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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CAESAR MORERA, individually, and on behalf of other members of the general public similarly situated, and on behalf of aggrieved employees pursuant to the Private Attorneys General Act (“PAGA”),)	CASE NO. BC502003
)	
)	JOINT STIPULATION OF
)	SETTLEMENT AND RELEASE
)	
)	Hearing Date: April 10, 2015
)	Hearing Time: 1:30 p.m.
)	Judge: Hon. William F. Highberger
)	Dept.: 322
)	
)	Complaint filed: 02/28/13
)	Trial date: None set
)	
)	
)	
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SETTLEMENT AGREEMENT

This Stipulation of Settlement is made by and between the named Plaintiff, Caesar Morera, on behalf of himself, the Settlement Class, as defined below, their agents, attorneys, assigns, heirs, beneficiaries, executors, administrators, legal representatives, family members, and/or any other persons or entities with a direct interest in the lawsuit entitled: *Morera v.*

1 *Continental Assets Management, LLC* (the Litigation), Case No. BC502003 and Defendant
2 Continental Assets Management, LLC (Continental). This Stipulation of Settlement resolves all
3 claims asserted against Continental in the Litigation, as set forth in Sections 7.1 and 7.2 below.

4 **1. DEFINITIONS**

5 1.1. The terms “Agreement” or “Settlement Agreement” as used herein means this
6 Stipulation of Settlement.

7 1.2. The term “Superior Court” or “Court” as used herein means the Superior Court of
8 the State of California, the County of Los Angeles.

9 1.3. The terms “Final Approval” and “Effective Date of Settlement” as used herein
10 mean the date when this Stipulation of Settlement has been approved by the Superior Court at a
11 Final Approval hearing.

12 1.4. The terms “Plaintiff” and “Named Plaintiff” as used herein mean the individual
13 expressly named as party plaintiff in the Litigation: Caesar Morera, acting on his own behalf and
14 on behalf of all members of the Settlement Class.

15 1.5. The terms “Continental” or the “Company” mean Continental Assets
16 Management, LLC; Andrew Chang; Linda Chang; Arcadia Land Crop. LLC; Fortune America;
17 Dynasty Coachworks International, Inc.; Continental Investment Group; Spirit of Chu Chang
18 Algaroba, LLC; Pacific Oasis, LLC; Cambridge Park Associates, LLC; Cluster Park Associates,
19 LLC; and their current or former owners, officers, officials, directors, principals, shareholders
20 subsidiaries, affiliates, predecessors, insurers, reinsurers, claims administrators, agents, partners,
21 contractors, employees, attorneys, successors, benefit plans, plan administrators, trustees, and
22 their assigns (the Released Parties).

23 1.6. The term “Maximum Settlement Amount” as used herein means \$40,000 and
24 refers to the total settlement to be paid by Continental, comprised of the Net Settlement Amount
25 to be distributed to Participating Settlement Class Members, the PAGA Claims Consideration to
26 be paid to California’s Labor and Workforce Development Agency (LWDA), the Enhancement
27 Award to be paid to the Named Plaintiff, the Attorneys’ Fee Award, and costs including the
28 Claims Administrator’s fees and costs, and employer payroll taxes associated with the payments.

1 1.7. The term “Net Settlement Amount” as used herein means the Maximum
2 Settlement Amount less the PAGA Claims Consideration to be paid to California’s Labor and
3 Workforce Development Agency (LWDA), the Enhancement Award to be paid to the Named
4 Plaintiff, the Attorneys’ Fee Award, and costs including the Claims Administrator’s fees and
5 costs, and employer payroll taxes associated with the payments, as set forth in Sections 10, 11,
6 12, and 13 below.

7 1.8. The term “Individual Class Settlement Payment” as used herein means that
8 portion of the Net Settlement Amount distributed to each Settlement Class Member based on
9 each Member’s tenure with Continental, described in Section 10.2 below.

10 1.9. The term “Enhancement Award” as used herein means payment to the Named
11 Plaintiff as set forth in Section 11, below.

12 1.10. The term “PAGA Claims Consideration” as used herein means payment to the
13 State of California’s Labor and Workforce Development Agency (LWDA) as its share of
14 penalties, as set forth in Section 12, below.

15 1.11. The term “Attorneys’ Fee Award” as used herein means payment to Class
16 Counsel, as set forth in Section 13.3, below.

17 1.12. The terms “Class Action Settlement” and “Settlement” as used herein mean the
18 full and final settlement of all class and representative action claims made by Plaintiff in the
19 Litigation, on behalf of himself and the Settlement Class, including but not limited to the notice,
20 claims, approval and payment process(es).

21 1.13. The term “Claims Administrator” as used herein means the firm of Simpluris
22 which Class Counsel selected, and defense counsel has agreed, to be responsible for the
23 administration of the Class Action Settlement, as set forth in Section 13.5, below.

24 1.14. The term “Class Counsel” as used herein means Protection Law Group, LLP;
25 Shenkman & Hughes; and Lawyers for Justice, PC, counsel for the Named Plaintiff and the
26 Settlement Class.

27 1.15. The term “Class Period” as used herein means February 28, 2009 through the date
28 of preliminary Court Approval of the Class Action Settlement.

1 1.16. The term “Settlement Class” or “Settlement Class Member” as used herein
2 means: All Continental hourly-paid or non-exempt California-based employees who worked
3 during the Class Period. There is no sub-class.

4 1.17. The term “Participating Settlement Class Member” means a Settlement Class
5 Member who has not requested exclusion from the Settlement pursuant to Section 8.3 below.

6 1.18. The term “Party” as used in the singular shall mean any party to the Litigation,
7 and the term “Parties” as used herein shall collectively refer to the parties to the Litigation.

8 **2. BACKGROUND**

9 2.1 Named Plaintiff sent a notice of alleged Labor Code violations to the California
10 Labor and Workforce Development Agency (LWDA) pursuant to Labor Code Section 2699.3(1)
11 (PAGA Letter) on February 27, 2013. Named Plaintiff commenced the Litigation by filing a
12 Complaint on February 28, 2013.

13 2.2 The Parties have conducted extensive investigation into the relevant facts and law,
14 including the exchange of information informally and through discovery. Broad written
15 discovery was exchanged, including: (1) Form Interrogatories; (2) Special Interrogatories; and
16 (3) Request for Production of Documents. Class Counsel also deposed two individuals identified
17 as Continental’s Person Most Knowledgeable about thirty-six different subjects that touched on
18 each and every cause of action asserted in the Litigation, as well as the identity of all Class
19 Members, among other things. Counsel for the Parties also informally exchanged significant
20 information and documents about the identity of Class Members and factual information and
21 documentation relevant to the essential elements of each claim and defense. In addition, Counsel
22 for the Parties attended numerous status conferences, which assisted in facilitating an exchange
23 of information. Finally, the Parties participated a Mandatory Settlement Conference (MSC) with
24 Judge Dunn and a full day of mediation with private mediator, Kim Deck, at which a settlement
25 was reached. Counsel for the Parties have further invested extensive time researching applicable
26 law, which is constantly evolving as it relates to the Settlement Class Members’ alleged claims
27 and damages asserted in the Litigation and the defenses thereto.

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1 The Parties further recognize the expense and length of continued proceedings necessary
2 to continue or defend the Litigation, and have considered the uncertainty and risk of the outcome
3 of future litigation and the difficulties and delays in such continued litigation. Based on the
4 information and documents exchanged, the Parties are satisfied the Settlement is a reasonable
5 amount and provides adequate relief to the Class. Conversely, continued litigation would not
6 likely increase the value of this case.

7 2.3 Following extensive investigation and discovery, the Parties agreed to pursue
8 mediation before Ms. Deck. The mediation was held on January 8, 2015. As a result of the
9 mediation and arms-length negotiations, the Parties have reached this Agreement.

10 2.4 Based on the foregoing, and in connection with the extensive investigation and
11 discovery resulting in this Settlement, Named Plaintiff and Class Counsel have determined the
12 Settlement set forth in this Agreement is fair, adequate and a reasonable settlement, and is in the
13 best interest of the Named Plaintiff and the Settlement Class, collectively. Named Plaintiff and
14 Class Counsel agree to settle in the manner and upon the terms set forth in this Agreement to
15 resolve the claims asserted in the Litigation.

16 **3. SCOPE, PURPOSE AND BENEFITS OF THE SETTLEMENT**

17 3.1 This Agreement is intended to and does effectuate the full, final, and complete
18 resolution of all allegations and claims asserted in the Litigation by the Settlement Class
19 Members.

20 3.2 As detailed in Sections 8, 9, and 10 below, this Agreement establishes a claims
21 resolution procedure to resolve all claims for monetary relief alleged in the Litigation.

22 3.3 Although no Party abandons its positions taken in the Litigation, the Parties
23 believe continued litigation would be protracted, expensive, uncertain, and contrary to their best
24 interests. In light of these realities, the Parties believe this Settlement is the best way to resolve
25 the disputes between them.

26 **4. JURISDICTION**

27 The Superior Court has jurisdiction over the Parties and the subject matter of this
28 Litigation. The Litigation includes claims that would, if proven, authorize the Superior Court to

1 grant relief pursuant to the statutes and common law cited therein. If the Settlement is approved,
2 the Superior Court will retain jurisdiction of this action solely to interpret, implement, and
3 enforce this Agreement consistent with the terms herein.

4 **5. STATEMENT OF NO ADMISSION**

5 5.1 Continental denies liability to Named Plaintiff and the Settlement Class upon any
6 claim or cause of action. This Agreement does not constitute, is not intended to constitute, and
7 will not be deemed to constitute, an admission by Continental as to the merits, validity, or
8 accuracy of any of the allegations or claims made against it in the Litigation, all of which are
9 expressly denied.

10 5.2 Nothing in this Agreement, nor any action taken in implementation thereof, nor
11 any statements, discussions or communications, nor any materials prepared, exchanged, issued or
12 used during the negotiations leading to the Agreement, is intended by the Parties to, nor will any
13 of the foregoing constitute, be introduced, be used, or be admissible in this case or any other
14 judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any
15 violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order,
16 or any obligation or duty at law or in equity. Notwithstanding the foregoing, the Agreement may
17 be used in any proceeding in the Superior Court that has as its purpose the interpretation,
18 implementation, or enforcement of the Agreement or any orders or judgments of the Superior
19 Court entered into in connection therewith.

20 5.3 All documents or other evidence produced or created by the Parties in connection
21 with the claims resolution procedures do not constitute, are not intended to constitute, and will
22 not be deemed to constitute, an admission by Continental of any violation of any federal, state, or
23 local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law
24 or in equity.

25 5.4 If the Settlement does not become effective in accordance with the terms of this
26 Agreement, or if the Settlement is not finally approved, or is terminated, fails to become
27 effective or is otherwise cancelled for reasons specified herein or for any other reason, any
28 Orders entered pursuant to this Agreement shall be null and void and vacated, and the Parties

1 shall revert to their respective positions existing immediately prior to the date of this Agreement.
2 In such event, Plaintiff shall be required to seek certification of any purported class, if at all, by
3 noticed motion, and Continental shall have all rights to object to any such request for
4 certification or seek decertification, at such point, and each Party retains all such rights.

5 **6. CLASS CERTIFICATION**

6 For settlement purposes only and in accordance with the terms of this Agreement, the
7 Parties agree to the conditional certification of a class, pursuant to California Code of Civil
8 Procedure 382 and Civil Code Section 1781(b), defined as: “all current and former hourly-paid,
9 non-exempt California-based employees who worked for Continental within the State of
10 California at any time between February 28, 2009 through the date of preliminary Court approval
11 of the Settlement.”

12 **7. WAIVER, RELEASE, AND FINAL JUDGEMENT**

13 7.1 Release and Waiver of Claims

14 Named Plaintiff, on behalf of himself and all Settlement Class Members (except any
15 Settlement Class Member who excludes him/herself pursuant to Section 8.3 below), hereby
16 waives, releases and promises never to assert in any forum claims against Continental asserted in
17 the Litigation for the Class Period, except as expressly limited by this section. The claims being
18 waived herein include claims for payment of wages, minimum wages, overtime, or double time
19 compensation, failure to provide or compensate for meal and/or rest periods or compensation in
20 lieu thereof, failure to keep adequate payroll records, failure to provide compliant wage
21 statements, failure to reimburse reasonable business expenses, failure to properly classify
22 workers, failure to timely pay wages during and at termination of employment, any alleged
23 violation of Business and Professions Code section 17200, any claimed violations of the Private
24 Attorneys General Act of 2004 (PAGA), and any claims involving bonuses, commissions, paid
25 time off, penalties, misclassification, premiums, interest, costs, attorneys’ fees, compensatory
26 damages, punitive damages, and any other compensation or remedies available at law or equity
27 allegedly owed or available to the Named Plaintiff and all members of the Settlement Class
28 based upon the allegations and causes of actions set forth or which could have been set forth in

1 the Litigation. More specifically, the claims being waived include claims brought or which could
2 have been brought in the Litigation for the Class Period on behalf of Named Plaintiff and all
3 Settlement Class Members including but not limited to all claims arising out of or related to the
4 payment or non-payment of any compensation by Continental to the Named Plaintiff and/or any
5 Settlement Class Member under any state or local statutory or common law including, but not
6 limited to, California Labor Code Sections 201-204, 226, 226.7, 510, 512(a), 1174(d), 1194,
7 1197, 1197.1, 1198, 2800, 2802; California Labor Code Sections 2699, et seq. (PAGA);
8 California Business and Professions Code Section 17200 et seq.; and California Civil Code
9 Sections 3287 (the Released Claims).

10 Upon Final Approval, this waiver and release of claims shall be binding on Named
11 Plaintiff and all Settlement Class Members who have not exercised the right to exclude
12 themselves pursuant to Section 8.3, below, including each of their respective attorneys, agents,
13 spouses, executors, representatives, guardians ad litem, heirs, successors, and assigns. Further,
14 this waiver and release of claims shall inure to the benefit of Continental and all Released Parties
15 as defined in Section 1.5.

16 Furthermore, Named Plaintiff, on behalf of himself and all Settlement Class Members
17 (except any class member who excludes him/herself pursuant to Section 8.3 below), expressly
18 waives any and all rights and benefits conferred upon him and the Settlement Class by Section
19 1542 of the California Civil Code related to the above described waived claims:

20 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
21 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE
22 TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST
23 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

24 Named Plaintiff, on behalf of himself and all Settlement Class Members (except any class
25 member who excludes him/herself pursuant to Section 8.3 below), further waives and
26 relinquishes all rights and benefits he may have under any other statutes or common law
27 principles of similar effect. Accordingly, if the facts relating in any manner to this Settlement
28 Agreement are found hereafter to be other than or different from the facts now believed to be

1 true, the release of claims contained herein shall remain effective.

2 7.2 Final Judgement

3 Upon Final Approval of the Settlement and after the Maximum Settlement Amount has
4 been paid by Continental to the Claims Administrator, the Court shall make and enter final
5 judgment. Plaintiff acknowledges this Agreement will remain contingent until final judgment has
6 been entered by the Superior Court as described in Section 17 below.

7 Even after judgement is entered by the Court, the Court will retain Jurisdiction over the
8 parties, to the extent necessary, to enforce the terms of this Agreement.

9 7.3 Waiver of Appeal

10 All Settlement Class Members who do not exclude themselves from this Agreement
11 pursuant to Section 8.3 below waive the right to appeal any part of this Settlement, the
12 Agreement, or any related Court orders.

13 **8. NOTICE, OBJECTIONS, AND OPPORTUNITY TO EXCLUDE**

14 8.1 Notice

15 b. A jointly drafted Notice of Pendency of Class Action (Notice) is attached as Exhibit 1
16 attached hereto. The Notice will include, but not be limited to, information regarding
17 the general nature of the Litigation; a summary of the substance of the Settlement,
18 including (1) Class Counsel's cost; (2) Class Counsel's fee; (3) PAGA penalty; (4)
19 Plaintiff's Enhancement Award; (5) and Third Party Administrator fees; the definition
20 of the Settlement Class; the procedure and time period for requesting exclusion from
21 the Settlement Class; the date set for the Final Approval hearing; the procedure and
22 time period for objecting to the Settlement and/or this Agreement and appearing at
23 the Final Approval hearing; a statement that the Superior Court has preliminarily
24 approved the Settlement and/or Agreement; information regarding the formula that
25 will be used to calculate the Individual Class Settlement Payment to each
26 Participating Settlement Class Member; the Settlement Class Member's dates of
27 employment within the Class Period to be used in calculating the Individual Class
28 Settlement Payment, as well as the procedure and time within which to dispute the

1 dates of employment within the Class Period; the anticipated date and time of the
2 final approval hearing; and the names of all individuals or entities acting as Class
3 Counsel, including: (1) Protection Law Group, LLP; (2) Lawyers For Justice, PC; and
4 (3) Shenkman & Hughes.

5 The Notice will be sent with a Request for Exclusion Form (Exhibit 2) and a Dispute
6 Form (Exhibit 3) – collectively the “Notice Packet.” The costs associated with the mailing of this
7 Notice Packet and the claims administration of this Settlement will be paid from the Maximum
8 Settlement Amount.

9 Within fifteen (15) days of preliminary approval of the Settlement, Continental shall
10 provide the Claims Administrator an electronic spreadsheet containing the names, last known
11 mailing address, telephone numbers, and social security numbers for the Settlement Class
12 Members, and the dates worked by each Settlement Class Member during the Class Period (the
13 Class List).

14 The Claims Administrator shall mail the Notice Packet to the Settlement Class Members
15 via first-class U.S. mail using the most current mailing address information available from
16 personnel and payroll records within thirty (30) days of the Court’s preliminary approval of the
17 Settlement. The Claims Administrator will preliminarily perform a search based on the National
18 Change of Address Database information to update and correct for any known or identifiable
19 address changes. If a new address is obtained by a way of a returned Notice Packet, then the
20 Claims Administrator shall promptly forward the original Notice Packet to the updated address
21 via First Class U.S. mail indicating on the original Notice Packet the date of such re-mailing.
22 Where a Notice Packet is returned as undeliverable, without a forwarding address, the Claims
23 Administrator will perform a computer/SSN search to obtain an updated address.

24 The Notice Packet shall be deemed delivered upon mailing if not returned.

25 8.2 Objections

26 All objections to the Settlement and/or this Agreement must be postmarked on or before
27 the 30th day after the mailing of the Notice Packet and mailed to the Claims Administrator via
28 First Class U.S. Mail. All objections must state with particularity the basis on which they are

1 asserted. Further, if any objector intends to appear at the Final Approval hearing, either in person
2 or through counsel, he or she must include notice of that fact and state the purpose for his or her
3 appearance in his or her objection.

4 Objections mailed more than 30 days after the mailing of the original Notice Packet are
5 untimely and the Claims Administrator shall send written notice of rejecting any such objections.
6 An allegation by a Settlement Class Member that he or she did not receive the Notice Packet
7 shall not be cause for the Claims Administrator to accept an Objection not postmarked on or
8 before 30 days after the date of mailing of the Notice Packet.

9 The Parties may respond in writing to any Objection within the time set by the Court, but
10 the period will be no earlier than 45 days after the Notice Packet was mailed by the Claims
11 Administrator.

12 8.3 Opportunity to Request Exclusion from the Settlement

13 The Notice Packet shall provide that Settlement Class Members who wish to exclude
14 themselves from the Settlement and/or this Agreement must submit a Request for Exclusion
15 Form requesting exclusion from the Settlement Class. Such written request for exclusion must
16 contain the name, address, and telephone number of the person requesting exclusion. The
17 Request for Exclusion Form must be personally signed by the Settlement Class Member seeking
18 to exclude him/herself from the Settlement. Any incomplete or unsigned Request for Exclusion
19 Form will be deemed void and will be disregarded by the Claims Administrator. The Request for
20 Exclusion Form must be mailed to the Claims Administrator and must be postmarked on or
21 before the 30th day after the mailing of the original Notice Packet. The date of the postmark on
22 the envelope shall be the exclusive means used to determine whether a Request for Exclusion
23 Form has been timely submitted.

24 Request for Exclusion Forms mailed more than 30 days after the mailing of the original
25 Notice Packet are untimely and the Claims Administrator shall send written notice of rejection to
26 any such Settlement Class Member. An allegation by a Settlement Class Member that he or she
27 did not receive the Notice Packet shall not be cause for the Claims Administrator to accept a
28

1 Request for Exclusion Form not postmarked on or before 30 days after the date of mailing of the
2 Notice Packet.

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4 Any Settlement Class Member who requests exclusion from the Settlement and/or this
5 Agreement will not be entitled to any Individual Class Settlement Payment and will not be bound
6 by this Agreement or have any right to object, appeal or comment thereon.

7 Each Settlement Class Member who does not submit a valid and timely Request for
8 Exclusion Form in compliance with this Section shall be a Participating Settlement Class
9 Member; he or she shall be bound by all terms of the Settlement Agreement and the Order and
10 Final Judgment, and his or her claims will extinguish in accordance with this Agreement,
11 regardless of whether he or she has requested exclusion from the Settlement and regardless of
12 whether he or she cashes the Individual Class Settlement Payment check.

13 The Claims Administrator will notify Continental within fifteen (15) days of receipt of
14 any notification that any Settlement Class member intends to exclude himself or herself from the
15 Settlement Class and will provide Continental a copy of such Request for Exclusion Form. The
16 Parties agree Continental shall have the right to void this Agreement in the event three or more
17 Settlement Class Members exclude themselves from the Settlement.

18 **9. CLAIMS PROCEDURE**

19 The Parties have established a claims procedure to resolve all claims of the Settlement
20 Class Members for the time period covered by this Agreement. This procedure is governed
21 exclusively by the terms and conditions set forth in this Agreement.

22 9.1 Limitations Period

23 This Settlement exclusively addresses claims for the Class Period; it does not address
24 claims related to periods of time either before or after the Class Period. The Class Period starts
25 on February 28, 2009 and ends on the date of Preliminary Approval of the Settlement.

26 9.2 Individual Class Settlement Payment Based on Dates of Employment within the
27 Class Period

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1 Every Settlement Class member who does not submit a timely and valid Request for
2 Exclusion Form pursuant to Section 8.3 above, shall be a Participating Settlement Class
3 Member; he or she will be issued an Individual Class Settlement Payment and his/her claims will
4 extinguish in accordance with this Agreement.

5 All Participating Settlement Class Members will receive an Individual Class Settlement
6 Payment representing his or her pro rata share of the Net Settlement Amount based upon his or
7 dates of employment within the Class Period and based on the formula set forth in Section 10.2.

8 9.3 Disputed Dates of Employment within the Class Period

9 If a Participating Settlement Class Member believes in good faith his or her dates of
10 employment within the Class Period, as stated on the Notice, is incorrect, that person may return
11 the Dispute Form to the Claims Administrator, state on that form the dates of employment within
12 the Class Period he or she believes to be correct, provide any documentation supporting his or
13 her assertion, and authorize the Claims Administrator to review his or her personnel and payroll
14 records to determine such information. Such challenges must be postmarked no later than the
15 25th day after the original mailing of the Notice Packet.

16 Dispute Forms mailed more than 25 days after the mailing of the original Notice Packet
17 are untimely and the Claims Administrator shall send written notice of rejection to any such
18 Settlement Class Member. An allegation by a Settlement Class Member that he or she did not
19 receive the Notice Packet shall not be cause for the Claims Administrator to accept a Dispute
20 Form not postmarked on or before 25 days after the date of mailing of the Notice Packet.

21 Continental's data setting forth each Settlement Class Member's dates of employment
22 within the Class Period will be presumed to be correct unless a particular Participating
23 Settlement Class Member proves otherwise to the Claims Administrator by credible evidence.
24 All disputes regarding dates of employment within the Class Period will be resolved and decided
25 by the Claims Administrator and the Claims Administrator's decision will be final and non-
26 appealable. The Claims Administrator shall send written notice of its decision on any such
27 disputed claim to the disputing Settlement Class Member and to counsel for the Parties.

28

1 If a Settlement Class Member returns both a valid and timely Dispute Form seeking to
2 adjust his or her dates of employment for purposes of calculating his or her Individual Class
3 Settlement Payment and a Request for Exclusion, the Request for Exclusion will be deemed
4 void, and of no force and effect, while the Dispute Form will be accepted and the Individual
5 Class Settlement Payment processed pursuant to the terms of the Settlement and this Agreement.

6 **10. COMPUTATION AND DISTRIBUTION OF PAYMENTS TO PARTICIPATING**
7 **SETTLEMENT CLASS MEMBERS**

8 10.1 Distribution Formula

9 All Settlement Class Members who do not exclude themselves from the Settlement,
10 including Named Plaintiff, will receive a payment as good and valuable consideration for the
11 waiver and release of claims set forth in Section 7 above in an amount determined by the Claims
12 Administrator in accordance with Section 10.2 of this Agreement.

13 10.2 Individual Class Settlement Payment

14 The payment to each Participating Settlement Class Member will be determined as
15 follows: The Claims Administrator will divide the total days each Participating Settlement Class
16 Member worked for Continental during the Class Period by five. Partial workweeks will not be
17 counted. Each Participating Settlement Class Member's Individual Class Settlement Payment
18 will be determined by dividing the total number of workweeks for the entire Participating
19 Settlement Class by the Net Settlement Amount, resulting in the Workweek Value. The
20 Workweek Value will then be multiplied by the number of workweeks worked by each
21 Participating Settlement Class Member, resulting in the Individual Class Settlement Payment to
22 each Member.

23 Notwithstanding the above, the Parties agree the total of all payments made to
24 Participating Settlement Class Members (i.e., the sum total of all Individual Class Settlement
25 Payments) shall equal one hundred (100) percent of the Net Settlement Amount (as defined in
26 Section 1.7). Accordingly, if the sum total of the Individual Class Settlement Payments equals
27 less than one hundred (100) percent of the Net Settlement Amount, the Claims Administrator
28 shall proportionately increase the Individual Class Settlement Payment for each Participating

1 Settlement Class Member to ensure the total of all payments to Participating Settlement Class
2 Members equals one hundred (100) percent of the Net Settlement Amount.

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4 10.3 Time for Distribution

5 Continental, through the Claims Administrator, will mail the Individual Class Settlement
6 Payments, excluding taxes as described in Section 15, no later than fifteen (15) days following
7 Final Approval by the Court.

8 In the event the Claims Administrator is unable to locate a valid mailing address for a
9 Participating Class Member, the Claims Administrator will issue and hold such Participating
10 Settlement Class Member's Individual Class Settlement Payment check for a period of ninety
11 (90) days from the date the check is issued, during which time the Participating Settlement Class
12 Member may claim the check.

13 **11. NAMED PLAINTIFF**

14 11.1 Enhancement Award

15 Named Plaintiff will request and Continental will not oppose Plaintiff's request for an
16 Enhancement Award of \$3,500.00, subject to Court approval and adjustment. The Enhancement
17 Award will be drawn from the Maximum Settlement Amount. If the Court adjusts the
18 Enhancement Award, any adjustment will not increase or decrease the Maximum Settlement
19 Amount to be paid by Continental; it will just increase or decrease the Net Settlement Amount to
20 be distributed to Participating Settlement Class Members. An IRS Form 1099 shall issue for the
21 Enhancement Award.

22 11.2 Time for Payment

23 The Claims Administrator shall pay the Enhancement Award to Plaintiff within fifteen
24 (15) days of this Court's Final Approval.

25 11.3 Non-Assistance

26 Named Plaintiff agrees not to encourage or assist any Settlement Class Member in
27 excluding themselves from the Settlement and pursuing individual claims against the Released
28 Parties. Class Counsel agrees not to represent any Settlement Class Member in bringing a claim

1 against Released Parties. Named Plaintiff and Class Counsel agree to use their best efforts to
2 obtain Final Approval of the Settlement.

3 **12. PAGA PAYMENT TO THE LWDA**

4 12.1 Although all liability, unlawful activity and improper conduct is expressly
5 disclaimed by Continental, in an attempt to resolve all issues in the Litigation, including any
6 good faith dispute as to penalties owed, the Parties agree the total sum of Two Thousand Five
7 Hundred Dollars (\$2,500.00), subject to Court approval and adjustment, will be paid to the
8 California Labor and Workforce Development Agency (LWDA) as the State's 75% share of
9 penalties associated with Settlement Class Members' disputed claims seeking recovery of PAGA
10 penalties (PAGA Claims Consideration), in full and complete satisfaction of any PAGA-related
11 claims. The parties agree this PAGA Claims Consideration is a fair, adequate, and a reasonable
12 amount to be paid in resolution of Plaintiff's and the Settlement Class Members' disputed claims
13 seeking recovery of PAGA penalties.

14 The PAGA Claims Consideration will be drawn from the Maximum Settlement Amount
15 and will be in full satisfaction of any and all claims, assessments, judgments or other monies due
16 and owing under any Settlement Class Members' disputed claims seeking recovery of PAGA
17 penalties. If the Court adjusts the PAGA Claims Consideration, any adjustment will not increase
18 or decrease the Maximum Settlement Amount to be paid by Continental; it will just increase or
19 decrease the Net Settlement Amount to be distributed to Participating Settlement Class
20 Members.

21 12.2 Time for Payment

22 The Claims Administrator shall pay the PAGA Claims Consideration to the LWDA
23 within fifteen (15) days of this Court's Final Approval.

24 **13. SETTLEMENT AMOUNT, ATTORNEYS' FEES, AND CLAIMS**
25 **ADMINISTRATOR**

26 13.1 Maximum Settlement Amount to be Paid by Continental

27 Continental will be obligated to pay the Maximum Settlement Amount of \$40,000.00 to
28 settle all claims asserted in the Litigation. The \$40,000.00 settlement will be comprised of the

1 Net Settlement Amount to be distributed to Participating Settlement Class Members (i.e. the sum
2 total of the Individual Class Settlement Payments), the PAGA Claims Consideration (\$2,500.00,
3 subject to adjustment by the Court), the Enhancement Award (\$3,500.00, subject to adjustment
4 by the Court), Class Counsel's fees (\$14,000, subject to adjustment by the Court), Class
5 Counsel's costs (\$9,500, subject to adjustment by the Court), and Claims Administrator's fees
6 (\$3,000) and employer payroll taxes associated with the payments. The above referenced
7 \$40,000.00 will be the maximum amount Continental shall pay to fully and finally resolve this
8 Litigation and receive final judgement.

9 13.2 Time for Payment

10 Continental shall pay the Maximum Settlement Amount to the Claims Administrator
11 within two (2) days of this Court's Final Approval.

12 13.3 Attorneys' Fees and Reimbursement of Costs/Expenses

13 Named Plaintiff and Class Counsel will request, and Continental will not oppose,
14 payment to Class Counsel for all past and future attorneys' fees, costs, and expenses, including
15 but not limited to any and all Claims Administrator costs and fees, necessary to prosecute, settle
16 and administer the Litigation and this Agreement. The amount of attorneys' fees requested will
17 be Thirty-Five percent (35%) of the \$40,000.00 Maximum Settlement Amount or \$14,000.00
18 (Attorneys' Fee Award), subject to Court approval or adjustment. The amount of litigation
19 costs/expenses requested will be \$9,500, subject to adjustment by the Court, and Claims
20 Administrator's fees will be \$3,000, subject to Court approval. If the Court adjusts the
21 percentage allocated to fees or adjusts costs, any adjustments will not increase or decreased the
22 Maximum Settlement Amount to be paid by Continental; it will just increase or decrease the Net
23 Settlement Amount to be distributed to the Participating Settlement Class Members.
24 The Claims Administrator shall pay the Attorneys' Fee Award and reimbursement of expenses to
25 Class Counsel within fifteen (15) days of this Court's Final Approval. Such payment shall be
26 sent by check by overnight delivery. The Claims Administrator, with the prior consent of Class
27 Counsel, shall pay itself the administration fee ordered by the Court.

28 13.4 Payment of Liens

1 Named Plaintiff hereby represents and warrants he is solely responsible for satisfying any
2 and all liens or claims of interest placed on the Maximum Settlement Amount by any person or
3 entity, including any legal counsel Plaintiff consulted with and/or retained, including but not
4 limited to Heather Davis, Eric A. Boyajian, and Amir Nayebdadash of Protection Law Group
5 LLP; Kevin Shenkman of Shenkman & Hughes; and Edwin Aiwarzian, Arby Aiwarzian, Jill J.
6 Parker, D. Elliot Gonzalez, Yashdeep Singh, and Jonathan M. Lebe of Lawyers for Justice.
7 Plaintiff agrees neither Continental nor its counsel have any responsibility whatsoever for
8 satisfaction of any such lien or claim of interest. Plaintiff agrees to defend, indemnify, and hold
9 harmless Continental and its counsel from any liability, loss, claim, damage, cost or expense,
10 including attorneys' fees, arising from any lien or claim of interest on the Maximum Settlement
11 Amount or for any failure of Plaintiff to satisfy any and all lien or claim of interest on the
12 Maximum Settlement Amount.

13 13.5 Claims Administrator

14 The Parties agree Simpluris shall serve as the Claims Administrator responsible for the
15 administration of the Class Action Settlement. The Claims Administrator shall distribute the
16 Notice Packet, discussed in Section 8.1; determine eligibility for payment to Settlement Class
17 Members and resolve any disputes regarding the calculation or application of the formula for
18 determining the Individual Class Settlement Payments; keep track of those Settlement Class
19 Members requesting to be excluded from the Settlement and/or this Agreement, and provide
20 information regarding the requests for exclusion to Parties' counsel; draft and mail the Individual
21 Class Settlement Payments and PAGA Claims Consideration checks to Participating Settlement
22 Class Members and the LWDA; issue W-2, 1099 and other necessary forms; submit payment for
23 all required taxes, including employer payroll taxes; pay Class Counsel's Attorneys' Fee Award
24 and court ordered expenses; return all unclaimed funds to Continental; and perform such other
25 tasks as the Parties mutually agree or the Court orders the Parties to perform.

26 The Claims Administrator shall regularly report to the Parties' counsel, in written form
27 when requested, the substance of the work performed, the exclusion of any Settlement Class
28 Member, the determination of any dispute regarding a Settlement Class Member's dates of

1 employment with the Class Period, and the total amount paid out of the Maximum Settlement
2 Amount.

3 The Claims Administrator will submit to the Court, in conjunction with the Parties’
4 Motion for Final Approval, a declaration providing, among other things: the number of Notice
5 Packets mailed to the Settlement Class Members, the number re-mailed, the number of Notice
6 Packets ultimately undeliverable, the number of requests for exclusion received, the number of
7 Dispute Forms received and how they were resolved, and efforts to cure made, the amounts to be
8 paid to Participating Settlement Class Members, and the total of its charges for services rendered.

9 All Individual Class Settlement Payments made by Claims Administrator to Participating
10 Settlement Class Members shall be issued by check, each of which shall become null and void if
11 not cashed by Participating Settlement Class Members within 160 (160) days from the date of
12 issuance. The Parties agree prompt resolution is a material term of this Agreement. All
13 Individual Class Settlement Payments which become null and void, and all interest related to any
14 pending Individual Class Settlement Payments, shall be returned to Continental by Claims
15 Administrator within fifteen (15) days of the date the checks become null and void.

16 Any disputes relating to the Claims Administrator’s ability and need to perform its duties
17 shall be referred to the Court if they cannot be resolved by the Parties.

18 **14. INTEREST**

19 The Amounts paid under this Agreement include any and all interest accruals.

20 **15. TAXATION**

21 15.1 The Parties agree the Individual Class Settlement Payments made to Participating
22 Settlement Class Members will be allocated one-third (1/3) as taxable income for unpaid wages
23 and payment for compensation in lieu of alleged meal and rest period violations, for which IRS
24 Forms W-2 will issue; one-third (1/3) as interest for which IRS Form 1099 will issue; and one-
25 third (1/3) as alleged unpaid civil penalties for which IRS Forms 1099 will issue. Participating
26 Settlement Class Members’ tax withholdings for their Individual Class Settlement Payments will
27 be made by the Claims Administrator out of the Maximum Settlement Amount.

28

1 15.2 If the Internal Revenue Code of 1986, the regulations promulgated thereunder, or
2 other applicable tax law changes after the date of this Agreement, the processes set forth in this
3 section may be modified with the approval of the Superior Court in a manner to bring the Parties
4 into compliance with any such changes.

5 15.3 Plaintiff and Participating Settlement Class Members represent they understand it
6 is their obligation to pay appropriate federal, state, and local income taxes on all W-2 and/or
7 1099 compensation provided under this Agreement that lawfully qualifies as taxable income.

8 **16. NO CONTRIBUTION TO EMPLOYEE BENEFIT PLANS**

9 The amounts paid under this Agreement do not represent a modification of any
10 previously credited hours of service under any employee benefit plan, policy or bonus program
11 sponsored by Continental. Such amounts will not form the basis for additional contributions to,
12 benefits under, or any other monetary entitlement under, Continental sponsored (self-insured or
13 not) benefit plans, policies or bonus programs. Any payments made under this Agreement shall
14 not be applied retroactively, currently or on a going forward basis as salary, earnings, wages, or
15 any other form of compensation for the purposes of any Continental benefit plan, policy, or
16 bonus program. Continental retains the right to modify the language of its benefit plans, policies,
17 and bonus programs to effect this intent and to clarify any amounts paid pursuant to this
18 Agreement are not for “hours worked,” “hours paid,” “hours of service,” or any similar
19 measuring term as defined by applicable plans, policies, and bonus programs for purpose of
20 eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or
21 benefits are not required by this Agreement.

22 **17. COURT APPROVAL**

23 17.1 This Agreement is contingent upon the Court’s entry of final judgement in
24 accordance with Section 7.2.

25 17.2 The Parties agree to cooperate, renegotiate if necessary, and take all steps as may
26 be reasonably necessary to secure approval of the Agreement, to the extent not inconsistent with
27 the terms of this Agreement, provided however, the Parties agree Continental shall never be
28 obligated to pay more than the Maximum Settlement Amount as a condition of settlement. The

1 Parties further agree not to take any action adverse to each other in obtaining Superior Court
2 approval, and, if necessary, appellate approval, of the Agreement in all respects.

3 **18. MISCELLANEOUS PROVISIONS**

4 18.1 Stay of Litigation.

5 The Parties agree to the stay of all proceedings in the Litigation, except such proceedings
6 as may be necessary to complete and implement the Settlement Agreement, pending Final
7 Approval of the Agreement.

8 18.2 Interpretation of the Agreement.

9 The Agreement will be interpreted and enforced under the laws of the State of California
10 without regard to its conflict of law provisions. Any claim arising out of or relating to the
11 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
12 Court of California, County of Los Angeles, and the Parties hereby consent to the personal
13 jurisdiction of the Superior Court over them solely in connection therewith. Each of the Parties
14 has further cooperated in the drafting and preparation of this Agreement and neither Party shall
15 be deemed to be the drafter of this Agreement.

16 18.3 Final Agreement.

17 The terms and conditions of this Agreement constitute the exclusive and final
18 understanding and expression of all agreements between the Parties regarding the resolution of
19 the Litigation. The Named Plaintiff, on his own behalf and on behalf of the class he represents,
20 and Continental accept entry of this Agreement based solely upon its terms and not in reliance
21 upon any representations or promises other than those contained in this Agreement. The
22 Agreement may be modified only by a writing signed by the original signatories and approved
23 by the Superior Court.

24 18.4 Counterparts.

25 The Agreement may be executed in one or more actual or telecopied counterparts, all of
26 which will be considered one and the same instrument and all of which will be considered
27 duplicate originals.

28 18.5 Authority.

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

3 18.6 No Third Party Beneficiaries.

4 Named Plaintiff and Participating Settlement Class Members are not third party
5 beneficiaries of this Agreement, and they will have no right to bring any action for any alleged
6 violation of this Agreement.

7 18.7 Circular 230 Disclaimer.

8 Each Party to this Agreement acknowledges and agrees that: (1) no provision of this
9 Agreement, and no written communication or disclosure between or among the Parties or their
10 attorneys and other advisers, is or was intended to be, nor shall any such communication or
11 disclosure constitute or be construed as, or relied upon as, tax advice within the meaning of
12 United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) each Party
13 has relied exclusively upon his, her, or its own independent legal and tax counsel for advice
14 (including without limitation, tax advice) in connection with this Agreement and has not entered
15 into this Agreement based on the recommendation of any other Party or any attorney or advisor
16 to another attorney and furthermore is not entitled to rely upon any communication or disclosure
17 by another Party to avoid any tax penalty that may be imposed on a Party; and (3) no attorney or
18 adviser to any other Party has imposed any limitation that protects the confidentiality of any such
19 attorneys' or adviser's tax strategies (regardless of whether such limitation is legally binding)
20 upon disclosure by the Party of the tax treatment or tax structure of any transaction, including
21 any transaction contemplated by this Agreement.

22 18.8 Named Plaintiff Waiver of Right to Object.

23 Named Plaintiff agrees to sign this Agreement and that by signing this Agreement he is
24 bound by the terms herein and further agrees not to request to be excluded from the Settlement
25 Class and agrees not to object to the terms of this Agreement. Any request for exclusion or
26 objection by Named Plaintiff will be void and have no force or effect.

27 18.9 Public Disclosure.

28

1 Named Plaintiff, Settlement Class Members, and Class Counsel will not make any public
2 disclosure of the Settlement or this Agreement, other than to file documents with the Court.
3 Class Counsel will take all steps necessary to ensure the Named Plaintiff is aware of, and will
4 encourage him to adhere to, the restriction against any disclosure of the Settlement or this
5 Agreement. Named Plaintiff and Class Counsel will not have any communications with the
6 media other than to direct the media to the public records of the Litigation on file with the Court.
7 Class Counsel will take all steps necessary to ensure Named Plaintiff is aware of, and will
8 encourage him to adhere to, the restriction against any media comment on the Settlement and its
9 terms. Class Counsel further agrees not to use the Settlement or any of its terms for marketing
10 purposes.

11 18.10 Effective Date.

12 The effective date of this Settlement shall mean the date when all of the following events
13 have occurred: (1) this Agreement has been executed by all Parties, Class Counsel, and
14 Continental's Counsel; (2) the Court has given preliminary approval to this Agreement; (3) the
15 Notice of Class Action Settlement (Notice Packet) has been provided to the Settlement Class,
16 providing them with an opportunity to object to the terms of this Agreement or to request
17 exclusion from this Settlement; (4) the Court has held a formal fairness hearing and entered a
18 final Order and Judgment certifying the Settlement Class and approving this Agreement; (5)
19 sixty-five (65) calendar days have passed since the Court has entered a final Order and Judgment
20 certifying the Settlement Class, , and approving this Agreement; and (6) in the event there are
21 written objections filed prior to the final fairness hearing which are not later withdrawn or
22 denied, the later of the following events: five (5) business days after the period for filing any
23 appeal, writ, or other appellate proceeding opposing the Court's final Order approving this
24 Agreement has elapsed without any appeal, writ, or other appellate proceeding having been filed;
25 or, if any appeal, writ, or other appellate proceeding opposing the Court's final Order approving
26 this Agreement has been filed, five (5) business days after any appeal, writ, or other appellate
27 proceedings opposing this Agreement has been finally and conclusively dismissed with no right
28 to pursue further remedies or relief.

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18.11 Further Representations.

The Parties believe the Settlement and this Agreement is fair, adequate and reasonable settlement of the Litigation and have arrived at this Agreement in arms-length negotiations considering all relevant factors, present and potential. This Settlement and this Agreement were reached after extensive negotiations and investigation.

THE PARTIES AND THEIR COUNSEL KNOWINGLY AND VOLUNTARILY AGREE TO THE TERMS OF THIS AGREEMENT.

Caesar Morera

Dated: _____, 2015

Plaintiff

Continental Assets Management, LLC

Dated: _____, 2015

Defendant

Title: _____

APPROVED AS TO FORM AND CONTENT:

PROTECTION LAW GROUP, LLP

Dated: _____, 2015

Heather Davis
Eric A. Boyajian
Attorney for Plaintiff

Dated: _____, 2015

ANDREWS · LAGASSE · BRANCH & BELL LLP

Jennifer Sarkozy Branch
Attorneys for Defendant