

1 JULIAN HAMMOND (SBN 268489)
jhammond@hammondlawpc.com
2 POLINA BRANDLER (SBN 269086)
pbrandler@hammondlawpc.com
3 ARI CHERNIAK (SBN 290071)
acherniak@hammondlaw.com
4 HAMMONDLAW, P.C.
1201 Pacific Ave Suite 600
5 Tacoma WA 98402
(310) 601-6766
6 (310) 295-2385 (Fax)
Attorneys for Plaintiffs and the Putative Classes

7
8
9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**
11

12 JOEL PASNO, JOHN KUNTZ, and
RODELLA HURTADO, individually and on
13 behalf of all others similarly situated,

14 Plaintiffs,

15 vs.

16 HIBU INC., a Delaware Corporation,

17 Defendant.
18
19
20
21
22
23
24

CASE NO. 22STCV01361

**AMENDED CLASS AND PAGA ACTION
SETTLEMENT AGREEMENT**

1 This Amended Class and PAGA Action Settlement Agreement (“Settlement Agreement”) is made
2 and entered into between Joel Pasno, John Kuntz, and Rodella Hurtado (collectively, “Plaintiffs” or “Class
3 Representatives”) on the one hand, individually and on behalf of the Settlement Class Members (as
4 defined below), and Hibu Inc. (“Defendant”) on the other hand, as provided below.

5 **1. Definitions.**

6 As used herein, for the purposes of this Settlement Agreement only, the following terms will be
7 defined as set forth below:

8 **1.1** “Action” refers to the civil action entitled: *Pasno, et al. v. Hibu Inc.*, Case No.
9 22STCV01361, in the Superior Court of California, County of Los Angeles.

10 **1.2** “Aggrieved Employees” are Class Members who worked for Defendant at any time during
11 the PAGA Period.

12 **1.3** “Class Counsel” refers to the attorneys of record for the Class Representatives, *i.e.*,
13 HammondLaw, P.C.

14 **1.4** “Class Period” means January 12, 2018 through December 13, 2022.

15 **1.5** “Class Members” refer to all persons who were employed by Defendant in California as
16 Account Representatives, Account Executives, Digital Account Executives, or other non-management
17 sales representatives at any time during the Class Period, other than persons so employed who previously
18 executed general releases of claims in favor of Defendant.

19 **1.6** “Class Notice” refers to the form of direct-mail notice substantially in the form attached as
20 “**Exhibit A**”.

21 **1.7** “Complaint” refers to the operative Complaint in this Action.

22 **1.8** “Final Approval Hearing” refers to the hearing at which the Court will make a final
23 determination whether the terms of the Settlement are fair, reasonable, and adequate for the Class and
24 meet all applicable requirements for approval.

25 **1.9** “Final Approval Order” refers to the final order by the Court approving the Settlement
26 following the Final Approval Hearing and entering final judgment.

1 **1.10** “Effective Date” refers to the later of (a) the Court’s Final Approval Order of the Settlement
2 Agreement, if no objections have been filed, (b) the date of expiration of the time for appeal if an objection
3 has been filed, or (c) the date of the final resolution of any appeal that has been filed.

4 **1.11** “Gross Settlement Amount” (also referred to herein as “GSA”) refers to the maximum
5 settlement payment of One Hundred Forty Thousand Dollars (\$140,000) Defendant will be obligated to
6 make.

7 **1.12** “Net Settlement Amount” (also referred to herein as “NSA”) is the GSA minus Court-
8 approved attorney’s fees and litigation costs, Settlement Administration Costs, Enhancement/Service
9 Awards (a portion of which constitutes consideration to Plaintiffs for their general releases), and the
10 LWDA’s share of the amount of the GSA allocated to PAGA Penalties (as hereinafter defined). The NSA
11 is the maximum amount that will be available for pro rata distribution to Settlement Class Members.

12 **1.13** “Parties” are Plaintiffs and Defendant.

13 **1.14** “PAGA Period” means the period from October 26, 2020 to December 13, 2022.

14 **1.15** “Released Parties” include Defendant and its present and former parents, subsidiaries,
15 affiliates, and joint ventures, and its and their shareholders, owners, officers, directors, non-Class Member
16 employees, agents, servants, registered representatives, attorneys, insurers, successors, contractors,
17 vendors, agencies, staffing agencies, and assigns, and any other persons acting by, through, under, or in
18 concert with any of them.

19 **1.16** “Request for Exclusion” refers to a written request to be excluded from the Settlement,
20 mailed to the Administrator and postmarked on or before the Response Deadline.

21 **1.17** “Response Deadline” is 45 days calendar days after the date that the Class Notice is initially
22 mailed to Class Members.

23 **1.18** “Enhancement/Service Awards” refers to monetary awards to the Plaintiffs, not to exceed a
24 total of Ten Thousand Dollars (\$10,000); \$500 of each service award to Plaintiffs shall be allocated and
25 paid to each Plaintiff as consideration supporting their respective Individual Settlement Agreement and
26 General Release of Claims (“Individual Release Agreements”) signed on September 16, 2022 (by Plaintiff
27 Joel Pasno) and September 19, 2022 (by John Kuntz and Rodella Hurtado).

1 **1.19** “Settlement Administrator” refers to Phoenix Class Action Administration Solutions, the
2 third-party administrator mutually selected by the parties.

3 **1.20** “Settlement Administration Costs” refers to the cost of Settlement Administration, including
4 the fees of the Settlement Administrator. The Settlement Administration Costs will be paid out of the GSA

5 **1.21** “Settlement Class Member” refers to a Class Member who does not request exclusion from
6 the Settlement.

7 **1.22** “Settlement Payment” refers to the amount paid to a Settlement Class Member.

8 **2. Procedural History.**

9 Plaintiffs filed this Action in Los Angeles County Superior Court on January 12, 2022, and a First
10 Amended Complaint (“FAC”) on April 12, 2022, alleging causes of action for Defendant’s (a) failure to
11 reimburse business expenses in violation of California Labor Code § 2802; (b) failure to pay overtime in
12 violation of Labor Code §§ 510, 1194; (c) failure to pay all compensation due at the time of discharge to
13 former employees in violation of Labor Code § 201-203; (d) failure to issue accurate itemized wage
14 statements in violation of California Labor Code § 226(a); (d) unfair, unlawful, or fraudulent business
15 practices in violation of Business & Professions Code §§ 17200 et seq. (“UCL”); and (e) PAGA civil
16 penalties under Labor Code § 2699.

17 On September 14, 2022, the Parties participated in a mediation session with Hon. Brian C. Walsh,
18 a former judge on the Santa Clara County Superior Court and an experienced mediator who has mediated
19 numerous wage-hour class actions. Prior to mediation, Defendant produced key data and documents as
20 part of informal discovery. At the mediation, the Parties reached the basic terms of a settlement. The
21 complete terms of the settlement (the “Settlement”) are memorialized in this Settlement Agreement.

22 **3. No Admission.**

23 This Settlement Agreement is entered into solely for the purpose of compromising highly disputed
24 claims. Defendant denies (1) all the material allegations in this Action, (2) that Defendant is liable for
25 damages, penalties, interest, restitution, attorneys’ fees, or costs, or for any other remedy sought in this
26 Action, and (3) that class certification or representative treatment is appropriate as to any claim in this
27 Action. Defendant contends that its policies, procedures, and practices comply with all laws relevant to
28

1 this Action. Nothing in this Settlement Agreement is intended or will be construed as an admission by
2 Defendant of liability or wrongdoing. This Settlement Agreement and Plaintiffs' and Defendant's
3 willingness to settle the Action will have no bearing on, and will not be admissible in connection with,
4 any litigation (other than solely in connection with the Settlement). Notwithstanding, in the interest of
5 avoiding further litigation, Plaintiffs and Defendant desire to fully and finally settle the Action and
6 Released Claims.

7 **4. Limitation on Effect of Settlement.**

8 The Parties agree that certification of a class is appropriate for settlement purposes only. In the
9 event that the Settlement is not finally approved, or the Settlement is otherwise terminated, the certification
10 of the class for settlement purposes only as provided in this Settlement Agreement shall be vacated and
11 shall be of no force or effect whatsoever and shall not be admissible nor construed as an admission or
12 concession of any kind by the Parties, in whole or part, and Defendant expressly reserves all rights to
13 challenge certification of a class on all available grounds.

14 **5. Establishment and Distribution of the GSA.**

15 Within 15 business days of the Effective Date, Defendant shall advance the Gross Settlement
16 Amount, and employer's share of payroll tax, to the Settlement Administrator. Within 30 business days
17 of the Effective Date, the Settlement Administrator will calculate and distribute the Settlement Payments
18 and other amounts to be paid under this Settlement Agreement. The Settlement is non-reversionary and
19 under no circumstances will any part of the GSA revert to Defendant.

20 **6. Attorneys' Fees and Costs.**

21 Class Counsel may request attorneys' fees up to 1/3 of the GSA for attorneys' fees; and
22 reimbursement of its actual, reasonably incurred litigation costs up to \$15,000.00. Defendant agrees to not
23 oppose Class Counsel's request for attorneys' fees and costs set forth in the preceding sentence. Any
24 unapproved amount of attorneys' fees and litigation costs will be added to the NSA and be distributed to
25 the Settlement Class Members. The Court's approval of Class Counsel's requested attorneys' fees and
26 costs is not a material term of this Settlement Agreement, and if the Court approves lower amounts than
27 the amounts requested by Class Counsel, this Settlement Agreement shall remain in effect.
28

1 **7. Enhancement/Service Awards.**

2 Class Counsel shall request Enhancement/Service Awards not to exceed Ten Thousand Dollars
3 (\$10,000) for Plaintiffs including up to Five Thousand Dollars (\$5,000) for Plaintiff Kuntz, and up to Two
4 Thousand Five Hundred Dollars (\$2,500) each to Plaintiff Hurtado and Plaintiff Pasno. Five Hundred
5 Dollars (\$500) of each Enhancement Award is consideration for Plaintiffs' respective Individual Release
6 Agreements and the release set forth in Section 21 of this Settlement Agreement. The Court's approval of
7 the allocation of \$500 of each Enhancement Award as consideration for such Release Agreements and
8 releases is not a material term of this Settlement Agreement, and if the Court approves a lower amount
9 than the \$500 per Plaintiff, this Settlement Agreement shall remain in effect. Plaintiffs' Individual Release
10 Agreements shall be enforceable even if the Court awards no Enhancement/Service Award whatsoever to
11 one or more of them or a lesser amount than requested by Plaintiffs, and Plaintiffs hereby waive all rights
12 to challenge the enforceability of their respective Individual Release Agreements. Any unapproved
13 amounts will be added to the NSA and be distributed to the Settlement Class Members.

14 **8. PAGA Penalties**

15 Subject to Court approval, \$5,000 of the GSA shall be attributed to Plaintiffs' claims under PAGA
16 (the "PAGA Penalties"). The Settlement Administrator shall apportion and distribute payment as follows:
17 (a) 75% of this amount shall be paid to the LWDA as its share of civil penalties for PAGA claims; and (b)
18 25% shall be paid to Aggrieved Employees pro rata based on the number weeks worked by them during
19 the PAGA Period. Aggrieved Employees will receive their share of the PAGA Penalties regardless of
20 whether not they exclude themselves from the Settlement. The allocation of \$5,000 towards PAGA
21 Penalties is not a material term of this Settlement Agreement, and if the Court approves a lesser amount
22 than the \$5,000, this Settlement Agreement shall remain in effect; provided, however, that if the Court
23 does not approve some PAGA Payment, then the entire Settlement Agreement will be, at Defendant's sole
24 discretion, void and unenforceable.

25 **9. Costs of Settlement Administration.**

26 Plaintiffs estimate that the Settlement Administration Costs will be approximately \$7,000. The
27 Settlement Administrative Costs are to be paid entirely from the GSA. The amount of Administrative
28

1 Costs is not a material term, and if the Court approves a lesser or greater amount, this Settlement
2 Agreement shall remain in effect.

3 **10. Distribution of the NSA and Tax Treatment**

4 **10.1** The NSA shall be paid pro rata to the Settlement Class Members based on the number of
5 workweeks that each Settlement Class Member worked during the Class Period.

6 **10.1.1** If a Class Member timely and validly submits a Request for Exclusion, as set forth
7 herein, their share, less their share of PAGA Penalties, will return to the NSA and will be distributed to
8 the remaining Settlement Class Members. Class Members who opt out of the Settlement will receive their
9 share of the PAGA Penalties, and will be bound by the release of PAGA claims, as described below.

10 **10.1.2** 10% of the NSA shall be allocated as wages and reported on IRS Form W-2. 90% of
11 the NSA will be allocated to non-wage payments, penalties and interest and reported on IRS Form 1099.

12 **10.1.3** 100% of the PAGA Penalties shall be allocated to civil penalties.

13 **10.1.4** The Settlement Administrator will account for the amount of the Net Settlement
14 Amount attributed to wages (10% of the NSA) and submit an invoice to Defendant for the required
15 employer share of withholding taxes, which Defendant shall convey to the Settlement Administrator in
16 addition to the Gross Settlement Amount.

17 **10.1.5** The Settlement Administrator will make required tax withholdings from each
18 individual settlement payment made to a Settlement Class Member for the portion allocated to Form W-
19 2 income and will remit the withholding to the appropriate taxing authorities.

20 **10.1.6** The Settlement Administrator shall issue Forms W-2, 1099 and any other necessary
21 forms to Class Members for their respective Individual Settlement Payments.

22 **10.1.7** Settlement Class Members and Aggrieved Employees shall be solely responsible for
23 paying all taxes due on their respective Individual Settlement Payments, other than the employer share of
24 withholding taxes referenced in this Section 10, and shall indemnify and hold harmless Defendant and the
25 Released Parties from any claim or liability for such taxes and penalties and interest thereon, arising as a
26 result of Individual Settlement Payments.

1 **10.1.8** This Settlement Agreement does not affect any right or obligation under any benefits
2 plan. No payment made under this Settlement Agreement shall be considered as compensation for hours
3 worked or hours paid for purposes of determining eligibility, vesting, participation, or contributions with
4 respect to any employee benefit plan. For purposes of this Agreement, the term “employee benefit plan”
5 means every “employee benefit plan,” as defined in the Employee Retirement and Income Security Act
6 of 1974, 29 U.S.C. section 1002(3). The term also includes any 401(k) plan, bonus, pension, stock option,
7 stock purchase, stock appreciation, welfare, profit sharing, retirement, disability, vacation, severance,
8 hospitalization, insurance, incentive, deferred compensation, or any other similar benefit plan, practice,
9 program, or policy, regardless of whether any such plan is considered an employee benefit plan.

10 **11. Notice Administration.**

11 **11.1.1** Within 10 calendar days of the order granting preliminary approval of the Settlement
12 (“Preliminary Approval Order”) Defendant shall provide the Settlement Administrator with the following
13 information (“Class Data List”):

- 14 (a) the names, employee identification numbers, last known addresses, last known telephone
15 numbers, and Social Security numbers of each Class Member;
16 (b) dates of employment for each Class Member; and
17 (c) the number of weeks worked by each Class Member during the Class Period.

18 **11.1.2** Upon its receipt of the Class Data List, the Settlement Administrator shall access the
19 National Change of Address (“NCOA”) Database, and update the addresses contained therein.

20 **11.1.3** Within 30 days of the Preliminary Approval Order, the Settlement Administrator
21 shall provide the Class Notice by bulk first class mail, forwarding requested, to the Class Members at the
22 addresses identified through the process described above.

23 **11.1.4** As to any Class Notices that are returned as undeliverable, or where the NCOA
24 Database indicates that the last known address of any Class Member is invalid or otherwise undeliverable,
25 the Settlement Administrator will perform a skip trace procedure and re-mail all returned, undelivered
26 mail as soon as practicable. Such Class Members whose Class Notice was undeliverable, and is re-mailed,
27

1 will have an additional 14 calendar days to respond to the re-mailed Class Notice. The Administrator will
2 inform the Class Member of the extended deadline with the re-mailed Class Notice.

3 **11.1.5** A Class Member shall be a Settlement Class Member and be bound by this Settlement
4 Agreement notwithstanding the fact that the Class Member may not have received the Class Notice, so
5 long as the Settlement Administrator shall have followed the procedures set forth in this Section 11.

6 **12. Request for Exclusion.**

7 **12.1** Any Class Member may elect to opt out of the Settlement by submitting a written Request
8 for Exclusion to the Settlement Administrator, postmarked, faxed or e-mailed no later than the Response
9 Deadline. The Request for Exclusion must be signed and dated by the Class Member and must contain the
10 following: full name, the last four digits of the Class Member's Social Security number, mailing address,
11 telephone number, and a clear statement that he or she seeks to be excluded from the Settlement. The
12 Administrator shall accept any Request for Exclusion as valid if it can reasonably ascertain the identity of
13 the person as a Class Member and the Class Member's desire to be excluded. A Class Member who fails
14 to comply with the opt out procedure set forth herein on or before the Response Deadline will not be
15 excluded and will instead be bound by all provisions of the Settlement Agreement and all orders issued
16 pursuant thereto.

17 **12.2** Any Class Member who elects to opt out of the Class in the manner and within the time limits
18 specified above (1) will not have any rights under the Settlement Agreement; (2) will not be entitled to
19 receive any compensation under the Settlement Agreement, other than his or her share of PAGA Penalties;
20 (3) will not have standing to object to the Settlement Agreement; and (4) will not be bound by the
21 Settlement Agreement, other than the release of claims for PAGA Penalties described below.

22 **13. Objections.**

23 Any Class Member who does not request exclusion from the Settlement may object to the
24 Settlement Agreement by mailing, e-mailing, or faxing the Settlement Administrator, not later than the
25 Response Deadline, a written statement objecting to the Settlement. The written objection must contain:
26 first and last name, the last four digits of the Class Member's Society Security number, current address,
27 telephone number, and approximate dates of employment with Defendant, and a clear statement of the
28

1 basis for their objection. The Settlement Administrator shall immediately send all objections to counsel
2 for Defendant and Class Counsel.

3 Counsel for the Parties may file any responses to any objections at the time the Motion for Final
4 Approval is filed. Class Members may, prior to the Final Approval Hearing, withdraw their objections or
5 opt out requests in a writing to the Settlement Administrator, which may then be filed with the Court.

6 Class Members may appear and object at the Final Approval Hearing whether or not they submit
7 a written objection. Any attorney representing a Class Member at the Final Approval Hearing must file a
8 Notice of Appearance with the Court and serve Class Counsel and Defense Counsel with such Notice no
9 later than ten (10) calendar days before the Final Approval Hearing.

10 Class Members who fail to submit objections in the manner specified in this Settlement Agreement
11 shall be deemed to have waived any objection. The Parties and their counsel shall not seek to solicit or
12 otherwise encourage any Class Member to submit a request for exclusion or objection, nor encourage any
13 Class Member to appeal from the final judgment.

14 **14. Resolution of Disputes.**

15 If any Class Member timely disputes the number of workweeks listed on their Class Notice, the
16 dispute will be submitted to the Settlement Administrator, who will examine the records and either verify
17 the calculation or provide a corrected calculation. Disputes must be in a writing that is submitted to the
18 Settlement Administrator, postmarked, faxed or e-mailed on or before the Response Deadline. The dispute
19 must contain any facts supporting the Class Member's dispute, along with any supporting materials
20 confirming that the workweeks attributed to him or her are incorrect. The Settlement Administrator's
21 determination of disputes will be final and non-appealable.

22 **15. Undeliverable and Uncashed Checks.**

23 The Settlement Administrator shall notify Class Counsel and Defense Counsel of any undeliverable
24 and uncashed checks. The Settlement Administrator must use reasonable search methods for any checks
25 returned and must re-mail checks to addresses ascertained thereby as soon as practicable after the return
26 of the check. The expiration date of checks will be stated on all checks distributed to the class. Settlement
27 Checks that are not cashed within one hundred and eighty (180) days from the date of issuance by the
28

1 Settlement Administrator will be voided and the funds will be donated and distributed to Bet Tzedek as
2 the *cy pres* in accordance with California Code of Civil Procedure § 384. Any tax forms issued by the
3 Settlement Administrator to Class Members who do not cash their settlement check in the required period
4 will be withdrawn and voided by the Settlement Administrator.

5 **16. No Tax Advice.**

6 The Parties are not giving any tax advice in connection with the settlement or any payments to be
7 made pursuant to this settlement including, but not limited to, within the meaning of United States
8 Treasury Circular 230 (31 CFR part 10, as amended). The Parties do not assume any liability for taxes,
9 fees, costs, or assessments resulting from any Class Members' failure to timely pay their share of taxes,
10 interest, fees, or penalties owed. Class Members assume full responsibility and liability for any taxes owed
11 on their payments other than the employer share of payroll taxes on the 10 percent of the NSA allocated
12 as wages.

13 **17. Non-Materiality of Attorneys' Fees, Costs and Enhancement Awards.**

14 Any denial or reduction in amount by the Court of the application for attorneys' fees and litigation
15 costs or Enhancement/Service Awards, and/or Settlement Administration Costs will in no way affect the
16 validity the remainder of this Settlement Agreement, or give rise to a right to abrogate this Settlement
17 Agreement.

18 **18. Released Claims.**

19 Effective on the date that Defendant fully funds the Gross Settlement Amount, all Settlement Class
20 Members shall be deemed to have fully released the Released Parties from any and all claims, debts,
21 liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, action
22 or causes of action, whether known or unknown, that were alleged or that reasonably could have been
23 alleged based on the facts alleged in the First Amended Complaint, including, but not limited to, any
24 claims for the failure to reimburse business expenses (Labor Code § 2802), the failure to pay wages and
25 overtime wages (Labor Code §§ 510 and 1194), the failure to timely and fully pay all wages due at
26 termination (Labor Code §§ 201- 203), the failure to provide accurate and timely pay statements (Labor
27 Code §§ 226(a) and (e)), and claims under the applicable Wage Order, as well as claims under Business
28

1 and Professions Code §§ 17200 et seq., based on alleged violations of these Labor Code provisions and
2 arising during the Class Period. Settlement Class Members do not release any other claims, including
3 claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
4 unemployment insurance, disability, social security, workers' compensation, or claims based on facts
5 occurring outside the Class Period (the "Released Claims").

6 **19. PAGA Released Claims.**

7 Effective on the date that Defendant fully funds the Gross Settlement Amount, all Aggrieved
8 Employees, whether or not they exclude themselves from the Settlement, shall be deemed to have fully
9 released the Released Parties for all claims for civil penalties under Labor Code § 2699 that were alleged
10 or that reasonably could have been alleged based on the facts alleged in the First Amended Complaint and
11 in Plaintiffs' January 26, 2022 PAGA Notice, including claims under Labor Code §§ 201, 202, 226(a),
12 510, 2802, and IWC Wage Order No. 4-2001, § 3 (the "PAGA Released Claims").

13 **20. Effect of the Released Claims and PAGA Released Claims on *Lori Cruz v. Hibu, Inc.***

14 As noted in Sections 18 and 19, the Released Claims and the PAGA Released Claims apply to, cover
15 and extinguish claims asserted in the First Amended Complaint under Labor Code §§ 201, 202, 203,
16 226(a) and (e), 510, 1194, and 2699, and claims under the applicable Wage Order, and the alleged failure
17 to pay wages and overtime wages and related claims, all relating to work performed during the first three
18 weeks of employment (initial sales training), as well as claims under Labor Code § 2802 and Business
19 and Professions Code §§ 17200 et seq. for the alleged failure to reimburse business expenses within the
20 Class Period. The Released Claims and PAGA Released Claims also apply to, cover and extinguish claims
21 asserted under the same Labor Code provisions in a separate lawsuit brought by Lori Cruz, on behalf of
22 herself and a putative class in *Lori Cruz v. Hibu Inc.*, United States District Court for the Eastern District
23 of California, Case No. 2:22-cv-00959, only for wages and overtime wages, the pay statements relating
24 to wages and overtime wages paid and/or allegedly not paid, and the associated claims for statutory
25 penalties (including, but not limited to, waiting time penalties for the alleged non-payment or late payment
26 of final wages and wage statement penalties), civil penalties, and unfair business practices, in each case
27 relating to work performed during the initial three weeks of employment (initial sales training) within the
28

1 Class Period and the PAGA Period. The PAGA Released Claims also apply to, cover and extinguish
2 PAGA civil penalties arising from work performed during the first three weeks of employment and from
3 Defendant's alleged failure during the PAGA Period to reimburse business expenses in violation of Labor
4 Code § 2802. The Released Claims and PAGA Released Claims do not otherwise release the claims in the
5 Cruz action. Each Settlement Class Member's check will include the following language on the back:

6 *Signing or negotiating this check (1) releases all claims made against the Defendant in Pasno, et al.*
7 *v. Hibu Inc., Los Angeles County Superior Court Case No. 22STCV01361; and (2) releases the*
8 *claims asserted in Lori Cruz v. Hibu, Inc., United States District Court for the Eastern District of*
9 *California, Case No. 2:22-cv-00959, relating to the first three weeks of your employment (initial*
10 *sales training) with Defendant and PAGA Penalties related to work performed during the first three*
11 *weeks of employment (initial sales training) and to Hibu's alleged failure to reimburse business*
12 *expenses.*

13 **21. Plaintiffs' General Release.**

14 Consistent with Plaintiff's respective Individual Release Agreements, effective on the date that
15 Defendant fully funds the Gross Settlement, Plaintiffs, on their own individual behalves, agree to generally
16 release the Released Parties from any and all causes of action, claims, rights, damages, punitive or
17 statutory damages, penalties, liabilities, expenses, and losses and issues of any kind or nature whatsoever,
18 that they may have had against the Released Parties, arising up to and including the date of execution of
19 this Agreement. Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or
20 to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits or
21 workers' compensation benefits. Plaintiffs acknowledge that they may have claims that are presently
22 unknown and that the release contained in this Section 21 is intended to and will fully, finally, and forever
23 discharge all claims against the Released Parties, whether now asserted or un-asserted, known or
24 unknown, suspected or unsuspected, which now exist, or heretofore existed or may hereafter exist, which
25 if known, might have affected her decision to enter into this release. The foregoing waiver includes,
26
27
28

1 without limitation, an express waiver, to the fullest extent permitted by law, by Plaintiffs of any and all
2 rights under California Civil Code section 1542, which provides:

3 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR
4 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR
5 AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER,
6 WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
7 DEBTOR OR RELEASED PARTY.

8 **21.1** This individual full release of all claims by Plaintiffs is enforceable even if the Court does
9 not award a Service/Enhancement Award, or if the Court awards a less amount than requested by
10 Plaintiffs. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly,
11 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity
12 any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.

13 **22. Application for Preliminary Approval Order.**

14 **22.1** After the Parties' execution of this Settlement Agreement, Plaintiffs shall file a motion for
15 preliminary approval of the Settlement, requesting a Preliminary Approval Order that contains provisions:

16 **22.1.1** preliminarily approving this Settlement Agreement;

17 **22.1.2** preliminarily approving and certifying the Class for settlement purposes only;

18 **22.1.3** approving the form of the Class Notice, and finding that the proposed method of
19 disseminating the Class Notice meet the requirements of due process and is the best notice practicable
20 under the circumstances;

21 **22.1.4** establishing the procedures and the deadline by which Class Members may assert
22 objections to the Settlement, seek exclusion from the Settlement, and/or dispute their share of the
23 Settlement; and

24 **22.1.5** setting a date for the Final Approval Hearing.

25 Plaintiffs shall obtain Defendant's advanced written approval of the Motion for Preliminary
26 Approval, the Class Notice and all other associated filings and submissions prior to filing with the Court.
27 Upon moving for preliminary approval, Plaintiffs will submit the proposed Settlement Agreement to the
28 California Labor and Workforce Development Agency ("LWDA"), pursuant to Labor Code section
2699(l)(2).

1 **23. Final Approval Order and Final Judgment.**

2 **23.1** If the Settlement is preliminarily approved by the Court, the Parties shall thereafter request
3 that the Court enter an order granting final approval of the Settlement and judgment based thereon (“Final
4 Approval Order and Judgment”), which includes provisions:

5 **23.1.1** confirming certification of the Class for settlement purposes only;

6 **23.1.2** finding that the dissemination of the Class Notice in the form and manner ordered by
7 the Court was accomplished as directed, met the requirements of due process; and

8 **23.1.3** finally approving this Settlement Agreement as fair, reasonable and adequate and
9 directing consummation of the Settlement in accordance with its terms and provisions;

10 **23.1.4** directing the Parties to implement the terms of the Settlement Agreement;

11 **23.1.5** releasing and discharging the Released Parties from any and all liability with respect
12 to the Released Claims and the PAGA Released Claims;

13 **23.1.6** awarding reasonable attorneys’ fees and litigation costs to Class Counsel;

14 **23.1.7** awarding Enhancement/Service Awards to Class Representatives;

15 **23.1.8** awarding Settlement Administration Costs to the Settlement Administrator as
16 determined by the Court;

17 **23.1.9** approving the allocation of PAGA Penalties to the LWDA;

18 **23.1.10** approving the consideration to Class Representatives for their general releases;

19 **23.1.11** entering final judgment on the Complaint in accordance with this Agreement, without
20 further fees or costs; and

21 **23.1.12** preserving continuing and exclusive jurisdiction over all matters related to the
22 administration and consummation of the terms of this Settlement and enforcement of the Judgment.

23 **24. Appeal Rights.**

24 Only a Class Member who timely and properly objected to the Settlement, and who has not
25 withdrawn his or her objection, may appeal a judgment that is in accord with this Settlement Agreement.
26 Each Class Representative and Class Counsel hereby waives any right to appeal from any judgment,
27 ruling, or order in this Action, including the Final Approval Order. This waiver includes all rights to any
28

1 post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a motion for
2 new trial, and any extraordinary writ, and the Judgment therefore will become non-appealable at the time
3 it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal or post-
4 judgment proceeding. If an appeal is taken from the Judgment, then the time to consummate this
5 Settlement Agreement (including making payments under the Agreement) will be suspended until the
6 appeal is finally resolved.

7 **25. Effect of Settlement Not Being Final.**

8 In the event that the Settlement is not finally approved by the Court, or is negated or nullified, then
9 this Settlement Agreement will become null and void and of no force and effect whatsoever; any class
10 action which was certified for settlement purposes only shall be vacated; Defendant shall have all rights
11 to challenge Plaintiffs' claims and the certification of any class and the manageability of any PAGA
12 action; and all negotiations, proceedings, and statements relating thereto will be without prejudice as to
13 the rights of any and all Parties hereto, none shall be admissible or construed as an admission or concession
14 of any kind by the Parties, in whole or part, and all Parties and their respective predecessors and successors
15 will be deemed to have reverted to their respective positions in the Action as of the date and time
16 immediately prior to the execution of this Settlement Agreement.

17 **26. Escalator Clause.**

18 If the total number of Class Members as of July 31, 2022 exceeded 133 by more than 5% (i.e., 140
19 or more Class Members), then the GSA shall increase by an amount equal to the GSA multiplied by a
20 fraction, the numerator of which is the number of Class Members as of July 31, 2022 in excess of 139,
21 and the denominator of which is 139. For example, if the number of Class Members as of July 31, 2022
22 is 142, the increase in the Gross Settlement Value will be \$3,021.58 ($\$140,000 \times 3/139$). It is understood
23 and agreed that there shall be no increase in the GSA as a result of the addition of Class Members who
24 were hired by Defendant from August 1, 2022 through the end of the Settlement Period.

25 **27. Tolerance of Opt Outs.**

26 Defendant will retain the right, in the exercise of its sole discretion, to nullify the Settlement within
27 15 business days after expiration of the Response Deadline if 13 or more of the Class Members request
28

1 exclusion from the Class. If Defendant exercises the right to nullify the Settlement, then Defendant shall
2 not be obligated to pay the GSA, but Defendant shall pay the Settlement Administration Costs incurred
3 up to the date the Settlement is nullified.

4 **28. Avoidance of Undue Publicity.**

5 Plaintiffs and Class Counsel agree not to disclose or publicize the Settlement contemplated herein,
6 including this Settlement Agreement, the fact of this Settlement Agreement, its terms or contents, and the
7 negotiations underlying the Settlement, in any manner or form, directly or indirectly, to any person or
8 entity, except potential class members and only as permitted by this Settlement Agreement to effectuate
9 the terms of the Settlement as set forth herein. This section shall not prohibit disclosure of the fact of the
10 Action, or the existence of, terms, or the amount of the Settlement in connection with the Parties' motion
11 to seek court approval of the class action settlement. For the avoidance of doubt, this section means
12 Plaintiffs and Class Counsel will not issue any press release or website postings, communicate with, or
13 respond to any media or publication entities, publish information in any manner or form, whether printed
14 or electronic, on any medium or otherwise communicate, whether by print, video, recording or any other
15 medium, with any person or entity concerning the Settlement, including the fact of the Settlement, its
16 terms or contents and the negotiations underlying the Settlement, except only as permitted by this
17 Settlement Agreement to effectuate the terms of the Settlement as set forth herein. However, for the
18 limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class
19 Counsel may disclose the names of the Parties in this action and the venue/case number of this action (but
20 not any other settlement details) for such purposes.

21 **29. Non-Disparagement**

22 Released Parties agree that all inquiries about Plaintiffs shall be referred to the Human Resources
23 Department of Defendant, who will confirm the Plaintiffs' dates of employment and position held. No
24
25
26
27
28

1 other information concerning Plaintiffs' work history will be provided by Human Resources without
2 authorization from Plaintiffs.

3 **30. Construction.**

4 This Settlement Agreement was entered into after substantial good faith, arm's-length negotiations
5 between the Parties. This Settlement Agreement has been entered into without any coercion and under no
6 duress. The Parties acknowledge and agree that all Parties had an equal hand in drafting this Settlement
7 Agreement so that it will not be deemed to have been prepared or drafted by one party or another.

8 **31. Due Authority of Attorneys.**

9 Each of the attorneys executing this Settlement Agreement on behalf of one or more Parties hereto
10 warrants and represents that he or she has been duly authorized and empowered to execute this Settlement
11 Agreement on behalf of each such respective Party and to bind them to the terms hereof. The parties also
12 warrant that this Settlement Agreement is entered into knowingly and willingly and there is no fraud,
13 duress, or undue influence.

14 **32. Entire Agreement.**

15 This Settlement Agreement (including Exhibits hereto) and the Individual Release Agreements
16 entered into by Plaintiffs set forth the entire agreement of the Parties with respect to its subject matter and
17 supersedes any and all other prior agreements and all negotiations leading up to the execution of this
18 Settlement Agreement and the Individual Release Agreements, whether oral or written, regarding the
19 subjects covered herein. The Parties acknowledge that no representations, inducements, warranties,
20 promises, or statements relating to the subjects covered herein, oral or otherwise, have been made by any
21 of the Parties that are not embodied or incorporated by reference herein. Except as otherwise set forth in
22 this Agreement, any notice, order, judgment, or other exhibit that requires approval of the Court must be
23 approved without material alteration that substantially changes or increases the cost of compliance with
24 this Settlement Agreement in order for this Settlement Agreement to become effective. Before invoking
25 this provision to challenge the effectiveness of this Settlement Agreement, the invoking party shall consult
26 with, and if necessary mediate in good faith with, the other party in an effort to resolve any such challenge.
27
28

1 **33. Waivers and Modifications to Be in Writing.**

2 No waiver, modification, or amendment of this Settlement Agreement shall be valid unless in a
3 writing signed by or on behalf of all Parties, and then shall be valid subject to any required Court approval.
4 Any failure to insist upon the strict performance of any provision shall not be deemed a waiver of future
5 performance of that provision or of any other provision of this Settlement Agreement.

6 **34. Successors.**

7 This Settlement Agreement will be binding upon and inure to the benefit of the Parties hereto and
8 their respective heirs, executors, administrators, successors and assigns, and upon any corporation,
9 partnership or other entity into or with which any Party hereto may merge, combine, or consolidate.

10 **35. Counterparts.**

11 This Settlement Agreement may be executed in counterparts, each of which will be deemed an
12 original, and all of which together will constitute one and the same instrument.

13 **36. Waivers.**

14 The waiver by any Party of any breach of this Settlement Agreement will not be deemed or
15 construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this
16 Settlement Agreement.

17 **37. Governing Law.**

18 This Settlement Agreement will be governed by and construed, enforced, and administered in
19 accordance with the internal laws of the State of California.

20 **38. Headings.**

21 The headings contained in this Settlement Agreement are for convenience and reference purposes
22 only, and will not be given weight in its construction.

23 **39. Notices.**

24 Any notices, requests, demands, or other communications required or permitted to be given
25 pursuant to this Settlement Agreement, other than the contemplated Class Notice to the Class Members,
26 must be in writing and mailed as follows:
27
28

1 To Class Counsel to the attention of Julian Hammond, Esq., HammondLaw, P.C., 1201 Pacific
2 Ave., Suite 600, Tacoma, WA, 98402; Telephone: (310) 601-6766.

3 To Defendant, to the attention of Geoffrey C. Westbrook, Esq., Seyfarth Shaw LLP, 400 Capitol
4 Mall, Suite 2350, Sacramento, California 95814-4428; Telephone: (916) 448-0159.

5 **39. Inadmissibility of Settlement Documents.**

6 The Parties agree that this Settlement Agreement, the Individual Releases, and all exhibits thereto
7 shall be inadmissible in any proceeding, except a proceeding to approve or enforce this Settlement
8 Agreement. This Settlement Agreement will operate as a complete defense to—and may be used as the
9 basis for an injunction against—any proceeding attempted in breach of this Settlement Agreement.

10 **40. Confidential Information.**

11 Class Counsel will destroy all confidential documents and information provided by Defendant
12 within 90 calendar days of the Effective Date. Class Counsel further agree that no information provided
13 by Defendant shall be used for any purpose other than prosecution of this Action.

14 **41. No Prior Assignments or Undisclosed Liens.**

15 Each Class Representative and the Class Counsel represent that they have not assigned, transferred,
16 conveyed, or otherwise disposed of any Released Claim or claim to attorneys' fees and costs award to be
17 paid under this Settlement Agreement. Each Class Representative and the Class Counsel further represent
18 and warrant that there are not any liens or claims against any amount that Defendant is to pay under this
19 Settlement Agreement. Each Class Representative and Class Counsel agree to defend, to indemnify, and
20 to hold Defendant harmless from any liability, losses, claims, damages, costs, or expenses, including
21 reasonable attorneys' fees, resulting from a breach of these representations or from any lien or assignment.

22 **42. Cooperation of the Parties.** The Parties will comply with the covenants of good
23 faith and fair dealing and otherwise cooperate to carry out the terms of this Settlement Agreement.
24 Plaintiffs will be responsible for preparing any proposed judgment, subject to prior comment by
25 Defendant.

26 **43.1 Affirmative Duty to Cooperate.** Each Party, upon the request of another, agrees to
27 perform such acts and to execute and to deliver such documents as are reasonably necessary to carry out
28

1 this Settlement Agreement. In the same spirit, the Parties agree to make all reasonable efforts to avoid
2 unnecessary Administrative Costs.

3 **43.2 Language of Settlement Documents.** All documents filed with the Court or sent to
4 Class Members in connection with this Settlement Agreement must be approved by all Parties before
5 being filed or sent.

6 **43.3 Refraining from New Proceedings.** The Parties agree to refrain from further
7 litigation with respect to the Action, except any proceeding needed to obtain Preliminary Approval, Final
8 Approval, or Judgment.

9 **43.4 Waiver of Right to Object by Class Representative.** Each Class Representative,
10 by signing this Agreement, agrees not to object to any term of this Agreement.

11 **44. Court Retains Jurisdiction.**

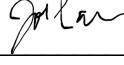
12 The Court shall retain jurisdiction over enforcement and implementation of this Settlement
13 Agreement.

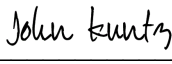
14 **45. Execution of This Settlement Agreement.**

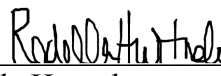
15 The signatories hereto represent that they are fully authorized to bind the Parties to all the terms
16 of this Settlement Agreement. The Parties agree that Class Members are so numerous that it is impossible
17 or impractical to have each Class Member execute this Settlement Agreement. This Settlement Agreement
18 may be executed on behalf of Class Members by a Class Representative. This Agreement may be executed
19 in counterparts, and all signed and delivered counterparts together may constitute one Settlement
20 Agreement binding upon the Parties. A Party may sign and deliver this Agreement via DocuSign or by
21 signing on the designated signature block and transmitting that signature page via facsimile or as an
22 attachment to an email to counsel for the other Party. Any such signature shall be deemed an original for
23 purposes of this Agreement and shall be binding upon the Party who transmits the signature page.
24
25
26
27
28

1 **IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on**
2 **behalf of the Parties, as follows:**
3

4 **Plaintiffs and Proposed Class Representatives**

5 Dated: 4/5/2023, 2023 By: 
6 Joel Pasno

7 Dated: 4/5/2023, 2023 By: 
8 John Kuntz

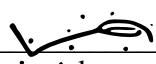
9 Dated: 4/5/2023, 2023 By: 
10 Rodella Hurtado

11 **Hibu Inc.**

12 Dated: _____, 2023 By: _____
13 Name: John J. Butler
14 Title: General Counsel
15 On behalf of Defendant

16 **APPROVED AS TO FORM:**

17 **Counsel for Plaintiffs and**
18 **Proposed Class Counsel**

19 Dated: April 5, 2023 By: 
20 Julian Hammond
21 Hammond Law, P.C.

22 **Counsel for Defendant**

23 Dated: _____, 2023 By: _____
24 Geoffrey C. Westbrook
25 Seyfarth Shaw LLP

1 **IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on**
2 **behalf of the Parties, as follows:**
3


4 **Plaintiffs and Proposed Class Representatives**

5 Dated: _____, 2023 By: _____
6 Joel Pasno

7 Dated: _____, 2023 By: _____
8 John Kuntz

9 Dated: _____, 2023 By: _____
10 Rodella Hurtado

11 **Hibu Inc.**

12 Dated: _____, 2023 By: 
13 Name: John J. Butler
14 Title: General Counsel
15 On behalf of Defendant

16 ***APPROVED AS TO FORM:***

17 **Counsel for Plaintiffs and
18 Proposed Class Counsel**

19 Dated: _____, 2023 By: _____
20 Julian Hammond
21 Hammond Law, P.C.

22 **Counsel for Defendant**


23 Dated: April 21, 2022 By: 
24 Geoffrey C. Westbrook
25 Seyfarth Shaw LLP
26
27
28

EXHIBIT A

Pasno, et al. v. Hibu Inc.
Los Angeles County Superior Court, Case No 22STCV01361

PLEASE READ THIS CLASS NOTICE CAREFULLY. YOUR LEGAL RIGHTS ARE AFFECTED BY IT.

*The California Superior Court, County of Los Angeles, authorized this Class Notice.
This is not a solicitation from a lawyer.*

If you worked for Hibu Inc. (“Hibu” or “Defendant”) between January 12, 2018 and December 13, 2022 (“Class Period”) in California as an Account Representative, Account Executive, Digital Account Executive, or in another non-management sales representative position, you are entitled to receive payment in this Class Action Settlement (this “Settlement”). All such employees are referred to herein as “Class Members.”

This Settlement resolves a class-action lawsuit (the “Lawsuit”) brought by Plaintiffs Joel Pasno, John Kuntz, and Rodella Hurtado (“Plaintiffs”) alleging that Defendant failed to adequately reimburse Class Members for necessarily incurred business expenses, failed to pay Class Members overtime pay for hours worked during the first three weeks of their employment (initial sales training), failed to pay such overtime wages owed upon discharge from employment, failed to furnish accurate wage statements during the first three weeks of their employment (initial sales training), and engaged in unfair business practices. In the Lawsuit, Plaintiffs seek recovery of unreimbursed expenses, unpaid overtime wages, statutory penalties, restitution, interest, and attorneys’ fees and costs. Plaintiffs also seek penalties under the Private Attorneys’ General Act (“PAGA”) for “Aggrieved Employees” who are those Class Members who worked for Hibu at any time during the “PAGA Period” which Plaintiffs define as the time period between October 26, 2020 and December 13, 2022.

The terms of the Settlement are set forth in Section 3 below. How your share of the Settlement is determined is set forth in Section 4 below. The Settlement is being administered by [INSERT NAME OF ADMINISTRATOR] (the “Administrator”).

Based on Hibu’s records, your Settlement Payment is estimated to be \$ _____ (less withholding) and your PAGA Payment is estimated to be \$ _____. (There is a “0” for your estimated PAGA Payment if you did not work during the PAGA Period.) The actual amount you receive may be different, depending on a number of factors, including if the amounts of attorneys’ fees and expenses, service payments to the Plaintiffs, administrative costs and PAGA penalties as set forth in Section 3 differ from those amounts approved by the Court in its final order of approval of the Settlement. The above estimates are based on Hibu’s records showing that you worked _____ workweeks during the Class Period and that you worked _____ workweeks during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already granted preliminary approval of the proposed Settlement and has approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to grant final approval of the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Hibu to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Hibu.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE CLASS SETTLEMENT (BUT NOT THE PAGA SETTLEMENT) BY RESPONSE DEADLINE	Exclude yourself from the Settlement, get no payment other than your share of the PAGA penalties, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit. See Section 7 of this Notice regarding the opt-out procedure.
OBJECT TO THE CLASS SETTLEMENT (BUT NOT THE PAGA SETTLEMENT) BY RESPONSE DEADLINE	If you do not opt out, you may object to the Settlement by mailing, e-mailing or faxing your objection to the Settlement Administrator. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Lawsuit on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 8 of this Notice regarding the procedure for objections.
APPEAR AT THE FINAL APPROVAL HEARING	You may appear and address the Court during the Final Approval hearing scheduled for DATE AND TIME in Department 17 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. You can verbally object to the Class Settlement at the Final Approval Hearing. If the Court approves the Class Settlement despite your objection, you will still be bound by the Class Settlement. See Section 9 of this Notice for more information regarding the Final Approval Hearing.
CHALLENGE THE CALCULATION OF YOUR WORKWEEKS. WRITTEN CHALLENGES MUST BE SUBMITTED BY _____	The amount of your Payment and PAGA Payment (if any) depend on how many workweeks you worked during the Class Period and PAGA Period, respectively, which are stated on page 1 of this Notice. If you disagree with either of these numbers, you may submit a challenge by _____. See Section 4 of this Notice.

INFORMATION ABOUT THE SETTLEMENT

1. What is this Lawsuit about?

Plaintiffs Joel Pasno, John Kuntz, and Rodella Hurtado (collectively, “Plaintiffs”) allege that between January 12, 2018 and December 13, 2022, Defendant violated California law by failing to adequately reimburse Class Members for reasonable and necessary business expenses, failing to pay overtime during the first three weeks of employment (training weeks), failing to pay such overtime wages due upon discharge from employment, and failing to issue accurate itemized wage statements. Based on the same claims, Plaintiffs also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Defendant strongly denies each of these allegations and contends that Plaintiffs’ claims have no merit whatsoever.

2. What does it mean that the Lawsuit has settled?

Defendant and Plaintiffs negotiated an end to the case by agreement (settled the case) rather than continuing the expensive and time-consuming process of litigation. The Court has made no determination whether Defendant or Plaintiffs are correct on the merits. There has been no trial in this case. By agreeing to settle, Hibu does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel believe that this settlement is fair and reasonable and is in the best interests of all Class Members. Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Hibu has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) the Settlement is in the best interests of the Class Members and Aggrieved Employees (i.e., those Class Members who worked for Defendant during the PAGA Period). The Court granted preliminary approval of the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. What Are the terms of the Settlement?

1. **Gross Settlement Amount:** The Parties have agreed to settle the Lawsuit for a “Gross Settlement Amount” of One Hundred Forty Thousand Dollars (\$140,000) on a non-reversionary basis. This means that the entire Gross Settlement Amount will be paid by Defendant and paid out to Class Members and Aggrieved Employees, subject to various Court-approved deductions.
2. **Court Approved Deductions from Gross Settlement:** At the Final Approval Hearing, Plaintiffs and Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - (a) attorneys’ fees not to exceed 1/3 (\$46,666.67) of the Gross Settlement and actual, reasonably incurred costs of Class Counsel not exceeding \$15,000;
 - (b) payments to the Class Representatives not to exceed \$10,000 in the aggregate for filing the Lawsuit, working with Class Counsel and representing the Class;
 - (c) all costs of third-party administration estimated at approximately \$7,000; and
 - (d) Up to \$5,000 for PAGA Penalties, allocated 75% to the California Labor & Workforce Development Agency (LWDA), and 25% to Aggrieved Employees based on their PAGA Period workweeks.Participating Class Members have the right to object to the amounts of the deductions in items 2(a)-(c) above. The Court will consider the objections.
3. **Net Settlement Distributed to Class Members.** What remains after these payments are made is called the “Net Settlement Amount,” which is estimated to be in the amount of approximately \$[] depending on the final Court-approved deductions as discussed above. The Net Settlement Amount shall be distributed pro rata to each Class Member based on the number of workweeks worked during the Class Period, as described in the next section.

4. How much will I get from the settlement and how will it be taxed?

1. Individual Settlement Payments. The Administrator will calculate Individual Settlement Payments by (a) dividing the Net Settlement Amount by the total number of workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$ _____ by the total number of PAGA Period workweeks worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period workweeks worked by each individual Aggrieved Employee.
3. Workweek Challenges. The number of workweeks you worked during the Class Period and PAGA Period, as recorded in Hibu's records, are stated on the first page of this Notice. You have until _____ to challenge the number of workweeks credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 10 of this Notice has the Administrator's contact information. You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Hibu's calculation of workweeks as accurate unless you send copies of records that demonstrate that Hibu's calculation is inaccurate. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Hibu's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.
4. Taxes Owed on Payments to Class Members. Plaintiff and Hibu are asking the Court to approve an allocation of 10% of each Payment to taxable wages ("Wage Portion") and 90% to non-wage income ("Non-Wage Portion). The Wage Portion is subject to withholdings and will be reported on an IRS Form W2. Hibu will separately pay the employer's share of payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Non-Wage Portions of the Individual Class Payments and the Individual PAGA Payments on IRS Forms 1099. Although Plaintiffs and Hibu have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. When will I get my payment?

The Administrator will send, by U.S. mail, a check to each Participating Class Member (i.e., every Class Member who doesn't opt-out from the Settlement) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 10 of this Notice has the Administrator's contact information.

Need to Promptly Cash Payment Checks. The front of every check will show the date when the check expires (the void date is 180 days after the date the check is issued). If you don't cash your check by the void date, your check will be automatically cancelled, and the monies will irrevocably lost to you because they will be paid to the non-profit organization or foundation ("Cy Pres") Bet Tzedek.

6. What claims am I releasing?

Participating Class Members' Release. After the Judgment is final and Hibu has fully funded the Gross Settlement and all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Hibu or related entities based on the facts alleged or the facts that reasonably could have been alleged in the First Amended Complaint in the Lawsuit and arising during the Class Period, or any lawsuit for PAGA penalties based on the PAGA claims or PAGA causes of action that were alleged in the First Amended Complaint in the Lawsuit, or that reasonably could have been alleged based on the facts alleged and statutes listed in Plaintiffs' PAGA notices, and arising during the PAGA Period. The Participating Class Members will be bound by the following release:

Effective on the date that Defendant fully funds the Gross Settlement, Settlement Class Members shall be deemed to have fully released the Released Parties (defined below) from any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, action or causes of action, whether known or unknown, that were alleged or that reasonably could have been alleged based on the facts alleged in the First Amended Complaint in the Lawsuit, including, but not limited to, any claims for the failure to reimburse business expenses (Labor Code § 2802), the failure to pay overtime wages (Labor Code §§ 510 and 1194), the failure to timely and fully pay all wages due at termination (Labor Code §§ 201- 203), the failure to provide accurate and timely pay statements (Labor Code §§ 226(a) and (e)), and claims under the applicable Wage Order, as well as claims under Business and Professions Code §§ 17200 et seq., based on alleged violations of these Labor Code provisions and arising during the Class Period. Settlement Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

"Released Parties" means Defendant and its present and former parents, subsidiaries, affiliates, and joint ventures, and its and their shareholders, owners, officers, directors, non-Class Member employees, agents, servants, registered representatives, attorneys, insurers, successors, contractors, vendors, agencies, staffing agencies, and assigns, and any other persons acting by, through, under, or in concert with any of them.

Aggrieved Employees' PAGA Release. After the Court's judgment is final and Hibu has paid the Gross Settlement, all Aggrieved Employees will be barred from asserting PAGA claims and causes of action against Hibu, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Hibu or its related entities based on the facts alleged or that reasonably could have been alleged in the First Amended Complaint in the Lawsuit and arising during the PAGA Period. The Aggrieved Employees' Release is as follows:

Effective on the date that Defendant fully funds the Gross Settlement, all Aggrieved Employees, whether or not they exclude themselves from the Settlement, fully, finally, and forever release, settle, compromise, extinguish, and discharge the Released Parties for all claims and causes of action for civil penalties under Labor Code §§ 2699 and 2699.3 that were alleged in the First Amended Complaint in the Lawsuit or that reasonably could have been alleged based on the facts alleged in the First Amended Complaint in the Lawsuit and in Plaintiffs' January 26, 2022 PAGA Notice, including claims under Labor Code §§ 201, 202, 226(a), 510, 2802, and IWC Wage Order No. 4-2001, § 3.

Effect of Settlement on Other Pending Litigation. There is a lawsuit pending in United States District Court for the Eastern District of California, *Lori Cruz v. Hibu, Inc.*, Case No. 2:22-cv-00959 ("*Cruz*"). In that lawsuit, the plaintiff, on behalf of herself and a putative class of other sales representatives employed by Hibu in California asserts claims for wages and overtime allegedly owed to the plaintiff and the putative class, related claims for allegedly inaccurate pay statements and waiting time penalties for the alleged late payment or non-payment of wages on termination of employment, and claims for PAGA civil penalties arising from those claims. This Settlement releases the claims

asserted in the *Cruz* case only to the extent that they relate to work performed during the first three weeks of employment (initial sales training) within the Class Period. This settlement also releases claims for PAGA civil penalties arising from work performed during the first three weeks of employment (initial sales training) and from Defendant's alleged failure during the PAGA Period to reimburse business expenses in violation of Labor Code § 2802.

7. How can I opt out of this Settlement?

You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator via mail, email or fax, not later than _____, that you wish to opt out. The easiest way to opt out is to send a written and signed Request for Exclusion to the Administrator by the _____ Response Deadline. The Request for Exclusion should be from a Class Member or his/her representative setting forth the Class Member's name, address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Settlement Payments, except for PAGA Payments as noted below, but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement remain eligible for PAGA Payments. They are not permitted to opt-out of the PAGA portion of the Settlement and are required to give up their right to assert any future PAGA claims against Hibu based on the PAGA Period facts alleged or that reasonably could have been alleged in the Lawsuit.

8. How do I tell the Court that I do not agree with the Settlement?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Hibu are asking the Court to approve. At least _____ days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 10 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website _____ or the Court's website _____.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Lawsuit, *Pasno, et al. v. Hibu Inc.*, Case No. 22STCV01361, and include your name, current address, telephone number, and approximate dates of employment for Hibu and sign the objection. Section 10 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

9. Can I attend the Final Approval Hearing?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ in Department 17 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the

judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court’s website for the most current information.

It’s possible the Court will reschedule the Final Approval Hearing. You should check the Administrator’s website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

10. Are there more details about the Settlement?

Everything Hibu and Plaintiffs have promised to do under the proposed Settlement is set forth in the Class Action Settlement Agreement (the “Settlement Agreement”). You can review the Settlement Agreement and Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement on the Administrator’s website at _____. Once issued, you may also read the Court’s final judgment on the Administrator’s website. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Lawsuit, Case No. _____. You can also make an appointment to personally review court documents in the Clerk’s Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

<p>Class Counsel: HAMMONDLAW, P.C. Julian Hammond (SBN 268489) jhammond@hammondlawpc.com Polina Brandler (SBN 269086) pbrandler@hammondlawpc.com Ari Cherniak (SBN 290071) acherniak@hammondlawpc.com 1201 Pacific Ave Suite 600 Tacoma WA 98402 Tel: (310) 601-6766 Fax: (310) 295-2385</p>
<p>Settlement Administrator: Email Address: Mailing Address: Telephone: Fax Number:</p>

PLEASE DO NOT CONTACT THE COURT OR DEFENDANT WITH INQUIRIES

11. What if I lose my check?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.