2, 3, and/or 4 in the State of California.

b. Eighty Percent (80%) of the Maximum Net Settlement Proceeds will be divided by the total number of Eligible Non-Exempt Pay Periods worked by all Non-Exempt Settlement Class Members in the aggregate. This will yield the amount to be available to each Non-Exempt Settlement Class member per Eligible Non-Exempt Pay Period, and shall be referred to as the “**Non-Exempt Pay Period Rate.**”

c. Each Non-Exempt Settlement Class Member who is a Participating Class Member shall be tendered an Individual Payment Amount equal to the product of his or her total number of Eligible Non-Exempt Pay Periods multiplied by the Non-Exempt Pay Period Rate.

iii. Supplemental Payments. Notwithstanding the payment formulas set forth above, a minimum of Seventy-Five Percent (75%) of the Maximum Net Settlement Proceeds shall be tendered to Participating Class Members, and if necessary to meet this threshold, each Participating Class Member shall receive a pro-rata increase in his or her Individual Payment Amount.

iv. Tax Allocation. The Parties acknowledge and agree that, for tax purposes: (a) fifty percent (50%) of each Non-Exempt Settlement Class Member’s Individual Payment Amount shall be attributed to penalties and interest, for which an IRS Form 1099 shall be issued; and fifty percent (50%) of each Non-Exempt Settlement Class Member’s Individual Payment Amount shall be attributed to wages, for which an IRS Form W-2 shall be issued; and (b) the entire Individual Payment Amount for the Wage Statement Settlement Class Members shall be attributed to penalties, for which an IRS Form 1099 shall be issued.

v. Unclaimed Funds. The Parties acknowledge and agree that any portion of the Maximum Net Settlement Proceeds that is either not claimed or that is attributable to a settlement check that was issued but not cashed within one hundred days (180) days following the date that it originally was sent shall permanently revert to Defendants and remain the property of Defendants. The Settlement Administrator

1 will include language on all settlement checks stating that such checks are void one
2 hundred eighty (180) days following the date such check was originally sent. The
3 Settlement Administrator will provide Defendants and Class Counsel with weekly
4 reports regarding the status of administration of this Stipulation of Settlement,
5 including, without limitation, the portion of the Maximum Net Settlement Proceeds
6 that has not been claimed and the number and dollar amounts of checks that have not
7 been cashed within one hundred eighty (180) days following the date such check was
8 originally sent. No later than thirty (30) days following the date on which all funds
9 have been paid pursuant to the terms and conditions of this Stipulation of Settlement
10 (including, without limitation, Section (C)(1)(iii)), the Settlement Administrator will
11 pay to Defendants all amounts that permanently revert to Defendants pursuant to this
12 Section C(e)(5).

13 vi. Liens. All payments to Participating Class Members will be
14 subject to any applicable wage garnishments, liens, or other legally mandated
15 treatment as required by law.

16 (f) **PAGA Payments:** The Parties acknowledge and agree that
17 Twenty Thousand Dollars (\$20,000) shall be allocated from the Maximum Gross
18 Settlement Amount to settle Plaintiffs' claims brought pursuant to PAGA as follows:
19 (i) Seventy-Five Percent (75%), or Fifteen Thousand Dollars (\$15,000), shall be paid
20 to the LWDA; and (ii) Twenty-Five Percent (25%), or Five Thousand Dollars
21 (\$5,000), which shall constitute a portion of the Maximum Net Settlement Proceeds
22 and shall be available for distribution to Participating Class Members as part of their
23 Individual Payment Amounts in accordance with the terms and conditions set forth in
24 Section C(1)(b).

25 (g) **Incentive Award to the Class Representative:** Defendants agree
26 not to oppose an application for an incentive award for the Class Representative of
27 Seven Thousand Five Hundred Dollars (\$7,500) (the "**Incentive Award**"), and
28 Plaintiff and Class Counsel agree not to apply for an Incentive Award in excess of

1 Seven Thousand Five Hundred Dollars (\$7,500). Among other things, the Incentive
2 Award compensates Plaintiff for his release of the Related Parties from the Released
3 Claims pursuant to Section (E)(3). An IRS Form 1099 will be issued to the Class
4 Representative for his Incentive Award. Among other things, the Court's final
5 determination as to the amount of the Incentive Award shall be made a part of the
6 Final Approval Order.

7 (h) **Attorneys' Fees and Costs:** Plaintiff and Defendants
8 acknowledge and agree that reimbursement for attorneys' fees, costs, and expenses for
9 Class Counsel are subject to the Court's approval and determination. Among other
10 things, the Parties acknowledge and agree that the Court's final award of Class
11 Counsel's attorneys' fees, costs, and expenses (the "**Fee Award**") shall be made a part
12 of the Final Approval Order. An IRS Form 1099 will be issued to Class Counsel for
13 his Fee Award. Defendants agree not to oppose an application for a Fee Award equal
14 to or less than Thirty-Three and One-Third Percent (33.33%) of the Maximum Gross
15 Settlement Amount, and Class Counsel agrees not to apply for a Fee Award in excess
16 of Thirty-Three and One-Third Percent (33.33%) of the Maximum Gross Settlement
17 Amount. Class Counsel may elect to have the Settlement Administrator, directly or
18 indirectly, disperse all or part of his Fee Award paid to him in periodic payments,
19 through a structured settlement. Class Counsel will bear any and all costs, fees, and
20 expenses of administration for any periodic payments of such Fee Award and shall be
21 fully responsible for any taxes, costs, liabilities, attorneys' fees, and/or penalties
22 resulting from any issues, claims, and/or disputes arising out, related to, or incurred in
23 connection with any such periodic payments, including, without limitation, any such
24 issues, claims and/or disputes brought by the state or federal government concerning
25 the payment of taxes thereon. Class Counsel shall indemnify, defend, and hold
26 Defendants harmless for any and all taxes, costs, liabilities, attorneys' fees, and/or
27 penalties resulting from any issues, claims, and/or disputes arising out of, related to, or
28 incurred in connection with any such periodic payments.

1 (i) In no event whatsoever shall the Court require Defendants to pay
2 more than the Maximum Gross Settlement Amount. In the event that the Court
3 requires Defendants to pay an amount that is more than the Maximum Gross
4 Settlement Amount, then Defendants shall have the right, but not the obligation, to
5 vacate this settlement. In the event that Defendants elect to vacate this settlement
6 pursuant to the immediately preceding sentence, then a Vacation of the Settlement
7 shall occur.

8 (j) Plaintiff and the members of the Settlement Class shall not be
9 responsible for paying any part of the Fee Award, Incentive Award, the
10 Administrative Costs, or any other costs or expenses described in this Stipulation of
11 Settlement.

12 (k) Other than as set forth herein, each of Plaintiff, members of the
13 Settlement Class, and Defendants shall bear its and their respective attorneys' fees,
14 costs, and expenses associated with the Actions and this Stipulation of Settlement,
15 including, without limitation, any arbitration or arbitrator fees, costs and expenses that
16 have accrued or accrue at any time during these proceedings.

17 (l) Settlement Administration Costs and Duties: The total amount of
18 the Administrative Costs will not exceed Nineteen Thousand Five Hundred and
19 00/100 Dollars (\$19,500) and includes the following, which shall be performed by the
20 Settlement Administrator: (i) preparing, printing, and mailing the Class Notice
21 Materials to all members of the Settlement Class; (ii) conducting a national change of
22 address search on any such Class Notice Materials returned by the U.S. Postal Service
23 as non-deliverable, and re-mailing such Class Notice Materials to the member of the
24 Settlement Class's new address; (iii) setting up a toll-free telephone number to receive
25 calls from members of the Settlement Class; (iv) receiving and processing Claim
26 Forms; (v) receiving exclusion requests, objections, and change of address updates;
27 (vi) providing the Parties with weekly status reports informing Class Counsel and
28 counsel for Defendants of the number of Class Notice Materials mailed, the number of

1 such notice packets returned as undeliverable, the number of such notice packets re-
2 mailed, and the number of exclusion requests and objections received; (vii) calculating
3 Individual Payment Amounts; (viii) receiving the Class Settlement Amount from
4 Defendants and holding such funds in a qualified settlement fund within the meaning
5 26 U.S.C. § 468B and 26 C.F.R. 1.468B-1; (ix) issuing the checks to effectuate the
6 payments due under this Stipulation of Settlement; (x) issuing the tax reports required
7 under this Stipulation of Settlement; (xi) sending out a reminder post-card to Former
8 Employee members of the Settlement Class who have not completed in all respects,
9 signed and mailed valid Claim Forms; and (xii) otherwise administering this
10 Stipulation of Settlement in accordance with its terms and conditions. The Parties
11 acknowledge and agrees that the Administrative Costs are included in, and will be
12 paid from, the Maximum Gross Settlement Amount. For the avoidance of doubt, in
13 the event that the Effective Date does not occur, then Defendants shall not be
14 responsible for paying any Administrative Costs. The Settlement Administrator will
15 have the final authority to resolve all disputes concerning the calculation of a
16 Participating Class Member's Individual Payment Amount subject to the terms and
17 conditions set forth in this Stipulation of Settlement and provided that any and all such
18 resolutions must be reasonable and supported by sufficient evidence. The Settlement
19 Administrator will send a weekly report to Defendants and Class Counsel, which will
20 include details of any and all disputes concerning: (A) the calculation of a
21 Participating Class Member's Individual Payment Amount(s); and (B) whether an
22 Exclusion Form or Claim Form was timely completed in all respects, signed and
23 mailed. Defendants have the right to review and audit: (1) the calculation of each and
24 every Participating Class Member's Individual Payment Amounts, and details and
25 evidence of the Settlement Administrator's resolutions of disputes concerning the
26 calculation of Participating Class Member's Individual Payment Amounts; and (2)
27 any and all Exclusion Forms and/or Claim Forms for timely completion in all
28 respects, signature and mailing, and details and evidence of the Settlement

1 Administrator's determinations concerning whether the Exclusion Forms and/or
2 Claim Forms were timely completed, signed and mailed. In each case, the Settlement
3 Administrator will provide Defendants with necessary information and a reasonable
4 amount of time to perform such audits with respect to each and every Individual
5 Payment Amount before mailing or otherwise distributing such Individual Payment
6 Amounts to any Participating Class Members. In the event any such audit reveals an
7 overpayment in any Participating Class Member's Individual Payment (including,
8 without limitation, any increase to any Participating Class Member's Individual
9 Payment Amount as a result of a resolution of a dispute concerning the calculation of
10 such Participating Class Member's Individual Payment Amount that is not reasonable
11 as supported by sufficient evidence), then the System Administrator will correct such
12 Individual Payment Amount before mailing or otherwise distributing it to any
13 Participating Class Member (if such overpayment is detected prior to mailing or
14 distribution) or will use its best efforts to recover the amount of such overpayment and
15 return such amounts to the Maximum Net Settlement Proceeds (if such overpayment
16 is detected after mailing or distribution).

17
18 **D. First Amended Complaint.** The Parties acknowledge and agree that Plaintiff
19 has filed a First Amended Complaint (the "FAC") in the Second State Court Action,
20 and such complaint is substantially similar to the Second Amended Class Action
21 Complaint that he previously served upon Defendants (but did not file) in the First
22 State Court Action, with the sole general exception that the FAC also specifically
23 pleaded an overtime claim based upon alleged improper implementation of an
24 alternative workweek schedule. The Parties expressly acknowledge and agree that the
25 FAC was filed solely for the purpose of facilitating the settlement of this matter. In
26 the event that, for any reason whatsoever, this Stipulation of Settlement does not
27 become final, including, without limitation, in the event that the Effective Date does
28 not occur, then a Vacation of the Settlement shall occur.

1
2 **E. Release of Claims.**

3 1. Upon the Effective Date, each Class Member within the Non-
4 Exempt Settlement Class, on behalf of himself or herself and his or her heirs,
5 representatives and assigns absolutely, unconditionally and irrevocably releases and
6 forever discharges the Released Parties from any and all manner of actions, causes of
7 action, claims, compensation, controversies, costs, damages, debts, demands,
8 expenses, liens, liabilities, losses, rights or suits, including claims or suits for
9 contribution and/or indemnity, of every kind, nature or description whatsoever,
10 whether foreseen or unforeseen, known or unknown, fixed or contingent, direct or
11 indirect, liquidated or unliquidated, at law or in equity (collectively, “**Claims**”) that
12 were asserted in the Actions, or that could have been asserted in the Actions based on
13 any of the facts, circumstances, transactions, events, occurrences, acts, disclosures,
14 statements, omissions or failures to act alleged in any of the Actions (collectively, the
15 “**Non-Exempt Released Claims**”). The Non-Exempt Released Claims specifically
16 include, without limitation: (a) claims for failure to provide access to employee
17 payroll and personnel records pursuant to California Labor Code §§ 226, 432 and
18 1198.5; (b) claims for failure to pay overtime wages pursuant to California Labor
19 Code §§ 510, 1194, 1198, the applicable IWC Wage Orders and the Fair Labor
20 Standards Act; (c) claims for failure to provide breaks as required by California Labor
21 Code §§ 226.7, 512, 1198 and the applicable IWC Wage Order; (d) claims for failure
22 to make payments within the required time in violation of California Labor Code §§
23 201, 202, 204, 1198, and 203; (e) claims for failure to provide accurate wage
24 statements pursuant to California Labor Code § 226; (f) claims for failure to maintain
25 required records in violation of California Labor Code §§ 1174, 1184.5, 1198 and the
26 applicable IWC Wage Order; and (g) incorporated or related claims asserted through
27 either California Business and Professions Code § 17200 or PAGA. “**Released**
28 **Parties**” means Defendants and Defendants’ past and present direct and indirect

1 parents, subsidiaries and affiliates; the predecessors, successors and assigns of each of
2 the foregoing persons and entities; and the past and present owners, agents, directors,
3 officers, employees, shareholders, members, representatives, attorneys, insurers,
4 reinsurers, guarantors, successors and assigns of all of the foregoing persons and
5 entities.

6
7 2. Upon the Effective Date, each Class Member within the Wage
8 Statement Settlement Class, on behalf of himself or herself and his or her heirs,
9 representatives and assigns, absolutely, unconditionally and irrevocably releases and
10 forever discharges the Released Parties from any and all manner of Claims that pertain
11 in any way to alleged deficiencies in the wage statements the Wage Statement
12 Settlement Class Members received from Defendants during (or otherwise pertaining
13 to) the relevant Class Period, regardless of whether such Claims arise under federal,
14 state and/or local law, statute, ordinance, regulation, common law, or any other source
15 of law (collectively, the “**Wage Statement Released Claims**”). The Wage Statement
16 Released Claims specifically include, without limitation: (a) claims for failure to
17 provide accurate wage statements pursuant to California Labor Code § 226; and (b)
18 incorporated or related claims asserted through either California Business and
19 Professions Code § 17200 or PAGA.

20 3. Upon the Effective Date, Plaintiff, on behalf of himself and his heirs,
21 representatives, and assigns, absolutely, unconditionally and irrevocably releases and
22 discharges the Released Parties from the Non-Exempt Released Claims, the Wage
23 Statement Released Claims, and any and all manner of Claims arising out of, or
24 relating in any way to the Plaintiff’s hiring by, employment with, or separation of
25 employment from Defendants, or otherwise relating to the Released Parties (the
26 “**Plaintiff Released Claims**,” and together with the Non-Exempt Released Claims and
27 the Wage Statement Released Claims, the “**Released Claims**”) that he may have had
28 from the beginning of time. Plaintiff Released Claims include, without limitation,

1 claims arising from or dependent upon the California Labor Code, the Wage Orders of
2 the Industrial Welfare Commission, California Business and Professions Code Section
3 17200, *et seq.*, the California Fair Employment and Housing Act, Cal. Gov't. Code
4 Sections 12900, *et. seq.*, the California common law of contract and tort, Title VII of
5 the Civil Rights Act of 1964, the Americans with Disabilities Act, 42 U.S.C. Section
6 12101, *et. seq.*, the Employee Retirement Income Security Act of 1974, 29 U.S.C.
7 Section 1001, *et seq.*, the Fair Labor Standards Act, 29 U.S.C. Section 201, *et seq.* and
8 the Portal to Portal Act, 29 U.S.C. Section 251, *et seq.*

9 4. Plaintiff stipulates and agrees that he expressly waives, and by operation
10 of the Final Approval Order shall have expressly waived and relinquished, the benefits
11 of any applicable statutory provision (including, without limitation, Section 1542 of
12 the California Civil Code, which provides: “*A general release does not extend to*
13 *claims which the creditor does not know or suspect to exist in his or her favor at the*
14 *time of executing the release, which if known by him or her must have materially*
15 *affected his or her settlement with the debtor.*”) or common law rule that provides, in
16 sum or substance, that a release does not extend to claims that a party does know or
17 suspect to exist in its favor at the time of executing the release, which if known by
18 said party, would have materially affected its settlement of the released claims.
19 Plaintiff acknowledges that he may hereafter discover facts different from or in
20 addition to the facts now known or believed to be true with respect to the subject
21 matters of the Actions. Plaintiff agrees that, notwithstanding the discovery of the
22 existence of any additional or different facts that, if known, may have materially
23 affected his decision to enter into this Stipulation of Settlement, Plaintiff’s release
24 given herein shall nonetheless be and remain in effect as full, final, and complete
25 releases of the Released Parties from Plaintiff with respect to the Released Claims,
26 and no Party shall be entitled to modify or set aside this Stipulation of Settlement, in
27 whole or in part, by reason thereof.
28

1 **F. Notice and Claim Process.**

2 1. Within ten (10) calendar days following the Preliminary Approval Date,
3 Defendants shall provide to the Settlement Administrator a list of all Wage Statement
4 Settlement Class Members and Non-Exempt Settlement Class Members, as
5 applicable, including: (i) their last known addresses; (ii) their telephone numbers; (iii)
6 their social security numbers; (iv) the number of Eligible Non-Exempt Pay Periods
7 worked by each such member of the Settlement Class; and (v) the number of Eligible
8 Wage Statement Pay Periods worked by each such member of the Settlement Class.

9 2. A notice of pendency of class action, proposed settlement, and hearing
10 date for Court approval (the “**Class Notice**”) substantially in the form attached hereto
11 as **Exhibit 1**, and as approved by the Court, shall be sent by the Settlement
12 Administrator to the members of the Settlement Class, by first class mail to their last
13 known address, within ten (10) calendar days following receipt of the Settlement
14 Class information from Defendants. Enclosed with the Class Notice will be a Request
15 for Exclusion Form (each, an “**Exclusion Form**” and collectively, the “**Exclusion**
16 **Forms**”) substantially in the form attached hereto as **Exhibit 2** and a Claim Form
17 (each, a “**Claim Form**” and collectively, the “**Claim Forms**”) substantially in the
18 form attached hereto as **Exhibit 3**. The Class Notice, the Exclusion Form, and Claim
19 Form are collectively referred to herein as the “**Class Notice Materials.**”

20 3. The Settlement Administrator shall use reasonable efforts to ensure that
21 the Class Notice Materials are sent to all members of the Settlement Class. The
22 Parties acknowledge and agree that in the event that any Class Notice Materials have
23 not been returned within thirty (30) days following the mailing of such Class Notice
24 Materials to any such member of the Settlement Class, then it will be conclusively
25 presumed that such member of the Settlement Class received the Class Notice
26 Materials.

27 4. In the event that Class Notice Materials are returned to the Settlement
28 Administrator or the Settlement Administrator is unable to mail any member of the

1 Settlement Class his or her respective Class Notice Materials for any reason following
2 two (2) mailing attempts of such Class Notice Materials, then, in order to allow Class
3 Counsel the opportunity to directly deliver the Class Notice Materials to any such
4 member of the Settlement Class, the Settlement Administrator shall promptly provide
5 to Class Counsel the following information with respect to such member of the
6 Settlement Class: (i) his or her first and last name(s); (ii) his or her last known
7 address; (iii) his or her telephone number(s); (iv) the number of Eligible Non-Exempt
8 Pay Periods worked by such member of the Settlement Class; and (v) the number of
9 Eligible Wage Statement Pay Periods worked by such member of the Settlement
10 Class.

11 5. In the Class Notice Materials, each member of the Settlement Class will
12 be fully advised of this Stipulation of Settlement, the ability to object to this
13 Stipulation of Settlement and, where appropriate, the ability to submit a Claim Form.
14 The Class Notice Materials will inform the members of the Settlement Class of the
15 Court-established deadline for submitting filing objections and/or submitting a Claim
16 Form.

17 6. Each Claim Form will list the total number of pay periods worked for
18 each such individual member of the Settlement Class. To the extent that any such
19 member of the Settlement Class disputes any of the records and information listed on
20 his or her Claim Form, then he or she may produce evidence to the Settlement
21 Administrator showing such disputed records and information that he or she contends
22 should be reflected in the Claim Form. The Parties acknowledge and agree that,
23 absent evidence to dispute Defendants' records and information, the Defendants'
24 records and information will be presumed determinative, but the Settlement
25 Administrator will evaluate any contradictory records and information submitted by
26 any Class Member, and provide such evidence to the Parties who agree to meet and
27 confer to determine such Class Member's appropriate settlement payment amount (if
28 any). Subject to the terms and conditions of this Stipulation of Settlement (including,

1 without limitation, Section C(1)(l), in the event that the Parties have a dispute over
2 such records and information and are unable to agree as to such Class Member's
3 settlement payment amount, then the Settlement Administrator shall decide such Class
4 Member's settlement payment amount.

5 7. In the event that a Former Employee who is member of the Settlement
6 Class would like to receive a payment in the settlement, then such Former Employee
7 must complete in all respects and sign a Claim Form, and mail such Claim Form to the
8 Settlement Administrator no later than sixty (60) calendar days following the initial
9 mailing of the Class Notice Materials (the "**Claims Deadline**"). The timeliness of the
10 any such Former Employee's submission of his or her Claim Form will be determined
11 by valid postmark of such Claim Form.

12 8. The Settlement Administrator shall reject any Claim Form as a result of:
13 (i) the failure of the Former Employee to complete in all respects, sign and/or mail the
14 Claim Form and timely cure such failure before the Claims Deadline; and/or (ii)
15 submission by the Former Employee of the Claim Form following the Claims
16 Deadline.

17 9. The Settlement Administrator shall notify the Parties of the total number
18 of valid and timely Claim Forms it has received within ten (10) calendar days
19 following the Claims Deadline.

20 10. In order to object to the settlement in writing or by appearing at the final
21 approval hearing, any member of the Settlement Class must complete in all respects,
22 sign and mail his or her written objection or notice of intent to appear at the final
23 approval hearing to the Settlement Administrator by U.S. Mail no later than sixty (60)
24 calendar days following the mailing of the Class Notice Materials to members of the
25 Settlement Class. The timeliness of submitted objections or notices to appear will be
26 determined by valid postmark of such objections or notices. The Settlement
27 Administrator shall forward any and all objections and notices to the Parties within
28 two (2) business days of its receipt of any such objections or notices.

1 11. In order to exclude himself or herself from this Stipulation of Settlement,
2 members of the Settlement Class must complete in all respects, sign and mail his or
3 her Exclusion Form to the Settlement Administrator via U.S. mail no later than sixty
4 (60) calendar days following the mailing of the Class Notice Materials to Class
5 Members. The timeliness of submitted Exclusion Forms will be determined by a valid
6 postmark of any such Exclusion Form. Plaintiff is expressly prohibited from
7 submitting an Exclusion Form.

8 12. The Settlement Administrator shall provide to the Parties, at least twelve
9 (12) calendar days prior to the final approval hearing, a declaration of due diligence
10 and proof of mailing with regard to the mailing of the Class Notice Materials. The
11 Settlement Administrator will also provide to the Parties, at least twelve (12) calendar
12 days prior to the final approval hearing, a report listing the amount of all proposed
13 payments to be made to each Participating Class Member.

14 13. No later than thirty (30) calendar days following the Effective Date,
15 Defendants shall deposit the Class Settlement Amount with the Settlement
16 Administrator, who shall handle such funds pursuant to the terms and conditions of
17 this Settlement. The “**Class Settlement Amount**” means an amount equal to the sum
18 of: (i) the aggregate gross Individual Payment Amounts (which includes, without
19 limitation, the Five Thousand Dollars (\$5,000), which shall constitute a portion of the
20 Maximum Net Settlement Proceeds and shall be available for distribution to
21 Participating Class Members as part of their Individual Payment Amounts in
22 accordance with the terms and conditions set forth in Section C(1)(b)); (ii) the Fee
23 Award; (iii) the Fifteen Thousand Dollar (\$15,000) payment to the LWDA pursuant to
24 PAGA; (iv) the Incentive Award; and (v) the Administrative Costs. Subject to
25 Section C(1)(c), under no circumstances whatsoever shall the Class Settlement
26 Amount exceed the Maximum Gross Settlement Amount.

27 14. The Settlement Administrator will mail all required Individual Payment
28 Amount checks to Participating Class Members’ last known address or the address

1 obtained by the Settlement Administrator through the National Change of Address
2 Database, as applicable, subject to withholding of applicable local, state, and federal
3 taxes, as well as applicable wage garnishments, liens, or other legally mandated
4 treatment as required by law, no later than ten (10) calendar days following its receipt
5 of the Class Settlement Amount from Defendants. Concurrently, the Settlement
6 Administrator shall mail the payment to the LWDA pursuant to PAGA and a copy of
7 the Court-approved stipulation, in compliance with PAGA.

8 15. Participating Class Members have one hundred eighty (180) calendar
9 days following the date on which Individual Payment Amount checks are first mailed
10 by the Settlement Administrator to cash their respective Individual Payment Amount
11 checks. The Settlement Administrator shall reissue checks to Participating Class
12 Members upon request (but in no event whatsoever shall the Settlement Administrator
13 reissue any check more than two (2) times for any such Participating Class Member);
14 provided that any such reissued checks must be cashed within one hundred eighty
15 (180) calendar days following the date on which the first check originally was mailed.
16 The value of any Individual Payment Amount checks that remain un-cashed after
17 more than one hundred eighty (180) days following the date on which such first
18 checks originally were mailed shall revert to and be returned to Defendants.

19
20 **G. Duties of the Parties Prior to Court Approval.**

21 1. Promptly following execution of this Stipulation of Settlement, the
22 Parties shall jointly move for preliminary approval of this Stipulation of Settlement
23 and entry of a Preliminary Approval Order accomplishing the following:

24 (a) scheduling a fairness hearing, to take place approximately one
25 hundred (100) calendar days following the Preliminary Approval Date, on the
26 question of whether the proposed Stipulation of Settlement should be finally approved
27 as fair, reasonable and adequate as to the members of the Settlement Class;
28

1 (b) preliminarily approving as to form, timing, content, and manner
2 the proposed Class Notice;

3 (c) preliminarily approving as to form and content the proposed Claim
4 Form;

5 (d) preliminarily approving as to form and content this Stipulation of
6 Settlement and the terms and conditions of settlement therein;

7 (e) for purposes of settlement only, preliminarily certifying the Wage
8 Statement Settlement Class and Non-Exempt Settlement Classes;

9 (f) preliminarily approving the payment of Fifteen Thousand Dollars
10 (\$15,000) to the LWDA pursuant to PAGA; and

11 (g) preliminarily approving Phoenix Settlement Administrators as
12 Settlement Administrator and the Administrative Costs.

13 The Parties shall submit this Stipulation of Settlement in support of the motion for
14 preliminary approval of the settlement.

15 2. Within ten (10) calendar days following the execution of this Stipulation
16 of Settlement, Defendants shall provide Class Counsel with a declaration from a
17 person familiar with the business records Defendants have produced in this matter
18 stating that such records are accurate to the best of their present recollection and
19 believe and based upon information provided by others, and also confirming the date
20 on which the wage statements for the respective members of the Settlement Class
21 were modified to list "DISH Network L.L.C." as the employer.
22

23 **H. Duties of the Parties in Connection with and Following Final Approval.**

24 1. In connection with the hearing on final approval of the terms and
25 conditions of the settlement provided for in this Stipulation of Settlement, Plaintiffs
26 shall submit a proposed final order ten (10) days before the scheduled date of the
27 hearing on final approval:
28

1 (a) approving the settlement and finding its terms and conditions to be
2 fair, reasonable and adequate, and directing consummation of its terms, conditions and
3 provisions;

4 (b) approving Class Counsel's application for the Fee Award, the
5 Incentive Award, the payment to the LWDA, and the Administrative Costs; and

6 (c) providing that, upon a showing that Defendants have timely paid
7 the Class Settlement Amount, the Court will enter an order dismissing the Second
8 State Court Action on the merits and with prejudice, permanently enjoining all Class
9 Members within the Non-Exempt Settlement Class and Class Members within the
10 Wage Statement Settlement Class from prosecuting any Released Claims against any
11 of the Released Parties, and permanently enjoining Plaintiff from prosecuting any
12 Released Claims against any of the Released Parties.

13 2. Class Counsel will file an application for the Fee Award at the same time
14 that he files the motion for final approval of the settlement, unless directed otherwise
15 by the Court.

16
17 **I. Miscellaneous Provisions.**

18 **1. Excessive Opt-Outs.**

19 In the event that Requests for Exclusion are timely and validly submitted by
20 members of the Settlement Class cumulatively representing: (a) five percent (5%) or
21 more of the total number of members of the Settlement Class; or (b) five percent (5%)
22 of the Maximum Net Settlement Proceeds timely and properly submit Requests for
23 Exclusions, then, with respect to subparts (a) or (b), Defendants may, elect to vacate
24 the settlement. In the event that Defendants elect to vacate the settlement, then a
25 Vacation of the Settlement occurs. Defendants must exercise the right set forth in the
26 immediately preceding sentence, in writing, to Class Counsel, within ten (10) business
27 days following the date on which the Settlement Administrator notifies the Parties of
28 the final report of the total number of Exclusion Forms that were submitted

1 2. **Discovery.**

2 The Parties agree that none of the Parties shall conduct discovery against any of
3 the other Parties pending the preliminary approval of the settlement by the Court, and
4 that upon the preliminary approval of this settlement by the Court as evidenced by
5 entry of the Preliminary Approval Order, all discovery and other proceedings in the
6 Second State Court Action shall be stayed until further order of the Court, except such
7 proceeding as may be necessary either to implement this Stipulation of Settlement or
8 to comply with or effectuate the terms and conditions of this Stipulation of Settlement.
9 In addition, Plaintiffs shall withdraw all pending discovery requests without prejudice
10 including, without limitation, his outstanding subpoenas to ADP and the DLSE.

11 3. **Mutual Full Cooperation.**

12 The Parties and their undersigned counsel agree to undertake commercially
13 reasonable efforts and to offer their commercially reasonable cooperation to effectuate
14 this Stipulation of Settlement and the terms and conditions of the settlement set forth
15 herein, including taking all steps and efforts contemplated by this Stipulation of
16 Settlement and any other steps and efforts that may become commercially reasonably
17 necessary by order of the Court or otherwise.

18 4. **No Prior Assignments.**

19 The Parties represent, covenant, and warrant that they have not directly or
20 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or
21 encumber to any person or entity any portion of any liability, claim, demand, action,
22 cause of action or rights released and discharged by this Stipulation of Settlement.

23 5. **No Admission.**

24 This Stipulation of Settlement is intended solely as a compromise of disputed
25 claims. Neither the fact of a Party's entry into this Stipulation of Settlement, nor the
26 fact of the settlement of the Actions reflected in this Stipulation of Settlement, nor the
27 terms and conditions hereof, nor any acts undertaken pursuant hereto, shall constitute
28 an admission or concession by any Party regarding liability or the validity of any

1 claim in the Actions. By entering into this Agreement, Defendants are not admitting
2 any liability, and any and all such liability is expressly denied. This Stipulation of
3 Settlement is a settlement document and shall, pursuant to California Evidence Code
4 Section 1152 and/or Federal Rule of Evidence 408 and/or any other similar law, be
5 inadmissible in evidence in any proceeding, except an action or proceeding to approve
6 the settlement, and/or interpret or enforce this Stipulation of Settlement.

7 **6. Enforcement Actions.**

8 Except as otherwise provided in this Stipulation of Settlement, in the event that
9 one (1) or more of the Parties to this Stipulation of Settlement institutes any legal
10 action, arbitration, or other proceeding against any other Party to enforce the
11 provisions of this Stipulation of Settlement or to declare rights and/or obligations
12 under this Stipulation of Settlement, the successful Party shall be entitled to recover
13 from the unsuccessful Party reasonable attorneys' fees, costs, and expenses, including
14 expert witness fees, incurred in connection with any enforcement actions.

15 **7. Notices.**

16 All notices or requests that are required or permitted to be given hereunder shall
17 be in writing and shall be sent by facsimile transmission, or by first class certified
18 mail, postage prepaid, or by nationally-recognized courier service, charges prepaid, to
19 the Party to be notified, addressed to such Party at the address(es) set forth below, or
20 sent by facsimile to the fax number set forth below, or such other address(es) or fax
21 number(s) as such Party may have substituted by written notice to the other Party
22 given in accordance with this Paragraph. The sending of such notice with
23 confirmation of receipt of the complete transmission (in the case of facsimile
24 transmission) or receipt of such notice (in the case of delivery by first-class certified
25 mail or by nationally-recognized courier service) shall constitute the giving thereof.
26
27
28

1 **To Plaintiff and the Settlement Class:**

2
3 Thomas D. Rutledge
4 Attorney-at-Law
5 500 West Harbor Drive, Suite 1113
6 San Diego, California 92101
7 Telephone: 619-886-7224
8 Facsimile: 619-259-5455

9 **To Defendants:**

10 Marlene S. Muraco, Esq.
11 Littler Mendelson, P.C.
12 50 West San Fernando St., 15th Floor
13 San Jose, CA 95120
14 Fax: 408.288.5686

15 **Copy to:**

16 R. Stanton Dodge
17 EVP & General Counsel
18 DISH Network L.L.C.
19 9601 S. Meridian Blvd.
20 Englewood, CO 80112
21 Fax: 303.723.2050

22 **8. Captions and Interpretations.**

23 Paragraph titles or captions contained herein are inserted as a matter of
24 convenience and for reference, and in no way define, limit, extend, or describe the
25 scope of this Stipulation of Settlement or any provision hereof. Each term and
26 conditions of this Stipulation of Settlement is contractual and not merely a recital.

27 **9. Modification.**

28 This Stipulation of Settlement may not be changed, altered, or modified, except
in writing and signed by all of the Parties hereto, and approved by the Court. This
Stipulation of Settlement may not be discharged except by performance in accordance

1 with its terms or by a writing signed by all of the Parties hereto, and approved by the
2 Court.

3 **10. Integration Clause.**

4 This Stipulation of Settlement constitutes the entire, final, and complete
5 agreement and understanding between the Parties concerning the subject matter
6 hereof, and supersedes and replaces all prior negotiations, and proposed agreements,
7 written, oral or implied, regarding that subject matter hereof made or existing before
8 the Effective Date, including, without limitation, the Mediation Agreement.

9 **11. Binding on Assigns.**

10 This Stipulation of Settlement shall be binding upon the Parties hereto and upon
11 their heirs, administrators, legal representatives, executors, successors, and permitted
12 assigns, and shall inure to the benefit of said Parties and each of them and to their
13 heirs, administrators, legal representatives, executors, successors, and permitted
14 assigns. Plaintiff expressly warrants that he has not transferred to any person or entity
15 any rights, causes of action, or claims released in this Stipulation of Settlement.

16 **12. Governing Law.**

17 This Stipulation of Settlement shall be interpreted, construed, enforced in
18 accordance with, and governed by the laws of the State of California. In the event that
19 there is a lawsuit between the Parties arising from or related to this Stipulation of
20 Settlement, including, without limitation, its interpretation or performance, then the
21 Parties agree that such lawsuit shall be venued in the Superior Court of the State of
22 California, County of San Diego, Central Division, and all Parties consent to personal
23 jurisdiction in such courts.

24 **13. Confidentiality.**

25 (a) The Parties and their counsel agree that they will not issue any
26 press releases, initiate any contact with the press, respond to any press inquiry or have
27 any communication with the press about this case and/or the fact, amount or terms and
28 conditions of this Stipulation of Settlement. In addition, the Parties and their counsel

1 agree that they will not engage in any advertising or distribute any marketing
2 materials relating to the settlement of this case, including, without limitation, any
3 postings on any websites maintained by Class Counsel. Any communication about
4 the settlement to the members of the Settlement Class prior to the issuance of the
5 Court-approved Class Notice will be limited to a statement that a settlement has been
6 reached and the details will be communicated in a forthcoming Court-approved notice.
7 The Parties and their counsel acknowledge and agree that the terms and conditions of
8 the Mediation Agreement, but not its existence, shall be kept strictly confidential and
9 shall not be disclosed, in whole or in part, to any person or entity, including, without
10 limitation, Plaintiff and Plaintiffs' counsel shall not use or disclose the information
11 obtained in connection with this action (including Defendants' wage and hour
12 practices) for any purpose unrelated to this litigation.

13 (b) The Class Members, Plaintiff, and Class Counsel, including their
14 experts and consultants, agree that they will not use any material obtained, derived,
15 or created in connection with this lawsuit for any purpose unrelated to this Second
16 State Court Action, and that they will, following the completion of the distribution of
17 all awards to the Participating Class Members and a reasonable period for resolution
18 of any disputes relating to such awards, delete or destroy all electronic data and
19 databases in their possession and delete or destroy any other information provided to
20 them that was confidential information, and agree that they have not and will not
21 retain any copies.

22 **14. Authority and Acknowledgment.**

23 Each individual signing this Stipulation of Settlement on behalf of a
24 corporation, partnership, proprietorship, association, limited liability company, or
25 other organization hereby represents and warrants that he or she has read this
26 Stipulation of Settlement in its entirety, understands all of its terms and conditions,
27 and has authority to enter into this Stipulation of Settlement on behalf of such
28

1 corporation, partnership, proprietorship, association, limited liability company, or
2 organization.

3 **15. Agreement Jointly-Drafted; Construction.**

4 This Stipulation of Settlement has been negotiated as a result of lengthy,
5 intensive, arms' length negotiations between unrelated Parties who are sophisticated
6 and knowledgeable in the matters contained in this Stipulation of Settlement and who
7 have acted in their own self-interest. In addition, each Party has been represented by
8 legal counsel. This Stipulation of Settlement shall be deemed to have been jointly-
9 drafted by the Parties, and no ambiguity or claimed ambiguity shall be resolved
10 against any Party on the basis that such Party drafted the language claimed to be
11 ambiguous nor shall the extent to which any Party or his or her counsels participated
12 in drafting this Stipulation of Settlement be construed in favor of or against any Party.

13 **16. No Waiver.**

14 No failure or delay on the part of any Party in the exercise or enforcement of
15 any right or privilege hereunder shall operate as a waiver of such right or privilege, or
16 of any other right or privilege hereunder. No single or partial exercise or enforcement
17 of any right or privilege hereunder shall preclude other or further exercise or
18 enforcement thereof or of any other right or privilege.

19 **17. Counterparts.**

20 This Stipulation of Settlement may be executed in counterparts, and when each
21 Party has signed and delivered at least one (1) such counterpart, each counterpart shall
22 be deemed an original, and when taken together with other signed counterparts, shall
23 constitute one (1) fully-executed Stipulation of Settlement, which shall be binding
24 upon and effective as to all Parties. Digital and electronic signatures shall be treated
25 as valid, original signatures.

26 //

27 //


28 //

1 IN WITNESS WHEREOF, the Parties have caused this Stipulation of
2 Settlement to be executed by their duly-authorized officers or representatives as of the
3 Effective Date.


4
5 
6 Jose Tajonar
7 Plaintiff and Class Representative

8 **Echosphere L.L.C.**
9 **DISH Network L.L.C.**
10 **Dish Network Service L.L.C.**
11 **DISH Network Corporation**
12 **Dish Network California Service**
13 **Corporation**

14 By:

15 
16 R. Stanton Dodge
17 EVP, General Counsel and Secretary

18 **Approved as to form and content:**

19
20
21 By: 
22 Thomas Rutledge, Esq.
23 Counsel for Plaintiff and Class Representative

24 **LITTLER MENDELSON, P.C.**

25
26 By: _____
27 Marlene Muraco, Esq.
28 Counsel for Defendants

1 IN WITNESS WHEREOF, the Parties have caused this Stipulation of Settlement to be
2 executed by their duly-authorized officers or representatives as of the Effective Date.
3
4

5 _____
6 Jose Tajonar
7 Plaintiff and Class Representative
8

9 **Echosphere L.L.C.**
10 **DISH Network L.L.C.**
11 **Dish Network Service L.L.C.**
12 **DISH Network Corporation**
13 **Dish Network California Service**
14 **Corporation**

15 By: 
16 _____

17 R. Stanton Dodge
18 EVP, General Counsel and Secretary
19

20 Approved as to form and content:
21

22 By: _____
23 Thomas Rutledge, Esq.
24 Counsel for Plaintiff and Class Representative
25

26 **LITTLER MENDELSON, P.C.**

27 By: 
28 Marlene Muraco, Esq.
Counsel for Defendants

Exhibit 1

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL DIVISION**

**JOSE TAJONAR, ET AL., VS. ECHOSPHERE L.L.C., DISH NETWORK L.L.C., DISH
NETWORK SERVICE L.L.C., DISH NETWORK CALIFORNIA SERVICE
CORPORATION, DISH NETWORK CORPORATION, AND DOES 4 THROUGH 50,
INCLUSIVE
CASE NO.: 37-2014-00041384-CU-OE-CTL**

NOTICE OF CERTIFIED CLASS ACTION SETTLEMENT

- All persons who were employed by DISH Network L.L.C., Echosphere L.L.C., Dish Network Service L.L.C., DISH Network Corporation, and/or Dish Network California Service Corporation (“Defendants”) in the State of California as a Field Service Specialist I, II, III, and/or IV and/or a DISH Tech 1, 2, 3, and/or 4 at any time between September 23, 2010 and November 29, 2016, and/or all individuals employed by Defendants in the State of California at any time between October 17, 2013 and December 25, 2014 may be eligible to receive compensation.
- The settlement resolves a lawsuit over whether Defendants violated certain requirements imposed by the wage and hour pay provisions of the laws of the State of California.
- Defendants deny any and all liability in connection with the claims asserted in the lawsuit.
- In order to avoid the costs and risks of continuing the lawsuit to both sides, the parties have agreed to the settlement, which releases Defendants from any liability for certain wage and hour claims, while providing compensation to class members as set forth below.
- **Your legal rights and options are affected by whether you act, or don’t act. Read this notice carefully. Your legal rights and options and the procedures you must follow vary depending on whether you were a current employee of Defendants or a former employee of Defendants as of [INSERT DATE OF PRELIMINARY APPROVAL].**

CURRENT EMPLOYEES (FORMER EMPLOYEES SEE NEXT SECTION)

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT IF YOU WERE A <u>CURRENT</u> EMPLOYEE OF DEFENDANTS AS OF [INSERT DATE OF PRELIMINARY APPROVAL] (NOTE: THESE LEGAL RIGHTS AND OPTIONS ARE MORE FULLY-DESCRIBED IN SECTION 10)	
EXCLUDE YOURSELF FROM THE LAWSUIT AND SETTLEMENT	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Defendants about the legal claims in this case.

OBJECT TO THE SETTLEMENT	Write to the Court about why you don't like the settlement. Taking this step will not prevent you from also recovering money under the settlement.
GO TO A HEARING	Ask to speak to the Court about the fairness of the settlement. Taking this step will not prevent you from also recovering money under the settlement.
DO NOTHING	Get a payment. Give up legal rights and options.

FORMER EMPLOYEES

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT IF YOU WERE A <i>FORMER</i> EMPLOYEE OF DEFENDANTS AS OF [INSERT DATE OF PRELIMINARY APPROVAL] (NOTE: THESE LEGAL RIGHTS AND OPTIONS ARE MORE FULLY-DESCRIBED IN SECTION 10)	
TIMELY COMPLETING IN ALL RESPECTS, SIGNING AND MAILING A CLAIM FORM	The only way to get a payment.
EXCLUDE YOURSELF FROM THE LAWSUIT AND SETTLEMENT	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Defendants about the legal claims in this case.
OBJECT TO THE SETTLEMENT	Write to the Court about why you don't like the settlement. Taking this step will not prevent you from also recovering money under the settlement, provided you timely complete in all respects, sign and mail a Claim Form.
GO TO A HEARING	Ask to speak to the Court about the fairness of the settlement. Taking this step will not prevent you from also recovering money under the settlement, provided you timely complete in all respects, sign and mail a Claim Form.
DO NOTHING	Get <u>no</u> payment. Give up legal rights and options.

- These legal rights and options – and the deadlines and procedures to exercise them – are explained in this notice.
- The Court in charge of this case still must decide whether to approve the settlement. Payments will be distributed only if the Court approves the settlement and after any appeals are resolved. Please be patient.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a lawsuit, and informs you of your legal rights and options under that proposed settlement. You are receiving this notice because you may be a member of a class on whose behalf this class action lawsuit has been brought.

You have a legal right to know about a proposed settlement of a class action lawsuit, and about all of your legal rights and options, before the Court decides whether to approve the settlement. If the Court approves the settlement and after objections and appeals are resolved, the Settlement Administrator (as defined below) appointed by the Court will distribute payments provided in the settlement.

This package explains the lawsuit, the settlement, your legal rights and options, what benefits are available, who is eligible for them, and how to receive them.

The Court in charge of this case is the San Diego County Superior Court, and the case is known as *Jose Tajonar v. Echosphere L.L.C., et al.*, Case No. 37-2014-00041384-CU-OE-CTL (the “Second State Court Action”).

1. What is this lawsuit about?

On August 19, 2014, Plaintiff Jose Tajonar (“Plaintiff” or “Class Representative”) filed a lawsuit against Defendants and related entities in San Diego County Superior Court. The lawsuit alleges violations of the California Labor Code, Industrial Welfare Commission Wage Orders, and the California Business and Professions Code. Plaintiff seeks to certify two separate classes: 1) a class of all individuals employed by Defendants in the State of California as a Field Service Specialist I, II, III and/or IV or a DISH Tech 1, 2, 3 and/or 4 during the period of time beginning on September 23, 2010 through and including November 29, 2016; and 2) a class of all individuals employed by Defendants in the State of California at any time during the period of time beginning on October 17, 2013 through and including December 25, 2014. On behalf of the first class, Plaintiff asserts claims for alleged failure to provide access to employee payroll and personnel records, failure to pay appropriate overtime and double-time compensation, failure to provide meal periods within the required time, failure to make wage payments within the required time, failure to provide accurate wage statements, failure to maintain required records, violation of the Private Attorneys General Act of 2004, Cal. Labor Code, § 2698, *et seq.* (“PAGA”), and unfair business practices. On behalf of the second class, Plaintiff asserts claims for alleged failure to provide accurate wage statements and a related violation of PAGA.

The claims Plaintiff is presently pursuing in the Second State Court Action are in addition to claims he previously pursued against Defendants in the San Diego County Superior Court (Case No. 37-2014-00027744-CU-OE-CTL) (the “First State Court Action”), the United States District Court for the Southern District of California (Case No. 3:14-cv-02732-LAB-RBB) (the “Federal Action”) and before the American Arbitration Association (AAA Case No: 01-16-0002-8326) (the “Arbitration Action”). “Actions” means, collectively, the First State Court Action, the Second State Court action, the Federal Action and the Arbitration Action.

DEFENDANTS DENY ANY WRONGDOING AND ASSERT THAT PLAINTIFF AND PURPORTED CLASS MEMBERS HAVE BEEN PAID ALL COMPENSATION DUE AND OWING IN ACCORDANCE WITH THE REQUIREMENTS OF LOCAL, STATE AND FEDERAL LAWS.

2. Why is this a class action?

In a class action, Plaintiff sued on behalf of people who have similar claims. All these people are referred to as the Settlement Class. The Court will resolve the issues for all members of the Settlement Class, except for those who exclude themselves from the Settlement Class. Judge _____ is in charge of this class action.

3. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Defendants. Plaintiff thinks he could have prevailed at trial. Defendants think the Plaintiff would not have prevailed at trial. But, there was no trial. Instead, both sides agreed to a settlement. That way, they avoid the cost, risk and uncertainty of litigation and trial, and the people allegedly affected may get compensation. The Class Representative and the attorneys for the Settlement Class think the settlement is in the best interests of all members of the Settlement Class.

4. How do I know if I am part of the settlement?

The “Settlement Class” in this settlement includes two groups, the “Non-Exempt Settlement Class” and the “Wage Statement Settlement Class.” You may be a part of one or both groups. Everyone who fits the following description is a Non-Exempt Settlement Class Member:

All individuals employed by Defendants in the State of California as a Field Service Specialist I, II, III and/or IV and/or a DISH Tech 1, 2, 3 and/or 4 during the applicable period of time beginning on September 23, 2010 through and including November 29, 2016.

Everyone who fits the following description is a Wage Statement Settlement Class Member:

All individuals employed by Defendants in the State of California at any time during the applicable period of time beginning on October 17, 2013 through and including December 25, 2014.

If you received this notice by mail in an envelope addressed specifically to you, a preliminary determination already has been made that you are a member of one or both groups.

6. What does the settlement provide?

Defendants will pay up to \$5,000,000 to settle Settlement Class members’ claims. From this amount, the following deductions will be made: attorneys’ fees and litigation costs and expenses up to \$1,666,500 to Class Counsel (defined below), subject to the approval of the Court; settlement administration expenses estimated to be \$ _____ payable to _____, the settlement administrator (the “Settlement Administrator”), for its services administering the settlement; a service payment to the Class Representative, Jose Tajonar, in recognition of his

contribution to and efforts in this case and in consideration of his general release of all claims against Defendants, not to exceed \$7,500, subject to the approval of the Court; and a payment of \$15,000 to the California Labor & Workforce Development Agency pursuant to PAGA. The amount remaining after these deductions (the “Maximum Net Settlement Proceeds”) will be available for payments (including, without limitation, the \$5,000 payment pursuant to PAGA) to members of the Settlement Class.

7. How can I get a settlement payment and how much will it be?

If you are a current employee of Defendants as of [preliminary approval date], and do not timely complete in all respects, sign and mail an Exclusion Form (discussed below), then you are eligible to receive a settlement payment. If you are a former employee of Defendants as of [preliminary approval date], and timely complete in all respects, sign and mail a Claim Form (discussed below), then you are eligible to receive a settlement payment.

Each eligible individual’s share of the Maximum Net Settlement Proceeds will be determined by a formula that factors the number of pay periods during which the individual was employed by Defendants in a qualifying position in the State of California during the time periods applicable to the class(es) in which he or she is a member. **The gross amount you can expect to receive if you participate in the settlement is set forth on the enclosed Claim Form, although this number may change, subject to the number of claims submitted.** Any payment that you receive as a result of your membership in the Non-Exempt Settlement Class shall be characterized as 50% wages and 50% penalties and interest. Any payment that you receive as a result of your membership in the Wage Statement Settlement Class shall be characterized as 100% penalties. Any payment shall be subject to appropriate withholding for the employee portion of applicable payroll taxes relating to the wage portion of the settlement payment.

You will not be entitled to any additional compensation or benefits as a result of having received a payment under this settlement. For example, receipt of payment will not entitle you to additional compensation or benefits under any company bonus, contest or other compensation or benefit plan or agreement in place during the period of time covered by the settlement. Nor will receipt of a payment entitle you to any increased retirement, 401(k) benefits or matching benefits, or other compensation benefits.

NOTE: Defendants’ records and information regarding the number of pay periods that you were employed will control unless you are able to provide records and information that establishes that Defendants’ records and information are in error. If there is a dispute about whether Defendants’ records and information or your records and information are accurate, the Settlement Administrator will resolve the dispute, and its decision will be final subject to the terms and conditions of the settlement contained in the Joint Stipulation of Class Action Settlement and Release.

8. When would I get my settlement payment?

The Court will hold a hearing on [DATE AND TIME] to decide whether to approve the settlement. After the hearing, there may be appeals, and resolving appeals, if any, can take time,

perhaps more than a year. Please be patient.

9. What am I giving up to get a settlement payment or stay in the Settlement Class?

Unless you properly exclude yourself, you will remain a member of the Settlement Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against the Released Parties about the legal issues in this case. It also means that all of the Court's orders, and the release, will apply to you.

Upon the final non-appealable approval of the settlement by the Court, members of the Settlement Class who have not properly excluded themselves fully release and discharge Defendants and each of their past and present direct and indirect parents, subsidiaries and affiliates; the predecessors, successors and assigns of each of the foregoing persons and entities; and the past and present owners, agents, directors, officers, employees, shareholders, members, representatives, attorneys, insurers, reinsurers, guarantors, successors and assigns of all of the foregoing persons and entities ("Released Parties") from the following claims:

Each member of the Non-Exempt Settlement Class, on behalf of himself or herself and his or her heirs, representatives and assigns absolutely, unconditionally and irrevocably releases and forever discharges the Released Parties from any and all manner of actions, causes of action, claims, compensation, controversies, costs, damages, debts, demands, expenses, liens, liabilities, losses, rights or suits, including claims or suits for contribution and/or indemnity, of every kind, nature or description whatsoever, whether foreseen or unforeseen, known or unknown, fixed or contingent, direct or indirect, liquidated or unliquidated, at law or in equity (collectively, "Claims") that were asserted in the Actions, or that could have been asserted in the Actions based on any of the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act alleged in any of the Actions (collectively, the "Non-Exempt Released Claims"). The Non-Exempt Released Claims specifically include, without limitation: (a) claims for failure to provide access to employee payroll and personnel records pursuant to California Labor Code §§ 226, 432 and 1198.5; (b) claims for failure to pay overtime wages pursuant to California Labor Code §§ 510, 1194, 1198 and the applicable IWC Wage Orders; (c) claims for failure to provide breaks as required by California Labor Code §§ 226.7, 512, 1198 and the applicable IWC Wage Order; (d) claims for failure to make payments within the required time in violation of California Labor Code §§ 201, 202, 204, 1198, and 203; (e) claims for failure to provide accurate wage statements pursuant to California Labor Code § 226; (f) claims for failure to maintain required records in violation of California Labor Code §§ 1174, 1184.5, 1198 and the applicable IWC Wage Order; and (g) incorporated or related claims asserted through either California Business and Professions Code § 17200 or PAGA.

Each member of the Wage Statement Settlement Class, on behalf of himself or herself and his or her heirs, representatives and assigns, absolutely, unconditionally and irrevocably releases and forever discharges the Released Parties from any and all manner of Claims that pertain in any way to alleged deficiencies in the wage statements that the Wage Statement Settlement Class Members received from Defendants during (or otherwise pertaining to) the period of time beginning on October 17, 2013 through and including December 25, 2014, regardless of whether such Claims arise under federal, state and/or local law, statute, ordinance, regulation, common

law, or any other source of law (collectively, the “Wage Statement Released Claims”). The Wage Statement Released Claims specifically include, without limitation: (a) claims for failure to provide accurate wage statements pursuant to California Labor Code § 226; and (b) incorporated or related claims asserted through either California Business and Professions Code § 17200 or PAGA.

If you fail to timely complete in all respects, sign and mail your Exclusion Form to exclude yourself from the settlement and the settlement receives final approval from the Court, you will be bound by this release.

10. What are my legal rights and options?

PLEASE NOTE THAT THE PARTICIPATION REQUIREMENTS ARE DIFFERENT DEPENDING ON WHETHER YOU WERE A CURRENT EMPLOYEE OF DEFENDANTS OR A FORMER EMPLOYEE OF DEFENDANTS AS OF [INSERT PRELIMINARY APPROVAL DATE].

If you were a **CURRENT employee of Defendants** as of [DATE OF PRELIMINARY APPROVAL], your legal rights and options are as follows:

- **1 – EXCLUDE YOURSELF FROM THE LAWSUIT AND SETTLEMENT**

You have a legal right and option to exclude yourself (“opt out”) from the Settlement Class, but if you choose to do so, you will not receive any payments from the proposed settlement. You will not be bound by a judgment in this case and you will have the legal right and option to file your own lawsuit against Defendants and pursue your own claims in a separate lawsuit. You can opt out of the Settlement Class by timely completing in all respects, signing and mailing (by U.S. mail) the Exclusion Form to the Settlement Administrator, [NAME], at [ADDRESS], such that it is postmarked no later than _____ [60 days after mailing].

- **2 – OBJECT TO THE SETTLEMENT**

If you wish to remain a member of the Settlement Class, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the final settlement hearing, you may object to the proposed settlement in writing. You may also appear at the final approval hearing, either in person or through an attorney at your own expense, provided you provide advance notice of your intent 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, and (b) be submitted to the Settlement Administrator by mailing to [ADDRESS]. Objections and/or notices of intent to appear at the final approval hearing must be mailed or hand-delivered to the Settlement Administrator no later than _____ [60 days after mailing].

- **3 – DO NOTHING**

IF YOU WISH TO REMAIN A SETTLEMENT CLASS MEMBER AND OBTAIN ANY

SHARE OF THE SETTLEMENT THAT YOU MAY BE ENTITLED TO RECEIVE, YOU DO NOT NEED TO DO ANYTHING. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you do nothing and the Court grants final non-appealable approval of the proposed settlement, you will be mailed your share of the settlement proceeds.

If you are a **FORMER employee of Defendants** as of [DATE OF PRELIMINARY APPROVAL], your legal rights and options are as follows:

- **1 – MAIL THE ENCLOSED CLAIM FORM**

IF YOU WISH TO REMAIN A SETTLEMENT CLASS MEMBER AND OBTAIN ANY SHARE OF THE SETTLEMENT THAT YOU MAY BE ENTITLED TO RECEIVE, THEN YOU MUST COMPLETE IN ALL RESPECTS, SIGN AND MAIL A CLAIM FORM. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you timely complete in all respects, sign and mail a Claim Form and the Court grants final non-appealable approval of the proposed settlement, then you will be mailed your share of the settlement proceeds. Your Claim Form must be postmarked on or before _____ [60 days after mailing]. It must be sent via U.S. mail to the Settlement Administrator at [ADDRESS]. If you lose, misplace, or need another Claim Form, you may contact the Settlement Administrator to obtain a new Claim Form.

- **2 – EXCLUDE YOURSELF FROM THE LAWSUIT AND SETTLEMENT**

You have a legal right and option to opt out from the Settlement Class, but if you choose to do so, you will not receive any payments from the proposed settlement. You will not be bound by a judgment in this case and you will have the legal right to file your own lawsuit against Defendants and pursue your own claims in a separate lawsuit. You can opt out of the Settlement Class by timely completing in all respects, signing and mailing (by U.S. mail) the Exclusion Form to the Settlement Administrator, [NAME], at [ADDRESS], such that it is postmarked no later than _____ [60 days after mailing].

DO NOT TIMELY COMPLETE IN ALL RESPECTS, SIGN AND MAIL BOTH THE CLAIM FORM AND THE EXCLUSION FORM. IF YOU TIMELY COMPLETE IN ALL RESPECTS, SIGN AND MAIL BOTH THE CLAIM FORM AND THE EXCLUSION FORM, THEN THE EXCLUSION FORM WILL BE INVALID, YOU WILL BE INCLUDED IN THE SETTLEMENT CLASS, AND YOU WILL BE BOUND BY THE TERMS AND CONDITIONS OF THE SETTLEMENT.

- **3 – OBJECT TO THE SETTLEMENT**

If you wish to remain a member of the Settlement Class, but you object to the proposed settlement (or any of its terms and conditions) and wish the Court to consider your objection at the final settlement hearing, you may object to the proposed settlement in writing. You may also appear at the final approval hearing, either in person or through an attorney at your own expense, provided you provide advance notice of your intent 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, and (b) be submitted to the Settlement Administrator by mailing to [ADDRESS]. Objections and/or notices of intent to appear at the final approval hearing must be mailed or hand-delivered to the Settlement Administrator no later than _____ [60 days after mailing].

IF YOU INTEND TO OBJECT TO THE SETTLEMENT, BUT WISH TO RECEIVE A SETTLEMENT PAYMENT, YOU MUST TIMELY COMPLETE IN ALL RESPECTS, SIGN AND MAIL YOUR CLAIM FORM AS STATED ABOVE. IF THE COURT GRANTS FINAL NON-APPEALABLE APPROVAL OF THE SETTLEMENT DESPITE ANY OBJECTIONS, AND YOU HAVE NOT TIMELY COMPLETED IN ALL RESPECTS, SIGNED AND MAILED A CLAIM FORM, THEN YOU WILL NOT RECEIVE A SETTLEMENT PAYMENT.

- **4 – DO NOTHING**

If you do not timely complete in all respects, sign and mail a Claim Form, object to the settlement, or timely complete in all respects, sign and mail an Exclusion Form to exclude yourself from the settlement, then by default you will remain a member of the Settlement Class and will be bound by the Court's judgment in this case; however, you will not receive any money from this settlement because you did not timely complete in all respects, sign and/or mail a Claim Form.

11. Do I have a lawyer in this case?

Thomas Rutledge, Esq. is Class Counsel and will represent you and other members of the Settlement Class. You will not be charged for services rendered by Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

Class Counsel's contact information is as follows: Thomas D. Rutledge, 500 West Harbor Drive, Suite 1113, San Diego, California 92101, Tel: 619.886.7224, Fax: 619.259.5455.

12. How will these lawyers be paid?

Class Counsel will ask the Court to approve payment of attorneys' fees, costs and expenses of up to \$1,666,500, which will be deducted from the settlement fund. The fees would pay Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. Defendants have agreed not to oppose these fees, costs and expenses in the total aggregate amount of \$1,666,500 or less. The costs to administer the settlement will also be deducted from the Settlement fund.

13. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that

you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

14. When and where will the Court decide whether to approve the settlement?

The Court will hold a hearing to decide whether to approve the settlement. The final approval hearing will be held on [DATE] at [LOCATION]. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are objections or requests to be heard, the Court may consider them at the hearing. The Court may also decide the amount of attorneys' fees and costs to be paid to Class Counsel.

15. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to the final approval hearing to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

16. May I speak at the hearing?

You may ask the Court for permission to speak at the final approval hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear at the *Tajonar, et al v. Echosphere L.L.C., et al.*, final approval hearing." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear letter must be postmarked no later than [60 days after mailing], and be sent to the Settlement Administrator at [ADDRESS]. You cannot speak at the hearing if you excluded yourself. Members of the Settlement Class who fail to properly or timely send such Notice of Intention to Appear as provided above shall not be heard during the final approval hearing.

17. How do I get more information?

The foregoing is only a summary of the circumstances surrounding the litigation, the claims asserted, the class, the settlement, and related matters. You may seek the advice and guidance of your own private attorney, at your own expense, if you desire. For more detailed information, you may review the pleadings, records, and other papers on file in this litigation, which may be inspected during regular business hours at the office of Thomas Rutledge, 500 West Harbor Drive, Suite 1113, San Diego, California 92101. If you have any questions or desire any additional information, you can call Class Counsel, whose phone number is 619-886-7224 or contact the Settlement Administrator at [PHONE].

BY ORDER OF THE SUPERIOR COURT OF
THE STATE OF CALIFORNIA

Exhibit 2

Jose Tajonar v. Echosphere L.L.C., et al.
SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO
Case No. 37-2014-00041384-CU-OE-CTL

EXCLUSION FORM

IF YOU ARE A MEMBER OF THE CLASS AND WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT, DO NOT FILL OUT THIS FORM.

IF YOU DO NOT WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT, TIMELY COMPLETE IN ALL RESPECTS, SIGN AND MAIL THIS EXCLUSION FORM BY FIRST CLASS U.S. MAIL, POSTAGE PAID, POSTMARKED ON OR BEFORE [REDACTED], ADDRESSED AS FOLLOWS:

Tajonar v. Echosphere L.L.C. Settlement Administrator
c/o [Name]
[Address]
[Address]

I confirm that I have received notice of the proposed settlement in *Tajonar v. Echosphere, L.L.C., et al.* and I have decided to opt out of the settlement class and not participate in the proposed settlement. ***I understand that by submitting this Exclusion Form, I will not receive any settlement payment, and I cannot object to the settlement.*** I understand that I may bring a separate legal action seeking damages (at my own expense), but might receive nothing or less than what I would have received if I had participated in the proposed settlement of this case.

(Signature)

(Date)

(Typed or Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Last 4 Digits of your Social Security Number)

Exhibit 3

CLAIM FORM AND RELEASE

TAJONAR v. ECHOSPHERE L.L.C., ET AL.

San Diego County Superior Court Case No. 37-2014-00041384-CU-OE-CTL (the “Second State Court Action”)

IF YOU WERE A **FORMER EMPLOYEE** OF DISH NETWORK L.L.C., ECHOSPHERE L.L.C., DISH NETWORK SERVICE L.L.C., DISH NETWORK CORPORATION, AND/OR DISH NETWORK CALIFORNIA SERVICE CORPORATION (“DEFENDANTS”) AS OF [DATE OF PRELIMINARY APPROVAL], IN ORDER TO PARTICIPATE IN THE SETTLEMENT OF THE ABOVE-REFERENCED CASE, YOU MUST TIMELY COMPLETE IN ALL RESPECTS, SIGN AND MAIL THIS CLAIM FORM AND RELEASE BY FIRST CLASS U.S. MAIL, POSTAGE PAID, POSTMARKED ON OR BEFORE _____, [60 days after mailing], ADDRESSED AS FOLLOWS:

TAJONAR v. ECHOSPHERE L.L.C., *et al.*
C/O [SETTLEMENT ADMINISTRATOR]

FURTHER IF YOU DISAGREE WITH THE EMPLOYMENT INFORMATION SET FORTH IN SECTION C BELOW, YOU MAY DISPUTE THAT INFORMATION BY COMPLETING SECTION C BELOW AND PROVIDING ANY RECORDS AND INFORMATION SUPPORTING YOUR POSITION.

IF YOU WERE A **CURRENT EMPLOYEE** OF DEFENDANTS AS OF [DATE OF PRELIMINARY APPROVAL], YOU DO NOT NEED TO COMPLETE IN ALL RESPECTS, SIGN OR MAIL THIS CLAIM FORM AND RELEASE IN ORDER TO PARTICIPATE IN THE SETTLEMENT. IF YOU DISAGREE WITH THE EMPLOYMENT INFORMATION SET FORTH IN SECTION C BELOW, YOU MAY DISPUTE THAT INFORMATION BY TIMELY COMPLETING IN ALL RESPECTS (INCLUDING, WITHOUT LIMITATION, SECTION C BELOW), SIGNING AND MAILING THIS CLAIM FORM AND RELEASE, ALONG WITH ANY RECORDS AND INFORMATION SUPPORTING YOUR POSITION, BY FIRST CLASS U.S. MAIL, POSTAGE PAID, POSTMARKED ON OR BEFORE _____, [60 days after mailing], ADDRESSED AS INDICATED ABOVE.

A. Instructions.

1. If you were employed by Defendants in the State of California as a Field Service Specialist I, II, III and/or IV and/or a DISH Tech 1, 2, 3 and/or 4 at any time between September 23, 2010 and November 29, 2016, **and/or** you were employed by Defendants in the State of California between October 17, 2013 and December 25, 2014, **and**, in either case, you were also a former employee of Defendants as of [DATE OF PRELIMINARY APPROVAL], then you must timely complete in all respects, sign and mail this Claim Form and Release in order to be eligible to participate in the settlement.

2. If you were employed by Defendants in the State of California as a Field Service Specialist I, II, III and/or IV and/or a DISH Tech 1, 2, 3 and/or 4 at any time between September 23, 2010 and November 29, 2016, *and/or* you were employed by Defendants in the State of California between October 17, 2013 and December 25, 2014, *and*, in either case, you were also a current employee of Defendants as of [DATE OF PRELIMINARY APPROVAL], then you should review the Employment Information set forth in Section C below. If the Employment Information set forth in Section C below is accurate, you do not need to return this Claim Form and Release. If you want to dispute the accuracy of the Employment Information set forth in Section C below, you should timely complete in all respects, sign and mail this Claim Form and Release along with any documentation.
3. If you move, please send the Settlement Administrator your new address. It is your responsibility to keep a current address on file with the Settlement Administrator.

B. Claimant Information.

Name (First, Middle, Last): _____

Former Names (if any): _____

Residence Street Address: _____

City, State and Zip Code: _____

C. Employment Information.

According to Defendants' records, you were employed in the State of California as a Field Service Specialist I, II, III and/or IV and/or a DISH Tech 1, 2, 3 and/or 4 ("Covered Position") for a total of [] pay periods between September 23, 2010 and November 29, 2016 ("Non-Exempt Class Period").

According to Defendants' records, you were employed in the State of California for a total of [] pay periods between October 17, 2013 and December 25, 2014 ("Wage Statement Class Period").

Based on the total number of pay periods you were employed in a Covered Position during the Non-Exempt Class Period and the total number of pay periods you were employed in the State of California during the Wage Statement Class Period, your share of the Maximum Net Settlement Proceeds is estimated to be approximately \$_____. This number is subject to change, based on the number of individuals within the Settlement Class who participate in the settlement. In any event, your settlement payment will be subject to appropriate withholding for the employee portion of applicable payroll taxes relating to the wage portion of the settlement payment.

If you disagree with the total pay periods shown above, state the number of pay periods you claim to have been employed in a Covered Position during the Non-Exempt Class Period: _____, and state the number of pay periods you claim to have been employed in the State of California during the Wage Statement Class Period: _____.

NOTE: Defendants' records and information regarding the number of pay periods that you were employed will control unless you are able to provide records and information that establishes that Defendants' records and information are in error. If there is a dispute about whether Defendants' records and information or your records and information are accurate, the Settlement Administrator will resolve the dispute, and its decision will be final subject to the terms and conditions of the settlement contained in the Joint Stipulation of Class Action Settlement and Release.

D. Release of Claims.

The claims Plaintiff is presently pursuing in the Second State Court Action are in addition to the claims he previously pursued against Defendants in the San Diego County Superior Court (Case No. 37-2014-00027744-CU-OE-CTL) (the "First State Court Action"), the United States District Court for the Southern District of California (Case No. 3:14-cv-02732-LAB-RBB) (the "Federal Action") and before the American Arbitration Association (AAA Case No: 01-16-0002-8326) (the "Arbitration Action"). "Actions" means, collectively, the First State Court Action, the Second State Court action, the Federal Action and the Arbitration Action.

Upon the final non-appealable approval of the settlement by the Court, each member of the Non-Exempt Settlement Class (those employed in a Covered Position during the Non-Exempt Class Period), on behalf of himself or herself and his or her heirs, representatives and assigns absolutely, unconditionally and irrevocably releases and forever discharges the Released Parties (defined below) from any and all manner of actions, causes of action, claims, compensation, controversies, costs, damages, debts, demands, expenses, liens, liabilities, losses, rights or suits, including claims or suits for contribution and/or indemnity, of every kind, nature or description whatsoever, whether foreseen or unforeseen, known or unknown, fixed or contingent, direct or indirect, liquidated or unliquidated, at law or in equity (collectively, "Claims") that were asserted in the Actions, or that could have been asserted in the Actions based on any of the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act alleged in any of the Actions (collectively, the "Non-Exempt Released Claims"). The Non-Exempt Released Claims specifically include, without limitation: (a) claims for failure to provide access to employee payroll and personnel records pursuant to California Labor Code §§ 226, 432 and 1198.5; (b) claims for failure to pay overtime wages pursuant to California Labor Code §§ 510, 1194, 1198 and the applicable IWC Wage Orders; (c) claims for failure to provide breaks as required by California Labor Code §§ 226.7, 512, 1198 and the applicable IWC Wage Order; (d) claims for failure to make payments within the required time in violation of California Labor Code §§ 201, 202, 204, 1198, and 203; (e) claims for failure to provide accurate wage statements pursuant to California Labor Code § 226; (f) claims for failure to maintain required records in violation of California Labor Code §§ 1174, 1184.5, 1198 and the applicable IWC Wage Order; and (g) incorporated or related claims asserted through either California Business and Professions Code § 17200 or California Labor Code § 2699, *et seq.* ("PAGA"). "Released Parties" means Defendants and Defendants' past and present direct and indirect parents, subsidiaries and affiliates; the predecessors, successors and assigns of each of the foregoing persons and entities; and the past and present owners, agents, directors, officers, employees, shareholders, members, representatives, attorneys, insurers, reinsurers, guarantors, successors and assigns of all of the foregoing persons and entities.

Upon final non-appealable approval of the settlement by the Court, each individual who is a member of the Wage Statement Settlement Class, on behalf of himself or herself and his or her heirs,

representatives and assigns, absolutely, unconditionally and irrevocably releases and forever discharges the Released Parties from any and all manner of Claims that pertain in any way to alleged deficiencies in the wage statements the Wage Statement Settlement Class Members received from Defendants during (or otherwise pertaining to) the period of time beginning on October 17, 2013 through and including December 25, 2014, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or any other source of law (collectively, the “Wage Statement Released Claims”). The Wage Statement Released Claims specifically include, without limitation: (a) claims for failure to provide accurate wage statements pursuant to California Labor Code § 226; and (b) incorporated or related claims asserted through either California Business and Professions Code § 17200 or PAGA.

E. Submission to the Jurisdiction of the Court.

I am submitting this Claim Form and Release under the terms and conditions of the settlement described in the Notice of Certified Class Action Settlement that I received. I submit to the jurisdiction of the San Diego County Superior Court with respect to my claim as a class member for purposes of enforcing the release of claims set forth in the Joint Stipulation of Class Action Settlement and Release and this Claim Form and Release. The full and precise terms and conditions of the settlement are contained in the Joint Stipulation of Class Action Settlement and Release filed with the Court, which was available for my review. I acknowledge that I am bound by and subject to the terms and conditions of any order of dismissal or judgment that may be entered in this class action.

Dated: _____

Class Member’s Signature

Print Class Member’s Name

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, THOMAS D. RUTLEDGE, the undersigned, am employed in the County of San Diego, State of California; I am over the age of 18 and not a party to the within action; my business address is 500 West Harbor Drive, Suite 1113, San Diego, California 92101.

On June 15, 2017, I served the foregoing document(s) described as:

**DECLARATION OF THOMAS D. RUTLEDGE ISO PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS SETTLEMENT**

on the interested parties to this action by placing a copy thereof enclosed in a sealed envelope addressed as follows: **See Attached List.**

☒ **(BY MAIL)** I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence was deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in San Diego, California. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

☒ **(BY E-MAIL via E-file)** I am readily familiar with the business practice for collection and processing of correspondence for emailing with the Court authorized third-party vendor. This correspondence was sent via email via this third-party vendor pursuant to the vendor's policies and practices.

☐ **(BY OVERNIGHT DELIVERY SERVICE)** I served the foregoing document by Federal Express, an express service carrier which provides overnight delivery, as follows. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, with fees for overnight delivery paid or provided for.

☐ **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the above named addressee(s).

☐ **(BY FACSIMILE)** I caused such documents to be delivered via facsimile to the offices of the addressee(s) at the following facsimile number:

Executed June 15, 2017, at San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

/s/ Thomas D. Rutledge

/s/THOMAS D. RUTLEDGE

SERVICE LIST

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