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*Attorneys for Defendants ZEP, INC. and
ACUITY SPECIALTY PRODUCTS, INC.*

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEFF FULLER, an individual, on behalf of
himself and other persons similarly situated,

Plaintiffs,

v.

ZEP, INC., a Delaware corporation; ACUITY
SPECIALTY PRODUCTS, INC., and DOES 1
through 100, inclusive,

Defendants.

Case No. 4:18-cv-02672-JSW

Assigned to: Hon. Jeffrey S. White

CLASS ACTION

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND
RELEASE**

1 **TO THE HONORABLE COURT AND ALL INTERESTED PARTIES:**

2 This Stipulation of Settlement is made by and between the Named Plaintiff, JEFF FULLER, on
3 his own behalf and on behalf of all members of the Settlement Class, as defined below, on the one
4 hand, and ZEP, INC., and ACUITY SPECIALTY PRODUCTS, INC., on the other hand (collectively
5 the “Parties”), in the lawsuit entitled *Jeff Fuller v. ZEP Inc. et al.*, filed in United States District Court
6 for the Northern District of California, Case No. 4:18-cv-02672-JSW. This Stipulation of Settlement
7 resolves all claims that were asserted against Defendants pertaining to the facts alleged in the
8 Litigation.

9
10 **I. DEFINITIONS**

11 **A. Administrative Costs.** All administrative costs of settlement, including cost of notice
12 to the Settlement Class, claims administration, and any fees and costs incurred or charged by the
13 Settlement Administrator in connection with the execution of its duties under this Stipulation of
14 Settlement.

15 **B. Agreement.** The terms “Agreement” or “Settlement Agreement” are used
16 synonymously herein to mean this Stipulation of Settlement.

17 **C. Class Counsel.** The term “Class Counsel” as used herein means: PALAY
18 HEFELFINGER, APC and HATHAWAY, PERRETT, WEBSTER, POWERS, CHRISMAN &
19 GUTIERREZ, APC, all the lawyers of both firms, specifically including but not limited to Daniel J.
20 Palay, Brian D. Hefelfinger and Alejandro P. Gutierrez who are counsel for and acting on behalf of
21 Named Plaintiff and the Settlement Class. The term Class Counsel shall be used synonymously with
22 the term Plaintiffs’ Counsel.

23 **D. Court.** The term “Court” as used herein means the United States District Court for the
24 Northern District of California.

25 **E. Final Date** The term “Final Date” means the latter of: (1) the date of final affirmation
26 of the Final Approval from any appeal, the expiration of the time for, or the denial of, a petition to
27 review the Final Approval, or if review is granted, the date of final affirmation of the Final Approval
28 following review pursuant to that grant; or (2) the date of final dismissal of any appeal from the Final

1 Approval or the final dismissal of any proceeding to review the Final Approval, provided that the Final
2 Approval is affirmed and/or not reversed in any part; or (3) if no appeal is filed, the expiration date of
3 the time for the filing or noticing of any appeal from the Court’s Final Approval of the Settlement.

4 **F. Date of Final Approval.** The terms “Date of Final Approval” or “Final Approval” as
5 used herein mean the final formal judgment entered by the Court at the Final Fairness and Approval
6 Hearing in accordance with the terms herein, approving this Agreement.

7 **G. Defendants.** The term “Defendants” as used herein means ZEP, INC., a Delaware
8 corporation; and ACUITY SPECIALTY PRODUCTS, INC, a Georgia corporation.

9 **H. Employer Taxes.** Employer-funded taxes and contributions imposed on the wage
10 portions of the Settlement Payment under the Federal Insurance Contributions Act, the Federal
11 Unemployment Tax Act, and any similar state taxes and contributions required of employers, such as
12 for unemployment insurance.

13 **I. Litigation.** The term “Litigation” as used herein means the action entitled filed in
14 United States District Court for the Northern District of California., Case No. 4:18-cv-02672-JSW.

15 **J. Named Plaintiff.** The term “Named Plaintiff” as used herein means Jeff Fuller.

16 **K. Net Settlement Fund.** The term “Net Settlement Amount” or “Net Settlement Fund”
17 as used herein means the Settlement Amount minus any award of attorneys’ fees and Litigation costs,
18 Administrative Costs, payment to the Labor and Workforce Development Agency, and the payment of
19 any enhancement award to the Named Plaintiff.

20 **L. Net Settlement Payments.** The term “Net Settlement Payment(s)” shall include
21 payments made to the members of the Settlement Class as part of the Settlement, including wages,
22 penalties, and interest.

23 **M. Settlement.** The term “Settlement” as used herein means this Agreement to resolve the
24 Litigation. This Settlement is non-reversionary.

25 **N. Settlement Administrator.** The term “Settlement Administrator” as used herein
26 means CPT Group, Inc., which will be responsible for the administration of the Settlement Amount, as
27 defined below, and all related matters.

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1 **O. Settlement Agreement.** The terms “Settlement Agreement” or “Agreement” are used
2 synonymously herein to mean this Stipulation of Settlement.

3 **P. Settlement Amount.** The terms “Settlement Amount” as used herein means the
4 payment of One Million Five Hundred Thousand Dollars and Zero Cents (\$1,500,000.00), which shall
5 be paid by Defendants, and from which all Net Settlement Payments, Court-approved attorneys’ fees
6 and Litigation costs pursuant to Section XIII, Administrative Costs pursuant to Section VIII,
7 enhancement to Named Plaintiff pursuant to Section XIV, statutory penalties, interest, and Employer
8 Taxes pursuant to Section XV, shall be paid, except as provided herein. It shall not include the other
9 consideration provided to the Settlement class including the payment of future commissions and the
10 invocation of the new contractual provisions.

11 **Q. Settlement Classes.** For settlement purposes only, the Parties agree to the certification
12 of a class pursuant to *California Code of Civil Procedure* § 382 and *Fed. R. Civ. P.* Rule 23, defined
13 as:

14 Q(1). National Settlement Class

15 All persons who work or worked for the Defendants as commission-only outside
16 salespersons in the United States of America, between the dates of May 7, 2014 and
17 the present and who were responsible for one or more of the accounts that were
18 reassigned between April — September 2018 (pursuant to the “2018 New Account
Policy”).

19 Members of the National Settlement Class shall be known and referred to as
20 “Settlement Class Members” herein.

21 Q(2). California Subclass

22 All persons who are members of the National Settlement Class and who work or
23 worked for the Defendants in the State of California between the dates of May 7,
2014 and the present.

24 **R. Settlement Period.** The term “Settlement Period” as used herein means the period
25 from May 7, 2014 through the date on which preliminary approval of the Settlement is granted.

26 **II. BACKGROUND**

27 **A.** In the Litigation, the Named Plaintiff alleges, *inter alia*, on behalf of himself and all
28 others similarly situated, that Defendants breached contracts with the members of the National

1 Settlement Class, breached the duty of good faith and fair dealing with the members of the National
2 Settlement Class with respect to those alleged contracts, and violated California state wage and hour
3 laws with regard to the payment of commission with respect to the California Subclass, all with
4 respect to the reassignment of accounts from class members during 2018. Specifically, Plaintiff
5 alleges that Defendants unlawfully reassigned accounts from its commission sales representatives in
6 violation of its contracts with the Nationwide Settlement Class and in violation of
7 California law with respect to the California Subclass. The Defendants has denied and continues to
8 deny the allegations of the Plaintiff.

9 Class Counsel conducted informal discovery including but not limited to an extensive audit of
10 the records, and hundreds of hours of interviews of Settlement Class members, which has yielded
11 information and documentation concerning the claims set forth in the Litigation, such as Defendants'
12 policies and procedures regarding the payment of wages, the contracts of individuals, and the data
13 showing account reassignments and putative commissions attributable thereto. Class Counsel has
14 interviewed more than one hundred (100) individuals.

15 **B.** Named Plaintiff and Class Counsel have engaged in good faith, arms-length
16 negotiations with Defendants concerning possible resolution of the claims asserted in the Litigation.
17 The Parties participated in private mediation, in two all-day sessions, before Mr. Steven Rottman, that
18 resulted in a tentative settlement of the Litigation, the execution of a short-form Memorandum of
19 Understanding (MOU), all subject to the approval of the Court, and finalization of a formal Stipulation
20 of Settlement.

21 **C.** Class Counsel has conducted an investigation of the law and facts relating to the claims
22 asserted in the Litigation and has concluded, taking into account the sharply contested issues involved,
23 the defenses asserted by Defendants, the expense and time necessary to pursue the Litigation through
24 trial and any appeals, the risks and costs of further prosecution of the Litigation, the risk of an adverse
25 outcome, the uncertainties of complex litigation, and the substantial benefits to be received by the
26 Named Plaintiff and the members of the Settlement Class pursuant to this Agreement, that a settlement
27 with Defendants on the terms and conditions set forth herein is fair, reasonable, adequate, and in the
28 best interests of the Settlement Class. Named Plaintiff, on his own behalf and on behalf of the

1 Settlement Class, has agreed to settle the Litigation with Defendants on the terms set forth herein.

2 **D.** Defendants have concluded that, because of the substantial expense of defending
3 against the Litigation, the length of time necessary to resolve the issues presented herein, the
4 inconvenience involved, and the concomitant disruption to its business operations, it is in Defendants'
5 best interests to accept the terms of this Agreement. Defendants deny each of the allegations and
6 claims asserted against it in the Litigation. However, Defendants nevertheless desire to settle the
7 Litigation for the purpose of avoiding the burden, expense and uncertainty of continuing litigation and
8 for the purpose of putting to rest the controversies engendered by the Litigation.

9 **E.** This Agreement is intended to and does effectuate the full, final and complete
10 resolution of all allegations and claims that were asserted, or could have been asserted, in the
11 Litigation by Named Plaintiff and members of the Settlement Class as set forth in Section II.A.

12
13 **III. JURISDICTION**

14 The Parties consent to and agree that this Court has jurisdiction over the Parties and the subject
15 matter of this Litigation for settlement purposes only. Should the settlement not become final, for
16 whatever reason, Defendants reserve all rights to challenge both subject matter and personal
17 jurisdiction over the members of the Settlement Classes as defined herein and the fact that Defendants
18 were willing to stipulate to jurisdiction shall have no bearing on, and shall be inadmissible in
19 connection with, the issue of whether the Court has jurisdiction over the Parties and/or the subject
20 matter of the litigation. After the Court has granted Final Approval of the Settlement and after the
21 Court has ordered the entry of Judgment, the Court shall retain jurisdiction of this action solely for the
22 purpose of interpreting, implementing, and enforcing this Settlement consistent with the terms set forth
23 herein.

24
25 **IV. STIPULATION OF CLASS CERTIFICATION**

26 The Parties stipulate to the certification of this Settlement Class for purposes of Settlement
27 only. This Stipulation is contingent upon the Preliminary and Final approval and certification of the
28 Settlement Class only for purposes of Settlement. Should the Settlement not become final, for

1 whatever reason, the fact that the Parties were willing to stipulate provisionally to class certification as
2 part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the
3 issue of whether a class should be certified in a non-settlement context in the Litigation. Defendants
4 expressly reserve the right to oppose class certification and/or proactively move to deny or preclude
5 certification should this Settlement be modified or reversed on appeal or otherwise not become final.

6
7 **V. MOTION FOR PRELIMINARY APPROVAL**

8 Named Plaintiff will bring unopposed before the Court a motion for an order preliminarily
9 approving the Settlement, including the Notice of Proposed Class Action Settlement and Commission
10 Dispute Form, which are attached hereto as **Exhibits “1”** and **“2”** respectively, and requesting that the
11 Court conditionally certify the Settlement Class for settlement purposes only. The date that the Court
12 grants Preliminary Approval of this Agreement will be the “Preliminary Approval Date.” Class
13 Counsel will prepare the Motion for Preliminary Approval, which, after Defendants’ review and
14 approval, shall be unopposed by Defendants and their counsel.

15
16 **VI. STATEMENT OF NO ADMISSION**

17 **A.** Defendants deny liability to Named Plaintiff and to the members of the Settlement
18 Classes upon any claim or cause of action actually brought or that could have been brought based on
19 the facts alleged in the Operative Complaint. This Agreement does not constitute, and is not intended
20 to constitute, an admission by Defendants as to the merits, validity, or accuracy of any of the
21 allegations or claims made against it in the Litigation.

22 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor any
23 statements, discussions or communications, nor any materials prepared, exchanged, issued or used
24 during the course of the negotiations leading to this Agreement or the Settlement, is intended by the
25 Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible
26 in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or
27 proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance,
28 regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties

1 themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or
2 any other judicial, arbitral, administrative, investigative, or other forum or proceeding, as purported
3 evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or
4 executive order, or any obligation or duty at law or in equity, or for any other purpose.
5 Notwithstanding the foregoing, this Agreement may be used and filed in any proceeding before the
6 Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or
7 any orders or judgments of the Court entered in connection with implementation of the Settlement.

8 **C.** None of the documents produced or created by Named Plaintiff or the Settlement
9 Classes in connection with the claims procedures or claims resolution procedures constitute, and they
10 are not intended to constitute, an admission by Defendants of any violation of any federal, state, or
11 local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in
12 equity.

13 **D.** The Parties agree that class certification pursuant under the terms of this Agreement is
14 for settlement purposes only. Nothing in this Agreement will be construed as an admission or
15 acknowledgement of any kind that any class should be certified or given collective treatment in the
16 Litigation or in any other action or proceeding. Further, neither this Agreement nor the Court's
17 actions with regard to this Agreement will be admissible in any court or other tribunal regarding the
18 propriety of class certification or collective treatment. In the event that this Agreement is not
19 approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable,
20 Named Plaintiff will not be deemed to have waived, limited, or affected in any way any claims, rights,
21 or remedies in the Litigation, and Defendants will not be deemed to have waived, limited, or affected
22 in any way any of their objections or defenses in the Litigation, subject to the tolling provision set
23 forth in Section XVIII.

24
25 **VII. WAIVER, RELEASE AND CONFIDENTIALITY**

26 **A. Release as to National Settlement Class Members.**

27 Upon the Final Date, Named Plaintiff and all Settlement Class Member, except those that make
28 a valid and timely request to be excluded from the Settlement, hereby agree to waive, release,

1 discharge, and promise never to assert in any forum any and all claims against Defendants, their
2 respective subsidiaries, affiliates, predecessors or successors in interest, or the officers, directors,
3 shareholders, employees, attorneys, agents, assigns, insurers, re-insurers, of any of them, on any basis
4 whatsoever including but not limited to federal, state, or local law, that were alleged in the Litigation
5 or that could have been alleged in the Litigation based on the facts asserted in the Operative
6 Complaint, including but not limited to: 1) all claims concerning the reassignment of accounts during
7 the Settlement Period; 2) all claims for the breach of contract, and for any breach of the duty of good
8 faith and fair dealing; 3) all claims for the failure to pay commissions owed pursuant to California or
9 any similar state law in any state in which a Settlement Class Member resides, including but not
10 limited to attendant civil penalties pursuant to the *Labor Code* Private Attorneys' General Act of 2004;
11 and (4) unjust enrichment.

12 **B. Limited 1542 Release for Class Members.**

13 With respect to all claims which arise from, or are related to, the same facts alleged in the
14 Operative Complaint, all Settlement Class Members shall be deemed to have expressly waived and
15 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542
16 of the California Civil Code, or any other similar provision under federal or state law, which provides:

17 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS,
18 THAT THE CREDITOR OR RELEASING PARTY DOES NOT
19 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
20 THE TIME OF EXECUTING THE RELEASE AND THAT, IF
KNOWN BY HIM OR HER, WOULDHAVE MATERIALLY
AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
OR RELEASED PARTY.**

21 Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other than
22 or different from the facts now believed to be true, the release of claims contained herein shall be
23 effective as to all unknown claims, provided such unknown claims arise from or are related to the
24 same facts alleged in the Operative Complaint.

25
26 **C. General Release by Named Plaintiff Only.**

27 In addition to the release made in Section VII(A), Named Plaintiff makes the additional
28 following general release of all claims, known or unknown. Named Plaintiff releases Defendants, and

1 each of their respective subsidiaries, affiliates, predecessors or successors in interest, officers,
2 directors, shareholders, employees, attorneys, agents, assigns, insurers, and re-insurers of any of them,
3 from all claims, demands, rights, liabilities and causes of action of every nature and description
4 whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or
5 for violation of any state or federal statute, rule or regulation arising out of, relating to, or in
6 connection with any act or omission by or on the part of any Defendants. (The release set forth in this
7 Paragraph B shall be referred to hereinafter as the “General Release.”)

8 With respect to the General Release, Named Plaintiff stipulates and agrees that, upon the Date
9 of Final Approval, Named Plaintiff shall be deemed to have expressly waived and relinquished, to the
10 fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California
11 Civil Code, or any other similar provision under federal or state law, which provides:

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

16 Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other than
17 or different from the facts now believed to be true, the release of claims contained herein shall be
18 effective as to all unknown claims.

19
20 **VIII. SETTLEMENT ADMINISTRATOR**

21 Named Plaintiff and Defendants, through their respective counsel, have selected CPT Group,
22 Inc. as the Settlement Administrator to administer the Settlement, which includes but is not limited to
23 distributing and responding to inquiries about the Notice of Proposed Class Action Settlement and
24 commission Dispute Form, determining the validity of any disputes and opt-outs, and calculating all
25 amounts to be paid from the Net Settlement Amount. Charges and expenses of the Settlement
26 Administrator, estimated to be \$12,500.00, will be paid from the Settlement Amount. Any charges
27 and expenses of the Settlement Administrator greater than the allocated \$12,500.00 will come from the
28 Settlement Amount. If the actual Settlement Administrator fees are less than the Parties’ estimation,

1 the difference between the actual and estimated Settlement Administrator fees will revert to the
2 participating Settlement Class members. The Parties agree that this Agreement may be provided to the
3 Settlement Administrator to effectuate its implementation of the settlement procedures herein.

4
5 **IX. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

6 **A. Notice.**

7 Named Plaintiff and Defendants, through their respective attorneys, have jointly prepared a
8 Notice of Class Action and Proposed Settlement (the “Notice”) which in substance will be provided to
9 the members of the Settlement Class as follows:

10 As soon as practicable following Preliminary Approval of the Settlement, but no later than
11 twenty one (21) calendar days after the Court’s Preliminary Approval order, Defendants will provide
12 to the Settlement Administrator the following information about each Settlement Class member
13 (“Class List”): (1) name; (2) last known home address; (3) monetary amount of commissions earned
14 from accounts reassigned by Defendants for the period of March 2017 through March 2019 (the
15 “Commission Measuring Period”). Defendants further agree to consult with the Settlement
16 Administrator prior to the production date to ensure that the format will be acceptable to the
17 Settlement Administrator.

18 The Settlement Administrator shall run all the addresses provided through the United States
19 Postal Service NCOA database (which provides updated addresses for any individual who has moved
20 in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain
21 current address information, and shall mail the Notice and Dispute Form to the members of the
22 Settlement Class via first-class regular U.S. Mail using the most current mailing address information
23 available, within twenty-one (21) calendar days of the receipt of the Class List from Defendants. The
24 Notice shall provide the members of the Settlement Class sixty (60) days’ notice of all applicable dates
25 and deadlines (Class Notice Period).

26 The Notice will also include information regarding the nature of the Litigation; a summary of
27 the terms of the Settlement; the definition of the Settlement Class; a statement that the Court has
28 preliminarily approved the Settlement; the nature and scope of the claims being released; the

1 procedure and time period for objecting to the Settlement, the date and location of the Final Approval
2 hearing; and information regarding the opt-out procedure. It will also identify the accounts taken (e.g.,
3 by customer number) and the class member's estimated total payment amount.

4 For each Settlement Class member the Notice Form will identify the number above and the
5 employee of his or her right to dispute this number within sixty (60) days of the postmark date of the a
6 Dispute Form. A Settlement Class member's receipt of his or her share of the Net Settlement
7 Payments is not conditional on the submission of the Dispute Form. Absent the receipt of a Dispute
8 Form the amounts identified above shall be deemed accurate. The resolution of any disputes
9 concerning the amount of compensation for commission losses is discussed in Section X, below.

10 If a Notice is returned from the initial notice mailing, the Settlement Administrator will submit
11 the applicable and available information, including name, Social Security number, and original
12 mailing address, to a company that specializes in address skip tracing in an attempt to locate a more
13 current address. If the Settlement Administrator is successful in locating a new address, it will re-mail
14 the Notice to the Settlement Class member. Further, any Notices returned with a forwarding address
15 to the Settlement Administrator, as non-deliverable before the deadline date, shall be sent to the
16 forwarding address affixed thereto.

17 The Settlement Administrator will mail a reminder post-card to those Settlement Class
18 members who have not responded to the Notice fourteen (14) days before the expiration of the Class
19 Notice Period reminding Settlement Class members of the deadline.

20 Should any member of the Settlement Classes timely submit a Dispute Form with a deficiency,
21 the Settlement Administrator shall, within five (5) calendar days of receipt by the Settlement
22 Administrator of each timely submitted Dispute Form, send a deficiency notice. The deficiency
23 notice will provide the member of the Settlement Classes no more than fourteen (14) days from the
24 mailing of the deficiency notice to postmark a written response to cure all deficiencies. The failure of
25 a member of Settlement Classes to timely submit a Dispute or timely respond to a notice of deficiency
26 shall invalidate the dispute unless all Parties' counsels agree to allow the dispute.

27 No later than twenty-five (25) days before the Final Approval Hearing, the Settlement
28 Administrator shall provide counsel for Defendants and Class Counsel with a declaration attesting to

1 the completion of the Notice process, including the number of attempts to obtain valid mailing
2 addresses for and re-sending of any returned Notices, as well as the number of valid Dispute Forms,
3 opt-outs and deficiencies that the Settlement Administrator received.

4 **B. Objections.**

5 In order for any Settlement Class member to object to this Settlement, or any term of it, the
6 person making the objection must not submit a request for exclusion (i.e., must not opt out). To object
7 to the Settlement, a Settlement Class Member must file with the Court and serve an objection on all
8 parties, not later than sixty (60) calendar days after notice of the Settlement is first mailed. A
9 Settlement Class member making an objection may appear at the Final Approval Hearing with or
10 without filing or serving any written objection. The Settlement Class member may appear personally
11 or through an attorney, at his or her own expense, at the Final Approval hearing to present his or her
12 objection directly to the Court. However, any attorney who will represent an individual objecting to
13 this Settlement must file a notice of appearance with the Court and serve Class Counsel and Defense
14 Counsel no later than sixty (60) days after the Notice of Proposed Class Action Settlement was
15 initially mailed to the Settlement Class members. If a Settlement Class member objects to the
16 Settlement, the Settlement Class member will remain a member of the Settlement Class and if the
17 Court approves this Agreement, the Settlement Class member will be bound by the terms of the
18 Settlement and Final Approval in the same way and to the same extent as a Settlement Class member
19 who does not object. The date of mailing of the Notice to the objecting Settlement Class member shall
20 be conclusively determined according to the records of the Settlement Administrator. The Court
21 retains final authority with respect to the consideration and admissibility of any Settlement Class
22 member objections. Any Settlement Class member who submits an objection may also participate in
23 the settlement.

24 Named Plaintiff waives any right to object to the Settlement, and hereby endorses the
25 Settlement as fair, reasonable, and adequate and in the best interests of the Settlement Class.

26 **C. Opportunity to be Excluded.**

27 In order for any Settlement Class member to validly exclude himself or herself from the
28 Settlement Class and the Settlement (i.e., to validly opt out), a written request for exclusion (“Request

1 to be Excluded”) must be signed by the Settlement Class member or his or her authorized
2 representative and must be sent to the Settlement Administrator, postmarked by no later than sixty (60)
3 days after the date the Settlement Administrator initially mails the Notice to the Settlement Class
4 members. The Notice shall contain instructions on how to opt out.

5 The date of the initial mailing of the Notice, and the date the signed Request to be Excluded
6 was postmarked, shall be conclusively determined according to the records of the Settlement
7 Administrator. Any Settlement Class member who timely and validly submits a Request to be
8 Excluded from the Settlement Class and the Settlement will not be entitled to any portion of the Net
9 Settlement Payments, will not be bound by the terms and conditions of the Settlement, and will not
10 have any right to object, appeal, or comment thereon.

11 Any member of the Settlement Class who does not timely file and mail a Request to be
12 Excluded from the Settlement Class will be deemed included in the Settlement Class in accordance
13 with this Settlement. Named Plaintiff waives any right to be excluded from the Settlement Class.

14 **D. Cooperation**

15 The Parties and their respective counsel agree not to encourage members of the Settlement
16 Classes to refrain from participating in the Settlement, to opt out of the Settlement, or to object to the
17 Settlement, directly or indirectly, through any means. However, if a Settlement Class member
18 contacts Class Counsel, Class Counsel may discuss the terms of the Settlement and the Settlement
19 Class member’s options.

20
21 **X. CLAIMS PROCEDURE**

22 Named Plaintiff and Defendants have agreed upon the following payment formula to resolve
23 the monetary remuneration to be paid for all disputes of the Settlement Class during the Settlement
24 Period. The non-monetary terms of this Settlement are discussed below, in Section XII.

25 The Claims Administrator will receive data from Defendants following preliminary approval
26 identifying the total amount of commissions attributable to all accounts that were reassigned from Class
27 Members by Defendants as part of its 2018 New Account Policy, for the Commission Measuring
28 Period (defined in § IX.A., above), which shall be the “Total Reassigned Commission Value”. In

1 addition, Defendant shall provide data which identifies on an individual basis which of these
2 commissions are attributable to each Settlement Class Member, based on how the accounts were
3 previously aligned (the "Individual Commission Value").

4 An "Individual Settlement Payment" for each Class Member will then be calculated by
5 determining the Settlement Class Member's fraction of the Net Settlement Fund, which shall be the
6 Individual Commission Value for each class member divided by the Total Reassigned Commission
7 Value (*i.e.*, pro rata based on the actual commission loss allegedly sustained by each Settlement Class
8 Member). *For example*: If the data show that the reassigned accounts formerly aligned to the
9 individual (*i.e.*, the Individual Commission Value) had earned \$5,000.00 during the Commission
10 Measuring Period, and the Total Reassigned Commission Value is \$650,000, and the Net Settlement
11 Fund for the class was \$1,000,000.00, that individual would receive $[\$5,000] \div [\$650,000] \times$
12 $[\$1,000,000]$, or \$7,692.31, as his or her Individual Settlement Payment.

13 If a member of the Settlement Class does not dispute the Individual Commission Value and
14 resultant Individual Settlement Payment, as determined from Defendant's data, he/she shall receive the
15 amounts as described above. If a Settlement Class Member believes in good faith that the amount is
16 incorrect, he/she shall submit a Dispute Form which authorizes the Settlement Administrator to review
17 the Settlement Class member's sales data and review management records to determine such
18 information, and he/she shall be permitted to attach any relevant documentation in support thereof.
19 The member of the Settlement Class must mail the signed and completed Dispute Form no later than
20 sixty (60) days after the date of the initial mailing, and the Settlement Administrator shall review the
21 computation of the Individual Settlement Payment to the member of the Settlement Class.

22 Upon timely receipt of any such challenge or dispute, the Settlement Administrator, in
23 consultation with Class Counsel and counsel for Defendants, will review the pertinent records showing
24 the accounts taken from the individual, as well as the sales history of those accounts, including
25 commissions earned, which records Defendants agrees to make available to the Settlement
26 Administrator and Class Counsel.

27 After consulting with Class Counsel and counsel for Defendants, the Settlement Administrator
28 shall determine whether the Individual Commission Value must be adjusted. In the event there is a

1 disparity between the records of the individual and the Defendants, Defendants' records will control
2 unless inconsistent with commission statements, paycheck stub(s) (or bona fide copies thereof) or
3 commission reports provided by the Settlement Class member, in which case the paycheck stub(s) and
4 commission reports will control. The Settlement Administrator's decision as to the calculation of the
5 Individual Commission Value and resultant Individual Settlement Payment shall be final and non-
6 appealable. The Settlement Administrator shall send written notice of the decision on any such claim
7 to the Settlement Class member, to Class Counsel, and counsel for Defendants within ten (10) calendar
8 days of receipt of the dispute.

9
10 **XI. COMPUTATION AND DISTRIBUTION OF PAYMENT OF MONETARY**
11 **SETTLEMENT COMPONENT.**

12 **A. PAGA Payment.** Twenty-Thousand Dollars and Zero Cents (\$20,000.00) shall be
13 allocated from the Settlement Amount for payment of penalties under PAGA. Seventy-five percent
14 (75%), or Fifteen Thousand Dollars and Zero Cents (\$15,000.00), will be paid to the LWDA no later
15 than twenty eight (28) calendar days after the Final Date (LWDA Payment). Twenty-five percent
16 (25%), or Five Thousand Dollars and Zero Cents (\$5,000.00), will be added back into the Net
17 Settlement Fund and distributed on a *pro rata* basis to all Settlement Class Members in accordance
18 with the distribution formula described in Section X, above.

19 **B. Distribution Formula.**

20 Members of the Settlement Classes not opting out will receive a lump sum payment as good
21 and valuable monetary consideration for the waiver and release of claims set forth in Section VII(A),
22 above, in an amount determined by the Settlement Administrator in accordance with the provisions of
23 this Agreement.

24 The lump sum payment to each member of the Settlement Class not excluding him/ herself will
25 be determined in accordance with the procedure set forth in Section X.

26 **C. Funding of Settlement.**

27 Within twenty one (21) calendar days following the Final Date and a determination of the pro-
28 rata share of the settlement amount to which each member of the Settlement Class is entitled,

1 Defendants will deposit all settlement monies comprising the Settlement Amount, including the Net
2 Settlement Fund, the Court approved attorney's fees and Litigation costs, and the Court approved
3 enhancement to Named Plaintiff, plus any necessary employer's share of withholding taxes, into an
4 interest-bearing trust account for the benefit of the participating Settlement Class members and Class
5 Counsel, through the Settlement Administrator. At no time prior to Final Approval of the Settlement
6 shall Defendants be required to escrow any portion of the Settlement Amount.

7 **D. Time for Distribution.**

8 The Settlement Administrator shall cause the Individual Settlement Payments, the Court
9 approved attorney's fees and Litigation costs, the payment to the LWDA, and the Court approved
10 enhancement to Named Plaintiff, to be mailed within fifteen (15) calendar days following the Date of
11 Final Approval. At no time will Defendants be required to escrow any portion of the Settlement
12 Amount.

13 Any unclaimed funds or uncashed checks shall be turned over by the Settlement Administrator,
14 with information for each Settlement Class member who failed to timely cash his/her settlement check,
15 to the California State Controller's office, to be placed in the Unclaimed Property Fund in the name of
16 the Settlement Class member. If a check is returned to the Settlement Administrator as undeliverable,
17 the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a
18 skip trace search and, if another address is identified, shall mail the check to the newly identified
19 address. If the Settlement Administrator is unable to obtain a valid mailing address through this
20 process, the monies represented by the check shall escheat according to the above procedures.

21 **E. No Contributions to Employee Benefit Plan.**

22 The amounts paid under this Settlement Agreement do not represent a modification of any
23 previously credited hours of service under any employee benefit plan, policy, or bonus program (self-
24 insured or fully-insured) sponsored by Defendants including but not limited to any health, retirement,
25 or welfare programs (collectively referred to herein as the "Benefits Arrangements"). Further, the
26 payments made from the Settlement Amount under the terms of this Settlement will not form the basis
27 for additional contributions to, benefits under, or any other monetary entitlement under the Benefits
28 Arrangements. Any payments made from the Settlement Amount under the terms of this Settlement

1 Agreement are not, and shall not be applied retroactively, currently or on a going forward basis as,
2 salary, earnings, wages, commissions, bonuses or any other form of compensation for the purposes of
3 the Benefits Arrangements. Defendants retain the right to modify and interpret the language of the
4 Benefits Arrangements to effect this intent and to make clear that any payments made from the
5 Settlement Amount under the terms of this Settlement are not for “hours worked,” “hours paid,”
6 “hours of service,” or any similar measuring term as defined by the Benefits Arrangements for purpose
7 of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or
8 benefits under the Benefits Arrangements are not required or provided for by this Settlement.

9
10 **XII. ADDITIONAL SETTLEMENT TERMS; POLICY CHANGES.**

11 Defendants stipulate and agree to be bound as part of this Court-approved and Court-
12 enforceable settlement, as follows:

13 **A. Account Residuals – “Reassigned” Accounts.**

14 As further consideration for this settlement, Defendants agree to pay each Settlement Class
15 Member all commissions from the “reassigned” accounts (*i.e.*, all accounts reassigned to inside sales
16 by ZEP pursuant to the 2018 New Account Policy from April 2018 to and including September 2018),
17 paid at 100% of the commission rate and structure that existed prior to the account’s reassignment.
18 This payment at the 100% rate (the “Account Residuals”) shall continue from the Final Date, for five
19 (5) years thereafter on the reassigned account or until the Settlement Class Member is no longer
20 employed by Zep, whichever comes first.

21 As further consideration for this settlement, after five years, the Account Residuals shall
22 thereafter be paid to the Settlement Class Member that was previously aligned with the account at the
23 rate of 50% for as long as the Settlement Class Member is employed by Zep.

24 All Account Residuals set forth herein are entirely contingent on the Settlement Class
25 Member’s continued employment with Zep.

26 **B. Account Protection and new Contract.**

27 As further consideration for this settlement, Defendants agree that the 2018 New Account
28 Policy (the 2018 90-Day/7.5% revenue reduction Active Account Policy) is hereby immediately

1 rescinded in its entirety. Defendants further agree that they shall not reassign any accounts that are
2 presently aligned to any Settlement Class Members, for a period of three years from the date of Final
3 Approval. After that three year period, Defendants agree that accounts may only be reassigned from a
4 Settlement Class Member in accordance with the “12 months to pool” for the duration of the
5 Settlement Class Member’s employment with Zep (the “Settlement Account Policy”). The Settlement
6 Account Policy, which is additional consideration to this Settlement Agreement is attached hereto as

7 **Addendum A.**

8 **C. Implementation of New Sales Programs.**

9 As further consideration for this settlement, Defendants agree to implement the new programs
10 set forth in **Addendum B**, attached hereto. Defendants further agree that any account belonging to a
11 Settlement Class Member that is enrolled in either the “Auto-Replenish,” “e-Commerce,” or
12 “Collaboration” (as described more fully in Addendum B) shall not be subject to any reassignment by
13 Defendants, unless and until a Settlement Class Member’s employment ends or the account is removed
14 from the “Auto-Replenish,” “e-Commerce,” or “Collaboration” Programs, at which time the account
15 will become subject to the Settlement Account Policy unless and until it is re-enrolled in either the
16 “Auto-Replenish,” “e-Commerce,” or “Collaboration” programs.

17 **D. Return of Seasonal Accounts, Equipment Accounts, or “Sister Company”**
18 **Accounts.**

19 As further consideration for this settlement, Defendants agree to use their best efforts in good
20 faith to permit the Settlement Class Members to identify accounts that either need equipment as part of
21 their orders, or purchase on a seasonal basis. Further, Defendants agree to use their best efforts in
22 good faith to permit the Settlement Class Members to identify accounts that should be aligned to them
23 based on affiliated or “sister company” relationships. Defendants will in good faith evaluate and “roll
24 back” any account that fits any of these exceptions.

25
26 **XIII. CLASS COUNSEL ATTORNEYS’ FEES AND LITIGATION COSTS**

27 Defendants shall not oppose an application by Class Counsel for, and Class Counsel shall not
28 seek or receive an amount in excess of \$525,000, which represents 35% of the Settlement Amount for

1 all past and future attorneys' fees necessary to prosecute, settle and administer the Litigation and this
2 Settlement. Additionally, Defendants shall not oppose an application by Class Counsel for, and Class
3 Counsel shall not seek or receive an amount in excess of \$20,000 which represents all past and future
4 Litigation costs and expenses necessary to prosecute, settle and administer the Litigation and this
5 Settlement. Any attorneys' fees or Litigation costs awarded to Class Counsel by the Court shall be
6 deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount.
7 The "future" aspect of these amounts include, without limitation, all time and expenses expended by
8 Class Counsel in defending the Settlement and securing preliminary and Final Approval (including
9 any appeals therein). There will be no additional charge of any kind to either the members of the
10 Settlement Class or request for additional consideration from Defendants for such work. This amount
11 shall include all attorneys' fees, Litigation costs, and expenses for which Named Plaintiff and Class
12 Counsel could claim under any legal theory whatsoever. Within twenty eight (28) calendar days
13 following the Final Date, the Settlement Administrator shall disburse payment from the Settlement
14 Amount for the amount of attorneys' fees and Litigation costs approved by the Court to Class Counsel.
15 Should the Court approve a lesser percentage or amount of fees and/or Litigation costs than the
16 amount that Class Counsel ultimately seeks, then any such unapproved portion or portions shall revert
17 into the Net Settlement Amount to be distributed between the participating Settlement Class Members
18 in accordance with the distribution provisions above.

19
20 **XIV. ENHANCEMENT TO NAMED PLAINTIFF**

21 Defendants shall not oppose an application by Named Plaintiff, and Named Plaintiff shall not
22 seek or receive an amount in excess of \$35,000 for his substantial participation in and assistance with
23 the Litigation (*i.e.*, Named Plaintiff's class representative enhancement / service award). Any
24 enhancement awarded to Named Plaintiff by the Court shall be deducted from the Settlement Amount
25 for the purpose of determining the Net Settlement Amount, and shall be reported on IRS Form 1099.
26 If the Court approves an enhancement of less than \$35,000 to Named Plaintiff, then the unapproved
27 portion or portions shall revert into the Net Settlement Amount to be distributed between the
28 participating Settlement Class Members on a pro-rata basis.

1 **XV. TAXATION AND ALLOCATION**

2 The Parties agree that all employment taxes and other legally required withholdings will be
3 withheld from payments to the members of the Settlement Class and Named Plaintiff based on the
4 Parties stipulated allocation of the Net Settlement Amount as provided for in this Section.

5 In Defendants' sole discretion, and to which Named Plaintiff and Class Counsel do not object,
6 the amount of federal income tax withholding will be based upon a flat withholding rate for
7 supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or
8 supplemented. Income tax withholding will also be made pursuant to applicable state and/or local
9 withholding codes or regulations.

10 For withholding tax characterization purposes and payment of taxes, the Net Settlement
11 Amount shall be deemed and is allocated by the Parties as follows ("Net Settlement Allocation"):

- 12 (1) 50% as wages for which a W-2 will be issued to each Settlement Class Member; and
13 (2) 50% as penalties and interest for which a 1099 will be issued to each Settlement Class
14 Member.

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

20 Named Plaintiff and his counsel acknowledge that they have been advised to seek and has had
21 the opportunity to seek the advice of tax and other counsel concerning their responsibilities and
22 obligations and the responsibilities and obligations of Settlement Class Members under this Settlement
23 Agreement. Settlement Class Members and their Counsel shall be solely responsible for the
24 employee-related reporting and payment of any state, local and/or federal income tax, if any, on any of
25 the amounts paid to them hereunder. Should it be determined by an authorized authority that the
26 settlement sum, or any portion thereof, should be treated as taxable income, Settlement Class Members
27 agree to assume and pay all liability for taxes and any costs, fees, interest, assessments, penalties,
28 damages or other losses due to such a determination and indemnify, defend and hold Defendants

1 harmless therefrom. Defendants make no representations as to the taxability of the Settlement
2 Payment or any portion thereof.

3 Finally, any and all Employer Taxes which Defendants normally would be responsible for
4 paying will be paid by Defendants, in addition to the Settlement Amount, based on the stipulated
5 settlement allocation set forth in this Agreement.

6
7 **XVI. COURT APPROVAL**

8 This Agreement and the Settlement is contingent upon Final Approval by the Court and the
9 entry of judgment. Named Plaintiff and Defendants agree to take all steps as may be reasonably
10 necessary to secure both Preliminary Approval and Final Approval of the Settlement, to the extent not
11 inconsistent with the terms of this Agreement, and will not take any action adverse to each other in
12 obtaining court approval, and, if necessary, appellate approval, of the Settlement in all respects.
13 Named Plaintiff and Defendants expressly agree that they will not file any objection to the terms of the
14 Settlement or assist or encourage any person or entity to file any such objection.

15 In the event it becomes impossible to secure approval of the Settlement, the Parties shall be
16 restored to their respective positions in the Litigation, as of November 1, 2016, except as otherwise
17 provided in Section XVIII, below.

18
19 **XVII. MISCELLANEOUS PROVISIONS**

20 **A. Stay of Litigation.**

21 Named Plaintiff and Defendants agree to the stay of all discovery in the Litigation, pending
22 Final Approval of the Settlement by the Court.

23 **B. Interpretation of the Agreement.**

24 This Agreement constitutes the entire agreement between Named Plaintiff and Defendants.
25 Except as expressly provided herein, this Agreement has not been executed in reliance upon any other
26 written or oral representations or terms, and no such extrinsic oral or written representations or terms
27 shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree that this
28 Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic

1 evidence. The Agreement will be interpreted and enforced under the laws of the State of California,
2 both in its procedural and substantive aspects, without regard to its conflict of laws provisions. Any
3 claim arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely
4 and exclusively in the United States District Court for the Northern District of California,, and Named
5 Plaintiff and Defendants hereby consent to the personal jurisdiction of the Court over them solely in
6 connection therewith. The foregoing is only limited to disputes concerning this Agreement and in no
7 way enlarges, limits or negates the enforceability and effect of any underlying arbitration agreements
8 signed by employees of Defendants, which may or may not obligate them to arbitrate any and all
9 claims on an individual (and not on a class, collective, or representative) basis. Named Plaintiff, on
10 his own behalf and on behalf of the Settlement Class, and Defendants participated in the negotiation
11 and drafting of this Agreement and had available to them the advice and assistance of independent
12 counsel. As such, neither Named Plaintiff nor Defendants may claim that any ambiguity in this
13 Agreement should be construed against the other.

14 The terms and conditions of this Agreement constitute the exclusive and final understanding
15 and expression of all agreements between Named Plaintiff and Defendants with respect to the
16 Settlement of the Litigation. The Agreement may be modified only by a writing signed by the original
17 signatories and approved by the Court.

18 **C. Further Cooperation.**

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

22 **D. Confidentiality of Documents.**

23 After the expiration of any appeals period, Named Plaintiff, the Settlement Administrator, and
24 Class Counsel shall maintain the confidentiality of all documents, deposition transcripts, declarations
25 and other information obtained in the lawsuit, unless necessary for appeal or such documents are
26 ordered to be disclosed by the Court or by a subpoena.

27 **E. Counterparts.**

28 The Agreement may be executed in one or more actual or non-original counterparts, all of

1 which will be considered one and the same instrument and all of which will be considered duplicate
2 originals.

3 **F. Authority.**

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

6 **G. No Third Party Beneficiaries.**

7 Named Plaintiff, members of the Settlement Class, and Defendants are direct beneficiaries of
8 this Agreement, but there are no third party beneficiaries.

9 **H. Force Majeure.**

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

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

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

20 **J. Severability.**

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

26 **K. Settlement based upon verified data**

27 The settlement of this matter is based upon the verified data provided by Defendants. It is
28 expressly understood that the Defendants have represented that there are 289 putative class members

1 in this matter and the settlement amounts negotiated herein are specifically based upon these
2 representations, along with the representations and data provided which show the gross commission
3 value of the accounts that were taken/transferred. It is expressly understood that if the number of class
4 members provided by the Defendants is increased at any time following the execution of this
5 settlement agreement, or the gross amounts taken are increased, that the gross settlement amounts shall
6 be increased proportionately.

7 **L. Defendants' Conditional Option to Terminate Settlement**

8 If, after the Class Notice Period and any applicable Extended Deadline, and before the Final
9 Approval Hearing, the number of Settlement Class Members who submitted timely and valid Requests
10 to be Excluded is at least ten percent (10%) of all Settlement Class Members, Defendants shall have,
11 in their sole discretion, the option to terminate this Settlement. If Defendants exercise their option to
12 terminate this Settlement, Defendants shall: (a) provide written notice to Class Counsel by email or
13 facsimile within ten (10) calendar days after the end of the Class Notice Period and any applicable
14 Extended Response Deadline; (b) pay all Settlement Administration Costs incurred up to the date or as
15 a result of the termination; and the Parties shall proceed in all respects as if this Agreement had not
16 been executed.

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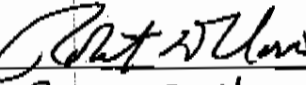
Dated: June 19, 2019

PLAINTIFF JEFF FULLER

By: 
JEFF FULLER

Dated: June 19, 2019

ZEP, INC. & ACUITY SPECIALTY PRODUCTS, INC.

By: 
ROBERT D. NOVA

ADDENDUM "A"

TO JOINT STIPULATION OF SETTLEMENT

Fuller v. ZEP, Inc. et al. Case No.: 4:18-cv-02672-JSW

[PROPOSED] ADDENDUM A

The Settlement Account Policy

For the three-year period following the date of Final Settlement Approval as set forth in Paragraph XII.B of the Settlement Agreement in the Fuller v. Zep, Inc. (the “Company”) matter, Case No. 4:18-cv-02672-JSW in the United States District Court for the Northern District of California, Commissioned Sales Representatives (“CSRs”) will not have existing account locations reassigned except (i) as the result of the specific direction by the customer or (ii) at the specific direction by the existing account CSR.

The CSR currently servicing the account location will continue to earn commission on these designated existing accounts at 100% of current commission structures or 50% of current commission structures if participating in the CSR-Inside Sales / Other Rep Collaboration (“Collaboration”) program.

Following the third anniversary of the Final Settlement Approval, any account that is inactive for twelve months or longer will be available for any Zep representative to re-establish a relationship. Upon receipt of the first order following inactivity, the representative who generates the order will be entitled to commission on subsequent orders placed by the account (subject to the same 12-month inactive period policy).

For avoidance of doubt, CSRs or other sales representatives must be an employee in good standing of the Company to earn commission.

ADDENDUM "B"

TO JOINT STIPULATION OF SETTLEMENT

Fuller v. ZEP, Inc. et al. Case No.: 4:18-cv-02672-JSW

[PROPOSED] ADDENDUM B

I. Auto-Replenishment

The Company is implementing an optional “Auto-Replenishment” program for customers that choose the ease of ordering the same products on a routine basis. Commissioned Sales Representatives (“CSR’s”) whose customers choose to participate in the Auto-Replenishment program will be entitled to receive commission rates equal to 100% of their standard commission structure on orders placed under this program.

The Auto-Replenishment program will offer convenience to customers who place the same order on a routine basis creating time savings for CSR’s. This time savings for CSR’s will facilitate additional reach and ability to serve more customers with additional frequency and consistency.

Auto-Replenishment options will initially be monthly (12 times per year) or quarterly (4 times per year). The options for frequency may be modified to address specific client needs going forward at Zep’s discretion.

On-boarding of customers into the Auto-Replenishment program will be available in two ways:

1. Zep through the existing CSR relationship or with support from Inside Sales Representatives (“ISR’s”) will allow customers to select either the monthly or quarterly option. Once signed up, the orders will be scheduled through Zep’s SAP. The commission sales representative assigned to that customer will receive commissions on all orders placed through the Auto-Replenishment program and the customer will continue to be under the representative’s name for commission purposes.
2. CSR’s may sign up their existing customers directly. The CSR and customer may simply fill out a joint agreement form supplied by the Zep S&S team, submit the completed form to customer service and the customer service team will schedule the customers’ orders through SAP. The CSR assigned to the customer will continue to receive commission on all orders placed under this program.

II. CSR-Inside Sales/Other Rep Collaboration

The Company is implementing a revised collaboration effort between CSR’s, ISR’s and other field sales reps to support sales growth. CSR’s participating in the collaboration with ISR’s or other reps will receive commission rates equal to 50% of their standard commission structure on sales made under the CSR–Inside Sales/Other Rep collaboration program. (“Collaboration”).

This Collaboration efforts are voluntary for all CSRs. The Collaboration will provide the opportunity for CSR’s to partner with either a dedicated inside sales representative or a new

field sales representative to support their existing client base. The partnership between the field and the inside sales person will enable greater efficiency for the CSR to serve their existing relationships and increase their ability to earn commission on clients that are less efficient to serve with in-person visits or where the relationship is already established and could benefit from additional connectivity with a sales representative.

The roll-out of the Collaboration will begin with identification of the accounts determined by the CSR to be relevant for the program. Upon request, the Zep S&S team will provide a list of existing accounts available to the CSR to be included in the Collaboration. The CSR will identify and share the customer data for the accounts that s/he would like an additional resource with whom to partner. Going forward, the customers will be called upon by the partnering representative on behalf of the current CSR and the sales associated with the account will remain in the CSR's name.

III. E-Commerce

The Company is investing to implement an eCommerce platform whereby customers will be able to order products directly through their unique customer portal online ("Zep eCommerce"). CSR's will be entitled to receive commission rates equal to 100% of their existing commission structure on sales placed by their existing or new customers through Zep eCommerce **provided the customers purchase the products through Zep's eCommerce platform using the customer's unique identification number.**

Zep eCommerce will allow customers to order products under existing pricing and business terms already established by the CSR. The ease and streamlined approach to ordering, account management and shipment tracking should relieve CSR's of administrative burden to facilitate additional external client facing sales and service activities. Furthermore, the Company will also pay commissions on sales generated by any new customers set up by a CSR (e.g. establish a customer portal) that choose to order products via Zep eCommerce.

Zep will prioritize the establishment of customer specific portals based on order history and the likelihood of the customer adopting Zep eCommerce.

EXHIBIT 1

TO JOINT STIPULATION OF SETTLEMENT

Fuller v. ZEP, Inc. et al. Case No.: 4:18-cv-02672-JSW

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JEFF FULLER, an individual, on behalf of
himself and other persons similarly situated,

Plaintiffs,

v.

ZEP, INC., a Delaware corporation; ACUITY
SPECIALTY PRODUCTS, INC., and DOES 1
through 100, inclusive,

Defendants.

Case No. 4:18-cv-02672-JSW

Assigned to: Hon. Jeffrey S. White

CLASS ACTION

**NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT AND FAIRNESS HEARING**

TO: All persons who work or worked for the Defendants as commission-only outside salespersons in the United States of America, between the dates of May 7, 2014 and the present and who were responsible for one or more of the accounts that were reassigned between April — September 2018 pursuant to the “2018 New Account Policy”.

THIS NOTICE AFFECTS YOUR RIGHTS.

PLEASE READ THIS NOTICE CAREFULLY.

///

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1 YOU ARE HEREBY NOTIFIED THAT A HEARING HAS BEEN SCHEDULED FOR
2 [REDACTED], 2019, AT [REDACTED] A.M. BEFORE THE HONORABLE JEFFREY S.
3 WHITE, UNITED STATES DISTRICT COURT JUDGE FOR THE UNITED STATES DISTRICT
4 COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, TO CONSIDER A PROPOSED
5 SETTLEMENT OF THE CLAIMS THAT HAVE BEEN BROUGHT ON YOUR BEHALF.

6 This notice summarizes the proposed settlement. For the precise terms and conditions of the
7 settlement, please see the settlement agreement available by contacting class counsel at
8 bdh@calemploymentcounsel.com, by accessing the Court docket in this case through the Court's
9 Public Access to Court Electronic Records (PACER) system at https://ecf.cand.uscourts.gov, or by
10 visiting the office of the Clerk of the Court for the United States District Court for the Northern
11 District of California, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court
12 holidays. PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO
13 INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

14 **ESTIMATED INDIVIDUAL SETTLEMENT AMOUNT**

15 **Based on the total amount of commissions received by Defendants attributable to all
16 accounts that were reassigned from you by Defendant (as part of its new account policy during
17 the Claims Period, your payment of commissions is estimated at \$ [REDACTED]
18 ("Individual Settlement Amount").** This estimated amount is only an estimate. The actual amount
19 of your Individual Settlement Amount may increase or decrease based on several factors, including the
20 final amounts approved by the Court and disputes about commissions raised by other Class Members.
21 As a result you may receive a smaller, or larger, payment. **Please read all of this notice packet for
22 further details regarding the settlement.**

23 **I. INTRODUCTION**

24 On May 7, 2018, Plaintiff Jeff Fuller filed a lawsuit against defendant ZEP Inc. and Acuity
25 Specialty Products, Inc. (together referred to as "ZEP" for convenience here) for damages, interest,
26 penalties and other monetary relief for breach of contract, breach of the duty of good faith and fair
27 dealing, failure to pay wages owed under California law, and unjust enrichment, the United States
28 District Court for the Northern District of California. The pleadings were amended subsequently, with
the operative Second Amended Complaint being filed on or about December 10, 2018.

Class Counsel in this matter is Alejandro P. Gutierrez, Esq. of the law firm of Hathaway,
Perrett, Webster, Powers, Chrisman, and Gutierrez, and Daniel J. Palay and Brian D. Hefelfinger of
Palay Hefelfinger, APC.

In this lawsuit, Plaintiff Fuller, individually and on behalf of other members of the Settlement
Class, allege that Defendants violated contract and wage/hour laws, and the duty of good faith and fair
dealing, with regard to the payment of commission and the taking of accounts from class members.
Specifically, Plaintiff alleges that Defendants unlawfully took accounts from its commission sales
representatives in violation of both the law and in violation of its contracts with the Class. The
Defendants have denied the allegations of the Plaintiff.

A tentative settlement of the case has been reached with ZEP. The settlement applies to all
members of the Settlement Class. The settlement represents a compromise and settlement of highly
disputed claims. Nothing in the settlement is intended to or should be construed as an admission by

1 Zep that Plaintiff's claims in the Lawsuit have merit or that Zep has any liability to Plaintiff or the
2 Class on those claims. Zep vigorously denies all of Plaintiff's material allegations. Specifically, Zep
denies that Plaintiff and the Class are owed any compensation of any kind.

3 Class Counsel represents the Plaintiffs and Class Members, including you. Class Counsel believe that
4 further proceedings in this case, including a trial and possible appeals, would be expensive and
5 protracted, and that that it is uncertain how various legal questions at issue would ultimately be
determined in the Lawsuit. Therefore, upon careful consideration of all of the facts and circumstances
of this case, Class Counsel believe that the proposed Settlement is fair, reasonable, and adequate.

6 **II. THE REASON YOU HAVE RECEIVED THIS NOTICE**

7
8 You have been identified as a member of the Settlement Class in this matter, defined as: "All
9 persons who work or worked for the Defendants as commission-only outside salespersons in the
10 United States of America, between the dates of May 7, 2014 and the present and who were responsible
11 for one or more of the accounts that were reassigned between April — September 2018 pursuant to the
12 "2018 New Account Policy". (Herein, the "Settlement Class"). Your rights will be affected because
the current Class Representative, Jeff Fuller, and ZEP ("the Parties") have tentatively settled the
lawsuit. Pursuant to that tentative settlement, the Court is considering the entry and final approval of
the settlement. By preliminary approval of the proposed settlement on [REDACTED], 2019, the
Court has preliminarily determined that this lawsuit could be settled against the Defendants.

13 You are hereby notified that:

- 14
- 15 1. A settlement of the claims of the Settlement Class has been proposed by Class Representative
Jeff Fuller, and Class Counsel, on the one hand, and ZEP and its counsel, on the other.
 - 16 2. The proposed Settlement has been submitted to the Court and has received preliminary
17 approval.
 - 18 3. You and any other persons in the Certified Class have the right to object to the proposed
19 settlement by following the procedures in Parts V of this notice.
 - 20 4. A hearing to finally approve the settlement is scheduled for [REDACTED], 2019 at
21 [REDACTED] A.M. in Courtroom 4 (____ Floor), at the United States Courthouse, located at
[REDACTED] San Francisco, California, before the Honorable Jeffrey S. White, U.S. District
22 Court Judge.

23 At the hearing, any member of the Settlement Class may appear and object to the proposed
24 settlement. However, no such person shall be heard at the hearing, and no papers or written briefs
25 shall be considered, unless the procedures set forth in Part V of this Notice have been followed. You
should read that part carefully. Certified Class members who do not make objections in the manner
provided in Part V of this Notice shall be deemed to have waived such objections.

26 This notice is not to be understood as an expression of any opinion by the Court as to the
27 merits of any claims or defenses asserted by any party in these lawsuits. This notice is sent for the sole
28 purpose of informing you of the pendency of this lawsuit and the terms of the proposed settlement so
that you may make appropriate decisions. In the event of any conflicts between this notice and the
Settlement Agreement, the terms of the Settlement Agreement shall govern. You may obtain a copy

of the Settlement Agreement by contacting Class Counsel, who are identified in Part VII below.

III. NATURE OF THE LAWSUIT

In this case, the Named Plaintiff alleges, *inter alia*, on behalf of himself and all others similarly situated, that Defendants violated contract and wage/hour laws, and the duty of good faith and fair dealing, with regard to the payment of commission and the taking of accounts from class members. Specifically, Plaintiff alleges that Defendants unlawfully took accounts from its commission sales representatives in violation of both the law and in violation of its contracts with the Class. The Defendants has denied the allegations of the Plaintiff.

The Plaintiffs and ZEP have tentatively settled this lawsuit. The Settlement has received preliminary approval of the Court, subject to notice being provided to the members of the Classes and final approval by the Court after a public hearing. This proposed settlement is described in the next section.

As a member of the Settlement Class, you will receive money from the proposed Settlement if the Court grants final approval unless you exclude yourself from the settlement. If the Settlement Agreement is approved you will be bound by its terms including the release of claims unless you exclude yourself from the settlement. If the proposed settlement is not approved, then the offer of settlement will be deemed withdrawn, and the case will proceed in Court as if no settlement had ever been made.

IV. SUMMARY OF THE RELIEF GRANTED BY THE PROPOSED SETTLEMENT AGREEMENT

For purposes of settlement, and without admitting any liability, ZEP has agreed to provide certain relief to persons in the Settlement Class in exchange for a release of claims. The following is only a summary of the relief contained in the proposed Settlement. In the event there are any conflicts between this Notice and the Settlement Agreement, the terms of the Settlement shall govern. For a copy of the proposed Settlement Agreement, you may contact Class Counsel, whose names, addresses, and telephone numbers are listed below in Part VII. The relief granted by the proposed Settlement Agreement is summarized as follows:

1. ZEP will pay the total sum (“Sum”) of One Million Five Hundred Thousand Dollars (\$1,500,000.00), less attorneys’ fees and costs awarded to Class Counsel, any enhancement awarded to the Class Representative Jeff Fuller, the costs of the appointed Claims Administrator, and a payment of \$15,000 to the California Labor Workforce and Development Agency (LWDA).
2. Out of the Sum, ZEP will pay reasonable attorneys’ fees in a maximum amount not to exceed \$525,000 (35% of the Sum) and actual costs incurred by Class Counsel (not to exceed \$20,000). All payments for attorneys’ fees and costs will be paid from the Sum, which will reduce any payments made to the Certified Class. Class Counsel will apply to the court for approval of their attorneys’ fees and costs at the hearing scheduled for [REDACTED], 2019 at [REDACTED] A.M.
3. Class Representative Jeff Fuller will apply to the Court at the hearing scheduled for [REDACTED], 2019 for an enhancement payment not to exceed \$35,000, in recognition of

1 the substantial time and efforts he has expended in this case on behalf of the Settlement Class.

2 4. The Settlement provides monetary compensation to Settlement Class members for commission
3 earnings, interest thereon, penalties, all as allowed under applicable law.

4 5. The Settlement further provides non-monetary benefits to the Settlement Class members, as
5 follows:

6 a. Account Residuals – “Rolled” Accounts. As further consideration for this settlement,
7 Defendants agree to pay each Settlement Class Member all commissions from the
8 “rolled” accounts (*i.e.*, all accounts reassigned to inside sales by ZEP during the Claims
9 Period pursuant to the New Account Policy), paid at 100% of the commission rate last
10 earned by the Settlement Class Member that was previously aligned with the account.
11 This payment at the 100% rate (the “Account Residuals”) shall continue from the date
12 of Final Approval, for five (5) years thereafter. After five years, the Account Residuals
13 shall thereafter be paid to the Settlement Class Member that was previously aligned
14 with the account at the rate of 50%. Any payment of Account Residuals to any
15 Settlement Class Member is subject to the continued employment of that Settlement
16 Class Member.

17 b. Account Protection and new Contract. As further consideration for this Settlement,
18 Defendants agree that the current active account policy (the 2018 90-Day/7.5% Active
19 Account Policy) is hereby immediately rescinded in its entirety. Defendants further
20 agree that for a period of three years (3) following the Final Settlement Approval,
21 Commissioned Sales Representatives (“CSRs”) will not have existing account locations
22 reassigned (except (i) as a result of service failure, (ii) specific direction by the
23 customer or (iii) specific direction by the existing account CSR). The current CSR will
24 continue to earn commission on these designated existing accounts at 100% of current
25 commission structures or 50% of current commission structure if participating in the
26 CSR-Inside Sales / Other Rep Collaboration (“Collaboration”) program. Following the
27 third anniversary of the Final Settlement Approval, Defendants agree that accounts may
28 only be reassigned from a Settlement Class Member in accordance with the “12 months
to pool” Settlement Account Policy as set forth in Addendum A to the Settlement
Agreement.

c. Implementation of New Sales Programs. As further consideration for this settlement,
Defendants agree to implement the following new programs: “Auto-Replenish,” “e-
Commerce,” and “Collaboration.” These programs are described more fully in the
Joint Stipulation of Settlement and addenda thereto.

d. Return of Seasonal Accounts, Equipment Accounts, or “Sister Company” Accounts.
Defendants agree to use their best efforts in good faith to permit the Settlement Class
Members to identify accounts that either need equipment as part of their orders, or
purchase on a seasonal basis. Further, Defendants agree to use their best efforts in
good faith to permit the Settlement Class Members to identify accounts that should be
aligned to them based on affiliated or “sister company” relationships. Defendants will
in good faith evaluate and “roll back” any account that fits any of these exceptions.

- 1 6. Any Settlement Class member has the right to object to the proposed settlement by following
2 the procedures set forth in Part V below.

3 Based upon the commission distribution formula that has been devised, there will be
4 substantial differences among Settlement Class members as to the amount each individual
5 participating Settlement Class member will receive the initial settlement payment. The formula
6 provides that each Settlement Class Member will receive a portion of the settlement fund in proportion
7 to the commissions earned on reassigned accounts that were previously aligned to each Settlement
8 Class Member. Monies paid pursuant to the Settlement are taxable; ZEP will make all lawful payroll
9 deductions from 50% of each Class Member's payment, while the remaining 50% will be paid without
10 payroll deductions.

11 **V. YOUR RIGHTS AS A MEMBER OF THE SETTLEMENT CLASS**

12 **A. TO OBTAIN YOUR SETTLEMENT PAYMENT**

13 This settlement is a non-reversionary settlement with no claims procedure. Therefore, Class
14 Members do not need to make a claim in order to obtain their share of the Settlement. If you are
15 satisfied with the proposed Settlement Agreement, you do not need to appear at the hearing at which
16 the Court will consider final approval of the Settlement Agreement.

17 **B. REQUESTING EXCLUSION FROM THE SETTLEMENT**

18 Any persons who do not wish to participate in the settlement may exclude themselves (*i.e.*,
19 "opt out") by submitting a written request for exclusion. The written request for exclusion must state
20 that the Class Member wishes to exclude himself or herself from the Settlement and must contain the
21 case name and number, (2) name, address, telephone number, and the last four digits of the Social
22 Security number and/or the Employee ID number of the person requesting exclusion; (3) a clear
23 statement that the person wishes to exclude himself or herself from the Settlement, and (4) the Class
24 Member's signature or the signature of his or her legal representative.

25 The request for exclusion must be returned to [admin co] by mail at the above-designated
26 address or by fax at the designated fax number no later than _____, 2019 [XX days after
27 mailing]. If submitting the request for exclusion by mail, it must be postmarked by _____,
28 2019 [XX days after mailing] and if submitting by fax, it must bear a fax stamp by the same date.

29 If the Court grants final approval of the Settlement, any person who submits a complete and
30 timely request for exclusion that is received by [admin co], shall be barred from participating in any
31 portion of the Settlement, and shall receive no benefits from the Settlement. Any such person, at their
32 own expense, may pursue any claims he or she may have against Zep.

33 **C. OBJECTING TO THE SETTLEMENT**

34 Class Member who do not opt out of the Settlement, and who believe that the Settlement is
35 unfair, may object to the Settlement. If you object to the proposed Settlement Agreement, you MUST
36 take the following steps. Your failure to do so will be deemed a waiver of your objections and will
37 result in a foreclosure of your right to make any objections to the Settlement, whether by appeal or
38 otherwise:

1 A. So that it is postmarked by [REDACTED], 2019, you MUST mail any objection by
first class postage the Court at United States District Court, Northern District of California,
2 [REDACTED].

3 B. You can ask the Court to deny approval by filing an objection. You can't ask the Court
to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies
4 approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you
5 want to happen, you must object. You may object to the proposed settlement in writing. You may also
6 appear at the Final Approval Hearing, either in person or through your own attorney. If you appear
through your own attorney, you are responsible for paying that attorney.

7 C. All written objections and supporting papers must (a) clearly identify the case name and
number (*Fuller v. ZEP Inc. et al.*, Case Number 4:18-cv-02672-JSW), (b) be submitted to the Court
8 either by mailing them to Class Action Clerk, United States District Court for the Northern District of
California, _____, CA _____, or by filing them in person at any location of the
9 United States District Court for the Northern District of California, and (c) be filed or postmarked on
10 or before [REDACTED], 2019.

11 **VI. EFFECT OF THE SETTLEMENT**

12 **A. RELEASED RIGHTS AND CLAIMS**

13
14 Upon the final approval by the Court of the Settlement, and except as to such rights or claims as
15 may be created by the Settlement Agreement, each Class Member who does not submit a valid and
16 timely request for exclusion (“Releasing Settlement Class Member”) agrees to release Defendants and
17 any and all of their respective subsidiaries, affiliates, predecessors or successors in interest, or the
18 officers, directors, shareholders, employees, attorneys, agents, assigns, insurers, re-insurers, of any of
19 them, on any basis whatsoever including but not limited to federal, state, or local law, that were
20 alleged in the Litigation or that could have been alleged in the Litigation based on the facts asserted in
21 the Operative Complaint, including but not limited to: 1) all claims concerning the reassignment of
accounts during the Settlement Period; 2) all claims for the breach of contract, and for any breach of
the duty of good faith and fair dealing; 3) all claims for the failure to pay commissions owed pursuant
to California or any similar state law in any state in which a Settlement Class Member resides,
including but not limited to attendant civil penalties pursuant to the *Labor Code* Private Attorneys’
General Act of 2004; and (4) unjust enrichment.

22 With respect to all claims which arise from, or are related to, the same facts alleged in the
Operative Complaint, all Settlement Class Members shall be deemed to have expressly waived and
23 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542
24 of the California Civil Code, or any other similar provision under federal or state law, which provides:

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

1 Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other
2 than or different from the facts now believed to be true, the release of claims contained herein shall be
3 effective as to all unknown claims, provided such unknown claims arise from or are related to the
4 same facts alleged in the Operative Complaint.

5 **B. PAYMENT TO CLASS MEMBERS WHO DO NOT OPT OUT**

6 Individual Settlement Payments will be issued to Class Members who do not opt out, only after the
7 Court grants final approval of the Settlement, in accordance with the terms of the Settlement
8 Agreement and Final Order. Currently, the Final Approval/Settlement Fairness Hearing is set for
9 [redacted], 2019, at [redacted] a.m./p.m.

10 **C. NO EFFECT ON EMPLOYEE BENEFITS**

11 Any payments made pursuant to this Settlement will not be considered in any calculations by Zep
12 for any additional benefits offered by Zep, including vacations, holiday pay, or employee welfare or
13 retirement plan benefits, including all nonqualified and equity compensation plans, further, settlement
14 payments will not represent any modification of any participating Class Member's previously credited
15 hours of eligibility or vesting service, compensation, or other eligibility or benefit determination
16 criteria under any employee retirement or welfare benefit plan sponsored by Zep, including all
17 nonqualified and equity compensation plans. Further, Zep will not consider settlement payments as
18 compensation for purposes of determining eligibility for or benefits under any employee retirement or
19 welfare benefit plans, including all nonqualified and equity compensation plans, or other plan
20 sponsored by Zep or its predecessor, subsidiaries, parent companies or successors.

21 **VII. CLASS COUNSEL**

22 If you have any questions concerning the proposed Settlement Agreement, or this Notice, you
23 may contact either of the following Class Counsel:

24 Alejandro P. Gutierrez, Esq.
25 Hathaway, Perrett, Webster, Powers, Chrisman,
26 and Gutierrez APC
27 5450 Telegraph Road, Suite 200
28 Ventura, California 93003
Ph: (805) (805) 644-7111
E: agutierrez@hathawaylawfirm.com

Daniel J. Palay, Esq.
Brian D. Hefelfinger, Esq
Palay Hefelfinger APC
1746 S. Victoria Avenue, Suite 230
Ventura, California 93003
Ph: (805) 628-8220
E: bdh@calemploymentcounsel.com

FINAL APPROVAL/SETTLEMENT FAIRNESS HEARING

The Court will hold a Final Approval/Settlement Fairness Hearing in Department ___ of the
United States District Court, Northern District of California, [redacted] [redacted]
[redacted] on [redacted], 2019, at [redacted] a.m./p.m. to determine whether the Settlement
should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve
the requests for Class Counsel's attorneys' fees, reimbursement of costs and expenses, payment to
[admin co.] for Settlement Administration Costs, and Service Awards to the Class Representatives.

The hearing may be continued without further notice to Class Members. It is not necessary for you to
appear at this hearing.

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**PLEASE DO NOT TELEPHONE OR CONTACT THE COURT OR
THE OFFICE OF THE CLERK FOR INFORMATION REGARDING
THIS SETTLEMENT OR THE CLAIM PROCESS.**

EXHIBIT A

1
2 **[name/ID#]**

3 ZEP’s records indicate that during the applicable time period (April 2018 through September 2018),
4 accounts that were previously assigned to you but were transferred to inside sales (the “Rolled
5 Accounts”) generated sales revenue of _____ and resulting commissions that you would
6 have earned of _____, during the settlement measuring period of March 2017 through
7 March 2019. A copy of the Rolled Accounts and related commission data has been provided to you.
8 If you disagree with the commission tabulation as set forth above, you must notify the Claims
9 Administrator in writing by the deadline of _____, 2019 and attach documentation
10 supporting your belief. Failure to provide this information and satisfactory supporting documentation
11 of the revenues or commissions you believe are attributable to your Rolled Accounts during the
12 applicable time period will result in any claim you submit being based solely on ZEP’s records.
13
14

ESTIMATED CLAIM AMOUNT

11 **Based on the available Rolled Account sales and commission data for the settlement measuring**
12 **period, your estimated settlement payment is \$ _____ (“Individual Settlement**
13 **Amount”).** This estimated amount is only an estimate. The actual amount of your Individual
14 Settlement Amount may increase or decrease based on several factors, including the final amounts
15 approved by the Court and disputes about accounts or commissions raised by other Class Members.
16 As a result you may receive a smaller, or larger, payment.

QUESTIONS

16 If you have questions, please call or write to CPT Group, Inc. at the telephone number and address
17 shown on page 1 above.
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EXHIBIT 2

TO JOINT STIPULATION OF SETTLEMENT

Fuller v. ZEP, Inc. et al. Case No.: 4:18-cv-02672-JSW

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EXHIBIT B

[name/ID#]

Dispute Form

Pursuant to the terms of the proposed settlement, you have the option to dispute the data used to calculate your Individual Settlement Amount within sixty (60) days. You are not required to submit this Dispute Form unless you dispute the data used to calculate your Individual Settlement Amount. CPT Group, Inc. has been provided with the sales and commission data for accounts reassigned pursuant to the 2018 New Account policy, for the period of March 2017 through March 2019. This data has been used to generate your *pro rata* Individual Settlement Amount in this matter.

If you believe in good faith that the reassigned account data used to generate your *pro rata* Individual Settlement Amount is incorrect, check the box below and submit this Dispute Form together with a brief, written explanation and any supporting documentation you may have. The Settlement Administrator will review your submission, together with management records, to determine whether an adjustment to the Individual Settlement Amount is necessary.

* * *

I have reviewed the Notice of Proposed Class Action Settlement and Fairness Hearing provided to me in the matter of *Fuller v. ZEP Inc., et al.* (N.D. Cal. Case No. 4:18-cv-02672-JSW), including the sales and commission data pertaining to my current and former accounts which was used to tabulate my Individual Settlement Amount.

_____ **I wish to dispute the basis for the Individual Settlement Amount. I am attaching hereto a brief explanation and relevant supporting documents.**

Signature

Print