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19 **SUPERIOR COURT OF CALIFORNIA**
20 **COUNTY OF ALAMEDA**

21 EDGAR DIAZ, on behalf of himself and all
22 others similarly situated,

23 Plaintiff,

24 vs.

25 TAK COMMUNICATIONS CA, INC.; TAK
COMMUNICATIONS, INC.; and DOES 1-50,
26 inclusive,

27 Defendants.
28

Case No.: RG20064706

Related to: *Edgar Diaz and Joe Trigo v. TAK Communications CA, Inc.; and TAK Communications, Inc.*, Eastern District of California, Case No. 2:20-at-00481

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

1
2 1. This Class Action Settlement Agreement and Release (the “Settlement
3 Agreement,” “Settlement” or “Agreement”) is entered into between Plaintiff Edgar Diaz and Joe
4 Trigo (“Named Plaintiffs”), individually and on behalf of all other similarly-situated persons,
5 and Defendants TAK Communications CA, Inc. and TAK Communications, Inc.
6 (“Defendants”), subject to the approval of the Court. Plaintiff and Defendants are collectively
7 referred to as the “Parties.”

DEFINITIONS

8 2. The following terms used in this Settlement Agreement shall have the meanings
9 ascribed to them below:

10 a. “Action” means the above-captioned action, *Diaz v. TAK Communications*
11 *CA, Inc., et al.*, Superior Court of California, County of Alameda, Case Number RG20064706.

12 b. The “California Class” or “Members of the California Class” means all
13 current and former hourly, non-exempt employees who worked as Technicians for Defendants
14 in the state of California between May 22, 2019 and August 4, 2020.

15 c. “Class Counsel” means Schneider Wallace Cottrell Konecky LLP and
16 Berger Montague PC.

17 d. “Class Counsel’s Costs” refers to the amount of reasonable litigation
18 expenses Class Counsel incurred in connection with this Action, which shall not exceed
19 \$20,000.00, including their pre-filing investigation, their filing of the Action and all related
20 litigation activities, and all post-Settlement compliance procedures.

21 e. “Class List” means a list of Settlement Class Members that Defendants
22 will compile from their records. The Class List shall include: each California Class Member’s
23 and each Opt-In Plaintiff’s full name; last known address; last known email address; last known
24 telephone number; Social Security number; the total number of workweeks that each Settlement
25 Class Member worked in the state of California between May 22, 2019 and August 4, 2020; and
26 the total number of workweeks that each Settlement Class Member worked outside the state of
27 California between and including May 22, 2019, or three years prior to the Opt-In Date for Opt-
28 In Plaintiffs, whichever is earliest, and August 4, 2020. The Class List will also include an
indication of whether the Settlement Class Member is an Opt-In Plaintiff.

f. The “Collective” or “Collective Members” or “Opt-in Plaintiffs” means a
certified collective action for settlement purposes only pursuant to 29 U.S.C. § 216(b), which
includes all individuals who (1) have submitted Opt-In Consent Forms in the federal lawsuit
Diaz, et al. v. TAK Communications CA, Inc., et al, California District Court, Eastern District of
California, Case No. 2:20-at-00481, on or before June 26, 2020, or who demonstrate that they
would have opted-in to the federal lawsuit between June 26, 2020 and August 1, 2020 but for
the dismissal of the federal lawsuit, as of August 4, 2020, and (2) worked as technicians for
Defendants between May 22, 2019, or three years prior to the Opt-In Date for Opt-In Plaintiffs,

1 whichever is earliest, and August 4, 2020.

2 g. “Court” means the Superior Court of California, County of Alameda.

3 h. “Defendants” means TAK Communications CA, Inc. and TAK
4 Communications, Inc.

5 i. “Defendants’ Counsel” means Medina McKelvey LLP.

6 j. “Effective Date” means (i) if there is an objection(s) to the settlement that
7 is not subsequently withdrawn, then the date upon the expiration of time for appeal of the Court’s
8 Final Approval Order; or (ii) if there is a timely objection(s) and appeal by an objector(s), then
9 after such appeal(s) is dismissed or the Court’s Final Approval Order is affirmed on appeal; or
10 (iii) if there are no timely objections to the settlement, or if any objections which were filed are
11 withdrawn before the date of final approval, then the first business day after the Court’s order
12 granting Final Approval of the Settlement.

13 k. “Fee Award” means the award of attorneys’ fees that the Court authorizes
14 to be paid to Class Counsel for the services they rendered to Named Plaintiff, Collective
15 Members, and the Settlement Class in the Action. Class Counsel will not seek more than thirty-
16 three and one-third percent of the Gross Settlement Amount as their Fee Award.

17 l. “Final” shall mean, with respect to a judgment or order, that the judgment
18 or order is final and appealable and either (a) no appeal, motion, or petition to review or intervene
19 has been taken with respect to the judgment or order as of the date on which all times to appeal,
20 move, or petition to review or intervene therefrom have expired, or (b) if an appeal, motion or
21 petition to intervene or other review proceeding of the judgment or order has been commenced,
22 such appeal, motion or petition to intervene or other review is finally concluded and no longer
23 is subject to review by any court, whether by appeal, petitions for rehearing or re-argument,
24 petitions for rehearing *en banc*, petitions for writ of certiorari or otherwise, and such appeal or
25 other review has been finally resolved in such manner that affirms the judgment or order in its
26 entirety. Notwithstanding the foregoing, any proceeding, order, or appeal pertaining solely to
27 the award of attorneys’ fees, attorneys’ costs, or any Service Award shall not by itself in any
28 way delay or preclude the judgment from becoming a final judgment or the Settlement from
becoming “Effective.”

m. “Final Approval” or “Final Approval Order” means the Court’s Final
Approval Order approving the Settlement and entering judgment.

n. “Final Approval Hearing” means the hearing to be held by the Court to
consider the Final Approval of the Settlement.

o. “Gross Settlement Amount” means the non-reversionary total amount that
Defendants shall pay in connection with this Settlement, including any interest earned on such
funds, in exchange for the release of the Settlement Class Members’ Released Claims. The Gross
Settlement Amount is the gross sum of One Million Two Hundred Thousand Dollars
(\$1,200,000.00). The Gross Settlement Amount includes: (a) all Settlement Awards to

1 Settlement Class Members; (b) civil penalties under the Private Attorneys' General Act
2 ("PAGA"); (c) Class Representative Enhancement Payments; (d) Attorneys' Fees and Costs to
3 Class Counsel, and (e) Settlement Administration Costs to the Settlement Administrator. Except
4 for the Defendants' employers portion of payroll taxes on Settlement Awards to Eligible Class
5 Members ("Defendants' Payroll Taxes"), the Parties agree that Defendants will have no
6 obligation to pay any amount in connection with this Settlement Agreement apart from the Gross
7 Settlement Amount and Defendants' Payroll Taxes. There will be no reversion.

8 p. "Net PAGA Amount" means the Twenty-Five Percent (25%) of the
9 amount of civil penalties under the PAGA, or Eight Thousand Seven Hundred Fifty Dollars
10 (\$8,750.00).

11 q. "Net Settlement Amount" means the Gross Settlement Amount less: (i)
12 Service Awards; (ii) Fee Award; (iii) Class Counsels' Costs; (iv) Settlement Administrator
13 Costs; (v) the payment to Labor and Workforce Development Agency ("LWDA") for its share
14 of PAGA penalties; (vi) and the Net PAGA Amount. The Parties acknowledge that all of these
15 amounts are subject to the Court's approval.

16 r. "Notice Deadline" means the date sixty (60) days after the Settlement
17 Notice is initially mailed to the Settlement Class. California Class Members shall have until the
18 Notice Deadline to object to, or opt-out of the Settlement.

19 s. "Participating Individuals" means (a) any California Class Members who
20 do not submit a valid letter requesting to be excluded from the Settlement, consistent with the
21 terms set forth in this Settlement Agreement, and (b) all Opt-In Plaintiffs who cash or deposit
22 their Settlement Award checks. All Participating Individuals will be bound by all terms and
23 conditions of the Settlement Agreement, including the release of the Released Claims.

24 t. "Parties" means the parties to this Agreement: Named Plaintiff; TAK
25 Communications CA, Inc.; and TAK Communications, Inc.

26 u. "Preliminary Approval" or "Preliminary Approval Order" means the
27 Court's Preliminary Approval Order preliminarily approving the terms and conditions of this
28 Agreement.

v. "Qualified Settlement Fund" means a qualified settlement fund under
Section 468B of the Internal Revenue Code established by the Settlement Administrator for the
purpose of administering this Settlement.

w. "Releasees" or "Released Parties" means Defendants and their present and
former parent companies, subsidiaries, related or affiliated companies, and their shareholders,
officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any
individual or entity that could be liable for any of the Released Claims, and Defendants' Counsel.

x. "Service Award" means the payment to Named Plaintiffs Edgar Diaz and
Joe Trigo for their efforts in bringing and prosecuting this matter. The Service Award will not
exceed the following amounts: Ten Thousand Dollars (\$10,000.00) for Plaintiff Edgar Diaz and

1 Ten Thousand Dollars (\$10,000.00) for Plaintiff Joe Trigo.

2 y. "Settlement Administrator" means Heffler Claims Group, the third-party
3 class action settlement administrator that will handle the administration of this Settlement,
4 subject to approval by the Court.

5 z. "Settlement Administrator Costs" refer to the costs the Settlement
6 Administrator will incur to distribute the Settlement Notice and Settlement Awards, which are
7 estimated to be Twenty-Seven Thousand Five Hundred Dollars (\$27,500.00).

8 aa. "Settlement Award" means the payment that each Settlement Class
9 Member shall be entitled to receive pursuant to the terms of this Agreement.

10 bb. "Settlement Class Members" means all Members of the California Class,
11 all Collective Members, and the Named Plaintiffs.

12 cc. "Settlement Notice" means the Notice of Class Action Settlement to the
13 Settlement Class Members substantially in the form as Exhibit A attached hereto, or as approved
14 by the Court.

15 **RECITALS**

16 3. Plaintiffs Edgar Diaz and Joe Trigo filed an initial action against Defendants in the
17 Eastern District of California on May 18, 2020, asserting claims as a collective action under the
18 Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq. ("FLSA") and a class action pursuant to
19 California labor laws. *Diaz, et al. v. TAK Communications CA, Inc., et al*, California District
20 Court, Eastern District of California, Case No. 2:20-at-00481.

21 4. Plaintiff Diaz filed a separate action against Defendants on June 12, 2020 in
22 Alameda Superior Court, to assert additional claims for penalties under California Private
23 Attorneys General Act ("PAGA") § 2699 arising from Defendant's violations of the Cal. Lab.
24 Code. *Diaz v. TAK Communications CA, Inc., et al.*, Superior Court of California, County of
25 Alameda, Case No. RG20064706. Defendants filed their Answer on July 27, 2020, denying
26 Plaintiff's allegations.

27 5. Through the federal and California state actions, Plaintiffs alleges that Defendants
28 violated the Fair Labor Standards Act, and the wage and hour laws of California by failing to pay
Technicians earned wages and failing to provide legally compliant meal and rest periods. On this
basis, plaintiffs brought claims against Defendants for unpaid minimum wages and overtime
wages, failure to provide meal and rest periods, inaccurate wage statements, failure to maintain
pay records, failure to pay final wages, unfair competition, and civil penalties under the PAGA.

6. Following the filing of these actions, Defendants informed Plaintiffs of the
existence of arbitration agreements purportedly executed by all named plaintiffs and opt-in
plaintiffs. The Parties agreed to attend mediation early on in these actions, and subsequently
entered into a Tolling and Dismissal Agreement on June 26, 2020, whereby Plaintiffs agreed to
dismiss his Class and Collective action without prejudice in federal court by June 29, 2020, and

1 TAK agreed that no statute of limitations on any claim would run against Plaintiffs while the
2 agreement is in effect (except those claims that are already barred by any applicable statute of
3 limitations). Pursuant to the Tolling and Dismissal Agreement, the agreement applies to: TAK,
4 all named Plaintiffs (i.e., Edgar Diaz and Joe Trigo), all opt-in plaintiffs who timely opted in to
5 the federal lawsuit on or before June 26, 2020 (i.e. 47 opt-in plaintiffs), and all individuals who
6 demonstrate that they would have opted-in to the federal lawsuit between June 26, 2020 and
7 August 1, 2020 but for the dismissal of the federal lawsuit pursuant to the Parties' agreement (i.e.,
8 40 opt-in plaintiffs, for a total of 87 opt-in plaintiffs). These terms, pursuant to the agreement,
9 terminate on September 1, 2020.

7 7. Pursuant to the Tolling and Dismissal Agreement, Plaintiffs dismissed the federal
8 action on June 29, 2020 and the case was closed on June 30, 2020. Dkt. Nos. 12-13. To date, a
9 total of 87 individuals have opted-in to the federal action or their opt-in forms have been provided
10 to Defendants following dismissal of the federal action.

10 8. On August 4, 2020, the Plaintiffs and Defendants conducted a full day mediation
11 session which was remotely held before well-respected employment mediator Tripper Ortman.
12 The Parties reached a settlement at the mediation and executed a confidential memorandum of
13 understanding of the substantive terms of the settlement that day. In September 2020, the Parties
14 agreed to settle this action under the terms provided in the instant Settlement Agreement.

13 9. Class Counsel has made a thorough and independent investigation of the facts and
14 law relating to the allegations in the Action. In agreeing to this Settlement Agreement, Named
15 Plaintiffs have considered: (a) the facts developed during pre-mediation, informal discovery and
16 the Parties' mediation process and the law applicable thereto; (b) the attendant risks of continued
17 litigation and the uncertainty of the outcome of the claims alleged against Defendants; and (c) the
18 desirability of consummating this Settlement according to the terms of this Settlement Agreement.
19 Named Plaintiffs have concluded that the terms of this Settlement are fair, reasonable and
20 adequate, and that it is in the best interests of Named Plaintiffs, the Opt-In Plaintiffs and the
21 Settlement Class (as defined above) to settle their claims against Defendants pursuant to the terms
22 set forth herein.

19 10. Defendants deny the allegations in the Action and deny any and all liability,
20 including any liability for alleged failure to pay overtime compensation, failure to pay any wages,
21 failure to provide meal and rest breaks, failure to provide accurate wage statements, failure to pay
22 any wages in a timely manner during employment or at the time of termination, or any other wage
23 and hour or similar violation. This Settlement Agreement shall not be construed as an admission
24 by Defendants or any of the Releasees (as defined above) of any fault, liability or wrongdoing,
25 which Defendants expressly deny. If this Settlement Agreement does not become final, this
26 Settlement Agreement, or the circumstances leading to this Settlement Agreement, may not be
27 used as an admission by Defendants or any wrongdoing or evidence of any wrongdoing by
28 Defendants.

26 11. The Parties recognize that notice to the Settlement Class of the material terms of
27 this Settlement, as well as Court approval of this Settlement, are required to effectuate the

1 Settlement, and that the Settlement will not become operative until the Court grants final approval
2 of it, Settlement becomes Final and the Settlement Effective Date occurs.

3 12. The Parties stipulate and agree that, for settlement purposes only, the requisites for
4 establishing collective action certification under the FLSA pursuant to 29 U.S.C. § 216(b), and
5 class certification pursuant to CAL. CIV. CODE PROC. § 382 are met. Should this Settlement not
6 become Final, such stipulation to certification shall become null and void and shall have no bearing
7 on, and shall not be admissible in connection with, the issue of whether or not collective or class
8 certification would be appropriate in a non-settlement context. Defendants deny that class and/or
9 collective action treatment is appropriate in the litigation context or for trial.

10 13. The Parties stipulate and agree that for settlement purposes only, Plaintiffs shall file
11 a stipulation in the instant Action, and Defendants shall not oppose, for an order granting leave to
12 amend the operative complaint to add FLSA claims and California state law claims for the
13 violations of federal and California labor laws asserted in the Complaint filed in the action *Diaz,*
14 *et al. v. TAK Communications CA, Inc., et al*, California District Court, Eastern District of
15 California, Case No. 2:20-at-00481, Dkt. No. 1, promptly after execution of this Settlement
16 Agreement. The Parties also stipulate and agree that Plaintiffs shall file, and Defendants shall not
17 oppose, the Opt-In Consent Forms in the instant Action, of the individuals who: (1) have submitted
18 Opt-In Consent Forms pursuant to the Parties' Tolling Agreement, including Plaintiffs, as of
19 August 4, 2020, and (2) worked as technicians for Defendants between the applicable limitations
20 period and August 4, 2020. The Parties stipulate and agree that for settlement purposes only,
21 Defendants consent to the filing of the Amended Complaint and to personal and subject matter
22 jurisdiction in Alameda County Superior Court.

23 14. In consideration of the foregoing and other good and valuable consideration, the
24 receipt and sufficiency of which is hereby acknowledged by each party to the other, IT IS
25 HEREBY AGREED, by and between the undersigned, subject to the final approval of the Court
26 and the other conditions set forth herein, that Named Plaintiffs' and the Participating Individuals'
27 claims as described herein against Defendants shall be settled, compromised and dismissed, on the
28 merits and with prejudice, and that the Named Plaintiffs' and Participating Individuals' Released
Claims shall be finally and fully compromised, settled and dismissed as to the Defendants and
Releasees, in the manner and upon the terms and conditions set forth below.

RELEASES

15 15. In exchange for the consideration set forth in this Settlement Agreement, Named
16 Plaintiffs and Participating Individuals agree to release all claims as set forth herein as applicable.

17 16. **Settlement Class Members' Released Claims.** Upon Final Approval of the
18 Settlement Agreement and payment of amounts set forth herein, and except as to such rights or
19 claims as may be created by this Settlement Agreement, Named Plaintiffs and all Participating
20 Individuals shall and hereby do release and discharge all Releasees, finally, forever and with
21 prejudice, from the claims from May 22, 2019, or three years prior to the Opt-In Date for Opt-In
22 Plaintiffs, whichever is earliest, to November 4, 2020 as follows:

- 1 a. Opt-In Plaintiffs: Opt-In Plaintiffs release all Releasees from the following rights
2 or claims: any and all claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201,
3 *et seq.*, based on or arising out of the same factual predicates of the Actions.
- 4 b. California Class Members: The California Class Members release the Releasees
5 from the following rights or claims: any and all claims under California law, based
6 on or arising out of the same factual predicates of the Action, the Complaint, and/or
7 the allegations in the Complaint, including (a) all claims that were or could have
8 been raised in the Actions; and (b) all claims that are based on or relate to the
9 purported payment or nonpayment of compensation (including, but not limited to,
10 wages, minimum wage, straight time, overtime, bonuses, incentive compensation,
11 and/or premium pay), meal or rest period premiums or penalties, reimbursement of
12 business expenses, improper wage statements, improper recordkeeping, unfair
13 business practices, including related premiums, statutory penalties, civil penalties,
14 liquidated damages, interest, punitive damages, costs, attorneys' fees, injunctive
15 relief, declaratory relief, or accounting, whether such causes of action are in tort,
16 contract, or pursuant to a statutory remedy.
- 17 c. As to California Class Members who are not Opt-In Plaintiffs and who cash,
18 deposit, or otherwise negotiate their Settlement Award checks shall also release any
19 and all claims against the Releasees under the Fair Labor Standards Act, 29 U.S.C.
20 §§ 201, *et seq.*, arising from or related to their work for Defendants in the State of
21 California, based on these same factual predicates.
- 22 d. As to California Class Members who are not Opt-In Plaintiffs and who do not cash
23 or deposit their Settlement Award checks, shall not release any claims against the
24 Released Parties under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*

17 17. Releases of PAGA Claims. The release period for PAGA claims runs from May
18 22, 2019 to November 4, 2020.

19 18. Release Language on Settlement Checks. The Settlement Administrator shall
20 include the following release language on the back of each Settlement Award check, as appropriate
21 for (a) Named Plaintiffs and Collective Members and (b) other Settlement Class Members:

21 (a) For Named Plaintiffs and Collective Members: "This check is your settlement
22 payment in connection with the court-approved collective action Settlement
23 in *Diaz v. TAK Communications CA, Inc., et al.*, Superior Court of
24 California, County of Alameda, Case No. RG20064706. By you having
25 consented to join the Collective Action, and the court having approved a
26 Settlement, you have released TAK Communications CA, Inc. and TAK
27 Communications, Inc., and other Releasees of all Settlement Class
28 Members' Released Claims as defined in the Settlement Agreement,
including claims under the Fair Labor Standards Act."

1 (b) Other Settlement Class Members: “This check is your settlement payment in
2 connection with the court-approved class action Settlement in *Diaz v. TAK*
3 *Communications CA, Inc., et al.*, Superior Court of California, County of
4 Alameda, Case No. RG20064706. By not opting out of the Settlement, you
5 have released TAK Communications CA, Inc. and TAK Communications,
6 Inc., and other Releasees of all Settlement Class Members’ Released Claims
as defined in the Settlement Agreement, except for claims under the Fair
Labor Standards Act (“FLSA”). By signing or cashing your check, you
consent to join the Collective Action and affirm your release of FLSA
claims against Releasees.”

7 19. **Named Plaintiffs’ Released Claims.** Named Plaintiffs’ Released Claims means
8 any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against
9 the Releasees, of whatever kind and nature, character, and description, whether in law or equity,
10 whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation,
11 common law, or other source of law or contract, whether known or unknown, and whether
12 anticipated or unanticipated, including all unknown claims covered by California Civil Code
13 section 1542 that could be or are asserted based upon any theory or facts whatsoever, arising at
14 any time up to and including the date of the execution of this Settlement Agreement, for any type
15 of relief, including, without limitation, claims for minimum, straight time, or overtime wages,
16 premium pay, business expenses, other damages, penalties (including, but not limited to, waiting
17 time penalties), liquidated damages, punitive damages, interest, attorneys’ fees, litigation and other
18 costs, expenses, restitution, and equitable and declaratory relief. The Named Plaintiffs’ Released
19 Claims include, but are not limited to, the Settlement Class Members’ Released Claims, as well as
any other claims under any provision of federal, state, or local law, including the FLSA, the
California Labor Code, and California Wage Orders. Upon Final Approval, Named Plaintiffs shall
be deemed to have fully, finally, and forever released Releasees from all Named Plaintiffs’
Released Claims through the date of Preliminary Approval. Furthermore, upon Final Approval,
Named Plaintiffs shall be deemed to have expressly waived and relinquished, to the fullest extent
permitted by law, the provisions, rights, and benefits they may otherwise have had relating to the
Named Plaintiffs’ Released Claims pursuant to Section 1542 of the California Civil Code, which
provides as follows:

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

23 **CERTIFICATION, NOTICE, AND SETTLEMENT IMPLEMENTATION**

24 20. The Parties agree to the following procedures for obtaining Preliminary Approval
25 of the Settlement, certifying the Settlement Class, and notifying the Settlement Class of this
Settlement:

26 a. **First Amended Complaint.** The Parties shall stipulate and agree that for
27 settlement purposes only, Defendants consent to the filing of the Amended

1 Complaint and to personal and subject matter jurisdiction in Alameda
2 County Superior Court. Named Plaintiffs shall file the stipulation and
3 proposed Amended Complaint before the filing of the Unopposed Motion
4 for Preliminary Approval of Settlement Agreement discussed in Paragraph
5 20.b.

6 b. **Request for Class Certification and Preliminary Approval Order.**

7 Named Plaintiffs shall file an Unopposed Motion for Preliminary Approval
8 of Settlement Agreement, requesting that the Court certify the Settlement
9 Class pursuant to 29 U.S.C. § 216(b) and CAL. CIV. CODE PROC. § 382 for
10 the sole purpose of settlement; preliminarily approve the Settlement
11 Agreement and its terms; approve the proposed form of the Settlement
12 Notice and find that the proposed method of disseminating the Settlement
13 Notice meets the requirements of due process and is the best notice
14 practicable under the circumstances; set a date for Named Plaintiffs' motion
15 for Final Approval of the Settlement, and approval of the requested Service
16 Awards, Fee Award, Class Counsel's Costs, and Settlement Administrator's
17 Costs; and set a date for the Final Approval Hearing.

18 c. **Notice.** The Settlement Administrator shall be responsible for preparing,
19 printing, mailing, and emailing the Settlement Notice to all Settlement Class
20 Members. The Settlement Administrator will also create a website for the
21 Settlement, which will allow Settlement Class Members to view the Class
22 Notice (in generic form), this Settlement Agreement, and all papers filed by
23 Class Counsel to obtain preliminary and final approval of the Settlement
24 Agreement. Additionally, the Settlement website will provide contact
25 information for Class Counsel and the Settlement Administrator. The
26 Settlement Administrator will provide Class Counsel and Defendants'
27 counsel with a preview of the proposed website. Class Counsel and
28 Defendants' counsel must approve the website before it goes live and also
must approve any modifications to the website. The Settlement
Administrator shall also create a toll-free telephone number to field
telephone inquiries from Settlement Class Members during the notice and
settlement administration periods. The Settlement Administrator will be
directed to take the website and call center down after the 180-day check
cashing period for Settlement Award Checks.

d. Within ten (10) business days after the Court's Preliminary Approval of the
Settlement, Defendants shall provide to the Settlement Administrator and
Class Counsel the Class List, an electronic database containing the names,
last known addresses, last known telephone numbers (if any), last known
email addresses (if any), social security numbers or tax ID numbers of each
Settlement Class Member, along with: (1) the total number of workweeks
that each Settlement Class Member worked for either TAK
Communications CA, Inc. and TAK Communications, Inc. in California
from May 22, 2019 to August 4, 2020; and (2) the total number of

1 workweeks that each Settlement Class Member worked for either TAK
2 Communications CA, Inc. and TAK Communications, Inc. in the United
3 States of America from May 22, 2019 or three years prior to the Opt-In Date
4 for Opt-In Plaintiffs, whichever is earliest, through August 4, 2020. Class
5 Counsel shall provide the Settlement Administrator with updated addresses
6 or contact information for Opt-In Plaintiffs in their possession.

7 e. In order to provide the best notice practicable, prior to mailing the
8 Settlement Notice, the Settlement Administrator will take reasonable efforts
9 to identify current addresses via public and proprietary systems.

10 f. Within ten (10) business days after receiving the contact information for the
11 Settlement Class Members, the Settlement Administrator shall mail and
12 email (if email addresses are available) the agreed-upon and Court-
13 approved Settlement Notice to Settlement Class Members. The Settlement
14 Administrator shall provide notice to Class Counsel and Defendants'
15 Counsel that the Settlement Notice has been mailed.

16 g. Any Settlement Notice returned to the Settlement Administrator with a
17 forwarding address shall be re-mailed within three (3) business days
18 following receipt of the returned mail. If no forwarding address is provided,
19 the Settlement Administrator shall promptly attempt to determine a correct
20 address using a skip-trace, or other search using the name, address and/or
21 Social Security number of the Settlement Class Member involved, and shall
22 re-mail the Notice of Settlement. For Opt-In Plaintiffs only, the Settlement
23 Administrator shall also promptly work with Class Counsel to obtain
24 forwarding addresses. Class Counsel shall use their best efforts to locate
25 forwarding addresses for Opt-In Plaintiffs whose Notices of Settlement are
26 returned as non-delivered. In no circumstance shall such re-mailing extend
27 the Notice Deadline.

28 h. Within ten (10) business days after the Notice Deadline, the Settlement
Administrator shall provide Defendants' Counsel and Class Counsel,
respectively, a report showing: (i) the names of California Class Members
and Opt-In Plaintiffs; (ii) the Settlement Awards owed to each California
Class Member and Opt-In Plaintiff; (iii) the final number of California Class
Members who have submitted objections or valid letters requesting
exclusion from the Settlement; and (iv) the number of undeliverable Notices
of Settlement. Upon completion of administration of the Settlement, the
Settlement Administrator shall provide written certification of such
completion to counsel for all Parties and the Court. This written certification
shall include the total number of Participating Individuals (including the
total number of California Class Members who do not request exclusion and
the total number of Opt-In Plaintiffs), the average recovery per California
Class Member who does not request exclusion, the average recovery per
Opt-In Plaintiff, the median recovery per California Class Member who

1 does not request exclusion, the median recovery per Opt-In Plaintiff, the
2 largest and smallest amounts paid to California Class Members who do not
3 request exclusion, the largest and smallest amounts paid to Opt-In Plaintiffs,
4 and the number and value of checks not cashed.

5 i. Defendants will not take any adverse action against any current or former
6 employee on the grounds that he/she is eligible to participate and/or does
7 participate in the Settlement. Defendants will not discourage participation
8 in this Settlement Agreement or encourage objections or opt-outs.

9 j. Within ten (10) business days after the conclusion of the 180-day check
10 cashing period below, the Settlement Administrator shall provide
11 Defendants' Counsel and Class Counsel, respectively, a report regarding the
12 total amount of any funds that remain from checks that are returned as
13 undeliverable or are not negotiated.

14 21. **Disputes Regarding Workweeks.** To the extent that any Settlement Class Member
15 disputes the number of workweeks that the Settlement Class Member worked, as shown in his or
16 her Settlement Notice, such Settlement Class Members may produce evidence to the Settlement
17 Administrator establishing the dates they contend to have worked for Defendants. The deadline
18 for Settlement Class Members to submit disputes pursuant to this paragraph is the Notice Deadline
19 (disputes must be postmarked by the Notice Deadline). Unless the Settlement Class Member
20 presents convincing evidence proving he or she worked more workweeks than shown by
21 Defendants' records, his/her Settlement Award will be determined based on Defendants' records.
22 The Settlement Administrator shall notify counsel for the Parties of any disputes it receives.
23 Defendants shall review its records and provide further information to the Settlement
24 Administrator, as necessary. The Settlement Administrator shall provide a recommendation to
25 counsel for the Parties. Counsel for the Parties shall then meet and confer in an effort to resolve
26 the dispute. If the dispute cannot be resolved by the Parties, it shall be presented to the Court for a
27 resolution. The Settlement Administrator will notify the disputing Settlement Class Member of the
28 decision.

19 22. **Objections.** The Settlement Notice shall provide that California Class Members
20 who wish to object to the Settlement must, on or before the Notice Deadline, file with the court a
21 written statement objecting to the Settlement. Such objection shall not be valid unless it includes
22 the information specified in the Settlement Notice. The statement must be signed personally by
23 the objector, and must include the objector's name, address, telephone number, email address (if
24 applicable), the factual and legal grounds for the objection, and whether the objector intends to
25 appear at the Final Approval Hearing. The Settlement Notice shall advise California Class
26 Members that objections shall only be considered if the California Class Member has not opted
27 out of the Settlement. No California Class Member shall be entitled to be heard at the Final
28 Approval Hearing (whether individually or through counsel), unless written notice of the
California Class Member's intention to appear at the Final Approval Hearing has been filed with
the Court and served upon Class Counsel and Defendants' Counsel on or before the Notice
Deadline and the California Class Member has not opted out of the Settlement. The postmark date
of mailing to Class Counsel and Defendants' Counsel shall be the exclusive means for determining

1 that an objection is timely mailed to counsel. If postmark dates differ, the later of the two postmark
2 dates will control. Absent good cause found by the court, persons who fail to make timely written
3 objections in the manner specified above shall be deemed to have waived any objections and
4 oppositions to the Settlement's fairness, reasonableness and adequacy, and shall be foreclosed
5 from making any objection (whether by appeal or otherwise) to the Settlement. However, the
6 requirement that the Settlement Class Member submit a written objection may be excused by the
7 Court upon a showing of good cause. None of the Parties, their counsel, nor any person on their
8 behalf, shall seek to solicit or otherwise encourage anyone to object to the settlement, or appeal
9 from any order of the Court that is consistent with the terms of this Settlement.

7 23. **Requests for Exclusion.** The Settlement Notice shall provide that Settlement Class
8 Members, other than Named Plaintiffs, who wish to exclude themselves from the Settlement ("opt
9 out") must mail to the Settlement Administrator a written statement indicating that they do not
10 wish to participate or be bound by the Settlement. The written request for exclusion must contain
11 the Settlement Class Member's full name, address, telephone number, email address (if
12 applicable), and last four digits of their social security number, and must be signed individually by
13 the Class Member. No opt-out request may be made on behalf of a group. Such written statement
14 must be postmarked by the Notice Deadline. None of the Parties, their counsel, nor any person on
15 their behalf, shall seek to solicit or otherwise encourage anyone to exclude themselves from the
16 settlement.

13 24. **Cure Period.** In the event any request for exclusion is timely submitted but does
14 not contain sufficient information to be valid, the Settlement Administrator shall provide the
15 Settlement Class Member, within seven (7) calendar days, a letter requesting the information that
16 was not provided and giving the Settlement Class Member fourteen (14) days from the mailing of
17 such cure letter to respond. Any invalid submission that is not timely cured will be considered a
18 nullity.

17 25. **Final Approval Hearing.** Class Counsel will be responsible for drafting the
18 Unopposed Motion for Final Approval of Settlement Agreement, and approval of the requested
19 Service Awards, Fee Award, Class Counsel's Costs, and Settlement Administrator's Costs to be
20 heard at the Final Approval Hearing. Class Counsel shall provide Defendants' Counsel a copy of
21 a draft Unopposed Motion for Final Approval of Settlement Agreement. Named Plaintiffs shall
22 request that the Court schedule the Final Approval Hearing no earlier than thirty (30) days after
23 the Notice Deadline to determine final approval of the settlement and to enter a Final Approval
24 Order:

- 22 a. certifying this Action and Settlement Class as an FLSA collective action
23 under 29 U.S.C. § 216(b) and as a class action CAL. CIV. CODE PROC. § 382
24 for purposes of settlement only;
- 25 b. finding dissemination of the Settlement Notice was accomplished as
26 directed and met the requirements of due process;
- 27 c. approving the Settlement as final and its terms as a fair, reasonable and
28 adequate;

- d. approving the payment of the Service Awards to Named Plaintiffs Edgar Diaz and to Joe Trigo;
- e. approving Class Counsel’s application for an award of attorneys’ fees and reimbursement of out-of-pocket litigation costs and expenses;
- f. directing that the Settlement funds be distributed in accordance with the terms of this Settlement Agreement;
- g. directing that the Action be dismissed finally, fully, forever and with prejudice and in full and final discharge of any and all Participating Individuals’ Released Claims; and
- h. retaining continuing jurisdiction over this Action for purposes only of overseeing all settlement administration matters.

26. **Post Judgment Report.** At the conclusion of the 180-day check cashing period set forth below and following receipt of the Settlement Administrator’s report showing the total funds that were actually paid to Participating Individuals, Plaintiff’s Counsel shall submit a post-judgment report to the Court of regarding any funds that remain from checks that are returned as undeliverable or are not negotiated.

SETTLEMENT FUNDS AND AWARD CALCULATION

27. **Gross Settlement Amount.**

- a. **Funding of Settlement.** Within ten (10) business days of the Effective Date, Defendants shall pay the Gross Settlement Amount into the Settlement Administrator’s Qualified Settlement Fund. Only the Settlement Administrator shall have access to the Qualified Settlement Fund. Defendants shall not have access to the Gross Settlement Amount, or to any earned interest, once those funds are deposited into the Qualified Settlement Fund. The Gross Settlement Amount is fully non-reversionary. All disbursements shall be made from the Qualified Settlement Fund.

28. **Payments.** Subject to the Court’s Final Approval Order, the following amounts shall be paid by the Settlement Administrator from the Gross Settlement Amount:

- a. **Service Awards to Named Plaintiffs.** Subject to the Court’s approval, Plaintiff Edgar Diaz shall receive Ten Thousand Dollars (\$10,000.00) and Plaintiff Joe Trigo shall receive Ten Thousand Dollars (\$10,000.00) for their efforts in bringing and prosecuting this matter. The Qualified Settlement Fund shall issue an IRS Form 1099 for these payments. These payments shall be made within (30) days after the Effective Date or as soon as reasonably practicable. If the Court approves Service Award in amounts less than what Named Plaintiffs requests, the reduction in the Service Award shall not be a basis for nullification of this Settlement. Nor shall a

1 reduction in the Service Award in any way delay or preclude the judgment
2 from becoming a final judgment or the Settlement from becoming Effective.

3 **b. Fee Awards and Costs.**

4 (i) Subject to the Court’s approval, Class Counsel shall receive a Fee
5 Award in an amount up to thirty-three and one-third percent
6 (33.33%) of the Gross Settlement Amount, which will compensate
7 Class Counsel for all work performed in the Action as of the date of
8 this Settlement Agreement as well as all of the work remaining to
9 be performed, including but not limited to documenting the
10 Settlement, securing Court approval of the Settlement, making sure
11 that the Settlement is fairly administered and implemented, and
12 obtaining final dismissal of the Action. In addition, Class Counsel
13 shall, subject to Court approval, receive reimbursement of Class
14 Counsels’ Costs not to exceed Twenty Thousand Dollars
15 (\$20,000.00), to be approved by the Court. These payments of
16 attorneys’ fees and costs shall be made within thirty (30) days after
17 the Effective Date or as soon as reasonably practicable.

18 (ii) An IRS Form 1099 shall be provided to Class Counsel for the
19 payments made to Class Counsel. Class Counsel shall be solely and
20 legally responsible to pay any and all applicable taxes on the
21 payment made to them.

22 **c. Labor and Workforce Development Agency Payment.** Subject to Court
23 approval, the Parties agree that the amount of Thirty-Five Thousand Dollars
24 (\$35,000.00) from the Gross Settlement Amount will be paid in settlement
25 of all individual and representative claims brought in the Action by or on
26 behalf of Plaintiffs and California Class Members and aggrieved parties
27 under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab.
28 Code §§ 2698, et seq., “PAGA”). Pursuant to PAGA, Seventy-Five Percent
(75%), or Twenty-Six Thousand Two Hundred Fifty Dollars (\$26,250.00),
of this sum will be paid to the Labor and Workforce Development Agency
 (“LWDA”) and Twenty-Five Percent (25%), or Eight Thousand Seven
Hundred Fifty Dollars (\$8,750.00), will be allocated to the Net PAGA
Amount. The payment to the LWDA should be made within thirty (30)
days after the Effective Date or as soon as reasonably practicable.

d. Settlement Administration Costs. Settlement Administration costs shall
be paid from the Gross Settlement Amount. The Parties agree to cooperate
in the settlement administration process and to make all reasonable efforts
to control and minimize the costs incurred in the administration of the
Settlement.

e. **Settlement Awards to Eligible Class Members.** Settlement Awards shall be made to Settlement Class Members as set forth below.

29. **No Claim Based Upon Distributions or Payments in Accordance with this Settlement Agreement.** No person shall have any claim against Defendants, Class Counsel, or Defendants' Counsel based on distributions or payments made in accordance with this Settlement Agreement.

CALCULATION AND DISTRIBUTION OF SETTLEMENT AWARDS

30. **Settlement Award Eligibility.** All Settlement Class Members shall be paid a Settlement Award from the Net Settlement Amount.

31. Any California Class Member who fails to submit a timely request to exclude themselves from the Settlement by following the procedure set forth in the Settlement Notice shall automatically be deemed a Settlement Class Member whose rights and claims with respect to the issues raised in the Action are determined by any order the Court enters granting final approval, and any judgment the Court ultimately enters in the Action. Any such Settlement Class Member's rights to pursue any Released Claims (as defined in this Settlement Agreement) will be extinguished.

32. **Settlement Award Calculations.** The Settlement Administrator shall be responsible for determining the amount of the Settlement Award to be paid to each Participating Individuals based on the below formulas:

a. Participating Individuals shall receive a *pro rata* portion of the Net Settlement Amount as follows:

i. When calculating the individual Settlement Awards to Settlement Class Members following Final Approval (for purposes of preparing Individual Settlement Payment checks), the Settlement Administrator will not include California Class Members who validly request exclusion from the Settlement but will assume that all Opt-In Plaintiffs cash their Settlement Award checks.

ii. For each week during which the Participating Individual worked for either TAK Communications CA, Inc. and TAK Communications, Inc. at any time from May 22, 2019 to August 4, 2020 for California Class Members, and from May 22, 2019 or three years prior to the Opt-In Date for Opt-In Plaintiffs, to August 4, 2020, he or she shall be eligible to receive a *pro rata* portion of the Net Settlement Amount based on the number of workweeks the Participating Individual worked. Each workweek will be equal to one (1) settlement share. To reflect the increased value of state law claims, workweeks during which work was performed in California will be equal to three (3) settlement shares.

1 iii. The total number of settlement shares for all Participating
2 Individuals will be added together and the resulting sum will be
3 divided into the Net Settlement Amount to reach a per share dollar
4 figure. That figure will then be multiplied by each Participating
5 Individual's number of settlement shares to determine the
6 Participating Individual's *pro rata* portion of the Net Settlement
7 Amount.

8 b. Participating Individuals who are also aggrieved employees under the
9 PAGA shall also receive an equal portion of the Net PAGA Amount as
10 follows:

11 i. For any Participating Individual who worked for either TAK
12 Communications CA, Inc. and TAK Communications, Inc. at any
13 time from May 22, 2019 to August 4, 2020 in California, he or she
14 shall be eligible to receive an equal portion of the Net PAGA
15 Amount. The total number of eligible Participating Individuals will
16 be divided into the Net PAGA Amount. The resulting Net PAGA
17 Amount per Participating Individual, if any, will be added to the
18 Participating Individual's share of the Net Settlement Amount, to
19 determine the Participating Individual's Settlement Award.

20 33. In addition to other information contained on the Settlement Notice, the Settlement
21 Notice shall state the estimated minimum payment the class member is expected to receive
22 assuming full participation of all Settlement Class Members.

23 34. All Settlement Award determinations shall be based on Defendants' timekeeping,
24 payroll, and/or other records. If the Parties determine, based upon further review of available data,
25 that a person previously identified as being a Settlement Class Member is not a Settlement Class
26 Member, or an individual who was not previously identified as a Settlement Class Member is in
27 fact a Settlement Class Member but was not so included, the Settlement Administrator shall
28 promptly make such addition or deletion as appropriate.

29 35. **Settlement Award Allocations.** Any portion of each Settlement Award that is
30 provided from the Net PAGA Amount shall be allocated as penalties. For the remainder of each
31 Settlement Award, one-third (33.33%) of each Settlement Award shall be allocated as wages, one-
32 third (33.33%) of each Settlement Award shall be allocated as penalties, twenty-three and one-
33 third percent (23.33%) of each Settlement Award shall be allocated as interest, and ten percent
34 (10%) of each Settlement Award shall be allocated as expense reimbursements. Settlement
35 Awards will be paid out to Participating Individuals subject to reduction for all employee's share
36 of withholdings and taxes associated with the wage-portion of the Settlement Awards, for which
37 Participating Individuals shall be issued an IRS Form W-2. Participating Individuals will also be
38 issued an IRS Form 1099 for the portions of the Settlement Awards that are allocated to penalties,
39 expense reimbursements, and interest. Defendants shall pay the employer's share of all required
40 FICA and FUTA taxes on the wage portions of the Settlement Awards. The Settlement
41 Administrator shall calculate the employer share of taxes and provide Defendants with the total

1 employer tax contributions within five (5) business days after the final Settlement Award
2 calculations are approved. Defendants shall deposit the calculated employer tax contributions into
3 the Qualified Settlement Fund within seven (7) business days after the Settlement Administrator
4 provides Defendants with the amount of the total employer tax contributions due. Amounts
5 withheld will be remitted by the Settlement Administrator from the Qualified Settlement Fund to
6 the appropriate governmental authorities. Defendants shall cooperate with the Settlement
Administrator to provide payroll tax information as necessary to accomplish the income and
employment tax withholding on the wage portion of each Settlement Award, and the Form 1099
reporting for the non-wage portion of each Settlement Award.

7 36. Class Counsel and Defendants' Counsel do not intend this Settlement Agreement
8 to constitute legal advice relating to the tax liability of any Settlement Class Member. To the extent
9 that this Settlement Agreement, or any of its attachments, is interpreted to contain or constitute
advice regarding any federal, state or local tax issue, such advice is not intended or written to be
used, and cannot be used, by any person for the purpose of avoiding any tax liability or penalties.

10 37. The Settlement Administrator shall provide Class Counsel and Defendants'
11 Counsel with a final report of all Settlement Awards, at least ten (10) business days before the
Settlement Awards to Participating Individuals are mailed.

12 38. The Settlement Administrator shall mail all Settlement Awards to Participating
13 Individuals within thirty (30) days after the Effective Date or as soon as reasonably practicable.
14 The Settlement Administrator shall then provide written certification of mailing to Class Counsel
and Defendants' Counsel.

15 39. All Settlement Award checks shall remain valid and negotiable for one hundred
16 eighty (180) days from the date of their issuance and may thereafter automatically be canceled if
17 not cashed within that time, at which time the right to recover any Settlement Award will be
18 deemed void and of no further force and effect. With ninety (90) days remaining, a reminder letter
19 will be sent via U.S. mail and email to those who have not yet cashed their settlement check, and
20 during the last sixty (60) days of the check cashing period, a call will be placed to those that have
21 still not cashed their check to remind them to do so. At the conclusion of the 180 day check cashing
deadline, Participating Individuals who have not cashed their Settlement Award checks shall
nevertheless be deemed to have finally and forever released the Named Plaintiff's Released Claims
or Participating Individuals' Released Claims, as applicable, except that the Participating
Individuals shall not release any FLSA claims against Defendants.

22 40. **Remaining Monies.** If at the conclusion of the 180-day check cashing period set
23 forth above, any funds remain from checks that are returned as undeliverable or are not negotiated,
those monies shall be distributed as follows, subject to the Court's approval:

- 24 a. If the total residual amount is less than \$50,000, then the amount will revert
25 to *cy pres*. The *cy pres* recipient shall be proposed by the parties and
26 approved by the Court. The Parties propose Legal Aid at Work which
27 provides legal services assisting low-income, working families and
promotes better understanding of the conditions, policies, and institutions

1 that affect the well-being of workers and their families and communities.
2 The Settlement Administrator shall distribute any *cy pres* payment.

- 3 b. If the total residual amount is \$50,000 or greater, a second distribution will
4 occur to those Participating Individuals who cashed their Settlement Award
5 check. The second distribution will occur on a *pro rata* basis as provided
6 for in Paragraph 32. In the event of a redistribution of uncashed check
7 funds to Settlement Class Members who cashed their Settlement Award,
8 the additional settlement administration costs related to the redistribution
9 will be deducted from the total amount of uncashed checks prior to the
10 redistribution. If a check to a Settlement Class Member is returned to the
11 Settlement Administrator as undeliverable during the second distribution,
12 the Settlement Administrator shall promptly attempt to obtain a valid
13 mailing address by performing a skip trace search and, if another address is
14 identified, shall mail the check to the newly identified address. If none is
15 found, then said check shall revert to the *cy pres* recipient. If there are
16 uncashed check funds remaining from redistribution as described in this
17 Paragraph, then the amount will revert to *cy pres*.
- 18 c. Within twenty-one (21) days after the distribution of any remaining monies
19 to Participating Individuals who cashed their Settlement Award check or to
20 the *cy pres* recipient, Plaintiffs will file a Post-Distribution Accounting. The
21 Post-Distribution Accounting will set forth the total settlement fund, the
22 total number of Settlement Class Members, the total number of Settlement
23 Class Members to whom notice was sent and not returned as undeliverable,
24 the number and percentage of opt-outs, the number and percentage of
25 objections, the average and median recovery per claimant, the largest and
26 smallest amounts paid to class members, the method(s) of notice and the
27 method(s) of payment to class members, the number and value of checks
28 not cashed, the amounts distributed to the *cy pres* recipient (if applicable),
the administrative costs, the attorneys' fees and costs, the attorneys' fees in
terms of percentage of the settlement fund, and the multiplier, if any.

20 MISCELLANEOUS

21 41. **Class Action Fairness Act.** Defendants shall serve upon the appropriate State
22 official of each State in which a class member resides and the appropriate Federal official, a notice
23 of the proposed settlement not later than 10 days after a proposed settlement of a class action is
24 filed in court, pursuant to the Class Action Fairness Act (CAFA), 28 U.S.C. § 1715.

25 42. **Submissions to the LWDA.** At the same time as they submit this Class Action
26 Settlement Agreement to the Court for Preliminary Approval, Class Counsel shall submit a copy
27 of this Agreement to the LWDA, as required by California Labor Code § 2699(l)(2). Within ten
28 (10) days following the Effective Date, Class Counsel shall submit a copy of the Final Approval
Order and Judgment entered by the Court to the LWDA, as required by California Labor Code §
2699(l)(3).

1 43. **No Admission of Liability.** Defendants expressly deny all of the allegations in the
2 Actions. Defendants expressly deny that they have violated the FLSA or the California Labor
3 Code, or any other provision of federal or state law with respect to any of their employees. This
4 Settlement Agreement and all related documents are not and shall not be construed as an admission
5 by Defendants or any of the Releasees of any fault or liability or wrongdoing. If this Settlement
6 Agreement does not become final, this Settlement Agreement, or the circumstances leading to this
7 Settlement Agreement, may not be used as an admission by Defendants or any wrongdoing or
8 evidence of any wrongdoing by Defendants.

9 44. **Defendants’ Legal Fees.** Defendants’ legal fees and expenses in this Action shall
10 be borne by Defendants.

11 45. **Nullification of the Settlement Agreement.** In the event: (a) the Court does not
12 preliminarily or finally approve the Settlement as provided herein; or (b) the Settlement does not
13 become Final for any other reason; or (c) the Effective Date does not occur, the Parties agree to
14 engage in follow up negotiations with the intent of resolving the Court’s concerns that precluded
15 approval, and if feasible, to resubmit the settlement for approval within thirty (30) days. If the
16 Settlement is not approved as resubmitted or if the Parties are not able to reach another agreement,
17 then either Party may void this Agreement; at that point, the Parties agree that each shall return to
18 their respective positions on the day before this Agreement and that this Agreement shall not be
19 used in evidence or argument in any other aspect of their litigation.

20 46. **Defendants’ Option to Void Settlement.** If more than ten percent (10%) of the
21 total number of Settlement Class Members submit timely and valid Requests for Exclusion / Opt-
22 Out Requests, then Defendants shall have the option to void the Settlement in their sole discretion.
23 To exercise this option, Defendants must jointly send written notification to Class Counsel within
24 fourteen (14) days of receiving a report from the Settlement Administrator informing Defendants’
25 Counsel that the total number of timely and valid Requests for Exclusion / Opt-Out Requests is
26 more than ten percent (10%). If Defendants choose to exercise this option, the effect will be
27 precisely the same as if Final Judgment did not occur, as discussed herein, and all Settlement
28 Administrator Costs incurred by the Settlement Administrator through that date will be paid by
29 Defendants.

30 47. **Inadmissibility of Settlement Agreement.** Except for purposes of settling this
31 Action, or enforcing its terms (including that claims were settled and released), resolving an
32 alleged breach, or for resolution of other tax or legal issues arising from a payment under this
33 Settlement Agreement, neither this Agreement, nor its terms, nor any document, statement,
34 proceeding or conduct related to this Agreement, nor any reports or accounts thereof, shall be
35 construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any
36 purpose adverse to the Parties, including, without limitation, evidence of a presumption,
37 concession, indication or admission by any of the Parties of any liability, fault, wrongdoing,
38 omission, concession or damage.

39 48. **Computation of Time.** For purposes of this Agreement, if the prescribed time
40 period in which to complete any required or permitted action expires on a Saturday, Sunday, or
41

1 legal holiday (as defined by CAL. CIV. CODE PROC. §§ 12, 12a), such time period shall be continued
2 to the following business day. The term “days” shall mean calendar days unless otherwise noted.

3 49. **Interim Stay of Proceedings.** The Parties agree to hold in abeyance all proceedings
4 in the Action, except such proceedings necessary to implement and complete the Settlement.
5 Further, without further order of the Court, the Parties hereto may agree in writing to reasonable
6 extensions of time to carry out any of the provisions of the Settlement.

7 50. **Amendment or Modification.** This Agreement may be amended or modified only
8 by a written instrument signed by counsel for all Parties or their successors in interest. This
9 Agreement may not be discharged except by performance in accordance with its terms or by a
10 writing signed by the Parties hereto.

11 51. **Entire Settlement Agreement.** This Agreement with exhibits constitutes the entire
12 Agreement among the Parties, and no oral or written representations, warranties or inducements
13 have been made to any Party concerning this Agreement other than the representations, warranties,
14 and covenants contained and memorialized in such documents. All prior or contemporaneous
15 negotiations, memoranda, agreements, understandings, and representations, whether written or
16 oral, are expressly superseded hereby and are of no further force and effect. Each of the Parties
17 acknowledges that they have not relied on any promise, representation or warranty, express or
18 implied, not contained in this Agreement. No rights hereunder may be waived except in writing.

19 52. **Authorization to Enter into Settlement Agreement.** The Parties warrant and
20 represent that they are authorized to enter into this Agreement and to take all appropriate action
21 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms,
22 and to execute any other documents required to effectuate the terms of this Agreement. The Parties
23 and their counsel shall cooperate with each other and use their best efforts to effect the
24 implementation of the Agreement. In the event that the Parties are unable to reach resolution on
25 the form or content of any document needed to implement this Agreement, or on any supplemental
26 provisions or actions that may become necessary to effectuate the terms of this Agreement, the
27 Parties shall seek the assistance of the mediator, Tripper Ortman, to resolve such disagreement.

28 53. **Binding on Successors and Assigns.** This Agreement shall be binding upon, and
inure to the benefit of Named Plaintiffs, Defendants, Opt-In Plaintiffs, the Settlement Class
Members and their heirs, beneficiaries, executors, administrators, successors, transferees,
successors, assigns, or any corporation or any entity with which any party may merge, consolidate
or reorganize. The Parties hereto represent, covenant and warrant that they have not directly or
indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber to any
person or entity any portion of any liability, claim, demand, action, cause of action or rights herein
released and discharged except as set forth herein.

54. **Counterparts.** This Agreement may be executed in one or more counterparts,
including by facsimile or email. All executed counterparts and each of them shall be deemed to be
one and the same instrument. All executed copies of this Agreement, and photocopies thereof
(including facsimile and/or emailed copies of the signature pages), shall have the same force and
effect and shall be as legally binding and enforceable as the original.

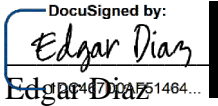
1 55. **No Signature Required by Eligible Class Members.** Only the Named Plaintiffs
2 will be required to execute this Settlement Agreement. The Settlement Notice will advise all
3 Settlement Class Members of the binding nature of the release and such shall have the same force
4 and effect as if this Settlement Agreement were executed by each Settlement Class Member.

5 56. **Cooperation and Drafting.** The Parties have cooperated in the drafting and
6 preparation of this Agreement; hence the drafting of this Agreement shall not be construed against
7 any of the Parties. The Parties agree that the terms and conditions of this Agreement were
8 negotiated at arm's length and in good faith by the Parties, and reflect a settlement that was reached
9 voluntarily based upon adequate information and sufficient discovery and after consultation with
10 experienced legal counsel.

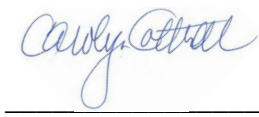
11 57. **Governing Law.** All terms of this Settlement Agreement and the exhibits hereto
12 shall be governed by and interpreted according to the laws of the State of California.

13 58. **Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to the
14 interpretation, implementation, and enforcement of the terms of this Settlement and all orders and
15 judgments entered in connection therewith, and the Parties and their Counsel submit to the
16 jurisdiction of the Court for this purpose.

17 **IN WITNESS WHEREOF**, the Parties and their Counsel have executed this Settlement
18 Agreement as follows:

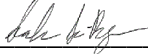
19 **PLAINTIFF:**  _____ Date: 10/05, 2020
20 DocuSigned by: Edgar Diaz
21 Edgar Diaz 9789417024751464...

22  _____ Date: 10/06/2020, 2020
23 DocuSigned by: Joe Trigo
24 Joe Trigo 9789417024751464...

25 **APPROVED AS TO FORM BY CLASS COUNSEL:**
26  _____ Date: October 06, 2020

27 Carolyn Hunt Cottrell
28 Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608

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DocuSigned by:


Sarah R. Schalman-Bergen
Stacy Savett
Shoshana Savett
Krysten Connon
BERGER MONTAGUE PC
1818 Market Street, Suite 3600
Philadelphia, Pennsylvania 19103

Date: October 6, 2020

DEFENDANT: _____ Date: _____, 2020
On behalf of TAK Communications CA, Inc.

DEFENDANT: _____ Date: _____, 2020
On behalf of TAK Communications, Inc.

APPROVED AS TO FORM BY DEFENDANTS' COUNSEL:

Brandon R. McKelvey
Timothy B. Nelson
Medina McKelvey LLP
983 Reserve Drive
Roseville, California 95678

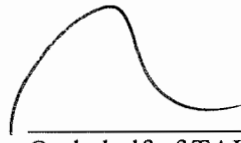
Date: _____, 2020

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Date: _____, 2020

Sarah R. Schalm-Bergen
Stacy Savett
Shoshana Savett
Krysten Connon
BERGER MONTAGUE PC
1818 Market Street, Suite 3600
Philadelphia, Pennsylvania 19103

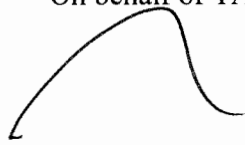
DEFENDANT:



Date: October 5, 2020

On behalf of TAK Communications CA, Inc.

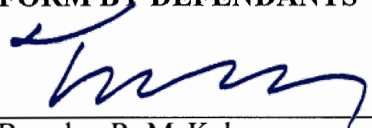
DEFENDANT:



Date: October 5, 2020

On behalf of TAK Communications, Inc.

APPROVED AS TO FORM BY DEFENDANTS' COUNSEL:



Date: October 6, 2020

Brandon R. McKelvey
Timothy B. Nelson
Medina McKelvey LLP
983 Reserve Drive
Roseville, California 95678

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EXHIBIT A

Diaz v. TAK Communications CA, Inc., et al.,
Superior Court of California, County of Alameda, Case Number RG20064706

NOTICE OF SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY.

You received this Notice of Settlement (“Notice”) either because you (1) previously completed an Opt-In Consent Form to join this case; or (2) you did not previously join this case but the records of TAK Communications CA, Inc. and TAK Communications, Inc. (collectively, “Defendants”) show you performed work for Defendants in the United States of America sometime between May 22, 2019 and August 4, 2020. Because you fit this definition, **you may be entitled to receive money from a Settlement¹ in this case, as described below.**

NOTE: If you performed work for Defendants in the State of California sometime between May 22, 2019 and August 4, 2020, unless you opt out of the Settlement, you will receive money for your California state law claims as a California class member, and you will release those California state law claims. If you cash or deposit your Settlement check, you will also release your federal Fair Labor Standards Act (“FLSA”) claims relating to your work performed for Defendants in any state other than the State of California.

1. Why Should You Read This Notice?

This Notice explains your right to share in the monetary proceeds of this Settlement, exclude yourself (“opt out”) of the Settlement, or object to the Settlement. If you object to the Settlement, you cannot opt out of the Settlement, and you will be bound by the terms of Settlement in the event the Court denies your objection.

The Superior Court of California, County of Alameda, has preliminarily approved the Settlement as fair and reasonable. The Court will hold a Final Approval Hearing on [REDACTED], 2020 at [REDACTED], before the Honorable [name] at the [address and time].

2. What Is This Case About?

This lawsuit alleges that individuals whom Defendants employed as non-exempt employees and who worked as technicians for Defendants between May 22, 2019, or three years prior to the Opt-In Date for Opt-In Plaintiffs, whichever is earliest, and August 4, 2020, were not provided meal and rest breaks, were not compensated for all hours worked, were not paid minimum, straight time, overtime, or double time wages, were not paid all wages due upon termination, were not provided timely and compliant itemized wage statements, and were not reimbursed for necessary business expenses. This lawsuit seeks recovery of unpaid wages, statutory damages, civil penalties under

¹ This notice summarizes the proposed Settlement. The capitalized terms in this Notice of Settlement have defined meanings that are set out in detail in the Settlement Agreement. To review a copy of the Settlement Agreement, please visit the Settlement website at [INSERT URL].

the California Labor Code Private Attorneys General Act (“PAGA”), restitution, interest, attorneys’ fees and costs. The claims in this lawsuit are brought under federal and California law.

Defendants contend that they have strong legal and factual defenses to these claims, but they recognize the risks, distractions, and costs associated with litigation. Defendants contend that the wage and hour policies and practices at issue, including those regarding payment for time worked, overtime pay, meal breaks, rest breaks, and expense reimbursement, are lawful and have been lawful throughout the relevant time period. Defendants also contend that Plaintiffs’ claims do not meet the requirements for class certification or collective treatment.

This Settlement is the result of good faith, arm’s length negotiations between Plaintiffs and Defendants, through their respective attorneys. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of the Settlement Class Members. This Settlement is a compromise and is not an admission of liability on the part of Defendants.

The Court has not ruled on the merits of Plaintiffs’ claims or Defendants’ defenses.

The Settlement Administrator has created a Settlement website, which can be accessed at [INSERT URL]. The Settlement website allows interested persons to view the Settlement Agreement, all papers filed by Class Counsel to obtain Court approval of the Settlement Agreement, and this Notice of Settlement (in generic form). The Settlement website also provides contact information for Class Counsel and the Settlement Administrator.

3. What Are the Terms of the Settlement?

Defendants have agreed to pay One Million Two Hundred Thousand Dollars (\$1,200,000.00) to settle this lawsuit (“Gross Settlement Amount”). Deductions from this amount will be made for attorneys’ fees and costs for Class Counsel (up to \$399,999.99, plus attorneys’ costs not to exceed \$20,000.00; see Section 9 below), settlement administration costs (not to exceed \$), a service award in the amount not to exceed Ten Thousand Dollars (\$10,000.00) each to Named Plaintiff Edgar Diaz and Plaintiff Joe Trigo respectively for their service to the Settlement Class, and penalties of Twenty-Six Thousand Two Hundred Fifty Dollars (\$26,250.00) to the Labor and Workforce Development Agency. After deductions of these amounts, what remains of the Gross Settlement Amount (the total of the “Net Settlement Amount” and “Net PAGA Amount”) will be available to pay monetary Settlement Awards to (i) Named Plaintiffs; (ii) Opt-In Plaintiffs, and (iii) all Settlement Class Members who do not opt out of the Settlement Class (collectively, “Participating Individuals”).

The following persons will be eligible to receive a monetary award from the Net Settlement Amount: (1) Named Plaintiffs; (2) individuals who have submitted Opt-In Consent Forms in the federal lawsuit *Diaz, et al. v. TAK Communications CA, Inc., et al*, California District Court, Eastern District of California, Case No. 2:20-at-00481, on or before June 26, 2020 or who demonstrate that they would have opted-in to the federal lawsuit between June 26, 2020 and August 1, 2020 but for the dismissal of the federal lawsuit, as of August 4, 2020, and worked as technicians for Defendants between the May 22, 2019, or three years prior to the Opt-In Date for Opt-In Plaintiffs, whichever is earliest, and August 4, 2020; and (3) all individuals who worked

for TAK Communications CA, Inc. and TAK Communications, Inc. between May 22, 2019 and August 4, 2020 in the state of California.

Individuals who worked for TAK Communications CA, Inc. and TAK Communications, Inc. between May 22, 2019 and August 4, 2020 in the state of California will also be eligible to receive a monetary award from the Net PAGA Amount.

4. How Much Can I Expect to Receive?

All Participating Individuals will receive a *pro rata* share of the Net Settlement Amount based on the total number of eligible workweeks that the Participating Individual worked for TAK Communications CA, Inc. and/or TAK Communications, Inc. during the relevant period. Participating Individuals shall receive a *pro rata* portion of the Net Settlement Amount as follows:

1. For each week during which the Participating Individual worked for TAK Communications CA, Inc. and/or TAK Communications, Inc. at any time from May 22, 2019, or three years prior to the Opt-In Date for Opt-In Plaintiffs, whichever is earliest, through August 4, 2020, he or she shall be eligible to receive a *pro rata* portion of the Net Settlement Amount based on the number of workweeks the Participating Individual worked. Each workweek will be equal to one (1) settlement share. To reflect the increased value of California state law claims, workweeks during which work was performed in California will be equal to three (3) settlement shares.
2. The total number of settlement shares for all Participating Individuals will be added together and the resulting sum will be divided into the Net Settlement Amount to reach a per share dollar figure. That figure will then be multiplied by each Participating Individual's number of settlement shares to determine the Participating Individual's share of the Net Settlement Amount.

Participating Individuals who worked for TAK Communications CA, Inc. and TAK Communications, Inc. between May 22, 2019 and August 4, 2020 in the state of California shall also receive an equal share of the Net PAGA Amount (i.e., \$8,750.00). The total number of eligible Participating Individuals will be divided into the Net PAGA Amount. The resulting Net PAGA Amount per Participating Individual, if any, will be added to the Participating Individual's share of the Net Settlement Amount, to determine the Participating Individual's Settlement Award.

All Settlement Award determinations will be based on Defendants' timekeeping, payroll, and/or other records for Settlement Class members. According to records maintained by Defendants, your total estimated settlement payment will be at least \$ [REDACTED]. This amount is an estimated amount, and your final settlement payment is expected to differ from this amount (i.e., it could be higher or lower) and will be calculated as set forth above. Based on Defendants' records, you are estimated to have worked [REDACTED] workweeks for TAK Communications CA, Inc. and/or TAK Communications, Inc. during the relevant period in the State of California and [REDACTED] workweeks

for TAK Communications CA, Inc. and/or TAK Communications, Inc. during the relevant period outside the State of California.

If you dispute the number of workweeks as shown on this Notice of Settlement, you may produce evidence to the Settlement Administrator establishing the dates you contend to have worked for TAK Communications CA, Inc. and/or TAK Communications, Inc. To do so, send a letter to the Settlement Administrator explaining the basis for your dispute and attach copies of the supporting evidence. Unless you present convincing evidence proving you worked more workweeks than shown by Defendants' records, your Settlement Award will be determined based on Defendants' records. Any disputes must be postmarked by [INSERT DATE] and should be mailed to [INSERT SETTLEMENT ADMINISTRATOR ADDRESS]. The Settlement Administrator will notify you of the decision on the dispute.

For tax reporting purposes, Settlement Awards to Participating Individuals will be allocated as follows: any portion of each Settlement Award that is provided from the Net PAGA Amount shall be allocated as penalties; for the remainder of each Settlement Award, one-third (33.33%) of each Settlement Award shall be allocated as wages, one-third (33.33%) of each Settlement Award shall be allocated as penalties, twenty-three and one-third percent (23.33%) of each Settlement Award shall be allocated as interest, and ten percent (10%) of each Settlement Award shall be allocated as expense reimbursements. None of the Parties or attorneys makes any representations concerning the tax consequences of this Settlement or your participation in it. Participating Individuals should consult with their own tax advisors concerning the tax consequences of the Settlement.

If you participate in the Settlement, you will have 180 days to cash the check that will be sent to you. If at the conclusion of the 180-day check void period, there are any uncashed checks, those monies will be paid to the Parties' agreed upon *cy pres* recipient, Legal Aid at Work, subject to the Court's approval in the Final Approval Order, if the total residual amount is less than \$50,000. If the total residual amount is \$50,000 or greater, a second distribution will occur to those Participating Individuals who cashed their check on a *pro rata* basis.

It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your monetary Settlement Award. If you fail to keep your address current, you may not receive your Settlement Award.

5. What Are The Releases?

Upon Final Approval of the Settlement Agreement and payment of amounts set forth under the Settlement, all Participating Individuals release claims as follows ("Released Claims") against TAK Communications CA, Inc. and TAK Communications, Inc., their present and former parent companies, subsidiaries, related or affiliated companies, and their shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity that could be liable for any of the Released Claims (collectively, the "Releasees"):

- **Opt-In Plaintiffs:** Participating Individuals release all Releasees from any and all claims from May 22, 2019, or three years prior to the Opt-In Date for Opt-In Plaintiffs, whichever is earliest, through November 4, 2020 under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*, based on or arising out of the same factual predicates of the Action.

- California Class Members:** The California Class Members release the Releasees from any and all claims under California law, based on or arising out of the same factual predicates of the Action, the Complaint, and/or the allegations in the Complaint, from May 22, 2019 through November 4, 2020 including: (a) all claims that were or could have been raised in the Actions; and (b) all claims that are based on or relate to the purported payment or nonpayment of compensation (including, but not limited to, wages, minimum wage, straight time, overtime, bonuses, incentive compensation, and/or premium pay), meal or rest period premiums or penalties, reimbursement of business expenses, improper wage statements, improper recordkeeping, unfair business practices, including related premiums, statutory penalties, civil penalties, liquidated damages, interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in tort, contract, or pursuant to a statutory remedy. As to California Class Members who are not Opt-In Plaintiffs and who cash, deposit, or otherwise negotiate their Settlement Award checks shall also release any and all claims against the Releasees under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*, arising from or related to their work for Defendants in California, based on these same factual predicates. Those California Class Members who are not Opt-In Plaintiffs and who do not cash or deposit their Settlement Award checks, shall not release any claims against the Released Parties under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*
- The release period for PAGA claims runs from May 22, 2019 through November 4, 2020.

NOTE: If you cash, deposit, or otherwise negotiate your Settlement Check, you will also release your Federal FLSA claims relating to your work in the State of California, as applicable.

6. What Are My Rights?

- Do Nothing:** If you are a Settlement Class Member and do not timely and validly opt-out, you will automatically become a part of the Settlement Class and receive your prorated Settlement Award, and will be bound by the Settlement including its release provisions.
- Opt-Out:** If you are a member of the Settlement Class and do not wish to be bound by the Settlement, you must submit a written exclusion from the Settlement (“opt-out”), postmarked by [INSERT DATE]. The written request for exclusion must contain your full name, address, telephone number, email address (if applicable), last four digits of your social security number, and must be signed individually by you. No opt-out request may be made on behalf of a group. The opt-out request must be sent by mail to the Settlement Administrator at [INSERT SETTLEMENT ADMINISTRATOR ADDRESS]. **Any person who requests exclusion (opts out) of the settlement will not be entitled to any Settlement Award and will not be bound by the Settlement Agreement or have any right to object, appeal or comment thereon.**
- Object:** If you received this Notice and wish to object to the Settlement, you must submit a written statement objecting to the Settlement by [INSERT DATE]. The statement must state the factual and legal grounds for your objection to the settlement. The statement must state your full name, address, telephone number, and email address (if applicable), and

must be signed by you. The statement must be mailed to the Court at the following address: [insert address]. You must also mail a copy of your objection to Class Counsel and counsel for TAK Communications CA, Inc. and TAK Communications, Inc., at the addresses listed in Section 8 of this Notice by [INSERT DATE].

If you mail a written objection, you may also, if you wish, appear at the Final Approval Hearing to discuss your objection with the Court and the parties to the Lawsuit. Your written objection must state whether you will attend the Final Approval Hearing, and your written notice of your intention to appear at the Final Approval Hearing must be filed with the Court and served upon Class Counsel and Defendants' counsel on or before the Notice Deadline. To be heard at the Final Approval Hearing you must also not opt out of the Settlement. If you wish to object to the Settlement but fail to return your timely written objection in the manner specified above, you shall be deemed to have waived any objection and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. The postmark date of mailing to Class Counsel and Defendants' counsel shall be the exclusive means for determining that an objection is timely mailed to counsel. Objections shall only be considered if the Settlement Class Member has not opted out of the Settlement. The failure to submit a written objection as a prerequisite to appearing in court to object to the settlement may be excused upon a showing of good cause.

You may also withdraw your objection in writing by mailing a withdrawal statement to the Court and counsel for the Parties postmarked no later than [INSERT DATE – 10 business days before final approval hearing], orally at the Final Approval hearing, or as otherwise ordered by the Court.

7. Can Defendants Retaliate Against Me for Participating in this Lawsuit?

No. Your decision as to whether or not to participate in this Lawsuit will in no way affect your work or employment with Defendants or future work or employment with Defendants. It is unlawful for Defendants to take any adverse action against you as a result of your participation in this Lawsuit. In fact, Defendants encourage you to participate in this Settlement.

8. Who Are the Attorneys Representing Plaintiffs and the Settlement Class?

Plaintiffs and the Settlement Class are represented by the following attorneys acting as Class Counsel:

Carolyn H. Cottrell
Ori Edelstein
Michelle S. Lim
**SCHNEIDER WALLACE
COTTRELL KONECKY LLP**
2000 Powell Street, Suite 1400
Emeryville, CA 94608
Telephone: (800) 689-0024
Facsimile: (415) 421-7105
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Sarah R. Schalman-Bergen
Stacy Savett
Shoshana Savett
Krysten Connon
BERGER MONTAGUE PC
1818 Market Street, Suite 3600
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Facsimile: (215) 875-4604
sschalman-bergen@bm.net
stasavett@bm.net
stsavett@bm.net
kconnon@bm.net

9. How Will the Attorneys for the Settlement Class Be Paid?

Class Counsel will be paid from the Gross Settlement Amount of \$1,200,000. You do not have to pay the attorneys who represent the Settlement Class. The Settlement Agreement provides that Class Counsel will receive attorneys' fees of up to one-third (1/3) of \$1,200,000.00 (i.e., \$399,999.99) plus their out-of-pocket costs, not to exceed \$20,000.00. Class Counsel will file a Motion for Attorneys' Fees and Costs with the Court. The amount of attorneys' fees and costs awarded will be determined by the Court at the Final Approval Hearing.

10. Where can I get more information?

If you have questions about this Notice, or the Settlement, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Settlement, you should contact the Class Counsel.

This Notice is only a summary. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at the Settlement website at [INSERT URL], by contacting Class Counsel toll-free at (800) 689-0024, by accessing the Court docket in this case for a fee through the Court's electronic public records system at <https://publicrecords.alameda.courts.ca.gov/prs>, or by visiting the office of the Clerk of the Court for the [INSERT ADDRESS], between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, THE JUDGE; TAK COMMUNICATIONS CA, INC.; OR TAK COMMUNICATIONS, INC. FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.