

1 Daniel M. Hutchinson, Bar No. 239458
Lin Y. Chan, Bar No. 255027
2 Yaman Salah, Bar No. 288752
LIEFF CABRASER HEIMANN & BERNSTEIN,
3 LLP
275 Battery Street, 29th Floor
4 San Francisco, CA
94111-3339
5 Phone: 415.956.1000
Counsel for Plaintiffs

6 Bree A. Ullman, Bar No. 288764
7 LAW OFFICE OF BREE A. ULLMAN
2 441 0 Edgewood Ave, Suite 8
8 Oakland, CA 94602
Telephone: (425) 318-0708
9 Counsel for Plaintiffs

10 RICHARD N. HILL, Bar No. 083629
LITTLER MENDELSON, P.C.
11 650 California Street
20th Floor
12 San Francisco, CA 94108.2693
Telephone: 415.433.1940
13 Fax No.: 415.399.8490
Counsel for Defendant Bohemian Club

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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF SONOMA
17 UNLIMITED JURISDICTION

18
19 GABRIEL MARTIN and JACOB
HORVAT on behalf of themselves and
20 others similarly situated

21 Plaintiffs,

22 vs.

23 BOHEMIAN CLUB,

24 Defendant.
25

Case No. CGC

**JOINT STIPULATION OF SETTLEMENT
AND RELEASE BETWEEN PLAINTIFFS
AND DEFENDANTS**

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1 2. Counsel for the Bohemian Club and Plaintiffs entered into a tolling agreement,
2 retroactive to May 28, 2015. On or around September 30, 2015, the Camps also entered into a
3 tolling agreement with Plaintiffs.

4 3. On or about October 7, 2015, Plaintiffs filed an Amended Complaint against the
5 Camps,¹ in which Plaintiffs alleged claims for: (1) unpaid wages; (2) unpaid overtime; (3) waiting
6 time penalties; (4) record-keeping violations under Labor Code sections 226 and 226.3; (5)
7 untimely wage penalties under Labor Code sections 204, 210; (6) meal and rest break violations;
8 (7) unlawful business practices; and (8) civil penalties under the PAGA (“Amended Complaint”).
9 The Complaint and Amended Complaint are hereinafter collectively referred to as the “Action”
10 and/or “Complaints.” Plaintiffs allege that any Waiver and Release Agreement purporting to
11 release such claims is invalid and unenforceable.

12 4. In the Complaints, Plaintiffs alleged that camp valets who provided services to the
13 Camps from May 28, 2011 through December 31, 2014 were misclassified as independent
14 contractors and therefore were not properly paid minimum wages, overtime wages or final wages,
15 and did not timely receive accurate wage statements or meal and rest breaks. Plaintiffs also
16 alleged causes of action for penalties pursuant to Labor Code section 2699 *et seq.*, and injunctive
17 relief for unfair business practices under Business & Professions Code section 17200 *et seq.*

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21 ¹ Plaintiffs brought their Amended Complaint against the following Camps: Abbey,
22 Aorangi/Swagatam, Aviary, Bald Eagle, Band, Bella Union, Better ‘Ole, Bromely, Camels, Care
23 Less, Cave Man, Chorus, Cliff Dwellers, Cool-Nazdar, Crossroads, Crow’s Nest, Cuckoo’s Nest,
24 Derelicts, Dog House, Dragons, Druids, Edgehill, El Toro II, Esplandian, Faraway, Five Easy
25 Pieces, Fore Peak, Friends Of The Forest, Green Mask, Halcyon, Haven, Hermits, Hideaway,
26 Highlanders, Hill Billies, Hillside, Hualapai, Indlewild, Interlude, Iron Ring, Isle of Aves, Jinks
27 Band, Jungle, Ladera, Land of Happiness, Land’s End, Last Chance, Lost Angels, Madrone,
28 Mandalay, Mathieu, Medicine Lodge, Meyerling, Midway, Monastery, Monkey Block,
Moonshiners, Moro, Nec Natama, Orchestra, Outpost, Owlers, Owl’s Nest, Oz, Parsonage,
Pelicans, Piedmont, Pig ‘N Whistle, Pink Onion, Poison Oak, Poker Flat, Pow Wow, Production,
Puma, Rattlers, Red Fire, Rendezvous, River Lair, Roaring, Romany, Rough ‘n Ready, Sahara,
Santa Barbara, Sempervirens, Sequoyah, Seven Trees, Sheldrake Lodge, Silverado Squatters,
Skiddoo, Skyhi, Sleepy Hollow, Snug Harbor, Sons Of Rest, Sons of Toil, Spot, Star & Garter,
Stowaway, Sundodgers, Sunshiners, Tarrytown, Thalia, Three Threes, Tie Binders, Timbuktu, T-
N-T, Totem In, Toyland, Tunerville, Uplifters, Utukulu, Valhalla, Valley Of The Moon, Wayside
Log, Web, Whisky Flat, Whoo Cares, Wild Oats, Who Woh No, Woof, Ye Merrie Yowls, and
Zaca.

1 5. On October 7, 2015, Plaintiffs dismissed the Amended Complaint without
2 prejudice against all Camps so that the Parties could focus their efforts on mediating Plaintiffs'
3 alleged class claims.

4 6. Defendant denies any liability or wrongdoing of any kind associated with the
5 claims alleged in the Action, and further denies that the Action is appropriate for class treatment
6 for any purpose other than this settlement. Defendant contends that it has complied at all times
7 with the California Labor Code, the Industrial Welfare Commission Wage Orders, and the
8 California Business and Professions Code. It is Defendant's position that the camp valets were
9 properly classified as independent contractors and, if this case were to be litigated, class
10 certification would be inappropriate because individual issues predominate. Defendant further
11 contends that many Class Members, through Waiver and Release Agreements, have entered into
12 individual settlement agreements that preclude their involvement in the Action. Defendant has
13 concluded, however, that further litigation of the Action would be protracted and expensive.

14 7. The Class Representatives contend that Defendant violated the California Labor
15 Code, the Industrial Welfare Commission Wage Orders, and the California Business and
16 Professions Code, and that this case is appropriate for class certification.

17 8. In anticipation of mediation, Defendant's counsel provided Plaintiffs' counsel with
18 information regarding the identity of each Class Member who worked during at least one of the
19 two primary events that took place at the Bohemian Grove each year from 2011 through 2014, the
20 camp(s) at which each Class Member provided services, and which of the two primary events the
21 Class Member provided services.

22 9. Class Counsel have conducted a thorough investigation into the facts of this case,
23 and have diligently pursued an investigation of the Class Members' claims against Defendant and
24 the Camps, including (1) interviewing Class Members and analyzing the results of Class Member
25 interviews; (2) reviewing relevant documents; (3) interviewing Bohemian Club representatives;
26 and (4) researching the applicable law and the potential defenses. Based on their own
27 independent investigation and evaluation, Class Counsel are of the opinion that the Settlement is
28 fair, reasonable, and adequate and is in the best interest of the Class in light of all known facts and

1 circumstances, including the risk of significant delay, defenses asserted by Defendant, and
2 potential appellate issues. Defendant, on behalf of the Camps, agrees that the Settlement is fair,
3 reasonable, and adequate.

4 10. On October 29, 2015, the Parties participated in a full-day of mediation before a
5 respected and experienced mediator, Jeffrey Ross, Esq., in Oakland, California. On November
6 13, 2015, the Parties engaged in a second mediation with Mr. Ross to build upon the progress
7 made during the first mediation. Mr. Ross regularly conducts mediations of wage and hour and
8 misclassification class actions. At the conclusion of the November 13, 2015 mediation, the
9 Parties executed a Memorandum of Understanding. This Settlement Stipulation incorporates,
10 expresses, and supersedes the Memorandum of Understanding.

11 11. Through additional confirmatory discovery, the Parties determined the precise
12 number of days worked by each Class Member. As set forth below, the Settlement provides that
13 all Class Members will receive monetary relief. Based on the discovery conducted and their own
14 independent investigation and evaluation, Class Counsel concluded that allocating such relief
15 based on the number of days worked is fair, reasonable, and adequate.

16 12. The Parties agree that the class described herein may be certified and that any
17 motion for preliminary approval seeking, *inter alia*, certification of a class is for purposes of the
18 settlement only. If for any reason the settlement is not approved, the stipulated certification will
19 have no force or effect and will be immediately revoked. The Parties further agree that
20 certification for purposes of the settlement is in no way an admission that class certification is
21 proper for litigation purposes. Evidence of this limited stipulation for settlement purposes only
22 will not be admissible in this or any other proceeding.

23 13. It is the mutual desire of the Parties to fully, finally, and forever settle,
24 compromise, and discharge all disputes and claims raised in or related in any way to the Action.
25 Thus, the entry of the Final Approval Order in this Action shall dismiss with prejudice all claims
26 which were or which could have been alleged in Plaintiffs' Complaints. The Parties agree to
27 cooperate and take all steps necessary and appropriate to obtain preliminary and final approval of
28 this Settlement Stipulation, to effectuate its terms, and to dismiss this Action.

1 **C. Terms of Settlement**

2 1. The financial terms of the settlement are as follows:

3 (a) **Settlement Amount:** The Parties agree to settle this Action for Seven
4 Million Dollars (\$7,000,000.00) (“the Settlement Amount”). The Settlement Amount includes
5 Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses (which includes, without
6 limitation, all such fees and costs incurred to date, as well as such fees and costs to be incurred in
7 documenting the settlement, securing Court approval of the settlement, and obtaining a dismissal
8 of the Action), the service payment to the Class Representatives, as approved by the Court, the
9 payment to the California Labor and Workforce Development Agency (“LWDA”) pursuant to the
10 PAGA claims in the Action, and all costs of administration, including, without limitation,
11 settlement administration fees and expenses. Under no circumstances shall the Settlement
12 Amount Exceed Seven Million Dollars (\$7,000,000.00), except that, as set forth below,
13 Defendant will pay all applicable payroll taxes associated with the Individual Payment Amounts.

14 (b) **Net Settlement Proceeds:** “Net Settlement Proceeds” is defined as the
15 Settlement Amount less the amounts approved and awarded by the Court for: attorneys’ fees and
16 documented litigation costs and expenses incurred or advanced by Class Counsel, the service
17 payment to the Class Representatives, the payment to the LWDA pursuant to PAGA, and the
18 costs of administering the settlement.

19 (c) **Calculation of the Individual Payment Amounts:** “Individual Payment
20 Amount” means the portion of the Net Settlement Proceeds distributable to each Class Member.

21 The Individual Payment Amount will be calculated as follows:

22 i. Based on Defendant’s records, the Settlement Administrator will
23 determine the number of days that each Class Member provided services to a Camp from May 28,
24 2011 through December 31, 2014.

25 ii. The Net Settlement Proceeds will be divided by the total number of
26 days worked by all Class Members. This will yield the amount to be paid to each Class Member
27 for each day worked (“Day Rate”).
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1 iii. The Day Rate will be multiplied by the number of days each Class
2 Member worked during the Class Period to arrive at each Class Member's Individual Payment
3 Amount.

4 iv. Defendant will pay all applicable payroll taxes associated with the
5 Individual Payment Amounts.

6 v. Class members will not be required to submit a claim form in order
7 to receive monies from the Net Settlement Proceeds.

8 vi. Each Class Member who does not opt out by submitting a Request
9 for Exclusion Form (as defined below) will receive an Individual Payment Amount minus any
10 monies previously received by the Class Member in exchange for signing a Waiver and Release
11 Agreement in 2014. Any such monies subtracted from a Class Member's Individual Payment
12 will remain available to be distributed to Class Members who did not sign a Waiver and Release
13 Agreement in 2014 per the calculation set forth above in subsections (i)-(iii).

14 vii. Fifty percent (50%) of each Class Member's Individual Payment
15 Amount shall be attributed to wages, shall be subject to all applicable withholdings, and shall be
16 reported on an IRS Form W-2. The remaining fifty percent (50%) of each Class Member's
17 Individual Payment Amount shall be attributed to penalties and interest, for which an IRS form
18 1099 shall be issued.

19 viii. The Parties recognize and agree that the value of the claims alleged
20 in this litigation are difficult to determine with any certainty for any given year, or at all, and are
21 potentially subject to differing calculations and formulas. The Parties agree that the method for
22 allocating each Class Member's Individual Payment Amount provided herein is reasonable and
23 that the payments provided herein are designed to provide a fair settlement to such persons, in
24 light of the uncertainties of the amounts alleged to be owed to the Class Members and the
25 calculation of such amounts.

26 (d) **Challenges/Disputes to Individual Work Days:** Class Members who
27 wish to challenge or dispute the number of days each Class Member worked during the Class
28 Period, as shown in the Class Notice, may notify the Settlement Administrator of their dispute

1 and should produce any supporting information and/or evidence available to them to support the
2 dates he contends to have provided services as a Class Member. Defendant will review its
3 records and provide information to the Settlement Administrator and to Class Counsel in response
4 to any such disputed claim. Defendant's records will be presumed determinative, but the
5 Settlement Administrator will evaluate the evidence submitted by the Covered Class Member,
6 consult with the Parties, and make the decision as to the correct calculation. The determination
7 by the Settlement Administrator will be final and binding. Covered Class Member will be
8 notified in writing of the results of the disputed claim by the Settlement Administrator as each
9 disputed claim is resolved.

10 (e) **PAGA Payments:** Fifty Thousand Dollars (\$50,000) of the Settlement
11 Amount shall be expressly allocated to settle Plaintiffs' claims brought pursuant to PAGA. Of
12 this amount, seventy-five percent (75%), or Thirty-Seven Thousand and Five Hundred Dollars
13 (\$37,500) shall be paid to the LWDA. The remaining twenty-five percent (25%), or Twelve
14 Thousand and Five Hundred Dollars (\$12,500), shall be part of the Net Settlement Amount for
15 payment to Class Members as part of their Individual Payment Amount.

16 (f) **Service Payment to Class Representatives:** The amount awarded to the
17 Class Representatives as a service payment and as consideration for a general release of claims
18 against the Released Parties (as defined in paragraph D(1) below) will be set by the Court in its
19 discretion. Plaintiffs intend to request service payments of Twenty-Five-Thousand Dollars
20 (\$25,000.00) for Each Class Representative for initiating this Action and acting as the Class
21 Representatives, for services provided in furtherance of this Action, the risks undertaken for
22 payment of costs in the event this Action were unsuccessful, stigma, and a full release of claims,
23 known or unknown, against Defendant. This amount will be deducted from the Settlement
24 Amount. Should the Court approve a lesser amount, the difference shall be paid to Class
25 Members who have not opted out of participation in the settlement of the Action, in an amount
26 proportionate to the value of their Individual Payment Amounts. An IRS Form 1099 will be
27 issued to the Class Representatives for their service payment. Defendant will not object to the
28

1 Service Payment request in the amount of Twenty-Thousand Dollars (\$20,000.00) for each Class
2 Representative.

3 (g) **Class Counsel's Attorneys' Fees:** As part of the Motion for Final
4 Approval, in addition to approval of the Settlement generally, Class Counsel will seek approval of
5 their Fees and Expenses. An award to Class Counsel for attorneys' fees will be subtracted from
6 the Settlement Amount in an amount to be set by the Court, taking into account the settlement
7 award that has been made available for the Settlement Class by the efforts of Class Counsel. The
8 amount awarded shall not exceed thirty percent (30%) of the Settlement Amount. Should the
9 Court approve a lesser amount, the difference shall be paid to Class Members who have not opted
10 out of participation in the settlement of the Action, in an amount proportionate to the value of
11 their Individual Payment Amounts. An IRS Form 1099 will be issued to Class Counsel with
12 respect to its award of attorneys' fees. Defendant shall not oppose the Fee request so long as it
13 remains consistent with this Agreement.

14 (h) **Attorneys' Costs and Expenses:** Class Counsel will be reimbursed from
15 the Settlement Amount for costs and expenses in an amount not to exceed Twenty-Five Thousand
16 Dollars (\$25,000). Should the Court approve a lesser amount, the difference shall be paid to
17 Class Members who have not opted out of participation in the settlement of the Action, in an
18 amount proportionate to the value of their Individual Payment Amounts. An IRS Form 1099 will
19 be issued to Class Counsel with respect to the award of costs and expenses. Defendant shall not
20 oppose the Costs and Expenses request so long as it remains consistent with this Agreement.

21 (i) **Settlement Administration Costs:** The fees and other charges of the
22 Settlement Administrator, CPT Group, Inc. (the "Settlement Administrator"), to administer the
23 entire Settlement shall not exceed Twenty-Thousand Dollars (\$20,000.00) and will be paid from
24 the Settlement Amount. Should the Court approve a lesser amount, the difference shall be paid to
25 Class Members who have not opted out of participation in the settlement of the Action in an
26 amount proportionate to the value of their Individual Payment Amounts. The Settlement
27 Administrator shall establish a Qualified Settlement Fund to administer the settlement payments,
28 including tax reporting, attorney's fees payments, payments of costs and expenses, and payments

1 to the LWDA. The parties, through mutual agreement, may instruct the Settlement Administrator
2 to send an address verification form to ensure greater participation in the settlement.

3 **D. Release of Claims**

4 1. Upon the final approval of the settlement by the Court, and except as to such rights
5 or claims as may be created by this Stipulation of Settlement, the Settlement Class (other than
6 those who submit a Request for Exclusion Form) and each Class Member, will fully release and
7 discharge Defendant and the Camps, and any of their predecessors, successors, affiliates, parents,
8 subsidiaries, related companies or other entities members, employees, agents, contractors,
9 shareholders, officers, directors, attorneys and insurers (“Released Parties”), from any and all
10 claims, whether known or unknown, asserted in the Complaints filed in the Action, or which
11 could have been asserted in the Action based on the allegations made in the Complaints filed in
12 the Action and arising during the period from May 28, 2011 through the date the Court grants
13 preliminary approval of the settlement of the Action (“Class Period”). These claims include
14 without limitation claims for wages, damages, penalties, liquidated damages, punitive damages,
15 interest, attorneys’ fees and costs, litigation costs, restitution, or equitable relief, based on all
16 claims arising out of the alleged misclassification of the Class Members as independent
17 contractors, including the alleged (1) failure to pay minimum wage and all wages; (2) failure to
18 pay overtime wages; (3) failure to pay final wages; (4) failure to keep accurate wage statements;
19 (5) failure to timely pay bi-monthly wages; (6) failure to provide meal and rest breaks; and (7)
20 engagement in unfair competition, as well as all PAGA violations derived therefrom during the
21 Class Period (“Class Members’ Released Claims”). The Class Members’ Released Claims
22 include claims meeting the above definition(s) under any and all applicable statutes, including,
23 without limitation, California Labor Code sections 201, 202, 203, 204, 210, 221, 226, 226.3,
24 226.7, 256, 510, 512, 1194 *et seq.*; the California Unfair Competition Act and in particular,
25 California Business and Professions Code sections 17200 *et seq.*; the California Private Attorneys
26 General Act; California Code of Civil Procedure section 1021.5, and any other provision of the
27 California Labor Code, California Code of Civil Procedure, and the Industrial Welfare
28 Commission Wage Orders, in all of their iterations.

1 2. The Class Members' Released Claims provided by this Stipulation of Settlement
2 include claims in any of the categories enumerated in paragraph D(1) above which a Class
3 Member does not know or suspect to exist in his or her favor against the Released Parties. Each
4 Class Member, including the Class Representatives, waives all rights and benefits afforded by
5 section 1542 of the California Civil Code as to unknown claims in any of the categories
6 enumerated in paragraph D(1) above, and does so understanding the significance of that waiver.
7 Section 1542 provides:

8 A general release does not extend to claims which the creditor does
9 not know or suspect to exist in his or her favor at the time of
10 executing the release, which if known by him or her must have
11 materially affected his or her settlement with the debtor.

12 For all purposes of this settlement, the term "creditor" as used and referred to in Section
13 1542 of the California Civil Code means and includes the Class Representatives and Class
14 Members. Each of the Parties acknowledges and agrees that this waiver is an essential and
15 material term of this settlement, without which this Stipulation of Settlement would not have been
16 executed.

17 3. In addition to the releases enumerated above, Plaintiffs Gabriel Martin and Jacob
18 Horvat, on behalf of themselves and their estate, executors, administrators, heirs and assigns,
19 hereby release the Released Parties from any and all claims, damages, costs, obligations, causes
20 of action, actions, demands, rights, and liabilities of every kind, nature and description, whether
21 known or unknown, whether anticipated or unanticipated, arising on or before the date of the
22 Final Approval Order ("Plaintiffs' Released Claims"). Plaintiffs' Released Claims include, but
23 are not limited to, those claims that were or could have been asserted in the Action, including
24 claims arising under the Fair Labor Standards Act; the California Working Hours Law; the
25 California Payment of Wages Law; California Labor Code §§ 96 through 98.2 *et seq.*, §§ 200 *et*
26 *seq.* (including, but not limited to, §§ 201, 202, 203, 204, 210, 218, 218.5, 218.6, 226(a), 226.3
27 and 226.7), §§ 300 *et seq.*, §§ 400 *et seq.*, §§ 500 *et seq.* (including, but not limited to, §§ 510,
28 512 and 558), § 1194 and §§ 1198-1199; the California Unfair Competition Act and, in particular,
the California Business & Professions Code §§ 17200 *et seq.*; the PAGA Act, codified at

1 California Labor Code §§ 2698 *et seq.*; and California Code of Civil Procedure §1021.5; all
2 discrimination, harassment and retaliation claims; all penalties that were sought or could have
3 been sought in the Action, liquidated damages, related tort and punitive damages, interest,
4 attorneys' fees, litigation costs, restitution, and declaratory or equitable relief.

5 Plaintiffs each also agree to execute a general release agreement of all known and
6 unknown claims they might have against the Released Parties based on or arising from the
7 services they provided to the Camps and/or Defendant ("General Release Agreement").

8 Plaintiffs additionally waive all rights and benefits afforded by California Civil Code
9 section 1542 and does so understanding the significance of that waiver. Section 1542 provides:

10 A general release does not extend to claims which the creditor does
11 not know or suspect to exist in his or her favor at the time of
12 executing the release, which if known by him or her must have
materially affected his or her settlement with the debtor.

13 In order to achieve a full and complete release of Released Parties, including of all claims
14 arising from this Action, Plaintiffs acknowledge that this Settlement is meant to include in its
15 effect all claims that were asserted in this Action, including claims that Plaintiffs do not know or
16 suspect to exist in their favor against the Released Parties.

17 **E. Notice and Claim Process**

18 1. The Parties have agreed to the appointment of CPT Group, Inc. (the "Settlement
19 Administrator") to perform the duties of a settlement administrator. The Parties represent that
20 they do not have any financial interest in the Settlement Administrator or otherwise have a
21 relationship with the Settlement Administrator that could create conflict of interest.

22 2. The Settlement Administrator shall be responsible for:

23 (i) Updating Class Member addresses by way of a search of the
24 National Change of Address database before mailing the Class Notice to the Class
25 Members, and performing skip traces as necessary upon the return of mail;

26 (ii) Obtaining a toll-free number and U.S. Post Office Box for all Class
27 Member communications;

28 (iii) Creating and maintaining a website for Class Members that links to

1 the Settlement Agreement, Class Notice, Request for Exclusion Form, motions for
2 approval and for attorneys' fees, and other important documents in the case;

3 (iv) Printing and mailing (and, as appropriate, re-mailing) the Class
4 Notice to all Class Members as directed by the Court;

5 (v) Calculation of the Individual Payment Amounts for which Class
6 Members are eligible in accordance with the methodology set forth in this
7 Agreement, which estimated amount will be set forth in the Class Members'
8 individualized Class Notices;

9 (vi) Consulting with counsel for the Parties concerning any relevant
10 issue, including (without limitation) the Individual Payment Amounts to be paid to
11 each Class Member;

12 (vii) Investigating, consulting with counsel for the Parties, and making
13 determinations regarding any disputes raised by Class Members regarding the
14 calculation of their Individual Payment Amounts;

15 (viii) Receiving, reviewing, and keeping track of timely and proper
16 Request for Exclusion Forms submitted by Class Members, and providing copies
17 of each Form, upon request of either of the Parties;

18 (ix) Distributing and paying the Individual Payment Amounts, the
19 PAGA Payment to the California Labor & Workforce Development Agency, the
20 Service Awards to Plaintiffs, the Fee and Expense Award, Administration Costs,
21 the Employee Taxes and all other amounts, as may be ordered by the Court or as
22 otherwise necessary;

23 (x) Calculating the wage, interest and penalties portions of each
24 Individual Payment Amount and preparing the necessary tax documents to remit to
25 the appropriate governmental taxing authorities;

26 (xi) Preparing periodic status reports regarding the dissemination of the
27 Notice Packet to the Covered Class Members, skip traces, and performance of its
28 duties; and

1 (xii) Such other tasks as the Parties mutually agree or the Court orders
2 the Settlement Administrator to perform, including responding to questions from
3 Class Members or directing such questions to the Parties, as appropriate.

4 3. The Parties agree to cooperate in the Settlement administration process and to
5 make all reasonable efforts to control and minimize the costs and expenses incurred in
6 administration of the Settlement.

7 4. Within fifteen (15) calendar days after entry of the order granting preliminary
8 approval, Defendant shall provide to the Settlement Administrator a list of all known Class
9 Members, including, to the extent available, their last known address, telephone numbers, social
10 security numbers, and the number of days that each Class Member provided services from May
11 28, 2011 through December 12, 2014 (“Settlement Class Information”). The Settlement
12 Administrator shall not disclose any Settlement Class Information to any person other than
13 Defendant or Defendant’s counsel of record in this litigation. Defendant shall also provide to the
14 Settlement Administrator the amount each Class Member received upon signing a Waiver and
15 Release Agreement in 2014.

16 5. A postcard notice of pendency of class action, proposed settlement and hearing
17 date for Court approval, and address verification request (“Class Notice”) in the form attached
18 hereto as Exhibit 1, and as approved by the Court, shall be sent by the Settlement Administrator
19 to the Class Members, by first class mail, within fifteen (15) calendar days after receiving the
20 Settlement Class Information from Defendant.

21 6. A long-form notice of pendency of class action, proposed settlement and hearing
22 date for Court approval, and address verification request (“Long Form Class Notice”) in the form
23 attached hereto as Exhibit 2 will be available to every Class Member, upon request.

24 7. Attached to the Long Form Class Notice will be a Request For Exclusion Form
25 (“Request for Exclusion Form”) in the form attached hereto as Exhibit 3.

26 8. The Settlement Administrator will make reasonable efforts to ensure that the Class
27 Notice is sent to all Class Members. Receipt of the Class Notice will be conclusively presumed if
28 a Class Notice has not been returned as undeliverable within thirty-three (33) days of the mailing

1 to that Class Member. In the event of returned or non-deliverable notices, the Settlement
2 Administrator will make reasonable efforts to locate Class Members and re-send the notices,
3 including attempting to locate missing Class Members using all appropriate tracing methods.
4 Any Class Notice returned to the Settlement Administrator as undelivered and bearing a
5 forwarding address shall be re-mailed by the Settlement Administrator as soon as possible,
6 preferably within three (3) days, following receipt of the returned mail. For any Class Notice
7 returned to the Settlement Administrator without a forwarding address, the Settlement
8 Administrator shall conduct a computer/SSN and “skip trace” search to obtain an updated
9 address, and shall promptly re-mail the Class Notice to any newly-found address or addresses.
10 The re-mailed Class Notice shall be identical to the original Class Notice.

11 9. Each Class Member will be fully advised of the settlement, the ability to object to
12 the settlement, and the ability to submit a Request for Exclusion Form. The Class Notice will
13 inform the Class Members of the Court-established deadlines for filing objections and a Request
14 for Exclusion Form. Class Members who wish to object to this settlement must do so in writing,
15 or in any other manner ordered by the Court. Written objections must state the basis of the
16 objection and be mailed to the Settlement Administrator and to counsel for the Parties, and
17 postmarked no later than forty-five (45) days after mailing of the class notice, or as otherwise
18 ordered by the Court. Class Members shall be permitted to withdraw their objections in writing
19 by submitting withdrawal statement to the Settlement Administrator not later than one (1)
20 business day prior to the Court’s final approval hearing, or as otherwise ordered by the Court.

21 10. In order to elect not to participate in the Settlement, a Class Member must sign a
22 Request for Exclusion Form, and mail the form no later than forty-five (45) calendar days after
23 the initial mailing of the Class Notice and Request for Exclusion Form to Class Members. The
24 timeliness of submitted Request for Exclusion Form will be determined by valid postmark. Class
25 Members shall be permitted to rescind their opt out statements in writing by submitting a
26 rescission statement to the Settlement Administrator not later than three (3) business days prior to
27 the Court’s final approval hearing, or as otherwise ordered by the Court.
28

1 11. The Settlement Administrator will notify the Parties of the total number of valid
2 Request for Exclusion Forms within ten (10) calendar days after the deadline for receipt of the
3 Request for Exclusion Forms (seventy (70) days following the initial mailing of the Class Notice
4 and Request for Exclusion Form to Class Members). If more than 75 Class Members submit a
5 valid Request for Exclusion Form, Defendant, in its sole discretion, may terminate the
6 Memorandum of Understanding and the Stipulation of Settlement within twenty (20) calendar
7 days of the end of the sixty (60) calendar days after the initial mailing of the Class notice and
8 Request for Exclusion Form to Class Members.

9 12. The Settlement Administrator shall provide to the Parties, at least fifteen (15)
10 calendar days prior to the final approval hearing, a declaration of due diligence and proof of
11 mailing with regard to the mailing of the Class Notice and Request for Exclusion Forms, the
12 number of valid Requests for Exclusion Forms received, and the number of written objections
13 received. The Settlement Administrator will also provide to the Parties, at least fifteen (15)
14 calendar days prior to the final approval hearing, a report listing the amount of all payments to be
15 made to each Class Member.

16 **F. Dates of Distribution of the Settlement Amount**

17 1. If no objections to this Stipulation and Settlement are timely filed and no objector
18 appears at any final approval hearing, no later than thirty (30) calendar days after the Court enters
19 an order granting final approval of this Stipulation, Defendant shall cause to be paid monies to
20 fund the Qualified Settlement Fund.

21 2. If objections to this Settlement are timely filed or an objector does appear at any
22 final approval hearing, Defendant shall provide the funds to the Settlement Administrator no later
23 than five (5) calendar days after the latest of: (1) the last date by which a notice of appeal to the
24 California Court of Appeal of the Judgment may be timely filed, and none is filed; (2) the last
25 date by which a petition for review by the California Supreme Court of a decision by the
26 California Court of Appeal affirming the Judgment may be timely filed, and none is filed; (3) the
27 last date by which a petition for *certiorari* to the U.S. Supreme Court with respect to a decision
28 by the California Court of Appeal or the California Supreme Court affirming the Judgment may

1 be timely filed, and none is filed; and (4) if a notice of appeal to the Court of Appeal, a petition
2 for review to the California Supreme Court, or a petition for *certiorari* to the U.S. Supreme Court
3 is timely filed, the date on which the highest reviewing court renders its decision denying the
4 petition (where the immediately lower court affirmed the Judgment) or affirming the Judgment.

5 3. The Settlement Administrator will: (1) mail all required Individual Payment
6 Amount checks, subject to withholding of applicable local, state and federal taxes, (2) mail all
7 Service Payments to Class Representatives, and (3) transmit Class Counsel's Attorneys' Fees and
8 Expenses, no later than five (5) calendar days after receipt of the funds from Defendant. The
9 checks provided to Class Members shall prominently state the checks will expire if not cashed
10 within 120 calendar days, or alternatively, such a statement may be made in a letter
11 accompanying the check.

12 4. If a Class Member's Individual Payment Amount is returned to the Settlement
13 Administrator, the Settlement Administrator will make reasonable efforts to re-mail it to the Class
14 Member at his correct address.

15 5. Class Members must cash their Individual Payment Amount checks within 120
16 calendar days after they are mailed by the Settlement Administrator. Such checks,
17 correspondingly, will be void 120 days after the Settlement Administrator mails them to Class
18 Members.

19 6. The Settlement Administrator shall mail a postcard to Class Members who have
20 not cashed their Individual Payment Amount checks sixty (60) days before the checks become
21 void to remind them that if their checks are not cashed by the deadline, their checks will become
22 void and shall be paid to other Class Members and/or a cy pres beneficiary. The postcard will
23 advise Class Members of an opportunity to receive replacement checks

24 7. All uncashed Individual Payment Amount checks and any amount remaining from
25 the Settlement Amount after the expiration of the Individual Payment Amount checks will be
26 considered residue. The entire residue will be subject to a second distribution to Class Members
27 who cashed a check in the first distribution. The residue shall constitute the "Net Excess
28 Settlement Amount." The Net Excess Settlement Amount shall be distributed to Class Members

1 who cashed a check in the first distribution in the form of an Excess Settlement Award payment
2 using the same pro rata calculation method for calculating the Individual Payment Amount set
3 forth in subsection (1)(c) of Section C. The allocation, reporting and treatment for tax purposes
4 of Excess Settlement Award payments shall be the same as the allocation, reporting and treatment
5 for tax purposes of the Settlement Award payments set forth in Section C. The Settlement
6 Administrator shall make all Excess Settlement Award payments within sixty (60) days following
7 the expiration of the Individual Payment Amount checks. Excess Settlement Award checks shall
8 remain valid and negotiable for one hundred and twenty (120) days from the date of issuance and
9 will be cancelled by the Settlement Administrator if not cashed within that time. The Excess
10 Settlement Award checks shall prominently state the checks will expire in one hundred and
11 twenty (120) calendar days, or alternatively, such a statement may be made in a letter
12 accompanying the check.

13 8. Subject to Court approval, all amounts of un-cashed Excess Settlement Award
14 checks will be paid out to Legal Aid Society – Employment Law Center as the cy pres
15 beneficiary. The Parties represent that they do not have any financial interest in the cy pres
16 beneficiary or otherwise have a relationship with the cy pres beneficiary that could create conflict
17 of interest.

18 9. Plaintiffs shall submit this Stipulation of Settlement in support of the joint motion
19 for preliminary approval of the settlement. Defendant shall promptly file a Notice of Non-
20 Opposition (or similarly-captioned pleading), after Plaintiffs, through Class Counsel, file a
21 motion for preliminary approval consistent with Stipulation of Settlement.

22 **G. Duties of the Parties in Connection with and Following Final Court Approval.**

23 1. In connection with the hearing on final approval of the settlement provided for in
24 this Stipulation of Settlement, Plaintiffs, through Class Counsel, will submit a proposed final
25 order ten (10) days prior to the scheduled date of the hearing on final approval:

26 (a) approving the settlement, adjudging the terms thereof to be fair, reasonable
27 and adequate, and directing consummation of its terms and provisions;

1 (b) approving Class Counsel's application for an award of attorneys' fees and
2 reimbursement of documented litigation costs and expenses, the service payment to the Class
3 Representative, the payment to the LWDA, and the costs of administering the settlement; and;

4 (c) upon a showing that Defendant has made all payments required by this
5 Stipulation of Settlement, dismissing the Action on the merits and with prejudice, and
6 permanently barring all Class Members from prosecuting any Released Claim against any of the
7 Released Parties.

8 2. Class Counsel will file an application for attorneys' fees and reimbursement of
9 costs and expenses ten (10) calendar days prior to the scheduled date of the hearing on final
10 approval.

11 **H. Miscellaneous Provisions:**

12 1. Voiding the Agreement

13 A failure of the Court to approve any material condition of this Stipulation of Settlement
14 which effects a fundamental change of the Parties' settlement, or if the settlement is reversed or
15 materially modified on appellate review, shall render the entire Stipulation of Settlement voidable
16 and unenforceable as to all Parties herein at the option of any Party.

17 2. Parties' Authority

18 The signatories hereto represent that they are fully authorized to enter into this Stipulation
19 of Settlement and bind the Parties hereto to the terms and conditions hereof.

20 3. Mutual Full Cooperation

21 The Parties agree to fully cooperate with each other to accomplish the terms of this
22 Stipulation of Settlement, including but not limited to, execution of such documents and to take
23 such other action as may reasonably be necessary to implement the terms of this Stipulation of
24 Settlement. The Parties to this Stipulation of Settlement shall use their best efforts, including all
25 efforts contemplated by this Stipulation of Settlement and any other efforts that may become
26 necessary by order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the
27 terms set forth herein. As soon as practicable after execution of this Stipulation of Settlement,
28 Class Counsel shall, with the assistance and cooperation of Defendant and its counsel, take all

1 necessary steps to secure the Court's preliminary and final approval of the settlement.

2 4. No Prior Assignments

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

7 5. No Admission

8 Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be
9 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
10 of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
11 Stipulation of Settlement with the intention of avoiding further disputes and litigation with the
12 attendant inconvenience and expenses. This Stipulation of Settlement is a settlement document
13 and shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence
14 408 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action
15 or proceeding to approve the settlement, and/or interpret or enforce this Stipulation of Settlement.

16 6. Enforcement Actions

17 Except as otherwise provided in this Stipulation of Settlement, in the event that one or
18 more of the Parties to this Stipulation of Settlement institutes any legal action, arbitration, or other
19 proceeding against any other Party to enforce the provisions of this Stipulation of Settlement or to
20 declare rights and/or obligations under this Stipulation of Settlement, the successful Party shall be
21 entitled to recover from the unsuccessful Party reasonable attorneys' fees and costs, including
22 expert witness fees, incurred in connection with any enforcement actions.

23 7. Notices

24 Unless otherwise specifically provided herein, all notices, demands or other
25 communications given hereunder shall be in writing and shall be deemed to have been duly given
26 as of the third business day after mailing by United States registered or certified mail, return
27 receipt requested, addressed:
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To Plaintiffs and the Settlement Class:

Daniel Hutchinson
Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111

Bree Ullman
Law Office of Bree A. Ullman
4410 Edgewood Ave., Suite B
Oakland, CA 94602

To Defendant:

Richard Hill
Littler Mendelson P.C.
650 California Street, 20th Floor
San Francisco, CA 94108

Baldwin Lee
Allen Matkins Leck Gamble Mallory & Natsis LLP
Three Embarcadero Center, 12th Floor
San Francisco, CA 94111

8. Construction

The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive arms’ length negotiations between the Parties and that this Stipulation of Settlement shall not be construed in favor of or against any Party by reason of the extent to which any Party or their counsel participated in the drafting of this Stipulation of Settlement.

9. Captions and Interpretations

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

10. Modification

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

1 not be discharged except by performance in accordance with its terms or by a writing signed by
2 all of the Parties hereto.

3 11. Integration Clause

4 This Stipulation of Settlement contains the entire agreement between the Parties relating
5 to the settlement and transaction contemplated hereby, and all prior or contemporaneous
6 agreements, understandings, representations, and statements, whether oral or written and whether
7 by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived
8 except in writing.

9 12. Material Representations Regarding Class Size

10 Defendant has represented through discovery that the Settlement Class contains 664
11 individuals. The Parties agree that the class size is approximately 664 individuals. This
12 Stipulation has been negotiated based on this representation.

13 13. Binding On Assigns

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

16 14. Governing Law

17 All terms of this Stipulation of Settlement and its exhibits shall be governed by and
18 interpreted according to the laws of the State of California, without giving effect to any conflict of
19 law principles or choice of law principles.

20 15. Public Comment And Confidentiality

21 Other than necessary disclosures made to the Court, Plaintiffs and Class Counsel shall not
22 publicize the settlement to the media, the press, on any website (including without limitation, in a
23 verdicts/settlements service, through social media, or via any other means). Class Counsel may
24 post Court documents concerning the settlement on Class Counsel's website without
25 commentary. If Plaintiffs or Class Counsel receive inquiries from the media regarding the
26 settlement, they may state only that the Action has been resolved on the terms set forth in the
27 Stipulation that was publicly filed. Plaintiffs and Class Counsel are permitted to discuss the terms
28 of the Settlement with any and all Class Members and courts, following the dissemination of the

1 Class Notice. If Plaintiffs or Class Counsel are legally required to communicate about the
2 settlement with governmental authorities, they shall give counsel for Defendant notice before any
3 such communication occurs as is reasonably possible. Class counsel may note the fact of this
4 settlement on their respective websites and in filings with courts in support of their appointment
5 as class counsel in other matters. *See* BASF Ethics Opinion 2012-1; Cal. R. Prof. Conduct, Rule
6 1-500; ABA Model Rule 5.6(b). If Plaintiffs or Class Counsel violate the terms of this paragraph
7 prior to final approval, Defendant may rescind the Stipulation of Settlement, rendering it null and
8 void, and will no longer be bound by any of its terms, but only if Defendant does so in writing
9 transmitted to Class Counsel before any order of final approval is rendered by the Court.

10 16. Communications with Class Members Regarding the Settlement

11 Neither the Parties nor their counsel will contact Class Members for the purpose of
12 attempting to influence them not to participate in this Settlement or to solicit or otherwise
13 encourage Class Members or any other persons (including, but not limited to, the State of
14 California Labor and Workforce Development Agency) to submit written objections to the
15 Settlement, or encourage Class Members or any other person to appeal from the Settlement.
16 Notwithstanding the foregoing, the Parties and their counsel shall not discourage Class Members
17 from participating in the Settlement. Notwithstanding, once the Settlement is filed with the
18 Court, the Parties and their counsel may disclose the terms of the Settlement upon inquiry by
19 Class Members.

20 17. Signatures of All Class Members Unnecessary to be Binding

21 It is agreed that, because the members of the Settlement Class are numerous, it is
22 impossible or impractical to have each Class Member execute this Stipulation of Settlement. The
23 Class Notice, attached hereto as Exhibit 1, will advise all Class Members of the binding nature of
24 the release provided herein and such shall have the same force and effect as if this Stipulation of
25 Settlement were executed by each Class Member.

26 18. Counterparts

27 This Stipulation of Settlement may be executed in counterparts, and when each Party has
28 signed and delivered at least one such counterpart, each counterpart shall be deemed an original,

1 and when taken together with other signed counterparts, shall constitute one fully-signed
2 Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

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2 Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

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5 Dated:

By: Gabriel Martin
Plaintiff Gabriel Martin

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7 Dated: 4/28/2016

By: Jacob Horvat
Plaintiff Jacob Horvat

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10 Dated: 4/27/16

By: Matt Oggeso
Defendant Bohemian Club

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14 Approved as to form and content:

15 Dated: 4/27/2016

Daniel M. Hutchinson
Daniel M. Hutchinson
LIEFF CADRASER HEIMANN & BERNSTEIN, LLP
Counsel for Plaintiffs

16
17
18 Dated: 4/29/2016

Bree A. Ullman
Bree A. Ullman
LAW OFFICES OF BREE A. ULLMAN
Counsel for Plaintiffs

19
20
21 Dated: 4/27/16

Richard Hill
Richard Hill
LITTLER MENDELSON PC
Counsel for Defendant Bohemian Club