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7 Attorneys for Plaintiff Erick Shepherd

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
10

11 ERICK SHEPERD, individually,
and on behalf of all others similarly situated,

12
13 Plaintiff,

14 vs.

15 TRI-STAR ELECTRONICS
INTERNATIONAL, INC., a Delaware
corporation; CARLISLE INTERCONNECT
16 TECHNOLOGIES, INC., a Delaware
corporation; and DOES 1 through 10, inclusive,
17

18 Defendants.
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Case No.: 20STCV42333

Assigned for All Purposes to the Honorable
Kenneth R. Freeman, Department 14

PAGA REPRESENTATIVE ACTION

**SETTLEMENT AGREEMENT AND
RELEASE OF PLAINTIFF'S PAGA CLAIM**

Action Filed: November 4, 2020

Trial Date: Not Set

SETTLEMENT AGREEMENT AND RELEASE OF PLAINTIFF'S PAGA CLAIM

Plaintiff Erick Shepherd ("Plaintiff"), individually and in his capacity as an authorized representative of the State of California, and Defendants Tri-Star Electronics, Inc. and Carlisle Interconnect Technologies, Inc. ("Defendants") (Plaintiff and Defendants together are referred to as the "Parties"), hereby enter into this Settlement Agreement and Release of Plaintiff's Private Attorneys General Act of 2004 Claim ("Settlement") as follows:

DEFINITIONS

As used in this Settlement, the following terms shall have the following meanings:

1. "Action" shall mean the civil action entitled *Erick Shepherd v. Tri-Star Electronics International, Inc. and Carlisle Interconnect Technologies, Inc.*, Case No. 20STCV42333, which is currently pending in the Los Angeles County Superior Court of the State of California.

2. "Settled Claim" This Settlement is a settlement of only Plaintiff's PAGA claim identified in Plaintiff's PAGA notice letter, dated November 2, 2020 ("Settled Claim").

3. The terms "Agreement," "Settlement," and "Settlement Agreement" mean this Settlement Agreement and Release of Plaintiff's PAGA Claim, which the Parties acknowledge sets forth all material terms and conditions of the Settlement between them, and which is subject to Court approval pursuant to Section 2699(1) of the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*

4. "Court" means the California Superior Court, County of Los Angeles.

5. "Plaintiff" means Plaintiff Erick Shepherd, on behalf of himself and as a private attorney general representative of the State of California.

6. "PAGA Settlement Member" or "Aggrieved Employee" means Plaintiff.

7. "Defendants" mean Tri-Star Electronics, Inc. and Carlisle Interconnect Technologies, Inc.

8. "Effective Date" refers to the date upon which the following have occurred: thirty (30) days of the Court's judgment or dismissal of the Action.

9. "PAGA Period" shall mean November 4, 2019 through the date the Court grants approval of this settlement.

10. **"Settlement Amount"** means a maximum total of \$10,000.00, which includes all payments owing as a result of this Agreement and includes: Attorneys' Fees, Attorneys' litigation costs and expenses, LWDA Payment, and Payment to Plaintiff.

11. **"Counsel's Portion"** means the sum of Plaintiff's Attorneys' Fees and Attorneys' litigation costs and expenses related to the Action.

12. **"PAGA Portion"** is the Settlement Amount less Counsel's Portion. PAGA Portion shall not exceed \$1,700, and it is allocated 25% to Plaintiff and 75% to the LWDA Payment.

13. **"LWDA Payment"** means a payment to the California Labor Workforce and Development Agency in an amount equal to 75% of the PAGA Portion.

14. **"PAGA Aggrieved Employee Payment"** means a payment of 25% of the PAGA Portion to Plaintiff as the Aggrieved Employee.

15. **"LWDA"** means the California Labor Workforce and Development Agency.

16. **"PAGA Claim"** means any claim for civil penalties under the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code sections 2698 *et seq.*, "PAGA") that was alleged or could have been alleged by Plaintiff in the Action, including but not limited to the claims stated in Plaintiff's November 2, 2020 notice letter to the LWDA relating to Plaintiff only as an Aggrieved Employee and the claims stated in the Action.

RECITALS

17. On November 2, 2020, Plaintiff sent a PAGA Notice to the Labor Workforce and Development Agency ("LWDA"), with a copy to Defendants. On November 4, 2020, Plaintiff filed a Class Action Complaint in the Superior Court of the State of California, County of Los Angeles in a case styled *Erick Shepherd v. Tri-Star Electronics International, Inc. and Carlisle Interconnect Technologies, Inc.*, Case No. 20STCV42333.

18. On February 15, 2021, Counsel for Defendants provided a copy of a Severance Agreement that Plaintiff entered at the end of his employment with Defendants. After review and consideration, Plaintiff dismissed his individual and class claims and proceeded with a representative action under PAGA as the state's authorized representative.

19. On September 2, 2021, Plaintiff filed a First Amended Complaint consisting of a

1 standalone PAGA cause of action in the Action, and Plaintiff requested dismissal of his individual
2 and class claims without prejudice.

3 20. On October 5, 2021, Defendants filed a Demurrer to Plaintiff's First Amended
4 Complaint, arguing that Plaintiff's PAGA cause of action is barred by the Severance Agreement
5 signed by Plaintiff.

6 21. On February 9, 2022, the Court overruled Defendants' Demurrer in its entirety.
7 Applying the California Supreme Court's holding in *Kim v. Reins International California, Inc.*
8 (2020), 9 Cal.5th 73., and its interpretation of the PAGA's statutory language and purpose, the Court
9 found Plaintiff's release of his individual claims does not preclude him from bringing the PAGA
10 Claim as a private attorney general.

11 22. On April 5, 2022, Defendants filed for writ of mandate before the Court of Appeal
12 of the State of California, Second Appellate District, Division Eight, which was accepted on April
13 29, 2022. Plaintiff was also instructed to file a preliminary opposition to the writ.

14 23. On June 15, 2022, the Supreme Court of the United States' issued its decision in
15 *Viking River Cruises v. Moriana*, holding that the Federal Arbitration Act preempts a rule of
16 California law that invalidates contractual waivers of the right to assert representative claims under
17 the Private Attorneys General Act (PAGA) in any forum. *Viking River Cruises v. Moriana*, 142
18 S.Ct. 1906, (2022) ("Viking River"). Viking River further holds that PAGA provides no mechanism
19 to enable a court to adjudicate non-individual PAGA claims once the individual PAGA claim (*i.e.*
20 any claim for PAGA penalties that arise out of, or are related to any Labor Code claim allegedly
21 suffered by a plaintiff) is not a viable claim in state Court. Due to these developments, Plaintiff did
22 not wish to continue with the appeal and agreed to settle his own PAGA Claim with Defendants.

23 24. The Parties believe that the Settlement is fair, reasonable, and adequate. The Parties
24 understand, acknowledge, and agree that this Settlement Agreement constitutes a settlement of only
25 Plaintiff's PAGA Claim, and that it is the desire and intention of the Parties to effect a final and
26 complete resolution of the PAGA Claim (and any other claim for penalties under PAGA) that
27 Plaintiff has or may assert against Defendants or any Released Parties, as that term is defined herein.

28 25. The Parties enter into this Settlement Agreement on a conditional basis. In the event

the Court does not enter a Final Order and Judgment as defined in this Settlement Agreement, this Settlement Agreement will be deemed null and void *ab initio* and will be of no force or effect whatsoever, and will not be referred to or utilized for any purpose whatsoever.

26. Defendants denied, and continue to deny, each and every claim and contention alleged in the Action, and have always maintained that they never engaged in any unlawful acts regarding any of the matters alleged in the Action.

27. Defendants deny all of the claims in the Action, and do not waive, but rather expressly reserve, all rights to challenge all such claims and allegations upon all legal, procedural and factual grounds should this Settlement Agreement not become final. This Settlement Agreement reflects a compromise reached to end litigation.

28. The Parties stipulate and agree to the following terms of this Settlement Agreement with the intent that this Agreement finally disposes Plaintiff's PAGA Claim with prejudice.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and conditions set forth, the Parties agree as follows:

TERMS AND CONDITIONS

Settlement Payments and Calculation of Claims. The following table summarizes the allocation of the Settlement Amount:

The Settlement Amount of \$10,000 Is Broken Down As Follows:

- Counsel's Portion:
 - Attorneys' Fees not to exceed 40% (or \$4,000.00), to be paid by check made payable to Moon & Yang, ACP, for which an IRS Form 1099 will be issued. Plaintiff's counsel shall provide Defendants' counsel with a completed W-9 form before this payment will be issued; and
 - Attorneys' litigation costs and expenses in the amount of \$4,300, to be paid by check made payable to Moon & Yang, ACP, for which an IRS Form 1099 will be issued. Plaintiff's counsel shall provide Defendants' counsel with a completed W-9 before this payment will be issued.
- After the deductions of Counsel's Portion, the remaining (not to exceed \$1,700.00) is the PAGA Portion, which is allocated as follows:
 - 25% of the PAGA Portion to the Plaintiff, to be paid by check made payable to Erick Shepherd, to be characterized as damages and penalties in settlement of Plaintiff's PAGA Claim, for which an IRS Form 1099 will be issued. Plaintiff shall provide Defendants' counsel with a completed W-9 form before this payment will be issued.
 - 75% of the PAGA Portion to the LWDA, to be paid by check.

29. Subject to final Court approval and the conditions specified in this Agreement, and in consideration of the mutual covenants and promises set forth in this Agreement, Defendants agree to pay the Settlement Amount of \$10,000.00. The Settlement Amount includes Attorneys' Fees, Attorneys' litigation costs and expenses, LWDA Payment, and payment to Plaintiff. Plaintiff will seek, and Defendants shall not oppose, the payment of: Counsel's Portion, as specified herein. After these deductions, the remaining (the "PAGA Portion") shall be allocated 25% to Plaintiff, and 75% to the LWDA. The PAGA Portion shall not exceed \$1,700.00. The payment to Plaintiff represents a settlement of disputed claims allocated entirely civil penalties. To the extent that the sum of Counsel's Portion approved by the Court and the PAGA Portion is less than the Settlement Amount, the Settlement Amount shall be reduced. The sum awarded by the Court to Counsel's Portion is not a material term of this agreement, and any reduction by the Court of the amounts requested shall not constitute a basis to abrogate this Agreement. Plaintiff agrees to waive any right to appeal the Court's order approving the Settlement Amount, dismissing the Action, or entering final judgment.

30. Settlement Payment: The payment of the Settlement Amount shall be delivered to Plaintiff's attorneys' office at 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017, within thirty (30) days of the Court approval of the Settlement.

31. Attorneys' Fees: Defendants agree not to oppose an Attorneys' Fees request up to 40% (\$4,000.00) of the Settlement Amount. Defendants also agree not to oppose reasonable Attorneys' litigation costs and expenses in an amount as documented by Plaintiff's counsel's billing statements.

32. Release of Claims.

Upon Court approval of the Settlement, payment by Defendants of all funds due, and the entry of Final Judgment, Plaintiff on behalf of himself as an Aggrieved Employee and as a private attorney general representative of the State of California will fully and finally release and discharge Defendants and their former, present and future owners, parents, subsidiaries, affiliates, predecessors, successors and any other entity related to them, and all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, legal

1 representatives and anyone else acting for them (“Released Parties”) from all claims, rights,
2 demands, liabilities and causes of action for civil penalties under PAGA, based on acts or omissions
3 alleged or that could have been alleged in the Action, known or unknown, suspected or unsuspected,
4 irrespective of theory of recovery; this release includes but is not limited to all claims based on the
5 facts alleged (or that could have been alleged) in the Action, including the facts, legal theories and
6 allegations in the operative complaint in the Action and Plaintiff’s pre-filing notice to the LWDA
7 for civil penalties for himself as an alleged Aggrieved Employee, and any related attorneys’ fees,
8 costs, or interest, that arise out of, or are related to Plaintiff’s employment with Defendants
9 (“Released Claims”).

10 33. **Covenant Not To Sue.**

11 A “covenant not to sue” means you promise not to sue any Releasee in court either in
12 Plaintiff’s individual capacity or as part of a representative or collective action. This is different
13 from the Release of the Released Claims above. Besides releasing claims covered by the Release
14 of the Released Claims above, Plaintiff promises not to pursue or participate in the arbitration,
15 litigation, or resolution of any Private Attorneys General Act (“PAGA”) claim allegedly suffered
16 by Plaintiff, or any other individual, against Defendants or any Releasee. Plaintiff also agrees that,
17 by entering into this Agreement, he is not an “aggrieved employee” and has no standing to pursue
18 or obtain individual relief (*i.e.* any claim for PAGA penalties that arise out of, or are related to any
19 Labor Code claim allegedly suffered by Plaintiff) or representative relief (*i.e.* any claim for PAGA
20 penalties that arise out of, or are related to any Labor Code claim allegedly suffered by another
21 person) against Defendant or any Releasee under the PAGA statute. Plaintiff is relinquishing any
22 right he may have to be a private attorney general to pursue any PAGA claim against the Releasees,
23 whether based on any Labor Code claim alleged suffered by himself or any other individual, and
24 will not seek to be appointed as a private attorney general in any future matter to pursue any PAGA
25 claim against the Releasees based on any Labor Code claim allegedly suffered by himself or any
26 other individuals. If Plaintiff violates this Paragraph, he agrees to pay all of Defendants’ or the
27 Released Parties’ costs and expenses (including reasonable attorney’s fees) related to the defense of
28 any such claims.

1 34. **Notice to the LWDA.**

2 Plaintiff agrees that Counsel for Plaintiff will notify the LWDA of the settlement at the same
3 time the settlement is submitted for Court approval, seek approval of the settlement, and perform
4 any and all statutory tasks as required by law to effectuate consummation and approval of the
5 settlement.

6 35. **Enforcement and Continuing Jurisdiction of the Court.**

7 Pursuant to the Parties agreement, this Settlement Agreement will be approved by the Court
8 and will be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6.
9 Even after the entry of the Final Order and Judgment, this Court will have and retain continuing
10 jurisdiction over the Action and the Parties, to the fullest extent necessary or convenient to enforce
11 and effectuate the terms and intent of this Settlement Agreement and all matters provided for in it,
12 and to interpret it.

13 36. **Mutual Full Cooperation.**

14 The Parties will fully cooperate with each other to accomplish the terms of this Settlement
15 Agreement, including, but not limited to, execution of such documents and taking such other action
16 as may be reasonably necessary or convenient to implement it. The Parties agree to use their best
17 efforts and any other efforts that may become necessary by Order of the Court, or otherwise, to
18 effectuate this Settlement.

19 37. **Non-Admission.**

20 The Parties agree that this Settlement Agreement is not evidence that the Plaintiff has standing
21 or that the operative complaint filed in the Action by Plaintiff has any merit, nor does it constitute an
22 admission of any wrongdoing by Defendants. Defendants do not admit to liability or to the suitability
23 of this case for representative litigation. This Settlement Agreement will not be deemed admissible in
24 any other proceeding or in the Action other than to effectuate this settlement. If this settlement is
25 ultimately not approved by the Court, then the Parties will revert to their previous positions and
26 Defendants will contend that representative actions are not appropriate.

27 38. **Effective Date of Defendants' Obligations Under This Agreement.**

28 Defendants' obligations under this Settlement Agreement will become final and effective

1 only upon the occurrence of the Effective Date. In the event that any of the conditions specified in
2 this Settlement Agreement are not satisfied, or in the event that this Settlement does not obtain
3 approval of the Court for any reason, all matters covered by this Agreement will be null and void.
4 In such event, neither this Agreement nor any negotiations leading to this Settlement will be used
5 or construed by or against any Party as a determination, admission, or concession of any issue of
6 law or fact in the litigation; and the Parties do not waive, and instead expressly reserve, their
7 respective rights regarding the prosecution and defense of the Action, including all available
8 defenses and affirmative defenses, and to challenge any claim, as if this Settlement Agreement never
9 existed.

10 39. **Nullification.**

11 If: (1) the Court should for any reason fail to enter the Final Order and Judgment; or (2) the
12 Court's Final Order and Judgment is reversed or modified as to any material term as defined above,
13 or declared or rendered void as to any material term as defined above, then (a) the Settlement
14 Agreement shall become null and void; and (b) the Parties will revert to their respective positions
15 immediately prior to reaching the settlement.

16 40. **Severability**

17 The provisions of this Agreement are severable. If any provision of this Agreement is
18 determined to be invalid or unenforceable, in whole or in part, this determination shall not affect
19 any other provision of this Agreement and the provision in question shall be modified so as to be
20 rendered enforceable in a manner consistent with the intent of the parties insofar as possible under
21 applicable law.

22 41. **Entire Agreement.**

23 This Settlement Agreement constitutes the entire integrated agreement between the Parties
24 relating to the Action, and no oral representations, warranties, or inducements have been made to
25 any party concerning this Settlement Agreement other than the representations, warranties, and
26 covenants contained and memorialized in this Settlement Agreement.

27 42. **Authorization To Act.**

28 Plaintiff's Counsel warrants and represents that they are authorized by the Plaintiff, and

Counsel of record for Defendants warrants that they are authorized by Defendants, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement, except for any documents, including but not limited to this Settlement Agreement, that are required to be executed by the Parties.

43. **Modification Only In Writing.**

This Settlement Agreement may be amended or modified only by a written instrument signed by all Parties or their successors in interest.

44. **Binding On Successors.**

This Settlement Agreement is binding upon and will inure to the benefit of the Parties to this Agreement, as well as their respective attorneys, past, present, and future predecessors, successors, shareholders, officers, directors, employees, agents, trustees, representatives, administrators, fiduciaries, assigns, insurers, executors, partners, parent corporations, subsidiaries, and related or affiliated entities.

45. **No Prior Assignments.**

The Plaintiff is deemed by operation of the Final Order and Judgment to represent, covenant, and warrant that he has not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, cause of action, or rights released and discharged by this Agreement.

46. **Governing Law.**

All terms of this Settlement Agreement will be governed by and interpreted according to the laws of the State of California, without giving effect to conflicts of laws principles.

47. **Execution in Counterparts.**

This Settlement Agreement may be executed in one or more counterparts by pdf, electronic signature, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterparts will be admissible in evidence to prove the existence and contents of this Agreement. Counsel for the Parties will exchange among themselves signed counterparts.

1 48. **Headings For Convenience Only.**

2 The descriptive headings of any paragraphs or sections of this Settlement Agreement are
3 inserted for convenience of reference only and do not constitute a part of this Settlement Agreement.

4 49. **Construction Of This Agreement.**

5 The Parties agree that the terms and conditions of this Settlement Agreement are the result
6 of a compromise between the Parties and that this Settlement Agreement will not be construed in
7 favor of or against any Party by reason of the extent to which any Party, or his or its counsel
8 participated in the drafting of this Agreement. This Settlement Agreement constitutes the entire
9 agreement between the Parties. Except as expressly provided in this Agreement, this Settlement
10 Agreement has not been executed in reliance upon any other oral or written representations or terms
11 and no such extrinsic oral or written representations or terms will modify, vary or contradict the
12 terms of this Settlement Agreement. In entering this Settlement Agreement, the Parties explicitly
13 recognize California Civil Code section 1625 and California Code of Civil Procedure section
14 1856(a), which provide that a written agreement is to be construed according to its terms and may
15 not be varied or contradicted by extrinsic evidence. The Plaintiff and Defendants had available to
16 them the advice and assistance of independent counsel. As such, neither Plaintiff nor Defendants
17 may claim that any ambiguity in this Settlement Agreement should be construed against the other.

18 50. **Corporate Signatories.**

19 Any person executing this Settlement Agreement or any related document on behalf of a
20 corporate signatory warrants and promises for the benefit of all Parties that such person has been
21 duly authorized by such corporation to execute this Settlement Agreement or any related document.

22 51. **Representation By Counsel.**

23 All of the Parties hereto acknowledge that they have been represented by counsel throughout
24 all negotiations which preceded the execution of this Settlement Agreement and that this Agreement
25 has been executed with the consent and advice of counsel.

26 52. **Attorneys' Fees And Costs.**

27 Except as set forth above in this Agreement, the Parties shall each bear their own attorneys'
28 fees and costs, taxable or otherwise, incurred by them or arising out of this Action and will not seek

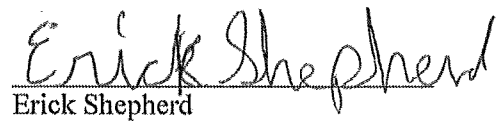
1 reimbursement thereof from any Party to this Settlement Agreement. In the event of a proven breach
2 of this Agreement, the breaching party will be required to pay the prevailing Party's reasonable
3 attorneys' fees and costs incurred in enforcing this Agreement.

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6 **IT IS SO AGREED:**

7 Dated: 4/14/23

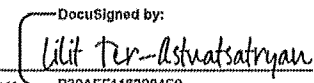
PLAINTIFF ERICK SHEPHERD

8
9 
10 Erick Shepherd

11 **Plaintiff's Counsel:**

12 Dated: 2/22/2023

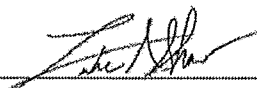
MOON & YANG, APC

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14 By: 
15 Kane Moon B30AEF1163284E0...
16 Lilit Ter-Astvatsatryan

Attorneys for Plaintiff

17 Dated: February 2, 2023

DEFENDANTS TRI-STAR ELECTRONICS
INTERNATIONAL, INC. and CARLISLE
INTERCONNECT TECHNOLOGIES, INC.

18
19
20 By: 
21 Name: Luke A. Shaw
22 Title: Vice President and Secretary

23 Dated: February 13, 2023

24
25 By: 
26 Holger Besch

Attorney for Defendants