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Attorneys for THE PEOPLE OF THE STATE OF
7 CALIFORNIA

FILED
Superior Court of California
County of Los Angeles
MAY 08 2016
Sherri R. Carter, Deputy Clerk
By Sally Fletcher, Deputy

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES

11
12 **STATE OF CALIFORNIA, ex. rel., SUSIE
KAPLAR,**

13 Plaintiff,

14 v.

15
16 **CALIFORNIA VIRTUAL ACADEMY @
LOS ANGELES, K12 INC. D/B/A/
17 DELAWARE K12 INC., and DOES 1
through 100, inclusive ,**

18 Defendants.
19

Case No. BC483914 [Under Seal]

**DECLARATION OF JAMES
ZAHRADKA**

Dept: 50
Judge: The Hon. Teresa A. Beaudet
Trial Date: None Set
Action Filed: May 2, 2012

20 I, James Zahradka, declare as follows:

21 1. I am a Deputy Attorney General with the California Department of Justice, Office of
22 the Attorney General. Except as otherwise stated, I have first-hand knowledge of the facts set
23 forth herein, and if called as a witness, I could and would competently testify thereto.

24 2. The complaint in this action was filed by the qui tam plaintiff on or about May 1,
25 2012. The complaint was filed under seal as required by the California False Claims Act (Gov.
26 Code, § 12652, subd. (c)(2)).

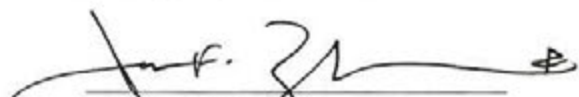
27 3. On July 8, 2016, concurrently with this declaration, the Attorney General's Office is
28 filing its Notice of Intent to Intervene for the purpose of settling this action.

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4. Attached as Exhibit A is a true and correct copy of the executed Settlement Agreement.

5. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 8th day of July, 2016 at Los Angeles, California



JAMES ZAHRADKA
Deputy Attorney General

SA2012305067

SETTLEMENT AGREEMENT AND RELEASE

I. PARTIES

This Settlement Agreement and Release (“Settlement Agreement”) is entered into by the People of the State of California, acting through the California Department of Justice, Office of the Attorney General (“AGO”); *Qui Tam* Plaintiff Susie Kaplar (“*Qui Tam* Plaintiff”); and K12 Inc. (“K12”) and the California Virtual Academies (hereafter collectively referred to as “CAVA” or the “CAVA Schools”)¹, through their authorized representatives (hereafter collectively referred to as the “Parties”).

II. PREAMBLE

A. On May 1, 2012, the *Qui Tam* Plaintiff filed a *qui tam* action under seal in Los Angeles County Superior Court, captioned *State of California ex rel. Kaplar v. California Virtual Academy @ Los Angeles, K12 Inc. D/B/A Delaware K12 Inc., and Does 1 through 100, inclusive*, court case number BC483914 (“Litigation”). In the under seal Litigation, the *Qui Tam* Plaintiff asserted causes of action under the California False Claims Act (Cal. Gov’t Code §§ 12650 *et seq.*). The *Qui Tam* Plaintiff alleged that K12 and the CAVA Schools violated the False Claims Act by submitting inflated claims for attendance funding to the State and dismissing the *Qui Tam* Plaintiff from her employment.

B. The AGO, which received a copy of the *Qui Tam* Plaintiff’s under seal complaint, investigated K12’s and the CAVA Schools’ attendance practices (the “Investigation”).

C. During the Investigation, the AGO reviewed, among other things, K12’s and the CAVA Schools’ reporting and submission of attendance and attendance-related figures to the State for purposes of obtaining State funding, and any associated tracking, recording, accounting, claiming, reporting, or training relating to attendance and attendance-related funding from the State; K12’s or CAVA’s preparation and submission of Funding Determination Forms to the State; and K12’s and the CAVA schools’ eligibility to obtain State funding based upon the

¹ The CAVA Schools include CAVA @ Fresno, CAVA @ Jamestown, CAVA @ at Kings, CAVA @ Los Angeles, CAVA @ Maricopa, CAVA High School @ Maricopa, CAVA @ San Diego, CAVA @ San Joaquin, CAVA @ San Mateo, CAVA @ Sonoma, CAVA @ Sutter, Insight @ San Joaquin, Insight @ San Diego, and iQ Academy – Los Angeles.

submission of "Average Daily Attendance" (hereafter collectively referred to as the "Covered Conduct").²

D. K12 and the CAVA Schools deny any and all liability and wrongdoing. K12 and the CAVA Schools believe that their conduct was at all times lawful and in compliance with applicable statutory and regulatory requirements and in the best interest of their students and their families.

E. This Settlement Agreement shall constitute neither an admission of liability by K12 or the CAVA Schools nor a concession by the AGO or the *Qui Tam* Plaintiff that any part of the *Qui Tam* Plaintiff's Complaint or the Investigation lacks merit. This Settlement Agreement does not constitute or contain any statement or interpretation of law or finding of fact. This Settlement Agreement is not intended to be used to form the basis of any disqualification of K12 or the CAVA Schools from state or federal funding. Neither this Settlement Agreement nor any payment hereunder may be used as evidence of any liability of any sort regarding K12 or the CAVA Schools. To the extent permitted by law, all communications relating to the negotiations of this Settlement Agreement shall remain confidential. No one other than a Party to this Settlement Agreement is intended to receive any right or benefit under it or to have standing to enforce any of its provisions.

III. TERMS AND CONDITIONS

Now, therefore, in reliance on the representations contained herein and in consideration of the mutual promises, covenants, and obligations set forth in this Settlement Agreement, and for good and valuable consideration as stated herein, the Parties agree as follows:

A. K12 agrees to pay, within thirty (30) business days after the Effective Date of this Settlement Agreement (as defined in Section III.R.), a total sum of \$2.5 million (\$2,500,000) in settlement of all claims to be released by the People of the State of California and \$ 8 0 , 0 0 0

² The effectiveness of this Settlement Agreement is contingent upon the entry of the final judgment in settlement of a matter stemming from an investigation of K12 by the California Department of Justice's Bureau of Children's Justice. If that Judgment is not entered, this Settlement Agreement is null and void.

in settlement of all additional claims to be released by the *Qui Tam* Plaintiff under this Settlement Agreement (the “Settlement Amount”).

1. K12 shall pay the \$2.5 million (\$2,500,000) to the AGO by electronic funds transfer pursuant to the written instructions provided in Appendix A. The AGO and the *Qui Tam* Plaintiff shall resolve the *Qui Tam* Plaintiff’s share of the AGO’s recovery pursuant to Government Code Section 12652(g)(3) separately and outside of this Settlement Agreement. All Parties agree that the issue of the *Qui Tam* Plaintiff’s share shall not preclude entry of this Settlement Agreement, enforcement of it, or the mutual releases contained herein. Rather, the issue of the *Qui Tam* Plaintiff’s share is entirely a matter to be handled between the AGO and the *Qui Tam* Plaintiff, with motion practice before the Court if necessary.

2. K12 shall pay, within thirty (30) business days after the Effective Date of this Settlement Agreement, attorneys fees and costs in the amount of \$30,000 to *Qui Tam* Plaintiff.

3. K12 shall pay, within thirty (30) business days after the Effective Date of this Settlement Agreement, to *Qui Tam* Plaintiff \$50,000 in release of her employment related claims in the Litigation.

4. All Parties agree that this Settlement Agreement constitutes a full and complete resolution of the Litigation and Investigation, and waive any further requests for interest, expenses, costs, or attorneys’ fees among or between them arising out of the Litigation or Investigation.

B. Subject to the exceptions in Section III.E. below, conditioned upon K12’s full payment of the Settlement Amount, the People of the State of California hereby release, discharge, and covenant not to sue K12 and the CAVA Schools, together with their current and former directors, officers, employees, shareholders, parents, partners, agents, transferees, predecessors in interest, successors in interest, subsidiaries, affiliates, and assigns with respect to any and all civil claims the People of the State of California have or may have related to the Covered Conduct under any law or legal or equitable theory, including but not limited to the California False Claims Act (Cal. Gov’t Code §§ 12650 *et seq.*), Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200 *et seq.*), False Advertising Law (Cal. Bus. & Prof. Code §§ 17500 *et*

seq.), Securities Laws, or any other statute or regulation, and including but not limited to the common law theories of payment by mistake, mistaken receipt, unjust enrichment, negligent misrepresentation, intentional misrepresentation, breach of contract, or fraud.

C. Conditioned upon K12's full payment of the Settlement Amount and CAVA's commitments herein:

1. The *Qui Tam* Plaintiff and her attorney(s) hereby covenant not to sue and release K12 and the CAVA Schools, together with their current and former directors, officers, employees, shareholders, parents, partners, agents, transferees, predecessors in interest, successors in interest, subsidiaries, affiliates, and assigns from any and all claims, rights, demands, suits, matters, issues, actions or causes of action, liabilities, damages, losses, obligations, and judgments of any kind, including any related to any allegations in the *Qui Tam* Plaintiff's Complaint or the Covered Conduct, from the beginning of time through the Effective Date of this Settlement Agreement, whether known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, matured or unmatured, for damages, injunctive relief, or any other remedy against K12 and the CAVA Schools.

2. Notwithstanding any term of this Settlement Agreement, the *Qui Tam* Plaintiff does not release K12 and the CAVA Schools for any breach of this Settlement Agreement, or for any fraud in its inducement.

D. The *Qui Tam* Plaintiff acknowledges that she has been advised by her attorney(s) of the contents and effect of Section 1542 of the California Civil Code ("Section 1542"), which reads:

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

As a condition of this Settlement Agreement, with full awareness and understanding of Section 1542, the *Qui Tam* Plaintiff hereby expressly waives with respect to this Settlement Agreement

any and all provisions, rights, and benefits conferred on her by Section 1542 (or any analogous state law or federal law or regulation).

E. Notwithstanding any term of this Settlement Agreement, the People of the State of California specifically do not release any person or entity from, or renounce any action or remedy for, the following claims or liabilities:

1. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code), or California's Taxation and Revenue Code.

2. Any liability to the State of California (or its agencies) for any conduct other than that released above.

3. Any liability, other than related to the Covered Conduct, for express or implied warranty claims or other claims for defective or deficient products or services, including, but not limited to, quality of goods and services.

4. Any liability, other than related to the Covered Conduct, for failure to deliver goods or services due or to pay for goods and services.

5. Any liability for breach of this Settlement Agreement or fraud in its inducement.

F. This Settlement Agreement does not release or bar any rights or causes of action arising from the Covered Conduct belonging to any state agency other than the Attorney General, whether or not in the name of the People of the State of California, including but not limited to the California State Controller's Office, the California Department of Education, or the State Board of Education.

G. Except as expressly provided to the contrary in this Settlement Agreement, each Party shall bear its own legal and other costs and expenses incurred in connection with this matter, the Investigation, and the Litigation, including the preparation and performance of this Settlement Agreement. Without limitation, K12 and the CAVA Schools will not attempt to recoup any such costs or expenses from the AGO or the *Qui Tam* Plaintiff.

H. The AGO and the *Qui Tam* Plaintiff shall, within five business days following receipt of payment of the Settlement Amount set forth in Section III.A. above, dismiss the Litigation with prejudice. The AGO and the *Qui Tam* Plaintiff agree to take all steps to obtain any court-needed approval of dismissal. If complete dismissal is not achieved within 60 days of the Effective Date, K12 and the CAVA schools may demand repayment of the Settlement Amount, which shall not be withheld by the AGO and The *Qui Tam* Plaintiff, and will have the option of terminating this agreement or obtaining an alternative resolution with the AGO and *Qui Tam* Plaintiff.

I. K12 and the CAVA Schools represent that this Settlement Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

J. The AGO and the *Qui Tam* Plaintiff represent that this Settlement Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

K. This Settlement Agreement is governed by the laws of the State of California.

L. For purposes of construction, this Settlement Agreement shall be deemed to have been drafted by all Parties to this Settlement Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

M. This Settlement Agreement constitutes the complete agreement between the Parties in resolving the Litigation with prejudice. This Settlement Agreement may not be amended except by written consent of the Parties.

N. The individuals signing this Settlement Agreement on behalf of K12 and the CAVA Schools represent and warrant that they are authorized by K12 and the CAVA Schools to execute this Settlement Agreement. The State signatories represent that they are signing this Settlement Agreement in their official capacities and that they are authorized to execute this Settlement Agreement.

O. This Settlement Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Settlement Agreement.

P. This Settlement Agreement is binding on K12's and the CAVA Schools' successors, transferees, heirs, and assigns.

Q. This Settlement Agreement is binding on the *Qui Tam* Plaintiff's successors, transferees, heirs, and assigns.

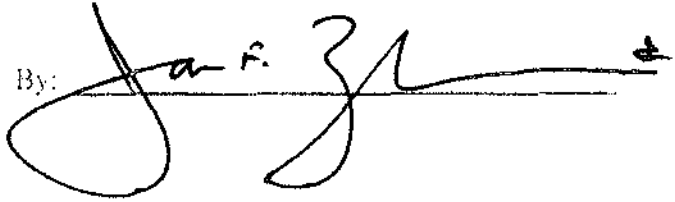
R. This Settlement Agreement is effective on the date of signature of the last signatory to this Settlement Agreement (the "Effective Date"). Facsimiles and other images of signatures, including electronically transmitted signatures provided via email, shall constitute acceptable, binding signatures for purposes of this Settlement Agreement.

[SIGNATURES ON NEXT PAGE]

PEOPLE OF THE STATE OF CALIFORNIA

Kamala D. Harris
Attorney General of the State of California

Dated: July 8, 2016

By: 

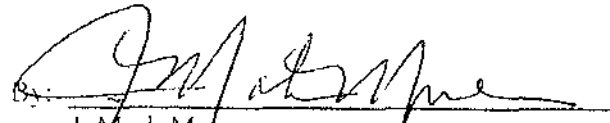
QUI TAM PLAINTIFF

Dated: _____, 2016

By: _____
Susie Kaplar

Approved as to Form:

Dated: July 8, 2016

By: 
J. Mark Moore
Law Offices of J. Mark Moore
Counsel for *Qui Tam* Plaintiff

PEOPLE OF THE STATE OF CALIFORNIA

Kamala D. Harris
Attorney General of the State of California

Dated: _____, 2016

By: _____

QUI TAM PLAINTIFF

Dated: July 8, 2016

By: Susan D. Kaplan
Susie Kaplan

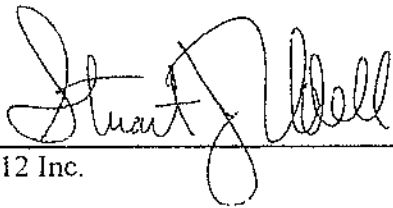
Approved as to Form:

Dated: _____, 2016

By: _____
J. Mark Moore
Law Offices of J. Mark Moore
Counsel for *Qui Tam* Plaintiff

K12 DEFENDANTS

Dated: July 8, 2016

By: 
K12 Inc.

Approved as to Form:

Dated: _____, 2016

By: _____
Timothy J. Hatch
Gibson, Dunn & Crutcher LLP
Counsel to K12 Inc.

Dated: _____, 2016

By: _____
Peter Wald
Latham & Watkins LLP
Counsel to K12 Inc.

CAVA DEFENDANTS

Dated: _____, 2016

By: _____
CAVA @ Fresno

Dated: _____, 2016

By: _____
CAVA @ Jamestown

Dated: _____, 2016

By: _____
CAVA @ Kings

Dated: _____, 2016

By: _____
CAVA @ Los Angeles

Dated: _____, 2016

By: _____
CAVA @ Maricopa

K12 DEFENDANTS

Dated: _____, 2016

By: _____
K12 Inc.

Approved as to Form:

Dated: _____, 2016

By: _____
Timothy J. Hatch
Gibson, Dunn & Crutcher LLP
Counsel to K12 Inc.

Dated: _____, 2016

By: _____
Peter Wald
Latham & Watkins LLP
Counsel to K12 Inc.

CAVA DEFENDANTS

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CAVA @ Kings

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CAVA @ Los Angeles

Dated: _____, 2016

By: _____
CAVA @ Maricopa

K12 DEFENDANTS

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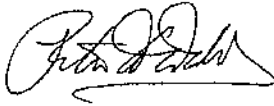
By: _____
K12 Inc.

Approved as to Form:

Dated: _____, 2016

By: _____
Timothy J. Hatch
Gibson, Dunn & Crutcher LLP
Counsel to K12 Inc.

Dated: July 8, 2016

By: 
Peter Wald
Latham & Watkins LLP
Counsel to K12 Inc.

CAVA DEFENDANTS

Dated: _____, 2016

By: _____
CAVA @ Fresno

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CAVA @ Jamestown

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CAVA @ Kings

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CAVA @ Los Angeles

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CAVA @ Maricopa

DEFENDANTS

Dated: _____, 2016

By: _____
K12 Inc.

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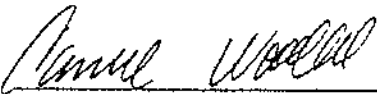
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By: _____
Timothy J. Hatch
Gibson, Dunn & Crutcher LLP
Counsel to K12 Inc

Dated: _____, 2016

By: _____
Peter Wald
Latham & Watkins LLP
Counsel to K12 Inc.

Dated: 7-7, 2016

By:  _____
CAVA at Fresno

Dated: _____, 2016

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CAVA at Jamestown

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CAVA at Kings

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By: _____
CAVA at Los Angeles

Dated: _____, 2016

By: _____
CAVA at Maricopa

DEFENDANTS

Dated: _____, 2016

By: _____
K12 Inc.

Approved as to Form:

Dated: _____, 2016

By: _____
Timothy J. Hatch
Gibson, Dunn & Crutcher LLP
Counsel to K12 Inc.

Dated: _____, 2016

By: _____
Peter Wald
Latham & Watkins LLP
Counsel to K12 Inc.

Dated: _____, 2016

By: _____
CAVA @ Fresno

Dated: July 7th, 2016

By: Debra J. Doran
CAVA @ Jamestown

Dated: _____, 2016

By: _____
CAVA @ Kings

Dated: _____, 2016

By: _____
CAVA @ Los Angeles

Dated: _____, 2016

By: _____
CAVA @ Maricopa

DEFENDANTS

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By: _____
K12 Inc.

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By: _____
Timothy J. Hatch
Gibson, Dunn & Crutcher LLP
Counsel to K12 Inc.

Dated: _____, 2016

By: _____
Peter Wald
Latham & Watkins LLP
Counsel to K12 Inc.

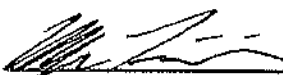
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CAVA @ Jamestown

Dated: JULY 7TH, 2016

By:  _____
CAVA @ Kings

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By: _____
CAVA @ Los Angeles

Dated: _____, 2016

By: _____
CAVA @ Maricopa

DEFENDANTS

Dated: _____, 2016

By: _____
K12 Inc.

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Dated: _____, 2016

By: _____
Timothy J. Hatch
Gibson, Dunn & Crutcher LLP
Counsel to K12 Inc.

Dated: _____, 2016

By: _____
Peter Wald
Latham & Watkins LLP
Counsel to K12 Inc.

Dated: _____, 2016

By: _____
CAVA @ Fresno

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CAVA @ Jamestown

Dated: _____, 2016

By: _____
CAVA @ Kings

Dated: 7/7, 2016

By: *Lisa Swell*
CAVA @ Los Angeles

Dated: _____, 2016

By: _____
CAVA @ Maricopa

DEFENDANTS

Dated: _____, 2016

By: _____
K12 Inc.

Approved as to Form:

Dated: _____, 2016

By: _____
Timothy J. Hatch
Gibson, Dunn & Crutcher LLP
Counsel to K12 Inc.

Dated: _____, 2016

By: _____
Peter Wald
Latham & Watkins LLP
Counsel to K12 Inc.

Dated: _____, 2016

By: _____
CAVA @ Fresno

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By: _____
CAVA @ Jamestown

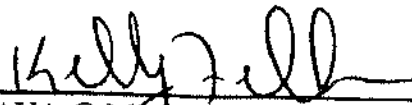
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By: _____
CAVA @ Los Angeles

Dated: July 07, 2016

By: 
CAVA @ Maricopa

Dated: July 07, 2016

By: Kelly Full
CAVA High School @ Maricopa

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CAVA @ San Diego

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Insight @ San Joaquin

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Insight @ San Diego

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By: _____
iQ Academy – Los Angeles

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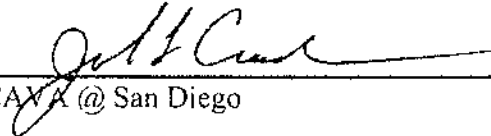
Dated: _____, 2016

By: _____
Young, Minney & Corr LLP
Counsel to California Virtual Academies,
Insight @ San Joaquin, Insight @ San Diego,
iQ Academy – Los Angeles

Dated: _____, 2016

By: _____
CAVA High School @ Maricopa

Dated: 7/7, 2016

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CAVA @ San Diego

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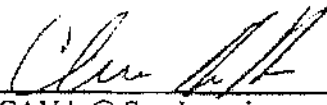
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By: _____
CAVA High School @ Maricopa

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By: _____
CAVA @ San Diego

Dated: 7-7-16, 2016

By:  _____
CAVA @ San Joaquin

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CAVA @ San Mateo

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CAVA @ Sutter

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By: _____
Insight @ San Diego

Dated: _____, 2016

By: _____
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By: _____
Young, Minney & Corr LLP
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Insight @ San Joaquin, Insight @ San Diego,
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CAVA @ San Joaquin

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By: _____
CAVA @ San Diego

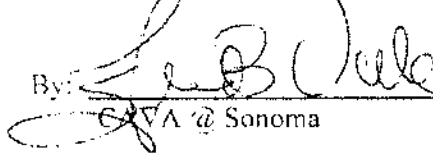
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CAVA @ San Joaquin

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CAVA @ San Mateo

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CAVA @ Sonoma

Dated: _____, 2016

By: _____
CAVA @ Sutter

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By: _____
Insight @ San Diego

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iQ Academy – Los Angeles

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Dated: _____, 2016

By: _____
Young, Minney & Corr L.L.P.
Counsel to California Virtual Academies,
Insight @ San Joaquin, Insight @ San Diego,
iQ Academy – Los Angeles

Dated: _____, 2016

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CAVA High School @ Maricopa

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CAVA @ San Joaquin

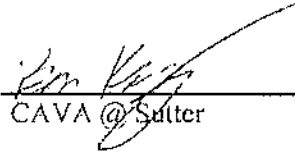
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By: _____
CAVA @ San Mateo

Dated: _____, 2016

By: _____
CAVA @ Sonoma

Dated: 07/07, 2016

By: 
CAVA @ Salter

Dated: _____, 2016

By: _____
Insight @ San Joaquin

Dated: _____, 2016

By: _____
Insight @ San Diego

Dated: _____, 2016

By: _____
iQ Academy – Los Angeles

Approved as to Form:

Dated: _____, 2016

By: _____
Young, Minney & Corr LLP
Counsel to California Virtual Academies,
Insight @ San Joaquin, Insight @ San Diego,
iQ Academy – Los Angeles

Dated: _____, 2016

By: _____
CAVA High School @ Maricopa

Dated: _____, 2016

By: _____
CAVA @ San Diego

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CAVA @ San Joaquin

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CAVA @ San Mateo

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CAVA @ Sonoma

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CAVA @ Sutter

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Insight @ San Joaquin

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Insight @ San Diego

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iQ Academy – Los Angeles

Approved as to Form:

Dated: July 8, 2016

By: 

Young, Minney & Corr LLP
Counsel to California Virtual Academies,
Insight @ San Joaquin, Insight @ San Diego,
iQ Academy – Los Angeles

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Insight @ San Joaquin

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Insight @ San Diego

Dated: July 8, 2016

By: Julie A. Mendoza
iQ Academy – Los Angeles

Approved as to Form:

Dated: _____, 2016

By: _____
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Insight @ San Joaquin, Insight @ San Diego,
iQ Academy – Los Angeles

THE STATE OF CALIFORNIA

Kamala D. Harris
Attorney General of the State of California

Dated: _____, 2016

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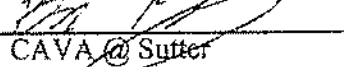
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By: _____
CAVA @ San Mateo

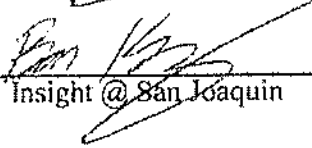
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CAVA @ Sonoma

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CAVA @ Sutter

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Insight @ San Diego

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iQ Academy – Los Angeles

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Kamala D. Harris
Attorney General of the State of California

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CAVA @ San Mateo

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CAVA @ Sonoma

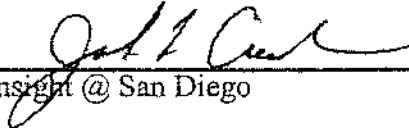
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