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AMENDED CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

Liliana Solis v. Rudy’s Hollywood, LLC

LOS ANGELES COUNTY SUPERIOR COURT

Case No. BC610643

This Amended Class Action Settlement Agreement and Release of Claims (“Agreement” or “Amended Agreement”) is between (1) Plaintiff Liliana Solis—individually and on behalf of the Class Members defined below—and (2) Defendant Rudy’s Hollywood, LLC (collectively, the “Parties”), subject to judicial approval, as provided below.

By this Agreement the Parties intend to settle the Action (defined below) and to fully, finally, and forever resolve, discharge, and settle the Released Claims (defined below), subject to judicial approval of the terms set forth herein. If this Agreement is not finally approved, or is otherwise nullified, then the Parties shall return to their positions preceding this Agreement and Defendant shall retain all rights to challenge the Plaintiffs’ claims and the certification of any class.

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1. Definitions

For the purposes of this Agreement, the Parties define the following terms. Each defined term appears throughout in initial capital letters.

1.1. “Action” refers to the lawsuit entitled *Liliana Solis v. Rudy’s Hollywood, LLC*, originally filed in the Superior Court of the State of California for the County of Stanislaus on December 17, 2015, Case No. 2018078, and subsequently transferred to the Superior Court of the State of California for the County of Los Angeles and assigned Case No. BC610643. The operative pleading is the first amended complaint in the Action filed on July 5, 2016. The Action is a class action.

1.2. “Administrative Costs” refers to all costs associated with administration of the settlement contemplated by this Agreement. Administrative Costs include all fees and costs for, among other things, printing, copying, formatting, translation of materials, postage, envelopes, computer searches to locate addresses, calculation of payments to individual class members, calculation of applicable payroll withholdings and payroll taxes, preparation and filing of appropriate IRS Forms, any cost associated with the escheatment process for any uncashed settlement checks, and any other expenses the Settlement Administrator incurs to complete the settlement process according to the terms of this Agreement. Administrative Costs are borne in the first instance by the Settlement Administrator.

1.3. “Agreement” refers to this Amended Class Action Settlement Agreement and Release of Claims, which includes all its Recitals herein and all the attached Exhibits. **“Class Counsel”** refers to Law Offices of Scott Miller. For purposes of providing any notices required under this Agreement, Class Counsel shall refer to Scott Miller (scott.miller@smillerlawoffices.com), Bonnie Fong (bonnie.fong@smillerlawoffices.com), and Kelly Ann Buschman (kelly.buschman@smillerlawoffices.com), 15303 Ventura Blvd., Suite 1070, Sherman Oaks, CA 91403.

1.5. “Class Counsel Payment” refers to the amount of attorney’s fees and costs that the Court awards to Class Counsel in connection with the resolution of the Action in accordance with this Agreement.

1.6. “Class Members” refers to those individuals who for purposes of this Agreement will be certified as members of the class, defined as follows: All current or former employees of

1 Defendant or a predecessor entity who worked as a receptionist or stylist in the State of California at any
2 time since December 17, 2011 to July 31, 2016. Corine Arzoomanian and Corinne Dunham are
3 specifically excluded from the class and shall not be considered Class Members for purposes of this
4 Agreement.

5 **1.7. “Class Period”** refers to the period beginning on December 17, 2011 through
6 July 31, 2016.

7 **1.8. “Class Representative”** refers to Plaintiff Liliana Solis.

8 **1.9. “Class Representative Service Award”** refers to any payment that the Court
9 awards to Class Representative for efforts in prosecuting the Action on behalf of the Class Members.

10 **1.10. “Complaint”** refers to the operative complaint filed in the Action.

11 **1.11. “Consideration Period”** refers to the 60 calendar days following the date when
12 the Settlement Administrator mails the Notice of Class Action Settlement. The Consideration Period is
13 the period in which a Class Member can submit either an Objection or a Request for Exclusion. For
14 Class Members whose original Notices of Class Action Settlement come back undeliverable and require
15 resending to a newly-located mailing address, the Consideration Period shall be extended by another 15
16 days from the date of mailing to the newly-located address..

17 **1.12. “Court”** refers to the judge presiding over this Action, in the California Superior
18 Court for the County of Los Angeles.

19 **1.13. “Defendant”** refers to Rudy’s Hollywood, LLC.

20 **1.14. “Defense Counsel”** refers to Seyfarth Shaw LLP. For purposes of providing any
21 notices required under this Agreement, Defense Counsel shall refer to Christian Rowley,
22 crowley@seyfarth.com, 560 Mission Street, 31st Floor, San Francisco, CA, 94105.

23 **1.15. “Effective Date”** refers to the date of the Final Approval Order, if no objections
24 are filed to this Agreement. If objections are filed and overruled, and no appeal is taken of the Final
25 Approval Order, then the Effective Date will be 45 days after the Court enters the Final Approval Order.
26 If an appeal is taken from the Court’s overruling of objections to the Agreement, then the Effective Date
27 will be 20 days after the appeal is withdrawn or after an appellate decision affirming the Final Approval
28 Order becomes final. No money will be distributed before the Effective Date.

1 **1.16. “Fairness Hearing”** refers to the hearing at which the Court decides whether the
2 terms of the Agreement are fair, reasonable, and adequate for the Class Members and meet all
3 requirements for Final Approval.

4 **1.17. “Final Approval Order”** refers to the final order by the Court approving the
5 Agreement following the Fairness Hearing.

6 **1.18. “Gross Fund Value”** refers to the maximum payment Defendant may be
7 obligated to make in connection with the Agreement: \$310,000. This sum includes all Individual
8 Settlement Payments (including any employee taxes, any Class Representative Service Award, the
9 PAGA Payment, Administrative Costs, and the Class Counsel Payment). It does not include employer
10 side payroll taxes.

11 **1.19. “Individual Settlement Payment”** refers to the amount calculated by the
12 Settlement Administrator to distribute to each Settlement Class Member. The Individual Settlement
13 Payment shall be paid from the Net Fund Value.

14 **1.20. “Judgment”** refers to the final judgment entered by the Court in this Action after
15 approving the Agreement.

16 **1.21. “LWDA”** refers to the California Labor & Workforce Development Agency,
17 which helps to enforce the Private Attorneys General Act (“PAGA”), and which will receive the LWDA
18 portion of the PAGA Payment.

19 **1.22. “Net Fund Value”** refers to the portion of the Gross Fund Value that remains
20 after accounting for any Class Representative Service Award, the portion of the PAGA Payment payable
21 to the LWDA, Administrative Costs, and the Class Counsel Payment. The Net Fund Value shall include
22 all Individual Settlement Payments.

23 **1.23. “Notice of Class Action Settlement”** refers to the Notice of Class Action
24 Settlement, substantially in the form attached as Exhibit A.

25 **1.24. “Objection”** refers to a written statement submitted timely by a Class Member to
26 the Settlement Administrator that contains (1) the Class Member’s name and case number of this Action,
27 (2) the full name, last four digits of their social security number, and current address of the Class
28 Member making the objection, (3) the specific reason(s) for the Objection, and (4) all evidence and

1 supporting papers (including, without limitation, all briefs, written evidence, and declarations) for the
2 Court to consider.

3 **1.25. “Objector”** refers to a Settlement Class Member who has submitted an
4 Objection.

5 **1.26. “PAGA Payment”** refers to a payment in settlement of a claim for civil penalties
6 under the Private Attorney General Act of 2004. 75% shall be payable to the LWDA and 25% shall be
7 payable to the Net Fund Value for distribution to Settlement Class Members.

8 **1.27. “Parties”** refers collectively to (1) Plaintiff Liliana Solis, individually and on
9 behalf of the Class, and (2) Defendant, Rudy’s Hollywood, LLC.

10 **1.28. “Plaintiffs”** refers to Class Representative Liliana Solis, individually and on
11 behalf of the Class.

12 **1.29. “Preliminary Approval Order”** refers to the order entered by the Court
13 following a Motion for Preliminary Approval of the Agreement.

14 **1.30. “Qualified Settlement Fund (QSF)”** refers to a Qualified Settlement Fund
15 pursuant to U.S. Treasury Regulation Section 468B-1.

16 **1.31. “Released Claims”** refers to all claims that will be extinguished by operation of
17 this Agreement and the events it provides for. The Released Claims shall apply to all Class Members
18 who do not file a Request for Exclusion.

19 **1.32. “Released Parties”** refers to Defendant and each and all of its current or former
20 subsidiaries, parents, affiliates, predecessors, insurers, agents, employees, successors, assigns, officers,
21 officials, directors, attorneys, personal representatives, executors, and shareholders, including their
22 respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the
23 successors of such plans, and those plans’ respective current or former trustees and administrators,
24 agents, employees, and fiduciaries.

25 **1.33. “Request for Exclusion”** refers to a timely, written, opt-out request signed by a
26 Class Member who thereby elects to be excluded from this Agreement.

27 **1.34. “Settlement Administrator”** refers to the third-party administrator the Parties
28 have selected, subject to Court approval.

1 **1.35. “Settlement Class”** refers to all Class Members who do not file a timely and
2 valid Request for Exclusion.

3 **2. Recitals and Procedural History**

4 **2.1. Business of Defendant.** Defendant is engaged in the business of hair cutting and
5 styling and other cosmetology services.

6 **2.2. Allegations in Complaint.** On December 17, 2015, Plaintiff filed a complaint in
7 this Action in the Superior Court of the State of California for the County of Stanislaus. The Action was
8 subsequently transferred to the Superior Court of the State of California for the County of Los Angeles.
9 Plaintiff filed a first amended complaint on July 5, 2016, as an individual and on behalf of a class of
10 similarly situated employees. Plaintiff’s first amended complaint asserted claims (1) for failure to
11 provide meal and rest periods (Cal. Lab. Code §§ 226.7, 512, 558, and California Wage Order 4-2001),
12 (2) for failure to pay overtime (Cal. Lab. Code §§ 510, 558, 1194, 1198, and California Wage Order 4-
13 2001), (3) for inaccurate and inadequate wage statements (Cal. Lab. Code § 226), (4) for failure to
14 indemnify for reasonable and necessary business expenses (Cal. Lab. Code § 2802 and California Wage
15 Order 4-2001), (5) for illegally requiring employees to tip employees out of their own wages (Cal. Lab.
16 Code § 351), (6) for taking illegal deductions from the wages of employees (Cal. Lab. Code § 221), (7)
17 for unfair competition (Cal. Bus. & Prof. Code §§ 17200, *et seq.*), and (8) for civil penalties under
18 PAGA (Cal. Lab. Code §§ 2698, *et seq.*).

19 **2.3. Further Complaint.** Plaintiff filed a Second Amended Complaint on July 27,
20 2016 in anticipation of the motion for Preliminary Approval, adding claims for unpaid minimum and
21 overtime wages and liquidated damages under the Fair Labor Standards Act (“FLSA”) and for minimum
22 wage under California law. Defendant’s obligation to file an answer is stayed pending any rejection of
23 this Agreement, and will be mooted by any approval of this Agreement.

24 **2.4. Defendant’s Denials.** Defendant denies (1) all the material allegations in this
25 Action, (2) that it violated any applicable laws, (3) that it is liable for damages, penalties, interest,
26 restitution, attorneys’ fees, or costs, or for any other compensation or remedy with respect to anyone on
27 account of the claims asserted in the Action, and (4) that class certification, collective action
28 certification, or representative treatment is appropriate as any claim in the Action. Defendant contends

1 that its policies, procedures, and practices comply with all applicable laws asserted in the Action.
2 Nonetheless, without admitting any liability or wrongdoing whatsoever and without admitting that class
3 certification, collective action certification, or representative treatment is appropriate for any purpose
4 other than for settlement purposes alone, Defendant has agreed to settle the Action on the terms set forth
5 in this Agreement, to avoid the burden, expense, and uncertainty of litigation. Any statements by
6 Defendant in this Agreement are made for settlement purposes only.

7 **2.5. Class Counsel’s Investigation.** Class Counsel has investigated the facts relating
8 to the claims alleged in the Action and also has analyzed all defenses. Class Counsel interviewed Class
9 Members regarding the claims in the Action, and has examined Defendant’s compliance with its
10 policies, procedures, and practices.

11 **2.6. Negotiation of Settlement.** Class Counsel has engaged in intensive, arms-length
12 negotiations with Defendant with a view toward achieving substantial benefits for the Class Members,
13 while avoiding the cost, delay, and uncertainty of further litigation. Plaintiffs and Class Counsel urge
14 approval by the Court of this Agreement after considering (1) the factual and legal defenses to the
15 claims asserted, which render uncertain the ultimate outcome of the Action and class certification, (2)
16 the potential difficulties Plaintiffs and Class Members would encounter in establishing their claims and
17 maintaining class treatment, (3) the substantial benefits that Class Members would receive under this
18 Agreement, (4) that this Agreement provides Class Members relief in an expeditious and efficient
19 manner, compared to any manner of recovery possible after litigation and potential appeal, and (5) that
20 this Agreement allows Class Members to opt out of the Action and individually pursue the claims
21 alleged in the Action.

22 **2.7. Certification of Settlement Class.** This Agreement is contingent upon approval
23 of class certification under California Code of Civil Procedure Section 382 and collective action
24 certification under 29 U.S.C. § 216(b) for settlement purposes only. Defendant does not waive, and
25 instead expressly reserves, the right to challenge the propriety of class certification, collective action
26 certification, or representative treatment for any other purpose should the Court not approve the
27 Agreement. In the event the Court rejects the Agreement, costs of administration shall be split between
28 Plaintiffs and Defendant.

1 **2.8. Amended Agreement.** Plaintiff filed a motion for preliminary approval of the
2 original settlement agreement on August 31, 2016. Initially noticed for hearing on October 5, 2016, the
3 motion was continued to November 30, 2016. On November 30, 2016, the Court entered an Order
4 identifying issues to be addressed before granting preliminary approval and continued the motion for
5 further briefing. Accordingly, the Parties entered into this Amended Agreement to address the issues
6 noted in the Court’s Order.

7 **Now therefore,** in consideration of the agreements set forth herein, and of the release and
8 dismissal of all Released Claims, the Parties agree to the terms of this Agreement, subject to the
9 approval of the Court.

10 **3. The Gross Fund Value**

11 **3.1. Establishment of Amount.** The Gross Fund Value is \$310,000. The Gross Fund
12 Value includes all Individual Settlement Payments, any Class Representative Service Award, the Class
13 Counsel Payment, the PAGA Payment, and Administrative Costs. The Gross Fund Value is not for any
14 other purpose and will not be construed as compensation for purposes of determining eligibility for any
15 health and welfare benefits or unemployment compensation. Defendant shall be responsible for any
16 employer side payroll taxes. The Parties estimate the class size to be 304 Class Members. If more than
17 10 additional Class Members are identified, the total Gross Fund Value shall be increased
18 proportionately.

19 **4. The Net Fund Value**

20 **4.1. Calculation of the Amount.** The Net Fund Value is the portion of the Gross
21 Fund Value that remains after deducting amounts for any Class Representative Service Award, the 75%
22 portion of the PAGA Payment payable to the LWDA, Administrative Costs, and the Class Counsel
23 Payment.

24 **4.2. Calculation of Individual Settlement Amounts.** Each Class Member who does
25 not opt out of the Settlement will be entitled, provisionally, to a proportional share of the Net Fund
26 Value. Each Settlement Class Member’s share shall be calculated by multiplying the Net Fund Value by
27 a fraction, the numerator of which is a Settlement Class Member’s estimated number of workweeks (as
28 reflected in the Defendant’s time records) during the Class Period, and the denominator of which is the

1 total of all Settlement Class Member workweeks (as reflected in the Defendant’s time records) during
2 the Class Period. To the extent that Class Members opt out of the Settlement, any excess shall be
3 redistributed to class claimants on a proportional basis.

4 **5. Notice to Class Members**

5 **5.1. Automatic Settlement Payment.** The Settlement payment shall be automatic in
6 that all Class members who do not opt out of the Settlement will receive an Individual Settlement
7 Payment.

8 **5.2. Settlement Administrator.** The Parties select ILYM Group, Inc. as the
9 Settlement Administrator. The duties of the Settlement Administrator shall include, without limitation,
10 mailing notices to Class Members, establishing a QSF, obtaining appropriate tax identification
11 number(s), calculating Individual Settlement Payments (including all required tax withholdings and
12 payments), mailing Individual Settlement Payments and tax forms to Settlement Class Members,
13 remitting all tax payments and requisite reporting documentation to taxing authorities, and the other
14 duties associated with settlement administration, including specified in this Agreement. Any dispute
15 relating to the settlement administration will, after good-faith efforts by the Parties to resolve the
16 dispute, be referred to the Court.

17 **5.3. Class Data for the Settlement Administrator.** Within 15 calendar days of the
18 entry of a Preliminary Approval Order, Defendant shall provide to the Settlement Administrator a
19 confidential class list containing the names, employee ID numbers, last known address and telephone
20 number(s), dates of active employment, and numbers of workweeks worked during the Class Period in a
21 position subject to this Agreement, and social security numbers to facilitate the administration of this
22 Agreement.

23 **5.3.1. Confidentiality of Class Data.** The Settlement Administrator shall keep
24 the class data provided by Defendant strictly confidential and shall use the class data only for the
25 purposes described in this Agreement, and shall return the class data to Defendant or confirm the
26 destruction of same upon completing the settlement administration called for by this Agreement.

27 **5.4. Mailing Materials to Class Members.** Within 21 calendar days of the latter of
28 preliminary approval of this settlement or court approval of settlement notice to the Class, the Settlement

1 Administrator shall send the Notice of Class Action Settlement to Class Members via First Class U.S.
2 mail. The notice will include a calculation of the Class Member's anticipated share of the Net Fund
3 value assuming all Class Members claim, and the full amounts of attorney's fees, incentive payments,
4 and administration fees are awarded. The Settlement Administrator shall use the mailing address for
5 each Class Member based on current information. Any mailing returned to the Settlement Administrator
6 as undeliverable shall be sent within ten calendar days via First Class U.S. Mail to any available
7 forwarding address. If no forwarding address is available, then the Settlement Administrator shall
8 attempt to determine the correct address by using a computer-based skip-trace search, and shall then
9 perform, if feasible, a re-mailing via First Class U.S. Mail within ten calendar days. If no current address
10 is available for a Class Member, then the Notice of Class Action Settlement for that Class Member will
11 be deemed undeliverable. Only one re-mailing is required. If a Class Member cannot be located within
12 two attempts at mailing, then the Notice of Class Action Settlement for that Class Member will be
13 deemed undeliverable. The Claims Administrator will mail a follow-up notice to those Class Members
14 who have not responded 20 calendar days before the expiration of the claim period encouraging Class
15 Members to respond.

16 **5.5. Proof of Mailing.** At least five calendar days prior to the Fairness Hearing, the
17 Settlement Administrator shall provide a declaration of due diligence and proof of mailing with regard
18 to mailing of the Notice of Class Action Settlement to Class Counsel and Defense Counsel, which they
19 shall in turn provide to the Court.

20 **6. Class Members' Options to Respond**

21 **6.1. Consideration Period.** Within the Consideration Period, Class Members may opt
22 out of the proposed settlement by submitting a Request for Exclusion (as provided below) or may submit
23 an Objection (as provided below). Except as specifically provided herein, no Class Member response of
24 any kind that is postmarked after the Consideration Period shall be considered.

25 **6.2. Requests for Exclusion and Opt Out Rights.** Class Members shall be given the
26 opportunity to opt out of the Settlement.

27 **6.2.1. Opt Out Procedure.** Class Members may opt out of this Agreement by
28 mailing the Settlement Administrator a Request for Exclusion. A Request for Exclusion, to be valid,

1 must include the Class Member's name (and former names, if any), current address, current telephone
2 number, and the last four digits of the Class Member's social security number. Any Request for
3 Exclusion that does not include all of the required information or that is not submitted in a timely
4 manner will be deemed ineffective. If there is a dispute regarding the timeliness or validity of a Request
5 for Exclusion, then the Settlement Administrator shall make the determination, after consultation with
6 Class Counsel and Defense Counsel.

7 **6.2.2. Effect of Exclusion Through Opting Out.** Any Class Member who
8 opts out of this Agreement may not submit an Objection and shall not receive any Individual Settlement
9 Payment, and shall not be bound by the releases this Agreement contemplates. Each Class Member who
10 does not submit a timely, valid Request for Exclusion shall be bound by the releases for which this
11 Agreement provides.

12 **6.2.3. Tolerance of Opt-Outs—Defendant's Right to Withdraw.** If the
13 number of Class Members who opt out by submitting Requests for Exclusion exceeds 5 percent of the
14 total number of Class Members, then Defendant may, in the exercise of its sole discretion, abrogate this
15 Agreement. Defendant's right expires 30 calendar days after the expiration of the Consideration Period.

16 **6.3. Objections.** Class Members who do not submit a Request for Exclusion shall be
17 entitled to object to the terms of the Agreement.

18 **6.3.1. Objection Procedures.** Any objection to this Agreement must be made
19 using the procedures set forth in the Notice of Class Action Settlement. Any Objection, to be valid, must
20 contain (1) the name and case number of this Action, (2) the full name, last four digits of their social
21 security number, and current address of the Class Member making the Objection, (3) the specific
22 reason(s) for the Objection, and (4) all evidence and supporting papers (including, without limitation, all
23 briefs, written evidence, and declarations) for the Court to consider. Class Members who submit an
24 Objection remain bound by this Agreement if it is approved by the Court.

25 **6.3.2. Waiver of Objection Rights.** Class Members who fail to submit an
26 Objection in the manner specified in the Notice of Class Action Settlement shall be deemed to have
27 waived any objection and shall be foreclosed from objecting to this Agreement, whether by appeal or
28 otherwise.

1 **6.4. Proof of Class Members’ Responses.** At least five calendar days prior to the
2 Fairness Hearing, the Settlement Administrator will prepare a declaration to submit to the Court
3 regarding the mailing of the Notice of Class Action Settlement, the inability to deliver any mailing due
4 to invalid addresses, the number of any Requests for Exclusion, and the number of any Objections.

5 **6.5. Binding Effect of Settlement.** Although a Class Member might not receive the
6 Notice of Class Action Settlement, and might not timely submit an Objection or a Request for Exclusion
7 because of inability to locate the Class Member’s current address, that Class Member shall nonetheless
8 be bound by this Agreement.

9 **6.6. No Interference with Class Member Responses.** The Parties and their counsel
10 agree not to encourage any Class Member to submit an Objection or a Request for Exclusion. Counsel
11 for the Parties specifically agree not to solicit opt-outs, directly or indirectly, through any means.

12 **6.7. No Retaliation.** Defendant shall not take any adverse action against any Class
13 Member, including the Named Plaintiff, because of the Action, because of the existence of, and/or the
14 Class Member’s participation in, the Settlement, or because of the Class Member’s decision to
15 participate in or object to the Settlement.

16 **7. Distribution of Settlement Proceeds**

17 **7.1. Administrative Costs.** The Parties agree to obtain a reasonable estimate of
18 Administrative Costs and seek approval of Administrative Costs to be drawn from the Gross Fund
19 Value. The amount shall be no more than \$11,000. If the Court approves only a lesser amount, then the
20 other terms of this Agreement shall still remain in effect. The amount of Administrative Costs is not a
21 material term of this Agreement. Any unapproved Administrative Costs shall diminish the Net Fund
22 Value. If this Agreement is not finally effectuated, then any unused portion of the Administrative Costs
23 Advance will return to the Defendant and, in that case, Plaintiffs agree to reimburse the Defendant for
24 50% of the amount of any Administrative Costs by then incurred.

25 **7.2. Class Counsel Payment.** Class Counsel intend to request—and Defendant agrees
26 not to oppose—that the Court award a Class Counsel Payment, to be drawn from the Gross Fund Value,
27 for attorneys’ fees and costs in an amount up to one-third of the Gross Fund Value. Defendant shall have
28 no liability for any other attorneys’ fees or costs.

1 **7.2.1. Approval of Class Counsel Payment Not Material.** The Court's
2 approval of the Class Counsel Payment in the amount requested is not a material term of this
3 Agreement. If the Court approves only a lesser amount, then the other terms of this Agreement shall still
4 remain in effect. To the extent that the Court approves less than the amount Class Counsel requests, the
5 difference between the requested and awarded amounts will be distributed to Class members who make
6 claims on a proportional basis relative to the size of their claims, in accordance with other administration
7 and distribution requirements as set forth herein.

8 **7.2.2. Timing of Class Counsel Payment.** The Settlement Administrator shall
9 issue the Class Counsel Payment by 15 business days after the Effective Date. The Settlement
10 Administrator shall issue an appropriate Internal Revenue Service Form 1099 to Class Counsel. Class
11 Counsel shall be solely responsible for paying all applicable taxes on any Class Counsel payment and
12 shall indemnify and hold harmless Defendant from any claim or liability for taxes, penalties, or interest
13 arising as a result of the Class Counsel payment.

14 **7.3. Class Representative Service Award.** Class Counsel intends to request—and
15 Defendant agrees not to oppose—that the Court award a Class Representative Service Award of up to
16 \$2,500, to be drawn from the Gross Fund Value. Any Class Representative Service Award would be in
17 addition to the Class Representative's Individual Settlement Payment.

18 **7.3.1. Class Representative Service Award Not Material.** The Court's
19 approval of a Class Representative Service Award is not a material term of this Agreement. If the Court
20 does not approve or approves only a lesser amount than that requested for a Class Representative
21 Service Award, then the other terms of this Agreement shall still remain in effect. To the extent that the
22 Court approves less than the amount of incentive awards that Class Counsel requests, the difference
23 between the requested and awarded amounts will be distributed to Class members who make claims on a
24 proportional basis relative to the size of their claims, in accordance with other administration and
25 distribution requirements as set forth herein.

26 **7.3.2. Timing of Class Representative Service Award.** The Settlement
27 Administrator shall pay any Class Representative Service Award by 15 business days after the Effective
28 Date, and shall issue an IRS Form 1099 to the Class Representative. The Class Representative shall be

1 solely responsible for paying all applicable taxes on any Class Representative Service Award and shall
2 indemnify and hold harmless Defendant from any claim or liability for taxes, penalties, or interest
3 arising as a result of the Class Representative Service Award.

4 **7.4. PAGA Payment.** The Parties agree to allocate the sum of Ten Thousand Dollars
5 (\$10,000) from the GFV to settle of the claims for PAGA penalties asserted in the operative complaint
6 (hereinafter the “PAGA Payment”), with \$7,500.00 of that amount payable to the Labor Workforce
7 Development Agency (“LWDA”) of the State of California, and the remainder to be part of the NFV
8 available for distribution to each Qualified Claimant employed during the class period on a pro rata
9 basis. The Parties agree that, given the uncertainty of litigation, and the issues and difficulty involved in
10 obtaining class certification, this allocation is reasonable under the circumstances.

11 **7.4.1. Reduction of PAGA Payment Not Material.** Any reduction in the
12 requested PAGA Payment is not a material term of this Agreement. If the Court approves only a lesser
13 amount than that requested, the other terms of this Agreement shall still remain in effect. But some
14 approval of a PAGA Payment is a material term of the Settlement and this Agreement. If the Court does
15 not approve a PAGA Payment, then the entire Agreement will be, at Defendant’s sole discretion, void
16 and unenforceable.

17 **7.4.2. Timing of PAGA Payment.** The Settlement Administrator shall pay 75
18 percent of any approved PAGA Payment to the LWDA by 15 business days after the Effective Date.

19 **7.5. Individual Settlement Payments.** Each Settlement Class Member shall be
20 entitled to an Individual Settlement Payment consisting of a share of the Net Fund Value, in accordance
21 with the formula set forth below.

22 **7.5.1. Calculation of Amount.** Each Settlement Class Member will be eligible
23 to receive a portion of the Net Fund Value based on the following formula:

24 Each Settlement Class Member’s potential share of the Net Fund Value will be calculated
25 by dividing the estimated number of workweeks attributed to the Settlement Class
26 Member worked during the Class Period by all workweeks attributed to the Settlement
27 Class during the Class Period, multiplied by the Net Fund Value. Otherwise stated, the
28 formula for a Class Member is: (individual’s workweeks ÷ total Settlement Class
workweeks) x Net Fund Value .

1 Defendant's time records regarding the number of workweeks worked for each Class Member
2 shall be determinative for purposes of calculating Individual Settlement Payments.

3 **7.5.2. Unclaimed Net Fund Value.** If less than the entire Net Fund Value is
4 claimed due to opt outs, then any unclaimed portion of the Net Fund Value shall be redistributed to class
5 claimants on a proportional basis. Each employee's calculation in connection with these unclaimed
6 funds will include the employee's side of payroll taxes. Defendant is responsible for paying its own
7 payroll taxes.

8 **7.5.3. Timing of Individual Settlement Payments to Class Members.** The
9 Settlement Administrator shall issue Individual Settlement Payments no later than 15 business days after
10 the Effective Date.

11 **7.5.4. Tax Allocation of Individual Settlement Payment to Class Members.**
12 Each Individual Settlement Payment will be allocated for tax purposes as follows: 50% Form 1099
13 income for statutory and civil penalties and interest, and 50% Form W-2 income for wages. In
14 accordance with law, the Settlement Administrator will make required tax withholdings from each
15 Individual Settlement Payment for the portion allocated to Form W-2 income and will remit the
16 withholding to the appropriate taxing authorities. The employer is responsible for paying its own payroll
17 taxes. The Settlement Administrator shall issue any necessary IRS Form 1099 and Form W-2 statements
18 to Class Members for their respective Individual Settlement Payments. Class Members shall be solely
19 responsible for paying all other applicable taxes on their respective Individual Settlement Payments and
20 shall indemnify and hold harmless Defendant and the Released Parties from any claim or liability for
21 taxes, penalties, or interest arising as a result of Individual Settlement Payments.

22 **7.5.5. Tax Allocations of Individual Settlement Payments Not Material.**
23 The Court's approval of the allocation of Individual Settlement Payments set forth above is not a
24 material term of this Agreement. If the Court does not approve or approves a different allocation of the
25 Individual Settlement Payments, then the other terms of this Agreement shall still remain in effect.

26 **7.5.6. Undeliverable or Uncashed Checks.** All Individual Settlement
27 Payment checks will remain negotiable for one hundred and eighty (180) days from the date of their
28 mailing by the Settlement Administrator. The Settlement Administrator shall notify Class Counsel and

1 Defense Counsel of any undeliverable and uncashed checks. After 180 days from the date of their
2 mailing by the Settlement Administrator, any settlement checks distributing Individual Settlement
3 Payments that are returned to the Settlement Administrator as undeliverable or that have not been cashed
4 will be donated to Los Angeles Trial Lawyers’ Charities.

5 **7.6. Final Funding.** Within 14 business days after the Effective Date, Defendant will
6 deposit into the QSF established by the Settlement Administrator money in an amount equal to the
7 amount owed to pay (1) class claimants per the terms of this Agreement, and (2) court approved
8 attorney’s fees, costs, administration costs and incentive payments. Any interest accrued will be
9 distributed to class claimants except that, if the Final Approval Order is reversed on appeal, then
10 Defendant is entitled to prompt return of the principal and all interest accrued.

11 **8. Releases**

12 **8.1. Releases by Settlement Class Members.** By operation of the entry of the Final
13 Approval Order and Judgment, and except as to rights this Agreement creates, each Settlement Class
14 Member—and each Settlement Class Member’s executors, administrators, representatives, agents, heirs,
15 successors, assigns, trustees, spouses, or guardians—will release each Released Party of and from any
16 and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorney’s fees,
17 damages, action or causes of action contingent or accrued for, or which relate to the allegations and
18 claims asserted in the operative complaint in this Action, including without limitation to, the California
19 Labor Code or Business & Professions Code (including Section 17200); the Private Attorneys General
20 Act, any IWC Wage Order; claims for restitution and other equitable relief, liquidated damages, punitive
21 damages, overtime, interest, lost wages, expenses, failure to pay minimum wage, failure to pay the
22 regular rate, inaccurate pay stubs, on call time, meal and rest period penalties, unpaid nonproductive
23 time or rest periods, waiting time penalties, penalties of any nature whatsoever, and/or any other benefit
24 claimed on account of the allegations asserted in the operative complaint in this Action. This Release
25 shall apply to all claims arising at any point from December 17, 2011 to the present, but this release
26 shall not include unrelated, non-wage and hour claims like discrimination, workers compensation, or
27 ERISA claims.
28

1 As to the Released Claims, each Settlement Class Member waives all rights provided by
2 California Civil Code section 1542, which states:

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

5 **8.2. Additional Release by Class Representative.** In addition to the release given by
6 each Settlement Class Member, the Class Representative also generally releases claims against each
7 Released Party. This general release includes claims arising from the Class Representative’s relationship
8 with Defendant, including, without limitation, claims for discrimination, harassment, or retaliation
9 pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000 *et seq.*, the California Fair
10 Employment and Housing Act, California Gov’t Code Section 12900 *et seq.*, or any claims for violation
11 of public policy. This general release by each Class Representative also includes a waiver of rights
12 under California Civil Code Section 1542, which states:

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

15 **8.3. Settlement is Contingent Upon Release of Claims.** This Agreement is
16 conditioned upon the releases by the Settlement Class and Class Representative as described herein, and
17 upon covenants by the Settlement Class and Class Representative that they will not participate in any
18 actions, lawsuits, proceedings, complaints, or charges in any court or before any administrative body
19 related to any claims they have released under this Settlement.

20 **8.4. Settlement Class Acknowledgement.** Settlement Class Members acknowledge
21 that they may hereafter discover facts or law different from, or in addition to, the facts or law they know
22 or believe to exist with respect to the Released Claims. The Settlement Class nonetheless agrees that this
23 Agreement and the Released Claims contained in it shall be and remain effective in all respects
24 notwithstanding such different or additional facts or law regarding the Released Claims. These releases
25 do not include any claims that cannot be waived as a matter of law, but the Settlement Class agrees that
26 they will not accept any monetary recovery or benefit from any proceedings relating to any such claims.

27 **8.5. Inadmissibility of Settlement Documents.** The Parties agree that this Agreement
28 and all Exhibits thereto shall be inadmissible in any proceeding, except an action or proceeding to

1 approve, interpret, or enforce this Agreement. The Parties agree that, to the extent permitted by law, this
2 Agreement will operate as a complete defense to—and may be used as the basis for an injunction
3 against—any action, suit, or other proceeding attempted in breach of this Agreement.

4 **9. Settlement Approval Procedure**

5 **9.1. Preliminary Approval.** Plaintiff will endeavor to prepare and file a motion for
6 preliminary approval within 7 business days of execution of this Agreement. This motion shall seek an
7 order to preliminarily approve this Agreement according to the terms in this Agreement and provide for
8 the Notice of Class Action Settlement to be sent to Class Members as specified in this Agreement. This
9 motion shall include the bases for demonstrating that settlement amounts are reasonable in light of the
10 facts and controlling authorities pertaining to the claims alleged, and the reasons for a claims-made
11 settlement and any reversion for unclaimed funds as material terms of this Agreement. The motion shall
12 also be accompanied by a signed declaration discussing the risks of continued litigation and the decision
13 that the best interests of the Class Members are served by the terms of this Agreement.

14 **9.2. Final Approval.** Plaintiff shall submit to the Court a Motion for Final Approval
15 Order. The motion shall request the entry of a Final Approval Order, which shall include findings and
16 orders (a) approving the Agreement, (b) adjudging the terms to be fair, reasonable, and adequate,
17 (c) reciting the Released Claims in full, (d) directing that the terms of the Agreement be carried out, and
18 (e) retaining jurisdiction to oversee enforcement of this Agreement and the Court's orders.

19 **9.3. Motion for Class Counsel Payment.** Not later than 14 calendar days before the
20 end of the Consideration Period, Class Counsel may file a motion for Court approval of an attorneys'
21 fees and costs award in the amount of up to one-third of the Gross Fund Value (or \$100,000), supported
22 by adequate documentation.

23 **9.4. Timing of Judgment.** After the Final Approval Order, the Parties shall request
24 that the Court (a) enter Judgment in accordance with this Agreement, without further fees or costs, (b)
25 approve this Agreement as fair, reasonable, adequate, and binding on all members of the Settlement
26 Class, (c) enter an order as to Class Counsel's request for an award of attorneys' fees and costs, (d) enter
27 an order as to any Class Representative Service Award, and (e) enter an order permanently enjoining all
28

1 members of the Settlement Class from pursuing or seeking to reopen claims that have been released by
2 this Agreement.

3 **9.4.1. Effect of Failure to Obtain Final Judgment.** If the Court fails to enter
4 Judgment in accordance with this Agreement, or if the Judgment is vacated or reversed, then the Action
5 shall proceed, unless the Parties jointly agree to seek reconsideration or a renegotiated settlement.
6 Defendant retains the right to contest whether any aspect of the Action should be maintained as a class,
7 collective action, or representative action, and to contest the merits of the claims being asserted in the
8 Action.

9 **9.5. Appeal Rights.** Only an Objector has the right to appeal the Judgment, if the
10 Judgment is in accord with this Agreement. Each Class Representative and Class Counsel hereby waives
11 any right to appeal any judgment, ruling, or order in this Action, including, without limitation, any Final
12 Approval Order and any dismissal of the Action with prejudice. This waiver includes all rights to any
13 post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate
14 judgment, a motion for new trial, and any extraordinary writ, and the Judgment therefore will become
15 nonappealable at the time it is entered. The waiver of appeal does not include any waiver of the right to
16 oppose any appeal, appellate proceedings, or post-judgment proceedings.

17 **10. Miscellaneous**

18 **10.1. Materiality of Terms.** Except as otherwise stated herein, each substantive term
19 of this Agreement is material and has been relied upon by the Parties in entering into this Agreement. If
20 the Court does not approve any substantive term, or if the Court effects a material change to the
21 Agreement—such as increasing any amount that Defendant must pay—then the entire Agreement will
22 be, at Defendant’s sole discretion, void and unenforceable. Where this Agreement states that a term is
23 not material, then the Court’s refusal to approve that term leaves all the other terms of the Agreement in
24 effect, and does not give Class Counsel or any Class Member any basis to abrogate this Agreement.

25 **10.2. No Tax Advice.** Neither Class Counsel nor Defense Counsel intend anything
26 contained in this Agreement to constitute advice regarding taxes or taxability, nor shall anything in this
27 Agreement be relied upon as such within the meaning of United States Treasury Department Circular
28 230 (31 C.F.R. Part 10, as amended) or otherwise.

1 **10.3. Interim Stay of Proceedings.** The Parties agree to refrain from further litigation
2 in the Action, except any proceeding needed to obtain a Preliminary Approval Order, Final Approval
3 Order, and Judgment. If the Agreement is not approved, then the Parties will revert to their positions in
4 the Action prior to the time the Agreement was reached, unless the Parties jointly agree to seek
5 reconsideration of the ruling or Court approval of a renegotiated agreement. Defendant retains the right
6 to contest whether any aspect of the Action should be maintained as a class, collective action, or
7 representative action, and to contest the merits of the claims being asserted in the Action. Defendant also
8 has the right to file a motion for summary judgment or adjudication and a motion to deny class
9 certification. The Parties agree that Defendant has the right to file these motions before or when a Class
10 Representative seeks class certification.

11 **10.4. Language of Settlement Documents.** All settlement-related documents to be
12 filed with the Court or sent to Class Members must be approved by all Parties before being filed or sent.

13 **10.5. Parties' Authority.** The signatories hereto represent that they are fully authorized
14 to bind the Parties to all the term of this Agreement. The Parties agree that Class Members are so
15 numerous that it is impossible or impractical to have each Class Member execute this Agreement. This
16 Agreement may be executed on behalf of Class Members by a Class Representative and by Class
17 Counsel.

18 **10.6. Parties' Entire Agreement.** This Agreement, which includes its Definitions,
19 Recitals, and all Exhibits attached hereto, constitutes the entire agreement on its subject matter, and
20 supersedes all prior and contemporaneous negotiations and understandings between the Parties.

21 **10.7. Counterparts.** This Agreement may be executed in counterparts, and each
22 counterpart signed and delivered shall be deemed an original, and when taken together with other signed
23 counterparts, signed and delivered shall constitute one signed Agreement, which shall be binding upon
24 and effective as to all Parties.

25 **10.8. Facsimile or Scanned Signatures.** A Party may sign and deliver this Agreement
26 by signing on the designated signature block and transmitting that signature page via facsimile or as an
27 attachment to an email to counsel for the other Party. Any such signature shall be deemed an original for
28 purposes of this Agreement and shall be binding upon the Party who transmits the signature page.

1 **10.9. Waivers and Modifications to Be in Writing.** No waiver, modification, or
2 amendment of this Agreement—whether purportedly made before or after the Court’s approval of this
3 Agreement—shall be valid unless it appears in a writing signed by or on behalf of all Parties, and then
4 shall be valid subject to any required Court approval. Any failure by any Party to insist upon the strict
5 performance by the other Party of any provision of this Agreement shall not be deemed a waiver of
6 future performance of the same provisions or of any other provision of this Agreement, and such Party,
7 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of
8 any provision of this Agreement. The time periods and dates provided in this Agreement with respect to
9 giving of notices and hearings are subject to Court approval and modification by the Court or by written
10 stipulation of Class Counsel and Defense Counsel.

11 **10.10. Construction.** Each Party participated jointly in the drafting of this Agreement,
12 and its terms are not intended to be, and shall not be, construed against any party by virtue of
13 draftsmanship.

14 **10.10.1. Exhibits Incorporated by Reference.** This Agreement include the
15 terms set forth in any attached exhibit. Any exhibit to this Agreement is an integral part of it.

16 **10.10.2. Headings.** The headings within this Agreement appear for convenience
17 of reference only and shall have no effect upon the construction or interpretation of any part of this
18 Agreement.

19 **10.10.3. Invalidity of Any Provision.** Before declaring any provision of this
20 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent
21 possible consistent so as to render all provisions of this Agreement enforceable.

22 **10.11. Duty to Cooperate.** Each Party, upon the request of another, agrees to perform
23 such acts and to execute and to deliver such documents as are reasonably necessary to carry out this
24 Agreement. In the same spirit, the Parties agree to make all reasonable efforts to avoid unnecessary
25 Administrative Costs.

26 **10.12. No Solicitation of Objections or Opt Outs.** The Parties represent that they have
27 not solicited, encouraged, or assisted—and will not solicit, encourage, or assist—any effort by any entity
28 or person to submit an Objection or a Request for Exclusion.

1 **10.13. No Prior Assignments or Undisclosed Liens.** Each Class Representative and the
2 Class Counsel represent that they have not assigned, transferred, conveyed, or otherwise disposed of any
3 Released Claim or claim to attorneys’ fees and costs award to be paid under this Agreement. Each Class
4 Representative and the Class Counsel further represent and warrant that there are not any liens or claims
5 against any amount that Defendant is to pay under this Agreement. Each Class Representatives and
6 Class Counsel agree to defend, to indemnify, and to hold Defendant harmless from any liability, losses,
7 claims, damages, costs, or expenses, including reasonable attorneys’ fees, resulting from a breach of
8 these representations or from any lien or assignment.

9 **10.14. Waiver of Right to Object by Class Representative.** The Class Representative,
10 by signing this Agreement, agrees not to object to any term of this Agreement.

11 **10.15. Duty to Cooperate.** The Parties agree to cooperate in taking all steps necessary
12 and appropriate to effectuate all aspects of this Agreement, including the Preliminary Approval Order
13 and Final Approval Order of this Settlement, and dismissal of the Action with prejudice upon entry of
14 the Final Approval Order. The Parties agree to make all reasonable efforts to control and to minimize
15 settlement Administration Costs.

16 **10.16. Confidential Information.** Class Counsel will destroy all confidential documents
17 and information provided by Defendant within 60 calendar days after the completion of the
18 administration of this Agreement. Class Counsel further agree that none of the information provided by
19 Defendant shall be used for any purpose other than prosecution of this Action.

20 **10.17. No Media Announcements or Other Undue Publicity.** No Party shall make any
21 public statement to the news, print, electronic, or Internet media concerning this Agreement, and the
22 Parties shall decline to respond to media inquiries concerning this Agreement. Except as required to
23 obtain a Preliminary Approval Order in this Action, Plaintiffs and Class Counsel agree not to publicize
24 the amount or other terms of this Agreement to any person prior to the granting of a Preliminary
25 Approval Order.

26 **10.18. Continuing Jurisdiction.** The Court shall retain jurisdiction over the
27 implementation of this Agreement as well as any matter arising out of, or related to, the implementation
28

1 of this Agreement. The Court shall not have jurisdiction to modify the terms of this Agreement without
2 the consent of all Parties.

3 **10.19. Disputes.** If the Parties dispute the interpretation of this Agreement, they shall
4 first attempt to resolve the dispute informally through good faith negotiations, and, if those efforts are
5 unsuccessful, they agree to mediate any such dispute. The Parties will split the costs of the mediator, and
6 all parties will bear their own fees and costs.

7 **10.20. Governing Law.** All terms of this Agreement shall be governed by and
8 interpreted according to California law.

9 **SO AGREED:**

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DATED: January ____, 2017

SEYFARTH SHAW LLP

By: _____
Attorneys for Defendant

DATED: January ____, 2017

RUDY’S HOLLYWOOD, LLC

By: _____
Brendon Lynch
CEO, Rudy’s Hollywood, LLC

1/6/2017

DATED: January ____, 2017

LAW OFFICES OF SCOTT MILLER

By: _____

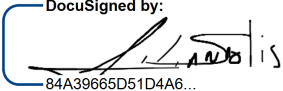
Attorneys for Plaintiff Liliana Solis

1/6/2017

1 DATED: January __, 2017

PLAINTIFF LILIANA SOLIS

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Liliana Solis

1 of this Agreement. The Court shall not have jurisdiction to modify the terms of this Agreement without
2 the consent of all Parties.


3 **10.19. Disputes.** If the Parties dispute the interpretation of this Agreement, they shall
4 first attempt to resolve the dispute informally through good faith negotiations, and, if those efforts are
5 unsuccessful, they agree to mediate any such dispute. The Parties will split the costs of the mediator, and
6 all parties will bear their own fees and costs.

7 **10.20. Governing Law.** All terms of this Agreement shall be governed by and
8 interpreted according to California law.

9 **SO AGREED:**


10
11 DATED: January 10, 2017

SEYFARTH SHAW LLP

12
13 By: 
14 Attorneys for Defendant

15
16 DATED: January 10, 2017

RUDY'S HOLLYWOOD, LLC

17 
18 By: _____
19 Brendon Lynch
20 CEO, Rudy's Hollywood, LLC

21
22 DATED: January , 2017

LAW OFFICES OF SCOTT MILLER

23
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25 By: _____
26 Attorneys for Plaintiff Liliana Solis
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