

EXHIBIT 1

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25 **UNITED STATES DISTRICT COURT**
26 **NORTHERN DISTRICT OF CALIFORNIA**

27 LINDA CHAMPAGNE, on behalf of herself and
28 all others similarly situated,

Plaintiffs,

vs.

PLANNERNET, INC., a North Carolina
Corporation,

Defendant.

Case No.: 4:17-cv-02128-SK

CLASS ACTION

**JOINT STIPULATION FOR
REPRESENTATIVE ACTION AND
CLASS ACTION SETTLEMENT**

1 Plaintiff Linda Champagne (“Plaintiff”) and Plannernet, Inc. (“Defendant” and/or
2 “Plannernet”) (collectively the “Parties”), hereby submit this Joint Stipulation for Representative
3 Action and Class Action Settlement (“Stipulation” or “Agreement”) to the Court for its
4 consideration. It is filed in conjunction with Plaintiff’s Motion for Preliminary Approval of
5 Representative Action and Class Action Settlement which Plannernet does not oppose.

6 **STIPULATION AND SETTLEMENT AGREEMENT**
7 **OF CLASS ACTION CLAIMS**

8 This Stipulation is made by the Named Plaintiff on behalf of herself and each
9 member of the “Class” as defined herein, on the one hand, and Defendant Plannernet, on the other
10 hand, in the above-captioned action (“Class Action” or “Action”) pending in the United States
11 District Court, Northern District of California, and subject to the approval of the Court. The
12 Settlement Class is comprised of all persons who worked for Defendant Plannernet as suppliers or
13 meeting managers and supported Defendant’s onsite client events in California at any time from
14 April 17, 2013 through the date of the preliminary approval order, and who do not properly and
15 timely opt out of the Settlement Class by requesting exclusion.

16 **I. Procedural History.**

17 Plaintiff filed her Complaint as a putative class action (under F.R.C.P. 23) and representative
18 action under Private Attorneys General Act, Cal. Labor Code § 2698, et seq. (“PAGA”) against
19 Defendant on behalf of herself, and all similarly situated suppliers of Plannernet.

20 On October 21, 2016, pursuant to Labor Code section 2698, et seq., Plaintiff served online,
21 upon the California Labor and Workforce Development Agency (“LWDA”) and via U.S. Certified
22 Mail on Plannernet with her notification letter for wage and hour violations and penalties. More
23 than 65 days passed since Plaintiff served notice to the LWDA and Plannernet, and the LWDA did
24 not provide notice of its intent to investigate Plaintiff’s claims. Therefore, Plaintiff exhausted her
25 obligation to provide administrative notice and sought penalties on behalf of herself and others who
26 she alleges are current and former California employees of Defendant.

27 On April 17, 2017, Plaintiff filed her Complaint in the above captioned court.
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1 On May 16, 2017, Defendant served its answer to Plaintiff's Complaint.

2 Defendant is represented by Travis M. Gemoets and Taylor Burras of the law firm Jeffer
3 Mangels Butler & Mitchell LLP.

4 **II. Investigation in the Action.**

5 The Parties have conducted significant investigation of the facts and law during the
6 prosecution of this Action. Such investigation has included, *inter alia*, the exchange of both formal
7 and informal written discovery and several thousand pages of documents. Class Counsel has further
8 investigated the applicable law as applied to the facts discovered regarding the alleged claims,
9 damages, and potential defenses thereto. In pertinent part, the investigation has yielded the
10 following: Plaintiff generally alleges that Class Members have suffered damages; that Plannernet
11 misclassified Class Members as independent contractors, that Plannernet did not pay Class
12 Members all wages owed to them; that Plannernet did not pay the Class Members all overtime
13 premiums owed; that Plannernet did not pay the Class Members all premium wages for meal and
14 rest period violations; that Plannernet did not provide legally compliant accurate itemized wage
15 statements; that Plannernet owes wages, penalties, liquidated damages, waiting time penalties,
16 interest, attorneys' fees or other damages of any kind based on a failure to fully or timely
17 compensate Class Members for all hours worked at any time on or before the last day of the Class
18 Period while working for Plannernet (whether based on contract, the California Wage Orders, or the
19 wage and hour laws which would be applicable to any one or more of the Class Members'
20 employment with Released Parties during the Class Period, or otherwise); that Plannernet engaged
21 in alleged unlawful, unfair and/or fraudulent business practices under California and Business and
22 Professions Code 17200 *et seq.*; that Plannernet violated the Labor Code Private Attorney General's
23 Act of 2004 ("the PAGA Claim") and that Class Members were harmed by the conduct alleged in
24 the Action. Thus, Plaintiff, on behalf of herself and other Class Members, demands various
25 amounts for wages, penalties, interest, costs, attorneys' fees, and other damages.

26 Based upon a thorough review of the law and facts of this case, Plannernet contends that
27 there is no basis for damages, attorneys' fees, liquidated damages, waiting time penalties, and/or
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1 any other penalties to be assessed against it pursuant to California state law because Class Plaintiffs
2 were at all times properly classified as independent contractors. As such, all amounts properly
3 owed to the Class Members were timely paid to them, and Plannernet disputes that Class Members
4 were owed any overtime. Plannernet denies that it failed to pay meal period or rest period premium
5 wages at the regular rate under applicable law, including the legal precedent of *Brinker Restaurant*
6 *Corp. v. Superior Court*, 53 Cal.4th 1004 (2012). Plannernet denies that it did not provide legally
7 compliant accurate itemized wage statements, that it did not properly pay all wages to Class
8 Members upon their separation from their engagement with Plannernet, and that it owed or owes
9 wages, penalties, interest, attorneys' fees or other damages related only to the underlying PAGA
10 claims during the Class Period. Nevertheless, given the risks inherent in litigation and in the spirit
11 of compromise, Plaintiff and Class Members hereby agree to compromise all claims and forego any
12 and all claims for liquidated damages and/or penalties against Plannernet pursuant to applicable
13 law, including but not limited to the California Labor Code and California Wage Orders, and the
14 applicable laws of any other state, in return for payments made pursuant to this Stipulation.

15 **III. Benefits of Settlement to Class Members.**

16 Plaintiff recognizes the expense and length of continued proceedings necessary to continue
17 the litigation against Plannernet through trial and through any possible appeals. Plaintiff has also
18 taken into account the uncertainty and risk of further litigation, and the difficulties and delays
19 inherent in such litigation. Plaintiff is also aware of the burdens of proof necessary to establish
20 liability for the claims asserted in the Action, Defendant's defenses thereto, and the difficulties in
21 establishing damages for the Plaintiff and the Class. Plaintiff has also taken into account the
22 settlement negotiations to date and a lengthy mediation commencing on January 30, 2018 before the
23 Hon. Ernest H. Goldsmith (Ret.), an expert mediator of class actions, representative actions, and
24 collective actions, especially those in the wage and hour arena such as the Action and the fact that
25 the Settlement is the product of a mediator's proposal. Based on the foregoing, Plaintiff has
26 determined that the Settlement set forth in this Agreement is a fair, adequate and reasonable
27 settlement, and is in the best interests of the Class Members.

1 **IV. Plannernet’s Reasons for Settlement.**

2 Plannernet has concluded that further defense of this litigation would be protracted and
3 expensive for all Parties. Substantial amounts of time, energy and resources of Plannernet have
4 been and, unless this Settlement is made, will continue to be devoted to the defense of the claims
5 asserted by Plaintiff. Plannernet has also assessed the risk of a finding of liability against it, and has
6 taken into account the settlement negotiations to date. Plannernet has, therefore, agreed to settle in
7 the manner and upon the terms set forth in this Agreement to put to rest the Claims as set forth in
8 the Action.

9 **V. Plannernet’s Denials of Wrongdoing.**

10 Plannernet has denied and continues to deny each of the claims and contentions alleged by
11 Plaintiff in the Action. Plannernet has repeatedly asserted and continues to assert defenses thereto
12 and has expressly denied and continues to deny any wrongdoing or legal liability arising out of any
13 of the facts or conduct alleged in the Action. Plannernet also has denied and continues to deny,
14 *inter alia*, that Plaintiff and the Class Members have suffered damages; that Plannernet improperly
15 classified Plaintiff and the Class Members as independent contractors; that Plannernet did not pay
16 Plaintiff and the Class Members all wages owed to them; that Plannernet did not pay the Plaintiff
17 and the Class Members all overtime premiums owed; that Plannernet did not pay the Plaintiff and
18 the Class Members all premium wages for missed meal and rest period violations at the proper rate
19 of pay or at all; that Plannernet did not provide legally compliant accurate itemized wage
20 statements; that Plannernet owes wages, penalties, liquidated damages, waiting time penalties,
21 interest, attorneys’ fees or other damages of any kind based on a failure to fully or timely
22 compensate Plaintiff and the Class Members for all hours worked at any time on or before the last
23 day of the Class Period while working for Plannernet (whether based on contract, the FLSA, the
24 California Wage Orders, or the wage and hour laws which would be applicable to any Class
25 Member’s employment with Released Parties during the Class Period, or otherwise); that Plannernet
26 engaged in alleged unlawful, unfair and/or fraudulent business practices under California and
27 Business and Professions Code 17200 *et seq.*; that Plannernet violated the Labor Code Private
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1 Attorneys General Act of 2004 and that Plaintiff and the Class Members were harmed by the
2 conduct alleged in the Action.

3 **VI. Class Claims.**

4 Plaintiff, on behalf of herself and all Class Plaintiffs, has claimed and continues to claim that
5 the Released Claims (as defined below) have merit and give rise to liability on the part of
6 Plannernet. Neither this Agreement nor any documents referred to herein, nor any action taken to
7 carry out this Agreement, will be construed or used as an admission by or against any Party
8 (Defendant, Plaintiff, counsel, or Released Parties as defined below) as to the merits or lack thereof
9 of the claims asserted except as to the Released Claims of the Class Members.

10 NOW, THEREFORE, IT IS HEREBY STIPULATED, by and among Plaintiff, on
11 behalf of herself and the Class Members on the one hand, and Plannernet on the other hand, and
12 subject to the approval of the Court, that the Class Action is hereby being compromised and settled
13 pursuant to the terms and conditions set forth in this Agreement upon the Effective Date (as defined
14 below), subject to the recitals set forth herein above, which by this reference become an integral
15 part of this Agreement, and subject to the following terms and conditions:

16 1. **Definitions:**

17 (a) **“Class Plaintiffs”** is defined as all persons who worked for Defendant
18 Plannernet as suppliers or meeting managers and supported Defendant’s onsite client events in
19 California at any time from April 17, 2013 through the date of the preliminary approval order, and
20 who do not properly and timely opt out of the Settlement Class by requesting exclusion.

21 (b) **“Action” or “Class Action”** refers to the action entitled *LINDA*
22 *CHAMPAGNE, on behalf of herself and all others similarly situated, Plaintiffs, vs. PLANNERNET,*
23 *INC., a North Carolina Corporation, Defendant, United States District Court for the Northern*
24 *District of California, Case No.4:17-cv-02128-SK, filed on April 17, 2017 and the amended*
25 *complaint concurrently filed with this Settlement Agreement (the “Complaint”).*

26 (c) **“Class Members”** comprise all Class Plaintiffs who do not affirmatively opt
27 out of and exclude themselves from the Action in a timely manner, as defined herein.

1 (d) **“Class Claims Period”** is defined as the period from April 17, 2013 through
2 April 22, 2019.

3 (e) **“Defendant” or “Plannernet”** means Plannernet, Inc.

4 (f) **The "Effective Date"** is defined as follows: If no objection to this Settlement
5 or to any of the terms and or conditions of the Stipulation are filed by a Class Member or any
6 intervenor to this action, the Effective Date shall occur on the day that the Court enters an order of
7 final approval of this settlement and enters judgment; however, if any objection to this Settlement or
8 to any of the terms and or conditions of the Stipulation is filed by any Class Member or intervenor
9 to the Action, the Effective Date shall occur upon the expiration of the time for the filing any appeal
10 of the order of final approval of this settlement and/or the judgment. If an appeal is filed or any writ
11 granted, then the Effective Date shall occur after the appeal has been dismissed or the writ dissolved
12 and when there is no further time to appeal the dismissal of the appeal or the dissolution of the writ.

13 (g) **“Enhancement Award”** means the sum to be paid to the Named Plaintiff, as
14 an enhancement for her singular role in undertaking this Action, and for the risks and work
15 attendant to this role, which award shall be deducted from the “Settlement Fund.”

16 (h) **“Named Plaintiff”** means Linda Champagne.

17 (i) **“Settlement Fund”** means Four Hundred Forty Thousand Dollars and Zero
18 Cents (\$440,000.00), which is the maximum amount Plannernet shall be required to pay under this
19 Agreement, and is inclusive of all attorneys’ fees, attorneys’ costs, incentive awards, claims
20 administration expenses, alleged damages, and PAGA Claim amounts. The employer’s share of all
21 state and federal payroll taxes and withholding such as FICA, FUTA, UI, ETT, and SDI (“Payroll
22 Taxes”), if any, on Settlement Payments made pursuant to this Agreement to Class Members will be
23 made by Defendant separate and apart from the Settlement Fund;

24 (j) **“Net Settlement Amount”** means the Settlement Fund, less all of the
25 following: (i) Named Plaintiff's Enhancement Award; (ii) Class Counsel’s attorneys’ fees; (iii)
26 Class Counsel’s litigation costs and expenses; (iv) all third party administrator’s expenses incurred
27 by CPT Group (the "Settlement Administrator"), the third party claims administrator selected by the
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1 Parties; and (v) PAGA Claim penalties payable to the California Labor and Workforce
2 Development Agency (the "LWDA"). The total sum of the Net Settlement Amount plus the Named
3 Plaintiff Enhancement Award, Class Counsels' attorneys' fees and costs, the claims administration
4 expenses, and PAGA Claim payments payable to the LWDA shall not exceed the Settlement Fund
5 of \$440,000.00.

6 (k) **"Settlement Payment(s)"** mean the individual amounts to be paid to Class
7 Members pursuant to the terms of this Settlement.

8 2. **Full Investigation.** Plaintiff has fully investigated the factual and legal basis for the
9 causes of action asserted in the Class Action. Given the disagreement between the Parties as to the
10 viability of the claims raised by Plaintiff in the Class Action, the Parties believe the Settlement
11 provided for herein is a fair, adequate and reasonable settlement.

12 3. **Release As To All Class Members.** As of the Effective Date, the Class Members,
13 including Named Plaintiff, release Plannernet, all of its affiliates, and each of their past or present
14 officers, directors, members, shareholders, employees, agents, principals, heirs, representatives,
15 accountants, auditors, consultants, insurers and reinsurers, and its and their respective successors
16 and predecessors in interest, subsidiaries, affiliates, joint ventures, parents and attorneys and each of
17 their respective company-sponsored employee benefit plans and all of their respective officers,
18 directors, employees, administrators, fiduciaries, trustees and agents (the "Released Parties"), from
19 the "Released Claims." This release is subject to court approval. For purposes of this Agreement,
20 the "Released Claims" are defined as:

21 All claims, demands, rights, liabilities, penalties, guarantees, costs, expenses,
22 attorneys' fees, damages, and causes of action during the Class Claims Period on
23 behalf of the Named Plaintiff and the Class Members, including, but not limited to
24 allegations, that Plannernet:

25 (i) did not pay the Class Members all overtime amounts owed (including
26 weekly overtime, daily overtime, and double time) for work performed by Class Members for
27 Plannernet clients;

- 1 (ii) did not pay the Class Members the applicable state or local minimum
2 wage for all hours worked;
- 3 (iii) failed to provide meal periods and rest breaks to the Class Members;
- 4 (iv) failed to pay or timely pay the Class Members for all hours worked;
- 5 (v) did not provide legally compliant accurate itemized wage statements;
- 6 (vi) did not properly pay all wages to the Class Members upon the Class
7 Members' separation from Plannernet; and,
- 8 (vii) owes or owed penalties, interest, attorneys' fees or other damages
9 arising pursuant to the California Private Attorneys General Act, Cal. Lab. Code Section 2698 et
10 seq.

11 Released claims include any unknown claims under Section 1542 of the California Civil
12 Code, but only to the extent that they were asserted or could have been asserted based on the
13 allegations in the First Amended Complaint.

14 4. **General Release by Named Plaintiff Only.** In addition to the release made by the
15 Class Members set forth in Paragraph 3 hereof, Named Plaintiff, in exchange for receipt of an
16 Enhancement Award, as of the Payment Date makes the additional following general release of all
17 claims, known or unknown: Named Plaintiff releases the Released Parties from all claims, demands,
18 rights, liabilities and causes of action of every nature and description whatsoever, known or
19 unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any
20 state or federal statute, rule or regulation arising out of, relating to, or in connection with any act or
21 omission by or on the part of any of the Released Parties committed on or prior to the execution
22 hereof. (The release set forth in this Paragraph 4 shall be referred to hereinafter as the "General
23 Release.") The General Release includes any unknown claims relating to the subject matter of the
24 Released Claims Named Plaintiff does not know or suspect to exist in her favor at the time of the
25 General Release, which, if known by Named Plaintiff might have affected her settlement with, and
26 release of, the Released Parties by Named Plaintiff or might have affected her decision not to object
27 to this Settlement or the General Release.

1 With respect to the General Release, Named Plaintiff shall be deemed to have, and
2 by operation of the Final Judgment shall have, expressly waived and relinquished, to the fullest
3 extent 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:

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

10 Named Plaintiff may hereafter discover facts in addition to or different from those
11 she now knows or believes to be true with respect to the subject matter of the General Release, but
12 Named Plaintiff, upon the Effective Date, shall be deemed to have, and by operation of the Final
13 Judgment shall have, fully, finally, and forever settled and released any and all of the claims
14 released pursuant to the General Release, whether known or unknown, suspected or unsuspected,
15 contingent or non-contingent, which now exist, or heretofore have existed upon any theory of law or
16 equity now existing, including, but not limited to, all claims, actions, suits or charges arising out of
17 Named Plaintiff's alleged employment or contractual relationships with Released Parties and
18 separation/cessation of these relationships, such as claims for wrongful termination, wrongful
19 demotion, breach of contract, unpaid wages, accrued but unused vacation pay, claims under the
20 Labor Code of the State of California or similar laws of any other jurisdiction, and claims for
21 discrimination, harassment, or retaliation based on any protected category, including the Age
22 Discrimination in Employment Act ("ADEA"), conduct that is negligent, intentional, with or
23 without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or
24 existence of such different or additional facts.

25 5. **Allocation of Settlement Funds.**

26 (a) Class Counsel intends to move the Court for an award of attorneys' fees
27 compensating Class Counsel for its representation of the Class Members in this matter in an amount
28 equal to thirty percent (30%) of the Settlement Fund, equal to One Hundred Thirty-Two Thousand
dollars and 00/100 (\$132,000.00), the entire amount of which is to be deducted from the Settlement

1 Fund. Class Counsel also intends to move the Court for an Order reimbursing actual litigation costs
2 and expenses in an amount not to exceed Seven Thousand Nine Hundred Dollars (\$7,900.00),
3 claims administration fees and costs incurred by the Settlement Administrator, in an amount not to
4 exceed Fifteen Thousand Dollars (\$15,000.00), and an Enhancement Award in an amount not to
5 exceed Eight Thousand Five Hundred Dollars (\$8,500.00) to the Named Plaintiff. The attorneys’
6 fees, litigation costs, claims administration costs and Enhancement Awards are to be paid out of the
7 Settlement Fund as explained below and shall not be an additional cost to Plannernet. Ten
8 Thousand Dollars (\$10,000.00) of the Settlement Fund shall be allocated to the PAGA Claim
9 pursuant to California Labor Code sections 2698, et seq. From the \$10,000.00 attributed to the
10 PAGA Claim, 75% shall be paid to the LWDA and 25% shall be distributed back into the
11 Settlement Fund for the benefit of the Class Members.

12 (b) If the Court does not approve any of the awards as requested and described
13 above, then the difference not awarded shall be added to the Settlement Fund and distributed
14 between the Class Members on a pro rata basis based on a percentage of each individual Class
15 Member's Settlement Award.

16 (c) The Settlement Funds shall equal the amount available to pay all Settlement
17 Payments to the Class Members; Class Counsel’s Fees Award; Class Counsel’s litigation costs and
18 expenses; Settlement Administrator fees; Enhancement Award to Named Plaintiff; and PAGA
19 Claim penalties.

20 6. **Allocation of Net Settlement Amount.** The amount remaining from the Settlement
21 Funds after the award of the attorneys’ fees and costs, enhancement awards, claims administration
22 expenses and PAGA Claim penalties payable to the LWDA, shall be referred to as the “Net
23 Settlement Amount” from which all Class Members will receive a Settlement Payment. There shall
24 be no requirement that any Class Plaintiff submit a claim form to become a Class Member. Class
25 Plaintiffs who do not negotiate the settlement payment shall be subject to the full release of claims
26 as set forth in Paragraph 3 above. The Net Settlement Amount will be allocated for distribution to
27 the Class Members based on estimated overtime hours worked and meal and rest period premiums
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1 owed utilizing the number of large-format events worked during the Class Claims Period, with
2 additional penalties distributed on a pro rata basis to all Class Members. Class Plaintiffs who opt
3 out cannot be Class Members and therefore will not receive a distribution. Class Plaintiffs who do
4 not opt out in a timely manner automatically become Class Members and need not submit a claim
5 form in order to receive a distribution from the Net Settlement Amount.

6 7. **Basis for Distribution.** Settlement payments will be made on a pro-rata basis to all
7 Class Members who do not opt out in a timely manner as described in Paragraph 6 above. The
8 Settlement Administrator shall issue an IRS Form 1099 to each of the Class Members.

9 8. **Additional Distribution Details.**

10 (a) **Time for Distribution of the First Installment of Settlement Payments.**

11 Settlement Payments shall be made on an installment basis. Within thirty (30) days after the
12 Effective Date, Plannernet shall pay the first installment to the Settlement Administrator, which
13 shall comprise Two Hundred Twenty Thousand Dollars (\$220,000). The Settlement Administrator
14 shall distribute the first installment within seven (7) business days from receipt in the following
15 manner: Class Members' proportionate shares of their settlement awards; Class Counsel's costs and
16 expenses; 50% of the Named Plaintiff's Enhancement Award; payment to the Settlement
17 Administrator; and the PAGA payment. The Parties agree that all Settlement Payments will be
18 allocated as recommended by the Settlement Administrator in conformance with applicable tax laws
19 with IRS Forms issued accordingly, as required by law. The Settlement Administrator will issue
20 IRS 1099 forms to the Class Members. Class Members shall take full and complete responsibility
21 for any and all tax liability incurred by them resulting from sums paid to them pursuant to this
22 settlement and Agreement.

23 (b) **Time for Distribution of the Second and Final Installment Payment.** One
24 year from Plannernet's initial Installment Payment, Plannernet will pay one (1) subsequent
25 installment of Two Hundred Twenty Thousand Dollars (\$220,000). The Settlement Administrator
26 will distribute the second installment within seven (7) business days from receipt in the following
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1 manner: Class Members' remaining proportionate share of their settlement awards; the remainder
2 of Plaintiff's Enhancement Award; and payment of attorney fees to Class Counsel.

3 (c) **Opt-Outs.** Excluded from receiving a Settlement Payment under the terms of
4 this Agreement are all Class Plaintiffs who submit a valid and timely Request for Exclusion from
5 the class action settlement.

6 (d) **Class Members Who Fail to Negotiate Initial Installment Payment.** It is
7 anticipated, but not certain, that one or more Class Members who receive the Initial Installment
8 Payment will fail to negotiate this payment within the one hundred and eighty (180) day negotiation
9 period described in Section 8(e) below. Such individuals will remain Class Members, will not
10 receive their pro-rata share of the subsequent installment payment and the amounts that would
11 otherwise have been allocated to them shall be re-allocated to Class Members who negotiated their
12 Initial Installment Payment in a timely manner in a pro-rata basis. For good cause, the Parties are
13 permitted to allow the late negotiation of the Initial Installment Payment of any Class Member,
14 subject to approval by the Court in case of any disagreement between the Parties, in which case that
15 Class Member shall receive his or her Initial Installment Payment as well as the Second and Final
16 installment payment.

17 (e) All unclaimed Settlement Payments shall become null and void one hundred
18 and eighty (180) days following the mailing date on the settlement checks.

19 9. **Fees Award, Costs, and Enhancement Award.**

20 (a) Class Counsel shall petition the Court for an award of attorneys' fees ("Fees
21 Award") in an amount equal to thirty percent (30%) of the Settlement Fund, to be paid from the
22 Settlement Fund. Plannernet shall not, directly or indirectly, oppose or contest this request. Class
23 Counsel shall not be permitted to apply to the Court for, or accept any additional payments for fees
24 or interest and the Fees Award shall be for all claims for attorneys' fees past, present and future
25 incurred in the Action.
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1 (b) Class Counsel shall petition the Court for an award of actual Costs
2 reimbursements, in an amount not to exceed \$7,900.00, to be paid from the Settlement Fund.
3 Plannernet shall not, directly or indirectly, oppose or contest this request.

4 (c) Class Counsel may apply for an Enhancement Award to the Named Plaintiff
5 in an amount not to exceed Eight-Thousand Five Hundred Dollars (\$8,500.00) for her time and
6 effort spent pursuing the Action, and for the risks undertaken for fees and costs in the event of an
7 unsuccessful outcome in this Action. Plannernet agrees not to oppose such an application, so long
8 as it is consistent with the provisions of this Agreement. The Enhancement Award shall be paid out
9 of the Settlement Funds and shall not constitute an additional expense for Plannernet. In addition to
10 the Enhancement Award, Named Plaintiff is eligible to receive a Settlement Payment. The
11 Enhancement Award will not be taxed as wages. For such award, Named Plaintiff will receive an
12 IRS 1099 Form from the Settlement Administrator.

13 10. **Time for Distribution.** Class Counsel's Fee Award and awarded costs, as well as
14 Named Plaintiff's Enhancement Award shall be paid by Plannernet from the Settlement Funds, and
15 shall not constitute an additional expense for Plannernet. The Enhancement Award and Class
16 Counsel's awarded Fees and Costs shall be paid to Class Counsel via the Settlement Administrator,
17 as set forth in Section 8(a) and 8(b) above.

18 11. **Responsibilities of Plannernet.** Within 20 calendar days after Preliminary
19 Approval, Plannernet will provide the Settlement Administrator and Class Counsel with an
20 electronic spreadsheet containing the names, e-mails, and most recent mailing addresses for all
21 Class Members. Plannernet will cooperate with the Settlement Administrator to locate Plaintiffs
22 whose original Notice packets have been returned to the Settlement Administrator as undeliverable
23 and if the Settlement Administrator has been unsuccessful in locating an updated address by way of
24 social security computer search or other means available to the Settlement Administrator.

25 12. **Operation of the Settlement Fund.**

26 (a) Plannernet represents that it currently maintains sufficient assets to pay all
27 claims, fees, costs, payments, enhancement awards, claims administration fees and expenses.
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1 Plannernet shall pay amounts from the Settlement Fund as directed by the Court and/or the
2 Settlement Administrator.

3 (b) Plannernet shall not be obligated to segregate the Settlement Funds from its
4 general funds, and shall forward all amounts required to be paid to the Settlement Administrator for
5 distribution as indicated above.

6 (c) Payment of the individual Settlement Payments shall not be admissible as
7 evidence in any other proceeding nor shall it be deemed an admission of the validity of any part of
8 the Class Member's claims or of any liability on the part of Plannernet.

9 (d) Class Counsel shall have full authority to determine distribution of the
10 settlement fund to class members, subject to court approval. Defendant agrees to cooperate with
11 Class Counsel by providing updated contact information for all Class Members to determine
12 distribution of the settlement fund to the Class Members, including data which identifies event types
13 by approximate length and total earnings during the Class Period, as well as the active or inactive
14 status of the Class Member. This information will be protected as confidential under the terms of
15 the Protective Order.

16 (e) The Settlement Administrator shall have the authority and obligation to make
17 payments and disbursements in the manner set forth herein, to Class Members from the Settlement
18 Fund calculated in accordance with the methodology set out in this Agreement and orders of the
19 Court and subject to verification by Class Counsel.

20 (f) No person shall have any claim against Plannernet, Plannernet's Counsel,
21 Named Plaintiff, the Class, Class Members, Class Counsel or the Settlement Administrator based on
22 distributions and payments made in accordance with this Agreement, once approved by the Court.

23 (g) The maximum amount Plannernet can be required to pay under this Settlement
24 for any purpose is the amount of the Settlement Fund, Four Hundred Forty Thousand Dollars and
25 Zero Cents (\$440,000.00).

26 13. **No Injunctive Relief.** As part of this Settlement, Plannernet shall not be required to
27 enter into any consent decree, nor shall Plannernet be required to agree to any provision for
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1 injunctive relief. Plannernet shall not be required as part of the Settlement to modify or eliminate
2 any of its personnel, compensation or payroll practices, or adopt any new personnel, compensation
3 or payroll practices.

4 14. **Notice/Approval of Settlement and Settlement Implementation.** As part of this
5 Settlement, the Parties agree to the following procedures for obtaining preliminary Court approval
6 of the Settlement, notifying all Class Plaintiffs, obtaining final Court approval of the Settlement and
7 processing the individual Settlement Payments.

8 (a) **Preliminary Settlement Approval.** The Plaintiff will file, concurrently
9 herewith, a stipulation by the Parties to file an amended complaint to include the expanded class
10 definition and a motion for an order of preliminary approval of the Settlement and setting a date for
11 Final Fairness Hearing to obtain final approval of the Settlement (proposed “Preliminary Approval
12 Order” or “Order”) (in a form substantially similar to Exhibit 1 attached hereto). In support of the
13 application for an order of preliminary approval, the Parties have submitted this Agreement, which
14 sets forth the terms of this Settlement, and will include proposed forms of the class notice and other
15 documents necessary to implement the Settlement. The proposed Order on Preliminary Approval
16 shall provide for notice of the Settlement and related matters to be sent to Class Plaintiffs as
17 specified herein.

18 15. **Notice to Plaintiffs.** Notice of the Settlement shall be provided to the Class
19 Plaintiffs who may opt out of the Class, submit disputes or objections to the Settlement, and/or
20 request for exclusion from the Class, using the following procedures:

21 (a) **Settlement Administrator.** CPT Group (the “Settlement Administrator”)
22 shall be retained to serve as Settlement Administrator. Subject to Plannernet’s and Class Counsel’s
23 agreement to perform some or all of said tasks, as set forth in this Agreement, the Settlement
24 Administrator shall be responsible for preparing, printing and mailing the Notice of Pendency of
25 Class Action Settlement (“Notice”) (in the form substantially similar to Exhibit 2 attached hereto),
26 as directed by the Court to all Class Plaintiffs; determining the amount of all payments to Class
27 Members; monitoring the opt-outs and objections to the Settlement; advising Class Counsel and
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1 Counsel for Plannernet on a bi-weekly basis of the status; drafting and mailing Settlement Payment
2 checks and IRS 1099 forms to Class Members; addressing questions from Class Members regarding
3 the Settlement; and for such other tasks as the Parties mutually agree or the Court orders the
4 Settlement Administrator to perform. All eligibility and Settlement Award determinations shall be
5 based on data to be provided to the Settlement Administrator pursuant to the terms of this
6 Settlement Agreement. The Parties each represent they do not have any financial interest in
7 Settlement Administrator or otherwise have a relationship with Settlement Administrator that could
8 create a conflict of interest. Plannernet shall also be responsible for paying over to the Settlement
9 Administrator the Settlement Fund to enable the Settlement Administrator to pay Settlement Class
10 Members, Class Counsel, and the Settlement Administrator.

11 (b) **Notice by First-Class Mail.** Within twenty-five calendar days after entry of
12 the Preliminary Approval Order as provided herein, the Settlement Administrator shall send a
13 Notice to all Plaintiffs via First Class regular U.S. mail, using the most current mailing address
14 information for Class Plaintiffs as provided by Plannernet to the Settlement Administrator and Class
15 Counsel (for Class Counsel's eyes only) from Plannernet's records. Any Notices returned to the
16 Settlement Administrator as non-delivered within 45 days shall be sent to the forwarding address
17 affixed thereto. If no forwarding address is provided, then the Settlement Administrator shall
18 promptly attempt to determine a correct address using a single computer or other search using the
19 social security number of the individual involved (if available to Plannernet) and shall re-mail the
20 Notice to the address that is located, if any. If the Settlement Administrator is unable to obtain new
21 address information with regard to any Notice returned as non-deliverable within 45 days or if a
22 Notice is returned as non-deliverable more than 45 days following the original mailing date, the
23 Settlement Administrator shall be deemed to have satisfied its obligation to provide the Notice to
24 the affected Class Plaintiffs through the original mailing. Plannernet and Class Counsel will
25 cooperate with the Settlement Administrator in efforts to locate Class Plaintiffs should the
26 Settlement Administrator be unable to obtain a better forwarding address.

1 16. **Procedure for Opting Out, Disputing to, Objecting to or Requesting Exclusion**
2 **from Class Action Settlement.**

3 (a) **Procedure for Opting out of the Class or Disputing Settlement Payment.**

4 Class Plaintiffs who do not opt out will automatically participate in the Class; Class Plaintiffs do not
5 need to opt in or return any claim form in order to participate in the Settlement. Class Members can
6 dispute their Settlement Payment by submitting additional proof of events worked as indicated in
7 the Class Notice to the Settlement Administrator no later than ninety (90) days after the original
8 Notice is mailed. In case of any increase in any award, funds shall be re-allocated from within the
9 Net Settlement Amount on a pro-rata basis.

10 (b) **Procedure for Objecting.** The Notice shall provide that Plaintiffs who wish

11 to object to the Settlement must send their written objections to the Court, or file their written
12 objections with the Court, no later than ninety (90) days after the original Notice is mailed (the
13 “Objection/Exclusion Deadline Date”). Unless otherwise allowed by the Court, no Class Member
14 shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate
15 counsel) or to object to the Settlement. Objecting Class Members who fail to file and serve timely
16 written objections in the manner specified above shall be deemed to have waived any objections and
17 shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

18 (c) **Procedure for Requesting Exclusion.** Class Plaintiffs who wish to exclude

19 themselves from the Class must mail a written statement to the Settlement Administrator requesting
20 exclusion from the Class within ninety (90) days after the original Notice is mailed. Such written
21 request for exclusion must contain the name, address, telephone number and Social Security number
22 of the person requesting exclusion, must be returned by mail to the Settlement Administrator at the
23 specified address and must be postmarked on or before the Objection/Exclusion Deadline Date.

24 The date of the postmark on the return mailing envelope shall be the exclusive means used to
25 determine whether a request for exclusion has been timely submitted. Any Class Plaintiff who opts
26 out of the Class will not be entitled to any recovery under the Settlement, will not release any
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1 claims, and will have no right to object to the Settlement or appeal from a final judgment approving
2 the Settlement.

3 (d) Class Plaintiffs who fail to submit a valid and timely request for exclusion on
4 or before the Objection/Exclusion Deadline Date shall be bound by all terms of the Settlement and
5 any Final Judgment entered in this Class Action if the Settlement is approved by the Court,
6 regardless of whether or not they have made an objection to the Settlement. No later than five court
7 days before the Final Approval Hearing, the Settlement Administrator shall provide Plannernet's
8 Counsel and Class Counsel with the number and gross settlement amount of all Class Members as
9 well as a total number of Plaintiffs who have timely requested exclusion from the Class.

10 (e) The Parties agree to use their best efforts to carry out the terms of this
11 Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise
12 encourage Class Members to submit written objections to the Settlement or requests for exclusion
13 from the Settlement Class, or appeal from the Court's Final Judgment. Plannernet shall not retaliate
14 against any Plaintiff who participates in this Settlement.

15 17. **Option to Terminate Settlement.** If, after the Objection/Exclusion Deadline Date
16 and before the Final Approval Hearing date, persons who otherwise would be members of the Class
17 have filed with the Court timely requests for exclusion from the Settlement Class in accordance
18 with Paragraph 16(c) above, and such persons total in number greater than 7.5 percent (7.5%) of the
19 Class Plaintiffs, Plannernet shall have, in its sole discretion, the option to terminate this Settlement.
20 If Plannernet chooses to exercise this discretion, Plannernet shall provide Class Counsel with
21 written notice of the termination and file a notice thereof with the Court at least ten court days
22 following notification of same by the Settlement Administrator. Plannernet shall also be solely
23 responsible for all settlement administration costs if it terminates the settlement under this
24 provision.

25 18. **Final Settlement Approval Hearing and Entry of Final Judgment.** The Final
26 Settlement Approval Hearing shall be conducted to determine final approval of the Settlement at
27 which time the Court will also address the amounts properly payable for (i) the Class Counsel's
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1 attorneys' fee and litigation costs and expenses awards, and (ii) Named Plaintiff's Enhancement
2 Award. Upon final approval of the Settlement by the Court at or after the Final Settlement
3 Approval Hearing, the Parties shall present an Order Granting Final Approval and Judgment. After
4 entry of the Final Judgment, the Court shall have continuing jurisdiction solely for purposes of
5 addressing: (i) settlement administration matters and (ii) such post-Final Judgment matters as may
6 be appropriate under court rules or as set forth in this Agreement.

7 19. **Costs.** All of Plannernet's own legal fees, costs and expenses incurred in this Action
8 shall be borne by Plannernet. The Parties agree to cooperate in the Settlement administration
9 process and to make all reasonable efforts to control and minimize the costs and expenses incurred
10 in administration of the Settlement, noting that the cost of administering the settlement shall be
11 deducted from the Settlement Fund upon approval by the Court.

12 20. **Nullification of Settlement Agreement.** In the event: (i) the Court does not enter
13 the Order specified herein; (ii) the Court does not finally approve the Settlement and does not enter
14 a Final Judgment as provided herein which becomes final as a result of the occurrence of the
15 Effective Date; or (iii) the Settlement does not become final for any other reason, this Settlement
16 Agreement shall be null and void and any order or judgment entered by the Court, in furtherance of
17 this Settlement shall be treated as void *ab initio*. Should event (i), (ii), or (iii) above occur, the
18 Parties and any funds yet to be awarded under this Settlement shall be returned to their respective
19 statuses as of the date and time immediately prior to the execution of this Agreement, and the
20 Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except
21 that any fees already incurred by the Settlement Administrator shall be paid for by Plannernet and
22 shall not be repaid to Plannernet. Administration of the Settlement shall be stayed pending final
23 resolution of any appeal or other appellate review.

24 21. **Appraisal and Certification by Settlement Administrator.** The Settlement
25 Administrator shall keep Plannernet, Plannernet's counsel and Class Counsel apprised of all
26 distributions from the Settlement Fund (to the extent the Settlement Administrator is responsible for
27 any such distribution) and upon completion of administration of that portion of the Settlement, the
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1 Settlement Administrator shall provide written certification of such completion to the Court and
2 counsel for all Parties.

3 22. **Privacy of Documents and Information.** Plaintiff and her counsel agree that none
4 of the documents and information provided to them by Plannernet as part of settlement and approval
5 thereof shall be used for any purpose other than in furtherance of the settlement of this Class
6 Action. Within 75 days after the Second and Final Installment Payment has been paid by
7 Plannernet, Class Counsel and Named Plaintiff shall destroy all materials in their possession
8 pertaining to this Action, with the exception that Class Counsel may keep archival copies for their
9 records, which shall not be disclosed to any third parties except as may be required by law.

10 23. **No Admission by the Parties.** Plannernet and the Released Parties deny any and all
11 claims alleged in this Class Action and deny all wrongdoing whatsoever. This Agreement is not a
12 concession or admission, and shall not be used against Plannernet or any of the Released Parties as
13 an admission or indication with respect to any claim of any fault, concession or omission by
14 Plannernet or any of the Released Parties. Whether or not the Settlement is finally approved,
15 neither the Settlement, nor any document, statement, proceeding or conduct related to this
16 Agreement, nor any reports or accounts thereof, shall in any event be:

17 (a) construed as, offered or admitted in evidence as, received as, or deemed to be
18 evidence for any purpose adverse to the Released Parties, including, but not limited evidence of a
19 presumption, concession, indication or admission by any of the Released Parties of any liability,
20 fault, wrongdoing, omission, concession or damage; or

21 (b) disclosed, referred to or offered or received in evidence against any of the
22 Released Parties, in any further proceeding in the Class Action, or any other civil, criminal or
23 administrative action or proceeding except for purposes of settling this Class Action pursuant to this
24 Agreement.

25 24. **Exhibits and Headings.** The terms of this Agreement include the terms set forth in
26 the attached Exhibits 1-2, which are incorporated by this reference as though fully set forth herein.
27 Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive headings of
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1 any paragraphs or sections of this Agreement are inserted for convenience of reference only and do
2 not constitute a part of this Agreement.

3 25. **Interim Stay of Proceedings.** The Parties agree to stay all proceedings in the Class
4 Action, except such proceedings necessary to implement and complete the Settlement, pending the
5 Final Settlement Hearing to be conducted by the Court.

6 26. **Amendment or Modification.** This Agreement may be amended or modified only
7 by a written instrument signed by counsel for all Parties or their successors-in-interest.

8 27. **Entire Agreement.** This Agreement and any attached Exhibits constitute the entire
9 agreement among these Parties, and no oral or written representations, warranties or inducements
10 have been made to any Party concerning this Agreement or its Exhibits other than the
11 representations, warranties and covenants contained and memorialized in such documents.

12 28. **Authorization to Enter Into Settlement Agreement.** Counsel for all Parties
13 warrant and represent they are expressly authorized by the Parties whom they represent to negotiate
14 this Agreement and to take all appropriate action required or permitted to be taken by such Parties
15 pursuant to this Agreement to effectuate its terms, and to execute any other documents required to
16 effectuate the terms of this Agreement. The Parties will cooperate with each other and use their
17 best efforts to effect the implementation of the Settlement. In the event the Parties are unable to
18 reach agreement on the form or content any document needed to implement the Settlement, or on
19 any supplemental provisions that may become necessary to effectuate the terms of this Settlement,
20 the Parties may seek the assistance of the Court to resolve such disagreement. The persons signing
21 this Agreement on behalf of Plannernet represent and warrant that they are authorized to sign this
22 Agreement on behalf of Plannernet.

23 29. **No Publicity.** Class Counsel shall not publicize this settlement, nor shall they
24 contact or respond to any requests from the press (including print, television, radio, internet, or any
25 other media) regarding this settlement, except to refer them to the Court's file for further
26 information. The Named Plaintiff shall not respond to inquiries directed to her by Plaintiffs or any
27 other person or entity. Named Plaintiff must refer all such inquiries to Class Counsel.
28

1 30. **Binding on Successors and Assigns.** This Agreement shall be binding upon, and
2 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

3 31. **Counterparts.** This Agreement may be executed in one or more counterparts. All
4 executed counterparts and each of them shall be deemed to be one and the same instrument
5 provided that counsel for the Parties to this Agreement shall exchange among themselves original
6 signed counterparts.

7 32. **This Settlement is Fair, Adequate and Reasonable.** The Parties believe this
8 Settlement is a fair, adequate and reasonable settlement of this Class Action and have arrived at this
9 Settlement in arms-length negotiations, taking into account all relevant factors, present and
10 potential. This Settlement was reached after extensive negotiations and review of portions of
11 Plannernet’s business records, payroll records, timekeeping records, and employment policies and
12 as further described in the declarations of counsel submitted in support of Preliminary Approval of
13 Settlement.

14 33. **Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to
15 interpretation, implementation and enforcement of the terms of this Agreement and all orders and
16 judgments entered in connection therewith, and the Parties and their counsel hereto submit to the
17 jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement
18 embodied in this Agreement and all orders and judgments entered in connection therewith.

19 34. **Cooperation and Drafting.** Each of the Parties has cooperated in the drafting and
20 preparation of this Agreement. Hence, in any construction made to this Agreement, same shall not
21 be construed against any of the Parties.

22 35. **Invalidity of Any Provision.** Before declaring any provision of this Agreement
23 invalid, the Court shall first try to construe the provision as valid to the extent possible under the
24 law so as to render all provisions of this Agreement valid and enforceable

25 36. **Named Plaintiff's Waiver of Right to be Excluded and Object.** Named Plaintiff
26 agrees to sign this Agreement and by signing this Agreement is bound by the terms herein stated
27 and further agrees not to request to be excluded from the Settlement Class and agrees not to object
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1 to any of the terms of this Agreement. Non-compliance by Named Plaintiff with this paragraph
2 shall be void and of no force or effect. Any such request for exclusion or objection shall therefore
3 be void and of no force or effect.

4
5 Date: May ____, 2019

NAMED PLAINTIFF

6
7 By: _____
8 Linda Champagne
9 *On behalf of herself and the Class*

10 Date: May ____, 2019

PLANNERNET, INC.

11
12 By: _____
13 James Montague
14 Its: President

15 **APPROVED AS TO FORM.**

16
17 Date: May ____, 2019

LAW OFFICES OF JOHN E. HILL

18
19
20 By: _____
21 Enrique Martínez
22 *Attorneys for Plaintiff & Class*

23 Date: May ____, 2019

QUINTANA HANAFAI, LLP

24
25 By: _____
26 Ramsey Hanafi
27 *Attorneys for Plaintiff & Class*

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Date: May ____, 2019

JEFFER, MANGELS, BUTLER & MITCHELL, LLP

By: _____
Travis M. Gemoets
Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____

SALLIE KIM
United States Magistrate Judge

1 to any of the terms of this Agreement. Non-compliance by Named Plaintiff with this paragraph
2 shall be void and of no force or effect. Any such request for exclusion or objection shall therefore
3 be void and of no force or effect.

4
5 Date: May ____, 2019

NAMED PLAINTIFF

6
7 By: _____
8 Linda Champagne
9 *On behalf of herself and the Class*

10 Date: May ____, 2019

PLANNERNET, INC.

11
12 By: _____
13 James Montague
14 Its: President

15 **APPROVED AS TO FORM.**

16
17 Date: May 6, 2019

LAW OFFICES OF JOHN E. HILL

18
19
20 By:  _____
21 Enrique Martínez
22 *Attorneys for Plaintiff & Class*

23
24 Date: May 6, 2019

QUINTANA HANAFI, LLP

25 By:  _____
26 Ramsey Hanafi
27 *Attorneys for Plaintiff & Class*

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Date: May 6, 2019

JEFFER, MANGELS, BUTLER & MITCHELL, LLP

By: 

Travis M. Gemoets
Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____

SALLIE KIM

United States Magistrate Judge

1 to any of the terms of this Agreement. Non-compliance by Named Plaintiff with this paragraph
2 shall be void and of no force or effect. Any such request for exclusion or objection shall therefore
3 be void and of no force or effect.

4
5 Date: May ____, 2019

NAMED PLAINTIFF

6
7 By: _____
8 Linda Champagne
9 *On behalf of herself and the Class*

10 Date: May 6, 2019

PLANNERNET, INC.

11
12 By: JS/JAMES MONTAGUE
13 by TMG
14 James Montague
15 Its: President

16 **APPROVED AS TO FORM.**

17 Date: May ____, 2019

LAW OFFICES OF JOHN E. HILL

18
19
20 By: _____
21 Enrique Martínez
22 *Attorneys for Plaintiff & Class*

23 Date: May ____, 2019

QUINTANA HANAFI, LLP

24
25 By: _____
26 Ramsey Hanafi
27 *Attorneys for Plaintiff & Class*

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1 to any of the terms of this Agreement. Non-compliance by Named Plaintiff with this paragraph
2 shall be void and of no force or effect. Any such request for exclusion or objection shall therefore
3 be void and of no force or effect.

4
5 Date: May 6, 2019

NAMED PLAINTIFF

6
7 By: Linda Champagne
8 Linda Champagne
9 On behalf of herself and the Class

10 Date: May ____, 2019

PLANNERNET, INC.

11
12 By: _____
13 James Montague
14 Its: President

15 **APPROVED AS TO FORM.**

16
17 Date: May ____, 2019

LAW OFFICES OF JOHN E. HILL

18
19
20 By: _____
21 Enrique Martínez
22 Attorneys for Plaintiff & Class

23 Date: May ____, 2019

QUINTANA HANAFI, LLP

24
25 By: _____
26 Ramsey Hanafi
27 Attorneys for Plaintiff & Class

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