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12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF SAN FRANCISCO
15

16
17 NEQUASHA POTTS individually, and on
behalf of other members of the general public
18 similarly situated; MARQUIS BERRY,
individually, and on behalf of other members
19 of the general public similarly situated;

20 Plaintiffs,

21 vs.

22 DOLLS KILL, INC., an unknown business
entity; TRINET GROUP, INC., an unknown
23 business entity; and DOES 1 through 100,
inclusive,

24 Defendants.
25

Case No. CGC19580228
Unlimited Jurisdiction

The Honorable Garrett L. Wong
Department 610

Class Action

**STIPULATION OF CLASS AND PAGA
SETTLEMENT**

Complaint Filed: October 23, 2019
Trial Date: None Set

26 This Stipulation of Class and PAGA Settlement (“Settlement Agreement” or
27 “Agreement”) made by and between NEQUASHA POTTS, MARQUIS BERRY, and
28

1 TATIANA BENJAMIN (“Plaintiffs”) on their own behalf and on behalf of other members of
2 the Settlement Class, as defined below, on the one hand, and DOLLS KILL, INC. and TRINET
3 HR III-A, Inc., (“Defendants”) on the other hand (collectively the “Parties”), in the lawsuit
4 entitled *Nequasha Potts, et al. v. Dolls Kill, Inc., et al.*, filed in San Francisco County Superior
5 Court, Case No. CGC-19-580228 (the “Litigation”). This Settlement Agreement resolves all
6 claims that were asserted or could have been asserted against Defendants pertaining to the claims
7 in the Litigation.

8 **I. DEFINITIONS**

9 To the extent terms or phrases used in this Settlement Agreement are not specifically
10 defined below, but are defined elsewhere in this Settlement Agreement, they are incorporated
11 herein by reference.

12 **A. “Administration Costs”** means all costs of settlement administration, including
13 costs of notice to the Settlement Class Members, distributing settlement payments, and any other
14 fees and costs incurred or charged by the Settlement Administrator in connection with the
15 execution of its duties under this Settlement.

16 **B. “Agreement” or “Settlement Agreement”** are used synonymously herein to
17 mean this Stipulation of Class and PAGA Settlement.

18 **C. “Attorneys’ Fees”** means an award of attorneys’ fees to Class Counsel, in the
19 amount that does not exceed thirty-five percent (35%) of the Gross Settlement Amount, for
20 litigation and resolution of the matter by Class Counsel.

21 **D. “Class Counsel”** means Edwin Aiwazian, Esq., Arby Aiwazian, Esq., and Joanna
22 Ghosh, Esq. of Lawyers *for* Justice, PC, located at 410 West Arden Avenue, Suite 203, Glendale,
23 California 91203.

24 **E. “Class Period”** means the time period from October 23, 2015 to the earlier date
25 of October 1, 2020 or Preliminary Approval.

26 **F. “Court”** means the Superior Court of the State of California for the County of
27 San Francisco.

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1 **G. “Effective Date”** means the first business day upon which the last of the
2 following has occurred:

3 a. If Participating Class Members have not filed objections, or if they have filed
4 objections, said objections have been withdrawn, entry of the Final Judgment
5 in this Action after the Court has granted final approval of the Settlement, and
6 a file stamped copy of the Final Judgment with a proof of service has been
7 served on all parties by Class Counsel, or

8 b. If Participating Class Members have filed objections that have not been
9 withdrawn, either (1) the time to appeal, object or attack the Court’s entry of
10 Final Judgment has expired and there has been no appeal, objection or attack;
11 or (2) the court of last resort to which any appeal is taken has affirmed its
12 entry of Final Judgment in its entirety or the Participating Class Member has
13 presented a petition for review and the affirmance is no longer subject to
14 further appeal or review, and no further challenge to the entry of Final
15 Judgment is possible.

16 **H. “Eligible Workweeks”** means the number of weeks worked by Settlement Class
17 Members as hourly-paid or non-exempt employees of Defendants in California during the Class
18 Period (excluding leaves of absences and other gaps in employment), based on Defendants’
19 payroll records. Each Settlement Class Member will be credited with a minimum of one (1)
20 Eligible Workweek.

21 **I. “Enhancement Payments”** means the amount the Court authorizes to be paid to
22 Plaintiffs in addition to their Individual Settlement Payments, in recognition for their efforts and
23 work in the prosecution of the Litigation.

24 **J. “Employer Taxes”** means employer-funded taxes and contributions imposed on
25 the wage portions of the Net Settlement Payment under the Federal Insurance Contributions Act,
26 the Federal Unemployment Tax Act, and any similar state taxes and contributions required of
27 employers, such as for unemployment insurance.

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1 **K. “Final Approval” or “Date of Final Approval”** mean the date upon which the
2 Court enters an order granting final approval of the Settlement.

3 **L. “Final Approval Hearing”** means the final hearing held to ascertain the fairness,
4 reasonableness, and adequacy of the Resolution, at which time the Court will enter its order
5 granting final approval of the Resolution.

6 **M. “Final Judgment”** means the final judgment entered by the Court following the
7 Final Approval Hearing.

8 **N. “First Amended Complaint”** means the Proposed First Amended Complaint
9 attached hereto as “Exhibit B”.

10 **O. “Gross Settlement Amount”** means the sum of Four Hundred Thousand Dollars
11 (\$400,000) that Defendants’ agree to pay to settle the Litigation, and from which the Court
12 approved Individual Settlement Payments, Attorneys’ Fees and Litigation Costs, Administration
13 Costs, Enhancement Payments, and the LWDA’s share of PAGA Amount will be distributed.

14 **P. “Net Settlement Amount”** means the Gross Settlement Amount less the Court
15 approved Attorneys’ Fees and Litigation Costs, Administration Costs, Enhancement Payments,
16 and the LWDA’s seventy-five percent (75%) share of the PAGA Amount.

17 **Q. “Individual Settlement Payment(s)”** means the individual payments from the
18 Net Settlement Amount made to Participating Class Members as part of the Settlement,
19 including wages, penalties, and interest.

20 **R. “PAGA Amount”** as used herein means the amount allocated from the Gross
21 Settlement Amount toward penalties under the Private Attorneys’ General Act, California Labor
22 Code section 2698, *et seq.* (“PAGA”), of which seventy-five percent (75%) will be paid to the
23 LWDA and twenty-five percent (25%) will be part of the Net Settlement Amount for distribution
24 to the Participating Class Members.

25 **S. “Participating Class Members”** means Settlement Class Members who do not
26 submit a timely and valid Request for Exclusion.

27 **T. “Preliminary Approval”** means the date on which the Court signs the
28 Preliminary Approval Order and grants preliminary approval of the Settlement.

1 **U. “Preliminary Approval Order”** means the order entered by the Court granting
2 preliminary approval of this Settlement.

3 **V. “Response Deadline”** means the deadline for Settlement Class Members to
4 object to the Settlement, request to be excluded from the Settlement, or to dispute the number of
5 Eligible Workweeks credited to each of them. The Response Deadline will be the date sixty (60)
6 days after the mailing of the Notice by the Settlement Administrator.

7 **W. “Settlement”** means the settlement and resolution of the Litigation in accordance
8 with the terms of the Settlement Agreement.

9 **X. Settlement Administrator.** The term “Settlement Administrator” as used herein
10 means Phoenix Settlement Administrators, which will be responsible for the administration of
11 the Resolution, and all related matters.

12 **Y. “Settlement Class” or “Settlement Class Members”** means all current and
13 former hourly-paid or non-exempt employees who were employed by Dolls Kill, Inc. within the
14 State of California during the Class Period.

15 **II. BACKGROUND**

16 **A.** On October 23, 2019, Plaintiffs filed a class action complaint against Defendants
17 for compensatory damages, liquidated damages, reimbursement, attorneys’ fees and costs, and
18 penalties for alleged violations of Labor Code §§201-203, 204, 226(a), 226.7, 510, 512(a),
19 1174(d), 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 and the applicable IWC
20 Wage Orders. In the Litigation, the Plaintiffs allege on behalf of themselves and all others
21 similarly situated, that Defendants violated California state wage and hour laws and the
22 California Business and Professions Code Section 17200 *et seq.* as a result of Defendants’
23 California wage and hour policies and practices. Specifically, Plaintiffs allege that Defendants
24 failed to: provide compliant meal breaks and/or rest periods and associated premiums, pay
25 minimum wages, pay overtime wages, pay wages timely during employment and upon
26 termination and associated claims for penalties, keep accurate payroll records, provide compliant
27 wage statements, and reimburse business expenses.

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1 B. Subsequently, Plaintiff Tatiana Benjamin sent a letter to the California Labor &
2 Workforce Development Agency (“LWDA”) and Defendants pertaining to alleged wage and
3 hour claims including claimed violations of California Labor Code sections 201, 202, 203, 204,
4 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and
5 IWC Wage Orders including inter alia, Wage Orders 4-2001, and 7-2001.

6 C. Plaintiffs and Defendants have engaged in good faith, arms-length negotiations.
7 On June 8, 2020 (“Mediation Date”), the Parties participated in a mediation before Marc J. Feder,
8 Esq., a well-regarded mediator experienced in mediating complex labor and employment
9 matters, which resulted in a mediator’s proposal. On June 10, 2020, the Parties reached a
10 resolution of this matter, subject to the approval of the Court and finalization of a formal
11 settlement agreement. The Parties are now entering into this more detailed, formalized
12 Settlement Agreement for submission to the Court for Preliminary and Final Approval.

13 D. Class Counsel has conducted an investigation of the law and facts relating to the
14 claims asserted in the Litigation. Taking into account the sharply contested issues involved, the
15 expense and time necessary to pursue the Litigation through trial and any appeals, the risks and
16 costs of further prosecution of the Litigation, the risk of an adverse outcome, the uncertainties
17 of complex litigation, and the substantial benefits to be received by the Plaintiffs and Settlement
18 Class Members pursuant to this Agreement, Class Counsel has concluded that a settlement with
19 Defendants on the terms and conditions set forth herein is fair, reasonable, adequate, and in the
20 best interests of the Settlement Class. Plaintiffs, on their own behalf and on behalf of the
21 Settlement Class, have agreed to settle the Litigation with Defendants on the terms set forth
22 herein.

23 E. Defendants have concluded that, because of the substantial expense of defending
24 against the Litigation, the length of time necessary to resolve the issues presented herein, the
25 inconvenience involved, and the concomitant disruption to their business operations, it is in their
26 best interests to accept the terms of this Agreement. Defendants deny each of the allegations
27 and claims asserted against them in the Litigation. However, Defendants nevertheless desire to
28 settle the Litigation for the purpose of avoiding the burden, expense, and uncertainty of

1 continuing litigation and for the purpose of putting to rest the controversies engendered by the
2 Litigation.

3 F. This Agreement is intended to and does effectuate the full, final and complete
4 resolution of all allegations and claims that were asserted, or could have been asserted, in the
5 Litigation by Plaintiffs and Settlement Class Members as set forth in Section II.A herein.

6 **III. JURISDICTION**

7 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
8 Litigation includes claims that, while Defendants deny them in their entirety, would, if proven,
9 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
10 Final Approval of the Settlement and entered Final Judgment, the Court shall retain jurisdiction
11 of this action, pursuant to California Code of Civil Procedure Section 664.6, solely for the
12 purpose of interpreting, implementing, and enforcing this Settlement consistent with the terms
13 set forth herein, and the Parties and their counsel submit to the jurisdiction of the Court for
14 purposes of interpreting, implementing, and enforcing this Agreement and all orders and
15 judgments entered in connection therewith.

16 **IV. STIPULATION OF CLASS CERTIFICATION**

17 The Parties stipulate to the certification of this Settlement Class for settlement purposes
18 only, contingent upon Preliminary and Final Approval. Should the Settlement not become final,
19 for whatever reason, the fact that the Parties were willing to stipulate provisionally to class
20 certification as part of the Settlement will have no bearing on, and will not be admissible in
21 connection with, the issue of whether a class should be certified in a non-settlement context in
22 the Litigation. Defendants expressly reserve the right to oppose class certification should this
23 Settlement be modified or reversed on appeal or otherwise not become final.

24 **V. MOTION FOR PRELIMINARY APPROVAL**

25 Plaintiffs will prepare and file a motion for an order preliminarily approving the
26 Settlement including the Notice of Class Action Settlement (“Notice”), attached hereto as
27 “Exhibit A.” Prior to bringing their motion for preliminary approval, Plaintiffs and Defendants
28 will file a joint stipulation seeking leave to file the First Amended Complaint

1 **VI. STATEMENT OF NO ADMISSION**

2 **A.** Defendants deny liability to Plaintiffs and to the Settlement Class upon any claim
3 or cause of action. This Agreement does not constitute, and is not intended to constitute, an
4 admission by Defendants as to the merits, validity, or accuracy of any of the allegations or claims
5 made against them in the Litigation.

6 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor
7 any statements, discussions or communications, nor any materials prepared, exchanged, issued
8 or used during the course of the negotiations leading to this Agreement, is intended by the Parties
9 to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in
10 any way in this case or any other judicial, arbitral, administrative, investigative or other forum
11 or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance,
12 regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties
13 themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this
14 case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as
15 purported evidence of any violation of any federal, state, or local law, statute, ordinance,
16 regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other
17 purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before
18 the Court that has as its purpose the interpretation, implementation, or enforcement of this
19 Agreement or any orders or judgments of the Court entered in connection with the Settlement.

20 **C.** The Parties agree that class certification pursuant to California *Code of Civil*
21 *Procedure* Section 382 under the terms of this Agreement is for settlement purposes only.
22 Nothing in this Agreement will be construed as an admission or acknowledgement of any kind
23 that any class should be certified or given collective treatment in the Litigation or in any other
24 action or proceeding. Further, neither this Agreement nor the Court's actions with regard to this
25 Agreement will be admissible in any court or other tribunal regarding the propriety of class
26 certification or collective treatment. In the event that this Agreement is not approved by the
27 Court or any appellate court, is terminated, or otherwise fails to be enforceable, Plaintiffs will
28 not be deemed to have waived, limited or affected in any way any claims, rights or remedies in

1 the Litigation, and Defendants will not be deemed to have waived, limited, or affected in any
2 way any of their objections or defenses in the Litigation.

3 **VII. WAIVER, RELEASE, AND CONFIDENTIALITY**

4 **A. Release as to All Participating Class Members.**

5 Upon the Effective Date, Plaintiffs and all Settlement Class Members who do not submit
6 a valid and timely Request for Exclusion (i.e., Participating Class Members), will release any
7 and all claims and causes of action, contingent or accrued, against Defendants, Defendants'
8 parents, subsidiaries, affiliates, their insurers, attorneys and all agents thereof ("Released
9 Parties"), arising during the Class Period from the facts and claims asserted in the First Amended
10 Complaint for wage-and-hour violations, or any other claims or causes of action that could have
11 reasonably been asserted in the Litigation, based upon the facts alleged for: failure to provide
12 meal and rest breaks; unpaid wages, including minimum wages, regular wages, overtime and
13 double time wages; record keeping violations; failure to reimburse business expenses; failure to
14 provide compliant wage statement; failure to timely pay wages during employment and upon
15 separation; unfair business practices; and civil penalties under the Private Attorney General Act
16 of 2004 Cal. Lab. Code §§ 2698 ("PAGA"), and any other applicable provisions, including the
17 applicable IWC wage orders.

18 **B. General Release by Plaintiffs Only.**

19 In addition to the release made in Section VII.A hereinabove, Plaintiffs make the
20 additional following general release of all claims, known or unknown. Plaintiffs release
21 Defendants, and each of their respective subsidiaries, affiliates, predecessors or successors in
22 interest, officers, directors, shareholders, employees, attorneys, agents, assigns, insurers, and any
23 re-insurers, from all claims, demands, rights, liabilities and causes of action of every nature and
24 description whatsoever, known or unknown, asserted or that might have been asserted, whether
25 in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of,
26 relating to, or in connection with any act or omission by or on the part of any Defendant (the
27 "General Release").
28

1 With respect to the General Release, Plaintiffs stipulate and agree that, upon the Effective
2 Date, Plaintiffs will be deemed to have expressly waived and relinquished, to the fullest extent
3 permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil
4 Code, or any other similar provision under federal or state law, which provides:

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

11 Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other
12 than or different from the facts now believed to be true, the General Release contained herein
13 will be effective as to all unknown claims.

14 Notwithstanding the foregoing provisions, the General Release by Plaintiffs does not
15 constitute a waiver of any claims that cannot by law be waived, including but not limited to claims
16 for workers' compensation, disability insurance, or unemployment insurance.

17 **C. Publicity.**

18 Plaintiffs and their counsel agree that they have not and will not publish the Settlement
19 Agreement. Class Counsel shall not issue any press releases or press statements regarding the
20 Settlement, identify Defendants or their counsel by name in any media, including Class
21 Counsel's website, or have any communications with the press or media about the Litigation or
22 the Settlement. However, nothing in this provision will prevent the Parties from taking the
23 following actions: (a) Class Counsel will be allowed to refer to the Litigation and Settlement in
24 other litigations to support their adequacy as attorneys for a putative class or to justify an award
25 of attorneys' fees; (b) the Parties will have the right to disclose the Settlement as may be required
26 under federal or state tax and/or securities laws or under Generally Accepted Accounting
27 Principles; (c) the Parties will have the right to disclose the Settlement to third parties without
28 identifying the case name, case number, or names of any of the Parties or Released Parties; (d)
the Parties may refer to the Settlement, describe its terms, and file the Settlement Agreement
with the Court, and submit it to the LWDA and the Settlement Administrator in connection with

1 any proceedings which are reasonably necessary to obtain approval of the Settlement; (e) Class
2 Counsel may communicate with Settlement Class Members or their representatives about this
3 Settlement; and (f) the Parties or their representatives may communicate with accountants or
4 legal advisors regarding the Settlement. Except for the previously listed exceptions, in response
5 to any inquiries about the Litigation, the Parties may state that “the matter has been resolved.”

6 **VIII. SETTLEMENT ADMINISTRATOR**

7 Plaintiffs and Defendants, through their respective counsel, have selected Phoenix
8 Settlement Administrators as the Settlement Administrator to administer the Settlement, which
9 includes but is not limited to distributing and responding to inquiries about the Notice,
10 determining the validity of any disputes and opt-outs, and calculating all amounts to be paid
11 from the Net Settlement Amount. The Parties and their respective counsel represent they do
12 not have a financial interest in the Settlement Administrator or otherwise have a relationship
13 with the Settlement Administrator that creates or could create a conflict of interest.

14 Administration Costs, in an amount not to exceed Fifteen Thousand Dollars (\$15,000),
15 will be paid from the Gross Settlement Amount. If the actual Settlement Administrator fees are
16 less than the Administration Costs, the difference will be included in the Net Settlement Amount.

17 **IX. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

18 **A. Notice.**

19 Plaintiffs and Defendants, through their respective attorneys, have jointly prepared the
20 Notice, in the form attached hereto as “Exhibit A”, to be provided to the Settlement Class
21 Members as follows:

22 As soon as practicable following Preliminary Approval, but no later than fourteen (14)
23 calendar days of Preliminary Approval, Defendants will provide the Settlement Administrator
24 with the following information for each Settlement Class Member: (1) name; (2) last known
25 home address; (3) number of Eligible Workweeks; and (4) Social Security number (the “Class
26 List”). Defendants will consult with the Settlement Administrator to ensure the Class List is in
27 an acceptable format prior to receipt.

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1 The Settlement Administrator will run all the addresses provided through the United
2 States Postal Service NCOA database (which provides updated addresses for any individual who
3 has both moved in the previous four years and notified the U.S. Postal Service of a forwarding
4 address) to obtain current address information. The address of any Settlement Class Member
5 known to be deceased will be updated to the last known address (or updated address, if
6 applicable) of either the Settlement Class Member's heir or the legal representative for the
7 Settlement Class Member's estate. Within fifteen (15) calendar days after the Settlement
8 Administrator's receipt of the Class List, the Settlement Administrator will mail the Notice in
9 English to the Settlement Class Members by first-class U.S. Mail, using the most current mailing
10 address that the Settlement Administrator has obtained. For purposes of determining the
11 Response Deadline, the date of mailing of the Notice will be conclusively determined according
12 to the records of the Settlement Administrator.

13 The Notice will include: information regarding the nature of the Litigation; a summary
14 of the terms of the Settlement; the definition of the Settlement Class; a statement that the Court
15 has preliminarily approved the Settlement; the procedure and time period for objecting to the
16 Settlement, opting out of the Settlement, and disputing the number of Eligible Workweeks
17 credited to each Settlement Class Member; the date, time, and location of the Final Approval
18 Hearing; information regarding the opt-out procedure; Defendants' calculation of each
19 Settlement Class Member's number of Eligible Workweeks; and each Settlement Class
20 Member's estimated Individual Settlement Payment.

21 If a Notice is returned as non-deliverable prior to the Response Deadline, the Settlement
22 Administrator will re-mail the Notice to any provided forwarding address. If no forwarding
23 address is provided, the Settlement Administrator will perform a single skip-trace search in an
24 attempt to locate a more current address. If an updated address is located, the Settlement
25 Administrator will re-mail the Notice to the updated address. The deadline to object to the
26 Settlement, request to be excluded from the Settlement, or to submit an Eligible Workweeks
27 dispute will be extended by fifteen (15) calendar days for any Settlement Class Member for
28 whom a Notice is re-mailed.

1 No later than twenty (20) court days prior to the Final Approval Hearing, the Settlement
2 Administrator shall provide Defendants' counsel and Class Counsel with a declaration attesting
3 to the completion of the Notice process, including the number of attempts to obtain valid mailing
4 addresses for and re-sending of any returned Notices, as well as the number of requests to be
5 excluded, objections, and valid Eligible Workweek disputes received.

6 **B. Objections.**

7 To object to this Resolution, or any term of it, a Settlement Class Member must not
8 submit a request for exclusion (i.e., must not opt out) and must serve the Settlement
9 Administrator with a written statement objecting to the Settlement by mail no later than the
10 Response Deadline, that includes: (1) the Settlement Class Member's full name, address, and
11 last four digits of his or her Social Security number; (2) the Settlement Class Member's
12 signature; (3) the case name and number of the Litigation; and (4) a clear statement explaining
13 the grounds for objection, along with all supporting papers; and (5) whether the Settlement Class
14 Member (or someone on his or her behalf) intends to appear at the Final Approval Hearing. The
15 Settlement Class Member may appear through a timely submitted written objection, personally,
16 or through an attorney, at his or her own expense, at the Final Approval Hearing to present his
17 or her objection directly to the Court. Any attorney representing an individual objecting to this
18 Settlement must file a notice of appearance with the Court and serve said notice to Class Counsel
19 and Defendants' counsel no later than the Response Deadline. If a Settlement Class Member
20 objects to this Settlement, the Settlement Class Member will remain a member of the Settlement
21 Class and if the Court approves this Agreement, the Settlement Class Member will be bound by
22 the terms of the Settlement Agreement and Final Approval in the same way and to the same
23 extent as a Settlement Class Member who does not object. The Court retains final authority with
24 respect to the consideration and admissibility of any objection from Settlement Class Members.
25 Any Settlement Class Member who submits an objection may also participate in the Settlement.
26 Provided that the Settlement Administrator mailed the Notice to a Settlement Class Member as
27 set forth in Paragraph IX(A), the deadline to submit an objection will apply notwithstanding an
28 assertion by any Settlement Class Member of non-receipt of the Notice.

1 Plaintiffs and Defendants will be permitted to respond in writing to objections no later
2 than seven (7) days before the Final Approval Hearing. Plaintiffs waive any right to object to
3 the Settlement, and hereby endorse the Settlement as fair, reasonable, and adequate and in the
4 best interests of the Settlement Class.

5 **C. Opportunity to be Excluded.**

6 In order for any Settlement Class Member to exclude himself or herself from the
7 Settlement (i.e., to opt out), a written request for exclusion (“Request for Exclusion”) must be
8 signed by the Settlement Class Member and must be sent to the Settlement Administrator by
9 mail, postmarked no later than the Response Deadline. The Request for Exclusion must: (1)
10 contain the Settlement Class Member’s full name, address, telephone number, and last four digits
11 of his or her Social Security number; (2) be signed by the Settlement Class Member; (3) contain
12 the case name and number of the Litigation; and (4) clearly state that the Settlement Class
13 Member requests to be excluded from the Settlement.

14 Any Settlement Class Member who submits a timely and valid Request for Exclusion
15 will not be entitled to payment of any Individual Settlement Payment, will not be bound by the
16 terms and conditions of this Settlement, and will not have any right to object, appeal, or comment
17 thereon.

18 Any Settlement Class Member who does not timely submit a Request for Exclusion will
19 be deemed included in the Settlement Class in accordance with this Settlement. Plaintiffs waive
20 any right to be excluded from the Settlement.

21 **D. Defendants’ Right to Rescind Agreement Due to Opt-Outs.**

22 If the number of Settlement Class Members who opt out is more than five percent (5%)
23 of the total number of Settlement Class Members, then Defendants may, but are not required to,
24 rescind or void this entire Settlement by providing notice of such rescission to Class Counsel in
25 writing no later than fourteen (14) calendar days after the Response Deadline and notice by the
26 Settlement Administrator of the final number of Settlement Class Members who submitted timely
27 and valid Requests for Exclusion.

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1 **E. Cooperation.**

2 The Parties and their respective counsel agree not to encourage Settlement Class
3 Members to refrain from participating in the settlement, to opt out of this Settlement, or to object
4 to the Settlement, directly or indirectly, through any means. However, if a Settlement Class
5 Member contacts Class Counsel, Class Counsel may discuss the terms of the Settlement and the
6 Settlement Class Member's options.

7 **X. ELIGIBLE WORKWEEKS AND DISPUTES**

8 Plaintiffs and Defendants have agreed upon the following procedure to resolve all
9 disputes from Settlement Class Members regarding Eligible Workweeks:

10 If a Settlement Class Member does not dispute the number of Eligible Workweeks set
11 forth in the Notice, such person need not take further action to participate in the Settlement. If
12 the Settlement Class Member disputes the number of Eligible Workweeks set forth in the Notice,
13 such person must submit a written dispute ("Workweek Dispute") to the Settlement
14 Administrator, postmarked no later than the Response Deadline that: (a) states the Settlement
15 Class Member's full name, address, telephone number, and last four digits of his or her Social
16 Security number; (b) contains the case name and number of the litigation; (c) contains a clear
17 statement setting forth the number of Eligible Workweeks that the Settlement Class Member
18 believes is correct; and (d) attaches any relevant documentation in support thereof. The
19 Settlement Class Member must mail the Workweek Dispute to the Settlement Administrator no
20 later than the Response Deadline, or the number of Eligible Workweeks set forth in the Notice
21 will govern the calculation of his or her Individual Settlement Payment.

22 Upon timely receipt of any such dispute, the Settlement Administrator, in consultation
23 with Class Counsel and counsel for Defendants, will review the pertinent payroll records
24 showing the dates the Settlement Class Member was employed and the pertinent leave(s) taken,
25 which records Defendants agree to make available to the Settlement Administrator and Class
26 Counsel.

27 After consulting with Class Counsel and counsel for Defendants, the Settlement
28 Administrator will compute the number of Eligible Workweeks to be used in computing the

1 Settlement Class Member's *pro rata* share of the Net Settlement Amount. In the event there is
2 a disparity between the dates a Settlement Class Member claims he or she worked during the
3 Class Period and the dates indicated by Defendants' records, Defendants' records will control
4 unless inconsistent with paycheck stub(s) (or bona fide copies thereof) provided by the
5 Settlement Class Member, in which case the paycheck stub(s) will control. The Settlement
6 Administrator's decision as to the total number of Eligible Workweeks will be final and non-
7 appealable. The Settlement Administrator will send written notice of the decision on any such
8 dispute to the Settlement Class Member, Class Counsel, and counsel for Defendants within ten
9 (10) calendar days of receipt of the dispute.

10 Should any Settlement Class Member timely submit a Workweek Dispute with a
11 deficiency, the Settlement Administrator will, within fifteen (15) calendar days of receipt by the
12 Settlement Administrator of each timely submitted Workweek Dispute, send a deficiency notice
13 to the Settlement Class Member. The deficiency notice will provide the Settlement Class
14 Member no more than fourteen (14) calendar days from the mailing of the deficiency notice to
15 postmark a written response to cure all deficiencies. The failure of a Settlement Class Member
16 to timely submit a Workweek Dispute or timely respond to a notice of deficiency will invalidate
17 the dispute unless all Parties' counsel agree to allow the dispute.

18 **XI. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

19 **A. Net Settlement Distribution Formula.**

20 Settlement Class Members who do not opt out of the Settlement will receive payment
21 (i.e., Individual Settlement Payment) as good and valuable consideration for the waiver and
22 release of claims set forth in Section VII.A, in the amount determined by the Settlement
23 Administrator in accordance with the provisions of this Agreement.

24 The Settlement Administrator will determine each Participating Class Member's
25 Individual Settlement Payment as follows: dividing the Net Settlement Amount by the total
26 number of Eligible Workweeks worked by all Participating Class Members during the Class
27 Period (the "Weekly Amount") and then multiplying the Weekly Amount by the Participating
28 Class Member's individual number of Eligible Workweeks. Individual Settlement Payments will

1 be reduced by the employee's share of any applicable taxes and withholdings on the wages
2 portion of the Individual Settlement Payment, as provided for in Section XV, below.

3 **B. Funding of Resolution.**

4 Within fifteen (15) business days of the Effective Date, Defendants will transmit the
5 Gross Settlement Amount to the Settlement Administrator. No portion of the Gross Settlement
6 Amount will revert to Defendants. Employer Taxes will be paid by Defendants separately and
7 in addition to the Gross Settlement Amount. No distributions from the Gross Settlement Amount
8 will be made until fifteen business days after the Effective Date.

9 **C. Distribution of Net Settlement Amount**

10 Within thirty (30) business days of the Effective Date, the Settlement Administrator will
11 distribute all Individual Settlement Payments to Participating Class Members.

12 If a Participating Class Member is deceased at the time of distribution, the Settlement
13 Administrator shall distribute the deceased Participating Class Member's Individual Settlement
14 Payment to the deceased Participating Class Member's legal heir(s). In the event of a dispute as
15 to the legal heir(s), the Settlement Administrator shall notify the executor of the deceased
16 Participating Class Member's estate and attempt to place the deceased Participating Class
17 Member's Individual Settlement Payment in escrow or similar disposition such that any
18 competing heirs may take whatever action they wish to resolve ultimate disposition of such
19 money and the Settlement Administrator and the Parties hereto may disclaim any further interest
20 in or obligation in relation to such money.

21 If an Individual Settlement Payment check is returned to the Settlement Administrator
22 as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing
23 address by performing a single skip-trace search and, if another address is identified, shall mail
24 the check to the newly identified address.

25 Any Individual Settlement Payment checks issued to Participating Class Members will
26 be valid and negotiable for one hundred eighty (180) calendar days from the date of their
27 issuance. Any settlement checks that remain uncashed one hundred eighty (180) calendar days
28 after issuance by the Settlement Administrator will be voided. The Settlement Administrator

1 will remit the entire amount of each Participating Class Member's uncashed Individual
2 Settlement Payment to the Unclaimed Property Fund maintained by the California State
3 Controller's Office, in the name of the Participating Class Member to whom the check was
4 issued, pursuant to the California's Unclaimed Property Law.

5 **D. Time for Distribution of the Attorney Fees, Costs, Enhancement Payments,**
6 **Administration Costs, and LWDA Payment.**

7 Within thirty (30) business days after the Effective Date, the Settlement Administrator
8 shall distribute the Court-approved Enhancement Payments to Plaintiffs, Court-approved
9 Attorneys' Fees and Litigation Costs to Class Counsel, Court-approved Administration Costs to
10 the Settlement Administrator, and seventy-five percent (75%) of the PAGA Amount (i.e.,
11 LWDA Payment) to the LWDA.

12 **XII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

13 The amounts paid under this Agreement do not represent a modification of any
14 previously credited hours of service under any employee benefit plan, policy or bonus program
15 sponsored by Defendants. Such amounts will not form the basis for additional contributions to,
16 benefits under, or any other monetary entitlement under, benefit plans (self-insured or not)
17 sponsored by Defendants, policies, or bonus programs. Any payments made under the terms of
18 this Settlement Agreement will not be applied retroactively, currently or on a going forward
19 basis as salary, earnings, wages, or any other form of compensation for the purposes of
20 Defendants' benefit plan, policy or bonus program. Defendants retain the right to modify the
21 language of their benefit plans, policies and bonus programs to effect this intent and to make
22 clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid,"
23 "hours of service," or any similar measuring term as defined by applicable plans, policies and
24 bonus programs for purpose of eligibility, vesting, benefit accrual or any other purpose, and that
25 additional contributions or benefits are not required by this Settlement.

26 **XIII. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS**

27 Defendants shall not oppose an application by Class Counsel for an award of Attorneys'
28 Fees in an amount not to exceed thirty-five percent (35%) of the Gross Settlement Amount, or

1 One Hundred Forty Thousand Dollars (\$140,000), for all past and future attorneys' fees
2 necessary to prosecute and settle the Litigation and administer the Settlement. Additionally,
3 Defendants shall not oppose an application by Class Counsel for reimbursement of litigation
4 costs and expenses of up to Fifteen Thousand Dollars (\$15,000) ("Litigation Costs"), which
5 represents all past and future litigation costs and expenses necessary to prosecute and settle the
6 Litigation. Any Attorneys' Fees or Litigation Costs awarded to Class Counsel by the Court will
7 be deducted from the Gross Settlement Amount for the purpose of determining the Net
8 Settlement Amount. The "future" aspect of these amounts includes, without limitation, all time
9 and expenses expended by Class Counsel in defending the Settlement and securing Final
10 Approval (including any appeals therein). There will be no additional charge of any kind to
11 either the Settlement Class Members or request for additional consideration from Defendant for
12 such work. This amount includes all attorneys' fees and litigation costs and expenses for which
13 Plaintiffs and Class Counsel could claim under any legal theory whatsoever. Should the Court
14 approve a lesser percentage or amount of Attorneys' Fees and/or Litigation Costs than the
15 amount that Class Counsel ultimately seeks, the unapproved portion or portions will be part of
16 the Net Settlement Amount.

17 With respect to the Attorneys' Fees and Litigation Costs to Class Counsel, the Settlement
18 Administrator may purchase an annuity to utilize United States Treasuries and bonds or other
19 attorney fee deferral vehicles, for Class Counsel. Any additional expenses for the purchase of an
20 annuity by the Settlement Administrator will be paid separately by Class Counsel and will not
21 be included within the Administration Costs.

22 **XIV. ENHANCEMENT TO PLAINTIFFS**

23 Defendant shall not oppose an application by Plaintiffs for Enhancement Payments of up
24 to Seven Thousand Five Hundred Dollars (\$7,500) for each of them, for a total of \$22,500, for
25 their participation in and assistance with the Litigation. Any Enhancement Payments awarded
26 to Plaintiffs by the Court will be deducted from the Gross Settlement Amount for the purpose of
27 determining the Net Settlement Amount and will be reported on IRS Form 1099. If the Court
28 approves Enhancement Payments of less than the amount requested, then the unapproved portion

1 or portions will be part of the Net Settlement Amount.

2 **XV. TAXATION AND ALLOCATION**

3 The Parties agree that the employee's share of taxes and other legally required
4 withholdings will be withheld from payments to Participating Class Members based on the
5 Parties stipulated allocation of the Individual Settlement Payments as provided for in this
6 Section.

7 The amount of federal income tax withholding will be based upon a flat withholding rate
8 for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as
9 amended or supplemented. Income tax withholding will also be made pursuant to applicable
10 state and/or local withholding codes or regulations.

11 For withholding tax characterization purposes and payment of taxes, the Individual
12 Settlement Payments to Participating Class Members will be allocated as follows:

- 13 (1) twenty-five percent (25%) wages, to be reported on IRS Form W-2; and
14 (2) seventy-five percent (75%) as penalties and interest, to be reported on IRS Form
15 1099.

16 Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required
17 by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the
18 Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the
19 date of this Agreement, the processes set forth in this Section may be modified in a manner to
20 bring Defendants into compliance with any such changes.

21 **XVI. PRIVATE ATTORNEY GENERAL ACT ALLOCATION**

22 To implement the terms of this Settlement and to settle claims alleged under PAGA, the
23 Parties agree to allocate Seventy-Five Thousand Dollars (\$75,000) of the Gross Settlement
24 Amount to the resolution of all claims for penalties under PAGA. Seventy-five percent (75%)
25 of the PAGA Amount, or Fifty-Six Thousand Two Hundred Fifty Dollars (\$56,250), will be
26 distributed to the LWDA, and twenty-five percent (25%) of the PAGA Amount, or Eighteen
27 Thousand Seven Hundred Fifty Dollars (\$18,750), will be distributed to the Participating Class
28 Members as part of the Net Settlement Amount.

1 **XVII. COURT APPROVAL**

2 This Settlement Agreement is contingent upon Final Approval by the Court and the entry
3 of Final Judgment. Plaintiffs and Defendants agree to take all steps reasonably necessary to
4 secure both Preliminary Approval and Final Approval of the Settlement, to the extent not
5 inconsistent with the terms of this Agreement. Furthermore, the Parties will not take any action
6 adverse to each other in obtaining Court approval, and, if necessary, appellate approval, of the
7 Settlement in all respects. Plaintiffs and Defendants expressly agree that they will not file any
8 objection to the terms of this Settlement or assist or encourage any person or entity to file any
9 such objection.

10 **XVIII. APPRISAL AND CERTIFICATION BY THE SETTLEMENT**
11 **ADMINISTRATOR.**

12 The Settlement Administrator shall keep Class Counsel and Defendants' counsel
13 apprised of all distributions from the Gross Settlement Amount. Upon completion of
14 administration of the Settlement, the Settlement Administrator shall provide written certification
15 of such completion to the Court, Class Counsel, and Defendants' counsel. The Settlement
16 Administrator shall also provide Defendants with a final accounting, including the names of
17 payees and Individual Settlement Payments.

18 **XIX. MISCELLANEOUS PROVISIONS**

19 **A. Stay of Litigation.**

20 Plaintiffs and Defendants agree to the stay of all proceedings in the Litigation, except
21 such proceedings necessary to implement and complete the Settlement, pending Final Approval
22 of the Settlement by the Court.

23 **B. Escalator Clause.**

24 As of the Mediation Date, Defendants estimate the Settlement Class consists of
25 approximately 716 individuals and 24,007 total Eligible Workweeks; this estimate serves as the
26 basis for Plaintiffs accepting the settlement. If the total number of workweeks as of the Mediation
27 Date actually exceeds 24,007 by more than ten percent (10%), the Gross Settlement Amount will
28 increase proportionately for every percent over the 10% grace (e.g., if the total number of class

1 workweeks through the Mediation Date exceeds 24,007 by 11%, the Gross Settlement Amount
2 will increase by 1%).

3 **C. Interpretation of the Agreement.**

4 This Agreement constitutes the entire agreement between Plaintiffs and Defendants.
5 Except as expressly provided herein, this Agreement has not been executed in reliance upon any
6 other written or oral representations or terms, and no such extrinsic oral or written
7 representations or terms will modify, vary, or contradict its terms. In entering into this
8 Agreement, the Parties agree this Agreement is to be construed according to its terms and may
9 not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and
10 enforced under the laws of the State of California, both in its procedural and substantive aspects,
11 without regard to its conflict of laws provisions. Any claim arising out of or relating to the
12 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
13 Court of the State of California for the County of San Francisco, and Plaintiffs and Defendants
14 hereby consent to the personal jurisdiction of the Court over them solely in connection therewith.
15 The foregoing is only limited to disputes concerning this Agreement and in no way limits or
16 negates the enforceability and effect of the underlying arbitration agreements signed by
17 employees of Defendants, specifically including but not limited to Plaintiffs, obligating them to
18 arbitrate any and all claims on an individual (and not on a class, collective, or representative)
19 basis.

20 Plaintiffs, on their own behalf and on behalf of the Settlement Class, and Defendants
21 participated in the negotiation and drafting of this Agreement and had available to them the
22 advice and assistance of independent counsel. As such, neither Plaintiffs nor Defendants may
23 claim that any ambiguity in this Agreement should be construed against the other.

24 The terms and conditions of this Agreement constitute the exclusive and final
25 understanding and expression of all agreements between Plaintiffs and Defendants with respect
26 to the Settlement of the Litigation. The Agreement may be modified only by a writing signed
27 by counsel for all Parties or their successors-in-interest, approved by the Court.

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1 **D. Confidentiality of Documents.**

2 After the expiration of any appeals period, Plaintiffs, the Settlement Administrator, and
3 Class Counsel shall maintain the confidentiality of all documents, deposition transcripts,
4 declarations and other information obtained in the Litigation, unless necessary for appeal or such
5 documents are ordered to be disclosed by the Court or by a subpoena.

6 **E. Counterparts.**

7 The Agreement may be executed in one or more actual or non-original counterparts, all
8 of which will be considered one and the same instrument and all of which will be considered
9 duplicate originals.

10 **F. Authority.**

11 Each individual signing below warrants that he or she has the authority to execute this
12 Agreement on behalf of the party for whom or which that individual signs.

13 **G. No Third-Party Beneficiaries.**

14 Plaintiffs, Settlement Class Members, and Defendants are direct beneficiaries of this
15 Agreement, but there are no third-party beneficiaries.

16 **H. Force Majeure.**

17 The failure of any party to perform any of its obligations hereunder will not subject such
18 party to any liability or remedy for damages, or otherwise, where such failure is occasioned in
19 whole or in part by acts of God, fires, accidents, earthquakes, other natural disasters, explosions,
20 floods, wars, interruptions or delays in transportation, power outages, labor disputes or
21 shortages, shortages of material or supplies, governmental laws, restrictions, rules or regulations,
22 sabotage, terrorist acts, acts or failures to act of any third parties, or any other similar or different
23 circumstances or causes beyond the reasonable control of such party.

24 **I. Deadlines Falling on Weekends or Holidays.**

25 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,
26 or legal holiday, that deadline will be continued until the following business day.

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J. Severability.

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

K. Further Cooperation.

Plaintiffs and Defendants and their respective attorneys shall proceed diligently to prepare and execute all documents, to seek the necessary approvals from the Court, and to do all things reasonably necessary or convenient to consummate the Agreement as expeditiously as possible.

L. Defendants' Fees and Costs

All of Defendants' own legal fees, costs and expenses incurred in this Action will be borne by Defendants.

M. Amendment or Modification.

Unless otherwise provided herein, this Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest, subject to approval by the Court.

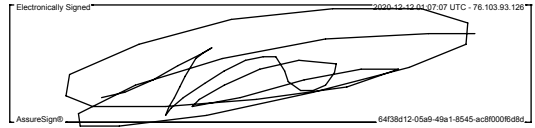
IT IS SO STIPULATED.

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APPROVED AS TO CONTENT

December 11, 2020
DATE: _____



NEQUASHA POTTS

DATE: _____

MARQUIS BERRY

DATE: _____

TATIANA BENJAMIN

DATE: _____

By: _____
Title:
For: DOLLS KILL, INC.

DATE: _____

By: _____
Title:
For: TRINET HR III-A, INC.

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APPROVED AS TO CONTENT

DATE: _____

NEQUASHA POTTS

December 11, 2020

DATE: _____



MARQUIS BERRY

DATE: _____

TATIANA BENJAMIN

DATE: _____

By:
Title:
For: DOLLS KILL, INC.

DATE: _____

By:
Title:
For: TRINET HR III-A, INC.

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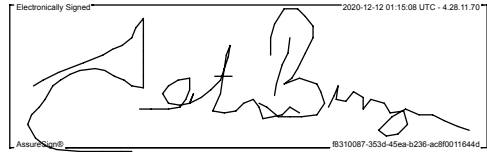
NEQUASHA POTTS

DATE: _____

MARQUIS BERRY

December 11, 2020

DATE: _____



TATIANA BENJAMIN

DATE: _____

By:
Title:
For: DOLLS KILL, INC.

DATE: _____

By:
Title:
For: TRINET HR III-A, INC.


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APPROVED AS TO FORM

LAWYERS FOR JUSTICE, PC

DATED: 12/11/2020

By: 
Edwin Aiwazian

Attorneys for Plaintiffs
NEQUASHA POTTS, MARQUIS BERRY, and
TATIANA BENJAMIN

FISHER & PHILLIPS LLP

DATED: _____

By: _____
Christopher J. Boman
Boris Sorsher
Rebecca King

Attorneys for Defendants
DOLLS KILL, INC. and TRINET GROUP, INC.

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APPROVED AS TO CONTENT

DATE: _____

NEQUASHA POTTS

DATE: _____

MARQUIS BERRY

DATE: _____

TATIANA BENJAMIN

DATE: _____

By:
Title:
For: DOLLS KILL, INC.

DATE: 12/2/2020



By: Annmarie Liermann
Title: Corporate Counsel
For: TRINET HR III-A, INC. (erroneously
sued as TRINET GROUP, INC.)

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APPROVED AS TO CONTENT

DATE: _____

NEQUASHA POTTS


DATE: _____

MARQUIS BERRY

DATE: _____

TATIANA BENJAMIN

DATE: 12/2/2020


By: Jon Dussel
Title: Head of Finance
For: DOLLS KILL, INC.

DATE: _____

By:
Title:
For: TRINET HR III-A, INC.

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APPROVED AS TO FORM

LAWYERS FOR JUSTICE, PC


DATED: _____

By: _____
Edwin Aiwazian

Attorneys for Plaintiffs
NEQUASHA POTTS, MARQUIS BERRY, and
TATIANA BENJAMIN

FISHER & PHILLIPS LLP

DATED: December 3, 2020

By: 

Christopher J. Boman
Boris Sorsher
Rebecca King

Attorneys for Defendants
DOLLS KILL, INC. and TRINET HR III-A, INC.
(erroneously sued as TRINET GROUP, INC.)

1 Edwin Aiwazian (SBN 232943)
Arby Aiwazian (SBN 269827)
2 Joanna Ghosh (SBN 272479)
Stephanie S. Ponek (SBN 306205)
3 Brian J. St. John (SBN 304112)
LAWYERS for JUSTICE, PC
4 410 West Arden Avenue, Suite 203
Glendale, California 91203
5 Tel: (818) 265-1020/ Fax: (818) 265-1021

6 *Attorneys for Plaintiffs*

7 Christopher J. Boman (SBN 198798)
Boris Sorsher (SBN 251718)
8 Rebecca King (SBN 305902)
FISHER & PHILLIPS LLP
9 2050 Main Street, Suite 1000
Irvine, California 92614
10 Tel: (949) 851-2424 / Fax: (949) 851-0152

11 *Attorneys for Defendants*

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF SAN FRANCISCO**

15 NEQUASHA POTTS individually, and on
16 behalf of other members of the general public
similarly situated; MARQUIS BERRY,
17 individually, and on behalf of other members
of the general public similarly situated;

18 Plaintiffs,

19 vs.

20 DOLLS KILL, INC., an unknown business
21 entity; TRINET GROUP, INC., an unknown
business entity; and DOES 1 through 100,
22 inclusive,

23 Defendants.

Case No. CGC19580228

Honorable Garrett L. Wong
Department 610

CLASS ACTION

**AMENDMENT NO. 1 TO
STIPULATION OF CLASS AND
PAGA SETTLEMENT**

Complaint Filed: October 23, 2019
Trial Date: None Set

1 Plaintiffs Nequasha Potts, Marquis Berry, and Tatiana Benjamin (together, “Plaintiffs”),
2 on behalf of themselves and on behalf of other members of the general public similarly situated,
3 and Defendants Dolls Kill, Inc. and Trinet HR III-A, Inc., (together, “Defendants”) pursuant to
4 Section XIX.M of the Stipulation of Class Action and PAGA Settlement entered into on or around
5 December 11, 2020 (“Original Agreement”), hereby agree to amend and supplant the Original
6 Agreement, as stated herein. The amendments stated herein are incorporated by this reference:

7 **A. Section IX.A of the Original Agreement is hereby amended to state as**
8 **follows:**

9 Plaintiffs and Defendants, through their respective attorneys, have jointly prepared the
10 Notice, in the form attached hereto as “Exhibit A”, to be provided to the Settlement Class
11 Members as follows:

12 As soon as practicable following Preliminary Approval, but no later than fourteen (14)
13 calendar days of Preliminary Approval, Defendants will provide the Settlement Administrator
14 with the following information for each Settlement Class Member: (1) name; (2) last known
15 home address; (3) number of Eligible Workweeks; (4) last known e-mail address, if available;
16 and (5) Social Security number (the “Class List”). Defendants will consult with the Settlement
17 Administrator to ensure the Class List is in an acceptable format prior to receipt.

18 The Settlement Administrator will run all the addresses provided through the United
19 States Postal Service NCOA database (which provides updated addresses for any individual who
20 has both moved in the previous four years and notified the U.S. Postal Service of a forwarding
21 address) to obtain current address information. The address of any Settlement Class Member
22 known to be deceased will be updated to the last known address (or updated address, if
23 applicable) of either the Settlement Class Member’s heir or the legal representative for the
24 Settlement Class Member’s estate. Within fifteen (15) calendar days after the Settlement
25 Administrator’s receipt of the Class List, the Settlement Administrator will both mail the Notice
26 in English to the Settlement Class Members by first-class U.S. Mail, using the most current
27 mailing address that the Settlement Administrator has obtained, and e-mail the Notice in English
28 to all Settlement Class Members for whom an e-mail address is available. For purposes of

1 determining the Response Deadline, the date of mailing of the Notice will be conclusively
2 determined according to the records of the Settlement Administrator.

3 The Notice will include: information regarding the nature of the Litigation; a summary
4 of the terms of the Settlement; the definition of the Settlement Class; a statement that the Court
5 has preliminarily approved the Settlement; the procedure and time period for objecting to the
6 Settlement, opting out of the Settlement, and disputing the number of Eligible Workweeks
7 credited to each Settlement Class Member; the date, time, and location of the Final Approval
8 Hearing; information regarding the opt-out procedure; Defendants' calculation of each
9 Settlement Class Member's number of Eligible Workweeks; each Settlement Class Member's
10 estimated Individual Settlement Payment; and the URL for a static website created by the
11 Settlement Administrator for hosting copies of the Settlement Agreement, approval papers, and
12 related documents.

13 If a Notice is returned as non-deliverable prior to the Response Deadline, the Settlement
14 Administrator will re-mail the Notice to any provided forwarding address. If no forwarding
15 address is provided, the Settlement Administrator will perform a single skip-trace search in an
16 attempt to locate a more current address. If an updated address is located, the Settlement
17 Administrator will re-mail the Notice to the updated address. The deadline to object to the
18 Settlement, request to be excluded from the Settlement, or to submit an Eligible Workweeks
19 dispute will be extended by fifteen (15) calendar days for any Settlement Class Member for whom
20 a Notice is re-mailed.

21 No later than twenty (20) court days prior to the Final Approval Hearing, the Settlement
22 Administrator shall provide Defendants' counsel and Class Counsel with a declaration attesting
23 to the completion of the Notice process, including the number of attempts to obtain valid mailing
24 addresses for and re-sending of any returned Notices, as well as the number of requests to be
25 excluded, objections, and valid Eligible Workweek disputes received.

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B. Exhibit A of the Original Agreement (the “Notice of Class Action Settlement”) will be replaced with: the revised Notice of Class Action Settlement that is attached hereto as Exhibit 1.

LAWYERS for JUSTICE, PC

DATED: February 16, 2021

By: 

Edwin Aiwazian
Stephanie S. Ponek
Brian J. St. John
Attorneys for Plaintiffs
NEQUASHA POTTS, MARQUIS BERRY, and
TATIANA BENJAMIN

FISHER & PHILLIPS LLP

DATED: 2/16/2021

By: 

Christopher J. Boman
Boris Sorsher
Rebecca King

Attorneys for Defendants
DOLLS KILL, INC. and TRINET GROUP, INC.

EXHIBIT 1

NOTICE OF CLASS ACTION SETTLEMENT

Nequasha Potts, et al. v. Dolls Kill, Inc., et al.
San Francisco Superior Court Case No. CGC19580228

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendants' records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced matter.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the settlement, your legal rights may be affected.

This Notice is designed to advise you of your rights and options with respect to the settlement.

By order of the Superior Court of California for the County of San Francisco (the "Court"), in the case of *Nequasha Potts, et al. v. Dolls Kill, Inc., et al.*, Case No. CGC19580228 (the "Action"), preliminary approval of a proposed class action settlement was granted on [preliminary approval date]. A hearing shall be held on [hearing date] ("Final Approval Hearing") to determine whether final approval of the Settlement should be granted.

YOU ARE NOTIFIED THAT: A proposed class action settlement has been reached between Plaintiffs Nequasha Potts, Marquis Berry, and Tatiana Benjamin ("Plaintiffs") and Defendants Dolls Kill, Inc. and Trinet HR III-A, Inc. ("Defendants") (Plaintiffs and Defendants are collectively referred to as the "Parties") in the Action, which may affect your legal rights.

I. DEFINITIONS

"Settlement Class" means all current and formerly hourly-paid or non-exempt employees who were employed by Dolls Kill, Inc. within the State of California during the Class Period.

"Class Period" means the time period from October 23, 2015 through October 1, 2020.

"Settlement Class Member" means an individual who falls within the definition of the Class.

II. BACKGROUND OF THE LAWSUITS

The Action was commenced when Plaintiffs Nequasha Potts and Marquis Berry filed a Class Action Complaint for Damages against Defendants on April 26, 2019, in the San Francisco Superior Court. On [redacted], Plaintiffs filed a First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("First Amended Complaint").

Plaintiffs allege that Defendants failed to properly pay minimum and overtime wages, failed to provide compliant meal breaks and associated premiums, failed to provide compliant rest breaks and associated premiums, failed to timely pay wages during employment and upon termination of employment and associated waiting-time penalties, failed to provide accurate itemized wage statements, failed to maintain requisite payroll records, failed to reimburse business expenses, and thereby, engaged in unfair business practices under the California Business and Professions Code section 17200, *et seq.* as well as conduct giving rise to civil penalties recoverable under the Private Attorneys General Act, California Labor Code section 2698, *et seq.* ("PAGA"), with respect to Plaintiffs and other putative class members. Plaintiffs seek, among other things, recovery of unpaid wages and premiums, restitution, penalties, interest, attorneys' fees, and costs.

Defendants have denied and continue to deny all of the allegations in the Action or that they violated any law and contend that at all times they have complied with the law.

The Parties participated in a full-day mediation with a respected class action mediator, and as a result of the mediation, the Parties reached a settlement. The Parties have since entered into the Stipulation of Class Action and PAGA Settlement and Amendment No. 1 to Stipulation of Class Action and PAGA Settlement (together, "Settlement" or "Settlement Agreement"), which was preliminarily approved by the Court on [preliminary approval date]. The Court has preliminary

appointed Plaintiffs as representatives of the Class (“Class Representatives”), and has preliminarily appointed the following Plaintiffs’ counsel as counsel for the Class (“Class Counsel”):

Lawyers for Justice, PC
Edwin Aiwazian, Esq.
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

If you are a Settlement Class Member, **you do not need to take any action to receive a settlement payment**, but you have the opportunity to request exclusion or object to the Settlement if you so choose, as explained more fully in Section IV below.

The Settlement represents a compromise and settlement of highly disputed claims. **Nothing in the Settlement is intended or will be construed as an admission by the Defendants that the claims in the Action have merit or that the Defendants have any liability to the Plaintiffs or to the Settlement Class Members.** Plaintiffs and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is appropriate. Plaintiffs and Class Counsel have concluded that the Settlement is fair, reasonable, and adequate, and is in the best interests of the Settlement Class Members.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Breakdown of the Settlement

The maximum settlement consideration to be paid by Defendants is Four Hundred Thousand Dollars (\$400,000) (the “Gross Settlement Amount”). \$75,000 of the Gross Settlement Amount has been allocated toward penalties under PAGA (“PAGA Amount”), of which \$56,250 will be distributed to the Labor and Workforce Development Agency (“LWDA”) and \$18,750 will remain part of the Net Settlement Amount for distribution to Participating Class Members.

The portion of the Gross Settlement Amount that is available for payment to Settlement Class Members who do not submit timely and valid Requests for Exclusion (“Participating Class Members”) is referred to as the “Net Settlement Amount.” The Net Settlement Amount is the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) payment of attorneys’ fees to Class Counsel in an amount not to exceed 35% of the Gross Settlement Amount (i.e., not to exceed \$140,000) (“Attorneys’ Fees”) and reimbursement of actual litigation costs and expenses to Class Counsel in an amount not to exceed \$15,000 (“Litigation Costs”); (2) payment in the amount of \$7,500 each (\$22,500 total) to Plaintiffs for their services in the Action (“Enhancement Payments”); (3) payment to the LWDA in the amount of \$56,250 for its seventy-five percent (75%) share of the PAGA Amount (“LWDA Payment”); and (4) payment to Phoenix Settlement Administrators (the “Settlement Administrator”) for costs and expenses of administration of the Settlement in an amount that is currently estimated not to exceed \$15,000 (“Administration Costs”).

Settlement Class Members are eligible to receive a share of the Net Settlement Amount based on the number of weeks worked during the Class Period in which the Settlement Class Member worked for Defendants as an hourly-paid or non-exempt employee in California (“Eligible Workweeks”).

The Settlement Administrator has divided the Net Settlement Amount by the number of Eligible Workweeks of all Settlement Class Members to yield a “Weekly Amount” and then multiplied the Weekly Amount by each Settlement Class Member’s individual number of Eligible Workweeks to yield his or her estimated share of the Net Settlement Amount.

Each Participating Class Member’s share of the Net Settlement Amount will be allocated twenty-five percent (25%) to wages (to be reported on an IRS Form W2) and seventy-five percent (75%) as interest and penalties (to be reported on an IRS Form 1099, if required). Each Participating Class Member’s share of the Net Settlement Amount will be subject to reduction for the employee’s share of taxes and withholdings with respect to the wages portion, resulting in a net payment to the Participating Class Member (“Individual Settlement Payment”).

If a Participating Class Member fails to cash, deposit, or negotiate his or her Individual Settlement Payment check within 180 calendar days of issuance, then, that check will be cancelled and the funds associated with that cancelled check will be transmitted to the State Controller to be held for the Participating Class Member per California Unclaimed Property Law.

Individual Settlement Payment checks will be mailed to Participating Class Members at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must make sure to provide your correct mailing address to the Settlement Administrator in a timely fashion, to ensure receipt of payment.**

B. Your Workweeks Based on Defendants' Records

The Workweeks of each Settlement Class Member were calculated based on Defendants' records. According to Defendants' records:

Between October 23, 2015 through October 1, 2020, you worked for Dolls Kill, Inc. in California as a non-exempt employee for [REDACTED] Eligible Workweeks.

If you wish to dispute the number of Eligible Workweeks credited to you, you must timely submit a fully completed written dispute ("Workweek Dispute") to the Settlement Administrator, postmarked or confirmed received by the Settlement Administrator **on or before [Response Deadline]**, at the address listed in Section IV.B below. The Workweeks Dispute must: (1) contain the case name and number of the Action (*Nequasha Potts v. Dolls Kills, Inc.* Case No. CGC19580228); (2) contain your full name, address, telephone number, and the last four digits of your Social Security number; (3) clearly state that you wish to dispute the number of Eligible Workweeks attributed to you and number of Eligible Workweeks you contend is the correct number to be credited to you; and (4) include information and/or documentation showing that the number of Eligible Workweeks you contend should be credited to you is correct.

C. Your Estimated Settlement Share

As explained above, your estimated share of the Net Settlement Amount is based on the number of Eligible Workweeks credited to you. Based on your Eligible Workweeks:

Your share of the Net Settlement Amount is estimated to be \$ [REDACTED].

Your share of the Net Settlement Amount is subject to reduction for employee's share of taxes and withholdings with respect to the wages portion of the Settlement Share, and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take several months. Your share of the Net Settlement Amount reflected on this Notice is only an estimate. Your actual share of the Net Settlement Amount may be higher or lower than estimated.

D. Released Claims

Upon the Effective Date, the Released Parties shall receive from all Settlement Class Members who do not request exclusion from the Settlement (i.e., Participating Class Members) a release of the Released Claims.

"Released Parties" means Defendants and Defendants' parents, subsidiaries, affiliates, their insurers, attorneys and all agents thereof.

"Released Claims" means any and all claims and causes of action, contingent or accrued, arising during the Class Period from the facts and claims asserted in the First Amended Complaint for wage-and-hour violations, or any other claims or causes of action that could have reasonably been asserted in the Action, based upon the facts alleged for: failure to provide meal and rest breaks; unpaid wages, including minimum wages, regular wages, overtime and double time wages; record keeping violations; failure to reimburse business expenses; failure to provide compliant wage statement; failure to timely pay wages during employment and upon separation; unfair business practices; and civil penalties under PAGA, and any other applicable provisions, including the applicable IWC wage orders.

E. Attorneys' Fees and Litigation Costs

Class Counsel will seek Attorneys' Fees in an amount of up to \$140,000 and Litigation Costs in an amount of up to \$15,000 subject to approval by the Court. All Attorneys' Fees and Litigation Costs awarded by the Court will be paid from the Gross Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and Settlement Class Members

on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Payments to Plaintiffs

In consideration for their services and responsibilities in the Action, Plaintiffs Nequasha Potts, Marquis Berry, and Tatiana Benjamin will seek Enhancement Payments in the amount of \$7,500 each, or \$22,500 total, to be paid from the Gross Settlement Amount, subject to approval by the Court. If awarded, the Enhancement Payments will be paid to Plaintiffs in addition to the Individual Settlement Payments that they are entitled to under the Settlement.

G. Administration Costs to Settlement Administrator

Administration Costs are estimated not to exceed \$15,000 for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Settlement Class Members of the Settlement, processing Requests for Exclusion, Objections, and Workweeks Disputes, calculating Individual Settlement Payment amounts, and distributing payments and tax forms under the Settlement. Administration Costs will be paid from the Gross Settlement Amount to the Settlement Administrator, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A SETTLEMENT CLASS MEMBER?

A. Participate in the Settlement

If you want to receive money from the Settlement, you do not have to do anything. Unless you elect to exclude yourself from the Settlement, you will automatically receive your Individual Settlement Payment as indicated above in this Notice, you will be bound by the terms of the Settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the claims described in Section III.D. As a member of the Settlement Class, you will not be separately responsible for the payment of attorney’s fees or reimbursement of litigation expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the Settlement described in this Notice, and do not wish to receive payment under this Settlement, you may seek exclusion from the Settlement by submitting a written request to opt out of the Settlement (“Request for Exclusion”) to the Settlement Administrator by mail, that is postmarked **on or before [Response Deadline]**, at the following address:

Phoenix Administrators
[Mailing Address]

A Request for Exclusion must: (1) contain your full name, address, telephone number and the last four digits of your Social Security number; (2) be signed by you; (3) contain the case name and number of the Action (*Nequasha Potts v. Dolls Kills, Inc.* Case No. CGC19580228); and (4) clearly state that you request to be excluded from the Settlement.

If the Court grants final approval of the Settlement, any Settlement Class Member who submits a timely and valid Request for Exclusion will not be entitled to receive any payment from the Settlement, will not be bound by the Settlement Agreement (and the release of claims stated in Section III.D above), and will not have any right to object to, appeal, or comment on the Settlement. Any Settlement Class Member who does not request exclusion from the Settlement by submitting a timely and valid Request for Exclusion will be bound by all terms of the Settlement, including those pertaining to the release of claims stated in Section III.D above, as well as any judgment that may be entered by the Court based thereon.

C. Object to the Settlement

You can object to the terms of the Settlement by mailing a written objection to the Settlement Administrator (“Objection”) that is timely and complete, and you may do so as long as you have not submitted a Request for Exclusion. However, if the Court rejects your Objection, you will still be bound by the terms of the Settlement.

The Objection must be mailed to the Settlement Administrator, postmarked **on or before [Response Deadline]**, at the address listed in Section IV.B above.

The Objection must contain: (1) your full name, address, last four digits of your Social Security number, and signature; (2) the case name and number of the Action (*Nequasha Potts v. Dolls Kills, Inc.* Case No. CGC19580228); (3) a clear statement explaining the grounds for the objection, along with all supporting papers; and (4) whether you, or someone on your behalf, intend to appear at the Final Approval Hearing.

V. FINAL APPROVAL HEARING

The Court will hold a hearing in Department 610 of the San Francisco Superior Court, Civic Center Courthouse, 400 McAllister Street, San Francisco, California 94102, on **[date]**, at **[time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to rule on the request for payment of Attorneys' Fees and Litigation Costs to Class Counsel, Enhancement Payments to Plaintiffs, and Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to the Settlement Class Members. It is not necessary for you to appear at the Final Approval Hearing.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which can be found at the following web address hosted by the Settlement Administrator: **[Dedicated Settlement Website URL]**.

The Settlement Agreement and other papers are also on file with the Civil Records Division, located at the Civic Center Clerk's Office, 400 McAllister St., Room 103, Window 28 San Francisco, CA 94102-4514.

Some documents and information regarding the Action can also be accessed online for free or at a minimal charge at the San Francisco Superior Court's website, using the Case Query System, at the following web address: <https://webapps.sftc.org/ci/CaseInfo.dll>. To look up and access documents and information on the Court's systems, you will need to use the case number of the Action.

PLEASE DO NOT TELEPHONE THE COURT, THE OFFICE OF THE CLERK, OR COUNSEL FOR DEFENDANTS FOR INFORMATION REGARDING THIS SETTLEMENT.

YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER IF YOU HAVE QUESTIONS: **[INSERT].**

YOU MAY ALSO CONTACT CLASS COUNSEL IF YOU HAVE ANY QUESTIONS.