

1 Kane Moon (SBN 249834)
kane.moon@moonyanglaw.com
2 Lilit Ter-Astvatsatryan (SBN 320389)
lilit@moonyanglaw.com
3 **MOON & YANG, APC**
1055 W. Seventh St., Suite 1880
4 Los Angeles, California 90017
Telephone: (213) 232-3128
5 Facsimile: (213) 232-3125

6 Attorneys for Plaintiff PATSY HOLMAN

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES – SPRING STREET
10

11 PATSY HOLMAN, individually, and on behalf
12 of all others similarly situated,

13 Plaintiff,

14 vs.

15 INTER/MEDIA TIME BUYING
16 CORPORATION, a California corporation; and
17 DOES 1 through 10, inclusive,

18 Defendants.
19

Case No.: 20STCV00302

CLASS AND PAGA ACTION

Assigned for All Purposes to Honorable William
F. Highberger, Department 10

**CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND CLASS NOTICE**

Complaint filed: January 6, 2020
Trial date: Not set

1 **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE**

2 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between
3 plaintiff Patsy Holman (“Plaintiff”) and defendant Inter/Media Time Buying Corporation
4 (“INTER/MEDIA”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or
5 individually as “Party.”
6

7 **1. DEFINITIONS.**

8 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
9 INTER/MEDIA captioned *Patsy Holman v. Inter/Media Time Buying Corporation*, Case
10 No. 20STCV00302, filed on January 6, 2020, and pending in Superior Court of the State of
11 California, County of Los Angeles.

12 1.2. “Administrator” means Phoenix Class Action Administration Solutions, the neutral entity
13 the Parties have agreed to appoint to administer the Settlement.

14 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
15 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
16 accordance with the Administrator’s “not to exceed” bid submitted to the Court in
17 connection with Preliminary Approval of the Settlement.

18 1.4. “Aggrieved Employee” means (1) all current and former California employees of
19 INTER/MEDIA employed by INTER/MEDIA at any time during the PAGA Period who
20 were classified by INTER/MEDIA as an hourly paid, non-exempt employee; and (2)
21 current and former California employees of INTER/MEDIA employed by INTER/MEDIA
22 at any time during the PAGA Period who were classified by INTER/MEDIA as salaried
23 exempt but who, for the purpose of the Settlement only, the Parties have agreed may have
24 been misclassified.

25 1.5. “Class” means (1) all current and former California employees of INTER/MEDIA
26 employed by INTER/MEDIA at any time during the Class Period who were classified by
27 INTER/MEDIA as hourly paid, non-exempt and did not previously sign *Pick-Up Stix* or
28 other agreements that contained a release of claims; and (2) current and former California

1 employees of INTER/MEDIA employed by INTER/MEDIA at any time during the Class
2 Period who were classified by INTER/MEDIA as salaried exempt but who, for the purpose
3 of the Settlement only, the Parties have agreed may have been misclassified and did not
4 previously sign *Pick-Up Stix* or other agreements that contained a release of claims

5 1.6. “Class Counsel” means Moon & Yang, APC.

6 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
7 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees
8 and expenses, respectively, incurred to prosecute the Action.

9 1.8. “Class Data” means Class Member identifying information in INTER/MEDIA’s
10 possession including the Class Member’s name, last-known mailing address, Social
11 Security number, and number of Class Period Workweeks and PAGA Pay Periods.

12 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a
13 Participating Class Member or Non-Participating Class Member (including a Non-
14 Participating Class Member who qualifies as an Aggrieved Employee).

15 1.10. “Class Member Address Search” means the Administrator’s investigation and search for
16 current Class Member mailing addresses using all reasonably available sources, methods
17 and means including, but not limited to, the National Change of Address database, skip
18 traces, and direct contact by the Administrator with Class Members.

19 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
20 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be
21 mailed to Class Members in English in the form, without material variation, attached as
22 Exhibit A and incorporated by reference into this Agreement.

23 1.12. “Class Period” means the period from January 6, 2016, through December 31, 2022.

24 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action
25 seeking Court approval to serve as a Class Representative.

26 1.14. “Class Representative Service Payment” means the payment to the Class Representative
27 for initiating the Action and providing services in support of the Action.

28 1.15. “Court” means the Superior Court of California, County of Los Angeles.

- 1 1.16. "INTER/MEDIA" means named Defendant Inter/Media Time Buying Corporation.
- 2 1.17. "Defense Counsel" means Fisher & Phillips, LLP.
- 3 1.18. "Effective Date" means the date by when both of the following have occurred: (a) the
- 4 Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b)
- 5 the Judgment is final. The Judgment is final as of the latest of the following occurrences:
- 6 (a) if no Participating Class Member objects to the Settlement, the day the Court enters
- 7 Judgment; (b) if one or more Participating Class Members objects to the Settlement, the
- 8 day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal
- 9 from the Judgment is filed, the day after the appellate court affirms the Judgment and
- 10 issues a remittitur.
- 11 1.19. "Final Approval" means the Court's order granting final approval of the Settlement.
- 12 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of
- 13 the Settlement.
- 14 1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval
- 15 of the Settlement.
- 16 1.22. "Gross Settlement Amount" means One Hundred and Forty-Thousand Dollars and Zero
- 17 Cents (\$140,000.00), which is the total amount INTER/MEDIA agrees to pay under the
- 18 Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will
- 19 be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA
- 20 Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service
- 21 Payment and the Administrator's Expenses.
- 22 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the
- 23 Net Settlement Amount calculated according to the number of Workweeks worked during
- 24 the Class Period.
- 25 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of
- 26 the PAGA Penalties calculated according to the number of Workweeks worked during the
- 27 PAGA Period.
- 28 1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.

- 1 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
2 entitled, under Labor Code § 2699(i).
- 3 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA
4 under Labor Code § 2699(i).
- 5 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
6 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA
7 PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment,
8 Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment.
9 The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 10 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
11 Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 12 1.30. “Operative Complaint” shall refer to the Second Amended Complaint to be filed by
13 Plaintiff in the Action for settlement purposes only that will add a claim for Labor Code
14 2802 in order to effectuate the settlement of all potential claims in this Action. This
15 Amended Complaint will be in the same form and substance as the Amended
16 Complaint attached hereto as Exhibit B.
- 17 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked
18 for INTER/MEDIA for at least one day during the PAGA Period.
- 19 1.32. “PAGA Period” means the period from January 6, 2019, through December 31, 2022.
- 20 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 21 1.34. “PAGA Notice” means Plaintiff’s January 6, 2020 letter to INTER/MEDIA and the
22 LWDA providing notice pursuant to Labor Code § 2699.3(a).
- 23 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the
24 Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500.00) and the
25 75% to LWDA (\$7,500.00) in settlement of PAGA claims.
- 26 1.36. “Participating Class Member” means a Class Member who does not submit a valid and
27 timely Request for Exclusion from the Settlement.
- 28 1.37. “Plaintiff” means Patsy Holman, the named plaintiff in the Action.

- 1 1.38. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the
2 Settlement.
- 3 1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval
4 and Approval of PAGA Settlement.
- 5 1.40. "Released Class Claims" means the claims being released as described in Paragraph 5.2
6 below.
- 7 1.41. "Released PAGA Claims" means the claims being released as described in Paragraph 5.2
8 below.
- 9 1.42. "Released Parties" means: INTER/MEDIA and each of its former and present directors,
10 officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns,
11 subsidiaries, and affiliates.
- 12 1.43. "Request for Exclusion" means a Class Member's submission of a written request to be
13 excluded from the Class Settlement signed by the Class Member.
- 14 1.44. "Response Deadline" means sixty (60) days after the Administrator mails Notice to Class
15 Members and Aggrieved Employees, and shall be the last date on which Class Members
16 may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email,
17 or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are
18 resent after having been returned undeliverable to the Administrator shall have an
19 additional 14 calendar days beyond the Response Deadline has expired.
- 20 1.45. "Settlement" means the disposition of the Action effected by this Agreement and the
21 Judgment.
- 22 1.46. "Workweek" means any week during which a Class Member worked for INTER/MEDIA
23 for at least one day, during the Class Period.
- 24

25 **2. RECITALS.**

- 26 2.1. On January 6, 2020, Plaintiff commenced this Action by filing a Complaint alleging causes
27 of action against INTER/MEDIA for Failure to Pay Minimum and Straight Time Wages
28 [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; Failure to Pay Overtime Compensation

1 [Cal. Lab. Code §§ 1194 and 1198]; Failure to Provide Meal Periods [Cal. Lab. Code §§
2 226.7, 512]; Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
3 Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; Failure to
4 Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and Unfair Business
5 Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]. On September 25, 2020, Plaintiff
6 filed a First Amended Complaint alleging causes of action under Civil Penalties Under
7 PAGA [Cal. Lab. Code § 2699, et seq.] against INTER/MEDIA for. Plaintiff shall file a
8 Second Amended Complaint to add a claim for Labor Code 2802. This Second Amended
9 Complaint will be in the same form and substance as the Second Amended Complaint
10 attached hereto as Exhibit B. The Second Amended Complaint is the operative complaint
11 in the Action (the “Operative Complaint.”) INTER/MEDIA denies the allegations in the
12 Operative Complaint, denies any failure to comply with the laws identified in in the
13 Operative Complaint and denies any and all liability for the causes of action alleged.

14 2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to
15 INTER/MEDIA and the LWDA by sending the PAGA Notice.

16 2.3. On September 21, 2021, the Parties participated in an all-day mediation presided over by
17 Michael Young, Esq. which led to this Agreement to settle the Action.

18 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, a sample of payroll and
19 timekeeping data, employment policies, and other relevant information to prepare for
20 mediation. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval
21 set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and
22 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008)
23 (“*Dunk/Kullar*”).

24 2.5. The Court has not granted class certification.

25 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any
26 other pending matter or action asserting claims that will be extinguished or affected by the
27 Settlement.
28

1 **3. MONETARY TERMS.**

2 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below,
3 INTER/MEDIA promises to pay \$140,000.00 and no more as the Gross Settlement
4 Amount [and to separately pay any and all employer payroll taxes owed on the Wage
5 Portions of the Individual Class Payments.] INTER/MEDIA has no obligation to pay the
6 Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph
7 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement
8 Amount without asking or requiring Participating Class Members or Aggrieved Employees
9 to submit any claim as a condition of payment. None of the Gross Settlement Amount will
10 revert to INTER/MEDIA.

11 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the
12 following payments from the Gross Settlement Amount, in the amounts specified by the
13 Court in the Final Approval:

14 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of
15 not more than \$5,000.00 (in addition to any Individual Class Payment and
16 Individual PAGA Payment the Class Representative is entitled to receive as a
17 Participating Class Member). INTER/MEDIA will not oppose Plaintiff's request
18 for a Class Representative Service Payment that does not exceed this amount. As
19 part of the motion for Class Counsel Fees Payment and Class Litigation Expenses
20 Payment, Plaintiff will seek Court approval for any Class Representative Service
21 Payments no later than 16 court days prior to the Final Approval Hearing. If the
22 Court approves a Class Representative Service Payment less than the amount
23 requested, the Administrator will retain the remainder in the Net Settlement
24 Amount. The Administrator will pay the Class Representative Service Payment
25 using IRS Form 1099. Plaintiff assumes full responsibility and liability for
26 employee taxes owed on the Class Representative Service Payment.

27 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 3 1/3 %,
28 which is currently estimated to be \$46,666.66 and a Class Counsel Litigation

1 Expenses Payment of not more than \$15,000.00. INTER/MEDIA will not oppose
2 requests for these payments provided that do not exceed these amounts. Plaintiff
3 and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class
4 Litigation Expenses Payment no later than 16 court days prior to the Final
5 Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a
6 Class Counsel Litigation Expenses Payment less than the amounts requested, the
7 Administrator will allocate the remainder to the Net Settlement Amount. Released
8 Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel
9 arising from any claim to any portion any Class Counsel Fee Payment and/or Class
10 Counsel Litigation Expenses Payment. The Administrator will pay the Class
11 Counsel Fees Payment and Class Counsel Expenses Payment using one or more
12 IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes
13 owed on the Class Counsel Fees Payment and the Class Counsel Litigation
14 Expenses Payment and holds INTER/MEDIA harmless, and indemnifies
15 INTER/MEDIA, from any dispute or controversy regarding any division or sharing
16 of any of these Payments.

17 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
18 \$6,995.00, except for a showing of good cause and as approved by the Court. To
19 the extent the Administration Expenses are less or the Court approves payment less
20 than \$6,995.00, the Administrator will retain the remainder in the Net Settlement
21 Amount.

22 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by
23 (a) dividing the Net Settlement Amount by the total number of Workweeks worked
24 by all Participating Class Members during the Class Period and (b) multiplying the
25 result by each Participating Class Member's Workweeks.

26 3.2.4.1. Tax Allocation of Individual Class Payments. 20 % of each Participating
27 Class Member's Individual Class Payment will be allocated to settlement
28 of wage claims (the "Wage Portion"). The Wage Portions are subject to tax

1 withholding and will be reported on an IRS W-2 Form. The 80% of each
2 Participating Class Member's Individual Class Payment will be allocated
3 to settlement of claims for [e.g., interest and penalties] (the "Non-Wage
4 Portion"). The Non-Wage Portions are not subject to wage withholdings
5 and will be reported on IRS 1099 Forms. Participating Class Members
6 assume full responsibility and liability for any employee taxes owed on
7 their Individual Class Payment.

8 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
9 Class Payments. Non-Participating Class Members will not receive any
10 Individual Class Payments. The Administrator will retain amounts equal to
11 their Individual Class Payments in the Net Settlement Amount for
12 distribution to Participating Class Members on a pro rata basis.

13 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
14 \$10,000.00 to be paid from the Gross Settlement Amount, with 75% (\$7,500.00)
15 allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the
16 Individual PAGA Payments.

17 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a)
18 dividing the amount of the Aggrieved Employees' 25% share of PAGA
19 Penalties \$2,500.00 by the total number of PAGA Period Pay Periods
20 worked by all Aggrieved Employees during the PAGA Period and (b)
21 multiplying the result by each Aggrieved Employee's PAGA Period Pay
22 Periods. Aggrieved Employees assume full responsibility and liability for
23 any taxes owed on their Individual PAGA Payment.

24 3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested,
25 the Administrator will allocate the remainder to the Net Settlement
26 Amount. The Administrator will report the Individual PAGA Payments on
27 IRS 1099 Forms.

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

2 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records
3 to date, INTER/MEDIA estimates there are 45 Class Members and 30 Aggrieved
4 Employees who collectively worked a total of 3,188 Workweeks.

5 4.2. Class Data. Not later than 30 days after the Court grants Preliminary Approval of the
6 Settlement, INTER/MEDIA will simultaneously deliver the Class Data to the
7 Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members'
8 privacy rights, the Administrator must maintain the Class Data in confidence, use the Class
9 Data only for purposes of this Settlement and for no other purpose, and restrict access to
10 the Class Data to Administrator employees who need access to the Class Data to effect and
11 perform under this Agreement. INTER/MEDIA has a continuing duty to immediately
12 notify Class Counsel if it discovers that the Class Data omitted class member identifying
13 information and to provide corrected or updated Class Data as soon as reasonably feasible.
14 Without any extension of the deadline by which INTER/MEDIA must send the Class Data
15 to the Administrator, the Parties and their counsel will expeditiously use best efforts, in
16 good faith, to reconstruct or otherwise resolve any issues related to missing or omitted
17 Class Data.

18 4.3. Funding of Gross Settlement Amount. INTER/MEDIA shall fully fund the Gross
19 Settlement Amount, and also fund the amounts necessary to fully pay INTER/MEDIA's
20 share of payroll taxes by transmitting the funds to the Administrator no later than 30 days
21 after the Effective Date.

22 4.4. Payments from the Gross Settlement Amount. Within 14 days after INTER/MEDIA funds
23 the Gross Settlement Amount, the Administrator will mail checks for all Individual Class
24 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
25 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel
26 Litigation Expenses Payment, and the Class Representative Service Payment.
27 Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
28 Payment and the Class Representative Service Payment shall not precede disbursement of

1 Individual Class Payments and Individual PAGA Payments.

2 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
3 Individual PAGA Payments and send them to the Class Members via First Class
4 U.S. Mail, postage prepaid. The face of each check shall prominently state the
5 date (not less than 180 days after the date of mailing) when the check will be
6 voided. The Administrator will cancel all checks not cashed by the void date. The
7 Administrator will send checks for Individual Settlement Payments to all
8 Participating Class Members (including those for whom Class Notice was returned
9 undelivered). The Administrator will send checks for Individual PAGA Payments
10 to all Aggrieved Employees including Non-Participating Class Members who
11 qualify as Aggrieved Employees (including those for whom Class Notice was
12 returned undelivered). The Administrator may send Participating Class Members a
13 single check combining the Individual Class Payment and the Individual PAGA
14 Payment. Before mailing any checks, the Settlement Administrator must update
15 the recipients' mailing addresses using the National Change of Address Database.

16 4.4.2. The Administrator must conduct a Class Member Address Search for all other
17 Class Members whose checks are returned undelivered without USPS forwarding
18 address. Within 7 days of receiving a returned check the Administrator must re-
19 mail checks to the USPS forwarding address provided or to an address ascertained
20 through the Class Member Address Search. The Administrator need not take
21 further steps to deliver checks to Class Members whose re-mailed checks are
22 returned as undelivered. The Administrator shall promptly send a replacement
23 check to any Class Member whose original check was lost or misplaced, requested
24 by the Class Member prior to the void date.

25 4.4.3. For any Class Member whose Individual Class Payment check or Individual
26 PAGA Payment check is uncashed and cancelled after the void date, the
27 Administrator shall transmit the funds represented by such checks to the California
28 Controller's Unclaimed Property Fund in the name of the Class Member thereby

1 leaving no "unpaid residue" subject to the requirements of California Code of Civil
2 Procedure § 384(b).

3 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
4 not obligate INTER/MEDIA to confer any additional benefits or make any
5 additional payments to Class Members (such as 401(k) contributions or bonuses)
6 beyond those specified in this Agreement.
7

8 **5. RELEASES OF CLAIMS.** Effective on the date when INTER/MEDIA fully funds the
9 entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of
10 the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims
11 against all Released Parties as follows:

12 5.1. Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives,
13 agents, attorneys, heirs, administrators, successors, and assigns generally, release and
14 discharge Released Parties from all claims, transactions, or occurrences that occurred
15 during the Class Period, including, but not limited to: (a) all claims that were, or reasonably
16 could have been, alleged, based on the facts contained, in the Operative Complaint and (b)
17 all PAGA claims that were, or reasonably could have been, alleged based on facts
18 contained in the Operative Complaint, Plaintiff's PAGA Notice. ("Plaintiff's Release.")
19 Plaintiff's 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
21 security benefits, workers' compensation benefits that arose at any time, or based on
22 occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover
23 facts or law different from, or in addition to, the facts or law that Plaintiff now knows or
24 believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain
25 effective in all respects, notwithstanding such different or additional facts or Plaintiff's
26 discovery of them.

27 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code § 1542. For purposes of
28 Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,

1 rights, and benefits, if any, of Section 1542 of the California Civil Code, which
2 reads:

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 debtor**
7 **or Released Party.**

8 5.2. Release by Participating Class Members Who Are Not Aggrieved Employees: Each and
9 every Participating Class Member, on behalf of himself or herself and his or her heirs,
10 representatives, successors, assigns, and attorneys, unless he or she has submitted a timely
11 and valid Request for Exclusion (which will not effectuate an opt-out from the release of
12 Released PAGA Claims), hereby releases Releasees from the following known and
13 unknown claims, losses, damages, liquidated damages, penalties, interest, liabilities, causes
14 of action, civil complaints, arbitration demands or suits or the entire Class Period: (i) all
15 claims that were alleged, or reasonably could have been alleged based on the Class Period
16 facts stated in the Operative Complaint, including, claims for claims for failure to pay
17 minimum wages; failure to pay overtime and double time wages (including, but not limited
18 to, any claims for additional wages owed due to “off the clock” work); meal and rest
19 breaks; failure to indemnify necessary business expenses; separation pay violations; wage
20 statement violations; failure to maintain records; untimely payment of wages; unfair
21 business practices; violation of Labor Code §§ 558, 1174.5, and 1197.1, civil penalties
22 under PAGA, and any and all penalties, interest and attorneys’ fees and costs for such
23 claims. . Participating Class Members do not release any other claims, including claims for
24 vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
25 unemployment insurance, disability, social security, workers’ compensation, or claims
26 based on facts occurring outside the Class Period.

27 5.3. Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-
28 Participating Class Members who are Aggrieved Employees are deemed to release, on
behalf of themselves and their respective former and present representatives, agents,
attorneys, heirs, administrators, successors, and assigns, the Released Parties from all

1 claims for PAGA penalties that were alleged, or reasonably could have been alleged, based
2 on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

3
4 **6. MOTION FOR PRELIMINARY APPROVAL.**

5 6.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
6 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the
7 notice, and memorandum in support, of the Motion for Preliminary Approval that includes
8 an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA
9 Settlement under Labor Code § 2699(f)(2)); (ii) a draft proposed Order Granting
10 Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class
11 Notice; (iv) Administrator's "not to exceed" bid for administering the Settlement; (v) a
12 signed declaration from Plaintiff confirming willingness and competency to serve and
13 disclosing all facts relevant to any actual or potential conflicts; (v) a signed declaration
14 from each Class Counsel firm attesting to its competency to represent the Class Members;
15 its timely transmission to the LWDA of all necessary PAGA documents (initial notice of
16 violations (Labor Code § 2699.3(a)), Operative Complaint (Labor Code § 2699(l)(1)), this
17 Agreement (Labor Code § 2699(l)(2)); (vi) all facts relevant to any actual or potential
18 conflict of interest with Class Members and the Administrator and/or the Cy Pres
19 Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that
20 they are not aware of any other pending matter or action asserting claims that will be
21 extinguished or adversely affected by the Settlement.

22 6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
23 for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30
24 days after the full execution of this Agreement; obtaining a prompt hearing date for the
25 Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the
26 Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's
27 Preliminary Approval to the Administrator.

28 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for

1 Preliminary Approval and/or the supporting declarations and documents, Class Counsel
2 and Defense Counsel will expeditiously work together on behalf of the Parties by meeting
3 in person or by telephone, and in good faith, to resolve the disagreement. If the Court does
4 not grant Preliminary Approval or conditions Preliminary Approval on any material
5 change to this Agreement, Class Counsel and Defense Counsel will expeditiously work
6 together on behalf of the Parties by meeting in person or by telephone, and in good faith, to
7 modify the Agreement and otherwise satisfy the Court’s concerns.

8 **7. SETTLEMENT ADMINISTRATION.**

9 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action
10 Administration Solutions to serve as the Administrator and verified that, as a condition of
11 appointment, Phoenix Class Action Administration Solutions agrees to be bound by this
12 Agreement and to perform, as a fiduciary, all duties specified in this Agreement in
13 exchange for payment of Administration Expenses. The Parties and their Counsel
14 represent that they have no interest or relationship, financial or otherwise, with the
15 Administrator other than a professional relationship arising out of prior experiences
16 administering settlements.

17 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
18 Identification Number for purposes of calculating payroll tax withholdings and providing
19 reports state and federal tax authorities.

20 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
21 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation §
22 468B-1.

23 7.4. Notice to Class Members.

24 7.4.1. No later than 3 business days after receipt of the Class Data, the Administrator
25 shall notify Class Counsel that the list has been received and state the number of
26 Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

27 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days
28 after receiving the Class Data, the Administrator will send to all Class Members

1 identified in the Class Data, via first-class United States Postal Service (“USPS”)
2 mail, the Class Notice substantially in the form attached to this Agreement as
3 Exhibit A. The first page of the Class Notice shall prominently estimate the dollar
4 amounts of any Individual Class Payment and/or Individual PAGA Payment
5 payable to the Class Member, and the number of Workweeks and PAGA Pay
6 Periods (if applicable) used to calculate these amounts. Before mailing Class
7 Notices, the Administrator shall update Class Member addresses using the National
8 Change of Address database.

9 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice
10 returned by the USPS as undelivered, the Administrator shall re-mail the Class
11 Notice using any forwarding address provided by the USPS. If the USPS does not
12 provide a forwarding address, the Administrator shall conduct a Class Member
13 Address Search, and re-mail the Class Notice to the most current address obtained.
14 The Administrator has no obligation to make further attempts to locate or send
15 Class Notice to Class Members whose Class Notice is returned by the USPS a
16 second time.

17 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks
18 and/or Pay Periods, and Requests for Exclusion will be extended an additional 14
19 days beyond the 60 days otherwise provided in the Class Notice for all Class
20 Members whose notice is re-mailed. The Administrator will inform the Class
21 Member of the extended deadline with the re-mailed Class Notice.

22 7.4.5. If the Administrator, INTER/MEDIA or Class Counsel is contacted by or
23 otherwise discovers any persons who believe they should have been included in the
24 Class Data and should have received Class Notice, the Parties will expeditiously
25 meet and confer in person or by telephone, and in good faith, in an effort to agree
26 on whether to include them as Class Members. If the Parties agree, such persons
27 will be Class Members entitled to the same rights as other Class Members, and the
28 Administrator will send, via email or overnight delivery, a Class Notice requiring

1 them to exercise options under this Agreement not later than 14 days after receipt
2 of Class Notice, or the deadline dates in the Class Notice, which ever are later.

3 7.5. Requests for Exclusion (Opt-Outs).

4 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
5 must send the Administrator, by fax, email, or mail, a signed written Request for
6 Exclusion not later than 60 days after the Administrator mails the Class Notice
7 (plus an additional 14 days for Class Members whose Class Notice is re-mailed).
8 A Request for Exclusion is a letter from a Class Member or his/her representative
9 that reasonably communicates the Class Member's election to be excluded from
10 the Settlement and includes the Class Member's name, address and email address
11 or telephone number. To be valid, a Request for Exclusion must be timely faxed,
12 emailed, or postmarked by the Response Deadline.

13 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
14 fails to contain all the information specified in the Class Notice. The Administrator
15 shall accept any Request for Exclusion as valid if the Administrator can reasonably
16 ascertain the identity of the person as a Class Member and the Class Member's
17 desire to be excluded. The Administrator's determination shall be final and not
18 appealable or otherwise susceptible to challenge. If the Administrator has reason to
19 question the authenticity of a Request for Exclusion, the Administrator may
20 demand additional proof of the Class Member's identity. The Administrator's
21 determination of authenticity shall be final and not appealable or otherwise
22 susceptible to challenge.

23 7.5.3. Every Class Member who does not submit a timely and valid Request for
24 Exclusion is deemed to be a Participating Class Member under this Agreement,
25 entitled to all benefits and bound by all terms and conditions of the Settlement,
26 including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3
27 of this Agreement, regardless whether the Participating Class Member actually
28 receives the Class Notice or objects to the Settlement.

1 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
2 Non-Participating Class Member and shall not receive an Individual Class
3 Payment or have the right to object to the class action components of the
4 Settlement. Because future PAGA claims are subject to claim preclusion upon
5 entry of the Judgment, Non-Participating Class Members who are Aggrieved
6 Employees are deemed to release the claims identified in Paragraph 5.3 of this
7 Agreement and are eligible for an Individual PAGA Payment.

8 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the
9 Administrator mails the Class Notice (plus an additional 14 days for Class Members whose
10 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay
11 Periods allocated to the Class Member in the Class Notice. The Class Member may
12 challenge the allocation by communicating with the Administrator via fax, email or mail.
13 The Administrator must encourage the challenging Class Member to submit supporting
14 documentation. In the absence of any contrary documentation, the Administrator is
15 entitled to presume that the Workweeks contained in the Class Notice are correct so long
16 as they are consistent with the Class Data. The Administrator's determination of each
17 Class Member's allocation of Workweeks and/or Pay Periods shall be final and not
18 appealable or otherwise susceptible to challenge. The Administrator shall promptly
19 provide copies of all challenges to calculation of Workweeks and/or Pay Periods to
20 Defense Counsel and Class Counsel and the Administrator's determination the challenges.

21 7.7. Objections to Settlement.

22 7.7.1. Only Participating Class Members may object to the class action components of
23 the Settlement and/or this Agreement, including contesting the fairness of the
24 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
25 Counsel Litigation Expenses Payment and/or Class Representative Service
26 Payment.

27 7.7.2. Participating Class Members may send written objections to the Administrator, by
28 fax, email, or mail. In the alternative, Participating Class Members may appear in

1 Court (or hire an attorney to appear in Court) to present verbal objections at the
2 Final Approval Hearing. A Participating Class Member who elects to send a
3 written objection to the Administrator must do so not later than 60 days after the
4 Administrator's mailing of the Class Notice (plus an additional 14 days for Class
5 Members whose Class Notice was re-mailed).

6 7.7.3. Non-Participating Class Members have no right to object to any of the class action
7 components of the Settlement.

8 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
9 performed or observed by the Administrator contained in this Agreement or otherwise.

10 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish
11 and maintain and use an internet website to post information of interest to Class
12 Members including the date, time and location for the Final Approval Hearing and
13 copies of the Settlement Agreement, Motion for Preliminary Approval, the
14 Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion
15 for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and
16 Class Representative Service Payment, the Final Approval and the Judgment. The
17 Administrator will also maintain and monitor an email address and a toll-free
18 telephone number to receive Class Member calls, faxes and emails.

19 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
20 promptly review on a rolling basis Requests for Exclusion to ascertain their
21 validity. Not later than 5 days after the expiration of the deadline for submitting
22 Requests for Exclusion, the Administrator shall email a list to Class Counsel and
23 Defense Counsel containing (a) the names and other identifying information of
24 Class Members who have timely submitted valid Requests for Exclusion
25 ("Exclusion List"); (b) the names and other identifying information of Class
26 Members who have submitted invalid Requests for Exclusion; (c) copies of all
27 Requests for Exclusion from Settlement submitted (whether valid or invalid).

28 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written

1 reports to Class Counsel and Defense Counsel that, among other things, tally the
2 number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,
3 Requests for Exclusion (whether valid or invalid) received, objections received,
4 challenges to Workweeks and/or Pay Periods received and/or resolved, and checks
5 mailed for Individual Class Payments and Individual PAGA Payments (“Weekly
6 Report”). The Weekly Reports must include provide the Administrator’s
7 assessment of the validity of Requests for Exclusion and attach copies of all
8 Requests for Exclusion and objections received.

9 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
10 address and make final decisions consistent with the terms of this Agreement on all
11 Class Member challenges over the calculation of Workweeks and/or Pay Periods.
12 The Administrator’s decision shall be final and not appealable or otherwise
13 susceptible to challenge.

14 7.8.5. Administrator’s Declaration. Not later than 14 days before the date by which
15 Plaintiff is required to file the Motion for Final Approval of the Settlement, the
16 Administrator will provide to Class Counsel and Defense Counsel, a signed
17 declaration suitable for filing in Court attesting to its due diligence and compliance
18 with all of its obligations under this Agreement, including, but not limited to, its
19 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing
20 of Class Notices, attempts to locate Class Members, the total number of Requests
21 for Exclusion from Settlement it received (both valid or invalid), the number of
22 written objections and attach the Exclusion List. The Administrator will
23 supplement its declaration as needed or requested by the Parties and/or the Court.
24 Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

25 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
26 disburses all funds in the Gross Settlement Amount, the Administrator will provide
27 Class Counsel and Defense Counsel with a final report detailing its disbursements
28 by employee identification number only of all payments made under this

1 Agreement. At least 15 days before any deadline set by the Court, the
2 Administrator will prepare, and submit to Class Counsel and Defense Counsel, a
3 signed declaration suitable for filing in Court attesting to its disbursement of all
4 payments required under this Agreement. Class Counsel is responsible for filing
5 the Administrator's declaration in Court.

6 **8. ESCALATOR CLAUSE**

7 Based on its records, INTER/MEDIA estimates that the class consists of approximately 3,188
8 Workweeks and the Settlement was reached based on this estimated representation. If the actual number
9 of the Workweeks in the Class Period increases by more than 20% (i.e., if there are more than 3,825
10 Workweeks at the conclusion of the Class Period), Defendant shall increase the Gross Settlement Amount
11 in proportion to the increase in Workweeks over 20% (e.g., if the number of Workweek Count is 21%
12 greater than 3,188, INTER/MEDIA will increase the Gross Settlement Amount by 1%). Alternatively, in
13 its unilateral discretion, if Defendant does not wish to pay the proportional increase in the Gross
14 Settlement Amount, it may instead end the Class Period and Release Period on the date that the total
15 number of Workweeks reaches 3,825, so that the proportional escalation is not triggered.

16 **9. INTER/MEDIA'S RIGHT TO WITHDRAW.**

17 INTER/MEDIA, in its sole discretion, shall have the right to revoke the Settlement within seven
18 (7) business days after the notice/claim period closes and the Settlement Administrator informs the Parties
19 how many Class Members have opted out, if 5% or more of all Class Members have opted out of the
20 Settlement. In such circumstances, INTER/MEDIA reserves the right to revoke the Settlement or limit the
21 Class Period or PAGA Period at its discretion.

22 **10. MOTION FOR FINAL APPROVAL.**

23 Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in
24 Court, a motion for final approval of the Settlement that includes a request for a Proposed Final Approval
25 Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts
26 of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval.
27 Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in
28 good faith, to resolve any disagreements concerning the Motion for Final Approval.

1 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by
2 a Participating Class Member, including the right to file responsive documents in Court no
3 later that 5 court days prior to the Final Approval Hearing, or as otherwise ordered or
4 accepted by the Court.

5 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
6 Approval on any material change to the Settlement (including, but not limited to, the scope
7 of release to be granted by Class Members), the Parties will expeditiously work together in
8 good faith to address the Court's concerns by revising the Agreement as necessary to
9 obtain Final Approval. The Court's decision to award less than the amounts requested for
10 the PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment,
11 Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall
12 not constitute a material modification to the Agreement within the meaning of this
13 paragraph.

14 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
15 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
16 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
17 administration matters, and (iii) addressing such post-Judgment matters as are permitted by
18 law.

19 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
20 conditions of this Agreement, specifically including the Class Counsel Fees Payment and
21 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the
22 Parties, their respective counsel, and all Participating Class Members who did not object to
23 the Settlement as provided in this Agreement, waive all rights to appeal from the
24 Judgment, including all rights to post-judgment and appellate proceedings, the right to file
25 motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The
26 waiver of appeal does not include any waiver of the right to oppose such motions, writs or
27 appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this
28 Agreement will be suspended until such time as the appeal is finally resolved and the

Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT.

If any amended judgment is required under Code of Civil Procedure § 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by INTER/MEDIA that any of the allegations in the Operative Complaint have merit or that INTER/MEDIA has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that INTER/MEDIA's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, INTER/MEDIA reserves the right to contest certification of any class for any reasons, and INTER/MEDIA reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds

1 available and to contest INTER/MEDIA's defenses. The Settlement, this Agreement and
2 Parties' willingness to settle the Action will have no bearing on, and will not be admissible
3 in connection with, any litigation (except for proceedings to enforce or effectuate the
4 Settlement and this Agreement).

5 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, INTER/MEDIA
6 and Defense Counsel separately agree that, until the Motion for Preliminary Approval of
7 Settlement is filed, they and each of them will not disclose, disseminate and/or publicize,
8 or cause or permit another person to disclose, disseminate or publicize, any of the terms of
9 the Agreement directly or indirectly, specifically or generally, to any person, corporation,
10 association, government agency, or other entity except: (1) to the Parties' attorneys,
11 accountants, or spouses, all of whom will be instructed to keep this Agreement
12 confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to
13 appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in
14 response to an inquiry or subpoena issued by a state or federal government agency. Each
15 Party agrees to immediately notify each other Party of any judicial or agency order,
16 inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, INTER/MEDIA
17 and Defense Counsel separately agree not to, directly or indirectly, initiate any
18 conversation or other communication, before the filing of the Motion for Preliminary
19 Approval, any with third party regarding this Agreement or the matters giving rise to this
20 Agreement except to respond only that "the matter was resolved," or words to that effect.
21 This paragraph does not restrict Class Counsel's communications with Class Members in
22 accordance with Class Counsel's ethical obligations owed to Class Members.

23 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and
24 employees will not solicit any Class Member to opt out of or object to the Settlement, or
25 appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
26 Counsel's ability to communicate with Class Members in accordance with Class Counsel's
27 ethical obligations owed to Class Members.

28 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement

1 together with its attached exhibits shall constitute the entire agreement between the Parties
2 relating to the Settlement, superseding any and all oral representations, warranties,
3 covenants, or inducements made to or by any Party.

4 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
5 represent that they are authorized by Plaintiff and INTER/MEDIA, respectively, to take all
6 appropriate action required or permitted to be taken by such Parties pursuant to this
7 Agreement to effectuate its terms, and to execute any other documents reasonably required
8 to effectuate the terms of this Agreement including any amendments to this Agreement.

9 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
10 best efforts, in good faith, to implement the Settlement by, among other things, modifying
11 the Settlement Agreement, submitting supplemental evidence and supplementing points
12 and authorities as requested by the Court. In the event the Parties are unable to agree upon
13 the form or content of any document necessary to implement the Settlement, or on any
14 modification of the Agreement that may become necessary to implement the Settlement,
15 the Parties will seek the assistance of a mediator and/or the Court for resolution.

16 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not
17 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
18 encumber to any person or entity and portion of any liability, claim, demand, action, cause
19 of action, or right released and discharged by the Party in this Settlement.

20 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, INTER/MEDIA nor Defense Counsel
21 are providing any advice regarding taxes or taxability, nor shall anything in this Settlement
22 be relied upon as such within the meaning of United States Treasury Department Circular
23 230 (31 CFR Part 10, as amended) or otherwise.

24 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
25 modified, changed, or waived only by an express written instrument signed by all Parties
26 or their representatives, and approved by the Court.

27 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
28 benefit of, the successors of each of the Parties.

- 1 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
2 governed by and interpreted according to the internal laws of the state of California,
3 without regard to conflict of law principles.
- 4 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
5 this Agreement. This Agreement will not be construed against any Party on the basis that
6 the Party was the drafter or participated in the drafting.
- 7 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
8 during Action and in this Agreement relating to the confidentiality of information shall
9 survive the execution of this Agreement.
- 10 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to
11 Evidence Code § 1152, and all copies and summaries of the Class Data provided to Class
12 Counsel by INTER/MEDIA in connection with the mediation, other settlement
13 negotiations, or in connection with the Settlement, may be used only with respect to this
14 Settlement, and no other purpose, and may not be used in any way that violates any
15 existing contractual agreement, statute, or rule of court. Not later than 90 days after the
16 date when the Court discharges the Administrator’s obligation to provide a Declaration
17 confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and
18 electronic versions of Class Data received from INTER/MEDIA unless, prior to the
19 Court’s discharge of the Administrator’s obligation, INTER/MEDIA makes a written
20 request to Class Counsel for the return, rather than the destructions, of Class Data.
- 21 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
22 inserted for convenience of reference only and does not constitute a part of this
23 Agreement.
- 24 12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be
25 to calendar days. In the event any date or deadline set forth in this Agreement falls on a
26 weekend or federal legal holiday, such date or deadline shall be on the first business day
27 thereafter.
- 28 12.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts

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

6 12.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
7 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties
8 further agree that upon the signing of this Agreement that pursuant to CCP section 583.330
9 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of
10 this settlement process.

11 **Plaintiff & Class Representative:**

12 Dated: By: _____
13 Patsy Holman

14 **Plaintiff's Counsel:**

15 Dated: MOON & YANG, APC
16
17 By: _____
18 Kane Moon
19 Lilit Ter-Astvatsatryan
20 Attorneys for Plaintiff PATSY HOLMAN

21 **Defendant:**

22 Dated: INTER/MEDIA TIME BUYING
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24 By: _____
25 Print Name
26 _____
27 Signature
28 _____
Title

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Defendant's Counsel:

Dated:

FISHER PHILLIPS, LLC

By: _____
Todd Scherwin
Krystle D. Meyer

Attorneys for Defendant INTER/MEDIA TIME
BUYING