

PAGA SETTLEMENT AND RELEASE AGREEMENT

THIS PAGA SETTLEMENT AGREEMENT (“**Agreement**”) under the California Labor Code Private Attorneys General Act of 2004 (“**PAGA**”) is made by and between Plaintiff Mahoo Amin (“**Plaintiff**”), on behalf of himself and on behalf of the State of California, on the one hand, and Defendant USGI Medical, Inc. (“**Defendant**”), on the other, subject to approval by the Court in accordance with California Labor Code section 2699(1)(2), and subject to the following terms and conditions:

1. DEFINITIONS.

1.1 “**Action**” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Mahoo Amin v. USGI Medical, Inc.* initiated on September 12, 2023, and pending in Superior Court of the State of California, County of Orange (Case No. 30-2023-01350193-CU-OE-CXC).

1.2 “**Administrator**” means Phoenix Class Action Administration Solutions, the neutral third-party entity the Parties have agreed to appoint to administer the Settlement, or a comparable vendor approved by the Court.

1.3 “**Administration Expenses Payment**” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.

1.4 “**Court**” means the Superior Court for the State of California, County of Orange.

1.5 “**Defense Counsel**” means Summer Wynn and Claire Norman of Cooley LLP.

1.6 “**Effective Date**” means two (2) court days after: (a) sixty-one (61) calendar days after the entry of the Court’s Order granting approval of the Settlement, if no timely motions for reconsideration and no appeals or other efforts to obtain review have been filed; or (b) in the event that an appeal or other effort to obtain reconsideration or review has been initiated, the date sixty-one (61) calendar days after such appeal or other reconsideration or review has been finally concluded in favor of the Order granting approval of the Settlement and the Order granting approval of the Settlement is no longer subject to review, whether by appeal, petitions for rehearing, petitions for rehearing en banc, petitions for certiorari, or otherwise.

1.7 “**Estimated Pay Period Amount**” means seven hundred forty-eight (748) pay periods as of March 22, 2024.

1.8 “**Gross Settlement Amount**” means one hundred thousand dollars and no cents (\$100,000.00), which is the total amount Defendant agrees to pay under the Settlement. The Gross Settlement Amount will be used to pay the Individual PAGA Payments, the LWDA PAGA

Payment, the PAGA Counsel Fees Payment, the Representative Service Payment, and the Administrator's Expenses Payment.

1.9 “*Individual PAGA Payment*” means the PAGA Member's equal share of twenty-five percent (25%) of the PAGA Penalties.

1.10 “*LWDA*” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699(i).

1.11 “*LWDA PAGA Payment*” means the seventy-five percent (75%) of the PAGA Penalties paid to the LWDA under Labor Code section 2699(i).

1.12 “*Memorandum of Understanding of PAGA Settlement*” and “*MOU*” mean the preliminary agreement signed by the Parties following the Mediation, which outlines the terms and purpose of this Settlement Agreement.

1.13 “*Mediation*” means the mediation that occurred on March 22, 2024, with Jonathan D. Andrews of Signature Resolution, wherein the Parties agreed to settle this matter.

1.14 “*Net Settlement Amount*” means the amount from the Gross Settlement Amount that is available for distribution as the LWDA Payment and Individual PAGA Payments to the PAGA Members, less the following payments in the amounts approved by the Court: the PAGA Counsel Fees Payment, the PAGA Incentive Award, and the Administration Expenses Payment. The remainder is to be paid to the LWDA and the PAGA Members as Individual PAGA Payments.

1.15 “*Order*” means the Order granting approval of the Settlement; the Parties will submit a proposed Order Approving PAGA Settlement Agreement in the same or a similar form as that attached hereto as Exhibit A.

1.16 “*PAGA*” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.17 “*PAGA Counsel*” means Young W. Ryu, Esq. and Kee Seok Mah, Esq. of LOYR, APC, the attorneys representing the Plaintiff in the Action.

1.18 “*PAGA Counsel Fees Payment*” and “*PAGA Counsel Litigation Expenses Payment*” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.19 “*PAGA Members*” shall be defined as all non-exempt employees of Defendant employed in California during the PAGA Period, specifically from July 9, 2022 through the date of court approval of the Settlement.

1.20 “*PAGA Member Address Search*” means the Administrator's investigation and search for current PAGA Members' mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with PAGA Members.

1.21 “*PAGA Member Data*” means PAGA Member identifying information in Defendant’s possession including PAGA Member’s name, last-known mailing address, and Social Security number.

1.22 “*PAGA Notice*” means Plaintiff’s May 18, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3(a).

1.23 “*PAGA Pay Period*” means any Pay Period during which a PAGA Member worked for Defendant for at least one (1) day during the PAGA Period.

1.24 “*PAGA Penalties*” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated twenty-five percent (25%) to the PAGA Members and the seventy-five percent (75%) to LWDA in settlement of PAGA claims.

1.25 “*PAGA Period*” means the period from July 9, 2022 to the date of court approval of any settlement.

1.26 “*Parties*” means Plaintiff and Defendant.

1.27 “*Plaintiff*” means Mahoo Amin, the named plaintiff in the Action.

1.28 “*Releasing PAGA Members*” means Plaintiff and all PAGA Members, and each of their successors, assigns, legatees, heirs, and personal representatives.

1.29 “*Representative Service Payment*” means five thousand dollars and no cents (\$5,000.00) of the Gross Settlement Amount as payment to the named Plaintiff in recognition of his status as the PAGA Member responsible for bringing this action and achieving this Settlement.

1.30 “*Released Claims*” means the claims being released by the Plaintiff, the Releasing PAGA Members, and PAGA Counsel and as described in Section 5 below.

1.31 “*Released Parties*” means: Defendant and each of its current or former directors, officers, members, administrators, agents, insurers, beneficiaries, trustees, employee benefit plans, representatives, servants, employees, attorneys, parents, subsidiaries, affiliates, divisions, branches, units, shareholders, investors, contractors, successors, joint venturers, predecessors, related entities, and assigns, and all other individuals and entities acting on its behalf.

1.32 “*Settlement*” or “*Settlement Agreement*” means this Settlement Agreement.

2. RECITALS.

2.1 On or about May 18, 2023, Plaintiff submitted a letter to the California Labor & Workforce Development Agency (“*LWDA*”) asserting various allegations under the California Private Attorneys General Act, California Labor Code section 2698, *et seq.* (“*PAGA*”) and seeking to file a representative action on behalf of the LWDA and other allegedly aggrieved non-exempt California employees of Defendant (the “*PAGA Letter*”). The LWDA did not respond to Plaintiff’s correspondence.

2.2 On September 12, 2023, Plaintiff commenced this Action by filing a Complaint for Enforcement under PAGA Labor Code section 2698 *et seq.* (“**Complaint**”) alleging Labor Code violations against Defendant for (1) failure to pay for all hours worked; (2) failure to pay minimum wage; (3) failure to pay overtime wages; (4) failure to provide accurate itemized wage statements; (5) failure to timely pay all final wages owed; and (6) failure to provide and compensate all legally required meal and rest periods. Defendant filed an Answer to the Complaint on October 23, 2023, which denied the allegations in the Complaint and asserted various affirmative defenses.

2.3 After Defendant’s receipt of the Complaint, the Parties, through counsel, have engaged in informal discovery and negotiations and elected to participate in an early mediation to avoid the costs and time of contested litigation.

2.4 On March 22, 2024, the Parties participated in the Mediation, which led to the MOU outlining the preliminary terms of this Settlement.

2.5 Prior to mediation, Plaintiff obtained through informal and formal discovery timecards, payroll records, and other documents and information pertaining to Defendant’s relevant policies.

2.6 The Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other PAGA matter that will be extinguished or affected by the Settlement.

2.7 The Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendant. The Settlement Agreement’s provisions, and all related drafts, communications, and discussions cannot be construed as or deemed to be evidence of an admission or concession of any point of fact or law by any person or entity and cannot be offered or received into evidence or requested in discovery in this Action or any other action or proceeding as evidence of an admission or concession. Nothing in this Settlement Agreement is intended or will be construed as an admission by Defendant that Plaintiff’s claims in the Action have any merit or that it has any liability to Plaintiff or any of the PAGA Members. If for any reason the Settlement Agreement is not approved by the Court, it will be of no force or effect.

3. MONETARY TERMS.

3.1 Gross Settlement Amount. Except as otherwise provided below, Defendant promises to pay one hundred thousand dollars and no cents (\$100,000.00) and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Section 4 of this Agreement, and in no event shall Defendant be required to pay any amount more than the Gross Settlement Amount. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring PAGA Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in its approval of the PAGA Settlement:

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount which is currently estimated to be thirty-three thousand three hundred thirty-three dollars and thirty-three cents (\$33,333.33) and PAGA Counsel Litigation Expenses Payment which is currently estimated to be not more than ten thousand dollars and no cents (\$10,000.00) to date, according to proof and subject to Court approval. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. If the Court approves a PAGA Counsel Fees Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment, including that Plaintiff's Counsel shall be solely and legally responsible to pay all applicable taxes on any payments made pursuant to this Section. The Administrator will pay the PAGA Counsel Fees Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed one thousand dollars and no cents (\$1,000.00) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than one thousand dollars and no cents (\$1,000.00), the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3 To the Plaintiff: Subject to Court approval, a Representative Service Payment that is not to exceed five thousand dollars and no cents (\$5,000.00) to the named Plaintiff in recognition of his service as the PAGA Member responsible for bringing this action and achieving this Settlement. Defendant will not oppose requests for Court approval of Plaintiff's Service Payment as long as the amount requested does not exceed five thousand dollars and no cents (\$5,000.00). If the Court approves a Representative Service Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. The appropriate 1099 tax forms shall be provided by the Administrator to Plaintiff for any payment made pursuant to this Section. Plaintiff shall be solely responsible for any tax obligations relating to or arising from his receipt of payment made pursuant to this Section. In no event shall Defendant be required to pay any amount more than the Gross Settlement Amount.

3.2.4 To the LWDA and PAGA Members: PAGA Penalties will be paid from the Gross Settlement Amount, with seventy-five percent (75%) allocated to the LWDA PAGA Payment and twenty-five percent (25%) allocated to the Individual PAGA Payments.

3.2.4.1 The Administrator will distribute the portion of the Net Settlement Amount available for distribution to PAGA Settlement Group Members (twenty-five percent (25%) of the Net Settlement Amount) equally among all PAGA Settlement Group Members. The PAGA Group Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 PAGA Members and Estimated Pay Period Amount. Based on a review of its records to date, Defendant estimates there are twenty-eight (28) PAGA Members who worked a total of seven hundred forty-eight (748) PAGA Pay Periods.

4.2 PAGA Member Data. Within seven (7) days of the Effective Date, Defendant will deliver the PAGA Member Data to the Administrator for the purpose of the Administrator distributing the Individual PAGA Payments by U.S. mail delivery of a check. To protect PAGA Members' privacy rights, the Administrator must maintain the PAGA Member Data in confidence, use the PAGA Member Data only for purposes of this Settlement and for no other purpose, and restrict access to the PAGA Member Data to Administrator employees who need access to the PAGA Member Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the PAGA Member Data omitted employee identifying information and to provide corrected or updated PAGA Member Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the PAGA Member Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted PAGA Member Data.

4.3 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than seven (7) days after the Effective Date.

4.4 Payments from the Gross Settlement Amount. Within seven (7) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, PAGA Counsel Fees, and Plaintiff's Representative Service Payment. Disbursement of the PAGA Counsel Fees shall not precede disbursement of Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the PAGA Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than one hundred eighty (180) days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct a PAGA Member Address Search for all PAGA Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the PAGA Member Address Search. The Administrator need not take further steps to deliver checks to PAGA Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any PAGA Member whose original check was lost or misplaced, requested by the PAGA Member prior to the void date.

4.4.3 In the event that any checks mailed to the PAGA Members remain uncashed after the expiration of one hundred eighty (180) days, or an envelope mailed to a PAGA Member is returned and no forwarding address can be located for him or her after reasonable efforts have been made (including but not limited to skip tracing), then any such funds shall be transmitted to the Administrator and distributed in accordance with California Code of Civil Procedure section 384.

4.4.4 The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the PAGA Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Upon entry of the Order approving the Settlement, Plaintiff, both individually and on behalf of himself and on behalf of the LWDA and the State of California, and all Releasing PAGA Members shall release and forever discharge claims against all Released Parties as follows:

5.1 Plaintiff's Release. Upon entry of the Order approving the Settlement, Plaintiff and each of his successors, assigns, legatees, heirs, and personal representatives waive, release, forever discharge, and will not pursue any manner of action, cause of action, claim, demand, right, suit, obligation, debt, contract, agreement, promise, liability, or remedy of any nature whatsoever (including without limitation any damages, charges, penalties, losses, costs, expenses, and attorneys' fees), whether in law or in equity, under contract, tort, or any other subject area, or under any statute, rule, regulation, order, or law, whether federal, state, or local, on any grounds whatsoever, arising out of or relating to any acts, facts, omissions, or obligations, whether known or unknown, whether foreseen or unforeseen, fixed or contingent, against Defendant or any of its respective current or former directors, officers, members, administrators, agents, insurers, beneficiaries, trustees, employee benefit plans, representatives, servants, employees, attorneys, parents, subsidiaries, affiliates, divisions, branches, units, shareholders, investors, contractors, successors, joint venturers, predecessors, related entities, and assigns, and all other individuals and entities acting on their behalf (collectively, the "***Released Parties***"). However, this release shall not apply to claims for workers' compensation benefits, unemployment insurance benefits, pension or retirement benefits, or any other claim or right that cannot be waived or released as a matter of law.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For Purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected him or his settlement with the debtor or Released Party.

Plaintiff agrees that this waiver is an essential and material term of this release and the Settlement that underlies it and that without such waiver the Settlement would not have been accepted.

5.2 Release by PAGA Members. Upon entry of the Order approving the Settlement, Plaintiff, on behalf of the LWDA and State of California, and all Releasing PAGA Members shall release and forever discharge the Released Parties from any kind of claim or action for civil penalties under PAGA during the PAGA Period based on or arising out of the allegations in the PAGA Letter and the Complaint including, but not limited to, any and all claims under California Labor Code sections 200, 201, 201.3, 202, 203, 204, 210, 218.6, 226, 226.3, 226.7, 432, 500, 510, 512, 515, 516, 558, 1174, 1174.5, 1182.11, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 3287, 3288, and 2698 through 2699 *et. seq.*, and relevant applicable IWC Wage Orders.

5.3 Release by PAGA Counsel. Except as otherwise provided for by this Agreement, PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Complaint and the PAGA Period facts stated in the Complaint and the PAGA Notice.

6. JOINT STIPULATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1 Filing Of Application or Motion for Approval. On or before fifteen (15) court days after execution of the Settlement Agreement or after the expiration of the PAGA exhaustion period, whichever is later, the Parties agree that Plaintiff shall file his application or motion for approval of the Settlement. Plaintiff shall provide Defendant with a copy of the draft application or motion for approval at least five (5) court days prior to filing.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel shall submit a copy of Settlement Agreement to the LWDA at the same time the Settlement Agreement is submitted to the Court for approval, in compliance with California Labor Code section 2699(1)(2). Within ten (10) calendar days after entry of the Order approving the Settlement, Plaintiff shall submit a copy of the Court's Order in compliance with California Labor Code section 2699(1)(3). If Plaintiff fails to satisfy these conditions in compliance with California Labor Code section 2699(1), the Settlement shall be voidable at Defendant's option after Defendant has provided Plaintiff's Counsel seven (7) days' written notice to cure the deficiency and such deficiency has not been resolved.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the approval of this Settlement and/or the supporting declarations and documents, the Parties will expeditiously work together and in good faith, to resolve the disagreement. If the Court does not grant the motion or joint stipulation for approval of this Settlement and issue an Order approving the Settlement, under the specific terms requested, or conditions its approval on any material change to this Agreement or on the Parties submitting additional briefing, the Parties agree to meet and confer to determine whether resolution of the claims encompassed by the Settlement can be obtained in a manner consistent with the Court's concerns.

6.4 Failure to Obtain Court Approval. If the Court does not grant approval of the Settlement, or if the Court's approval of the Settlement is reversed or materially modified on appellate review, then the Settlement will become null and void. Any modification of the amounts awarded for PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses

Payment, or the amount of the requested incentive payment, shall not be deemed a material modification of the Settlement.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have agreed to select Phoenix Class Action Settlement Administration to serve as the Administrator. Plaintiff has verified that, as a condition of appointment, Phoenix Class Action Settlement Administration agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“*QSF*”) under U.S. Treasury Regulation section 468B-1.

7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of the request for dismissal of the Action, with prejudice, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) interpreting and enforcing this Settlement, (ii) addressing settlement administration matters, and (iii) addressing such post-Settlement matters as are permitted by law, or as set forth in this Settlement.

8.1 Waiver of Right to Appeal. Provided that the Court’s approval of this Settlement is consistent with the terms and conditions of this Settlement, the Parties and their respective counsel waive all rights to appeal from the approval of the Settlement, and the Order therefore will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If any appeal is taken, the time for consummating this Settlement (including making payments under this Settlement) will be suspended until after the Effective Date.

9. ADDITIONAL PROVISIONS.

9.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, or has any liability to any person or entity under the claims asserted in the Action. Nothing in this Settlement Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendant. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with,

any litigation (other than solely in connection with this Settlement). Whether or not this Settlement becomes final and the Effective Date occurs, nothing in this Settlement Agreement, any document, statement, proceeding or conduct related to the Settlement, or any reports or accounting of those matters, will be construed as, offered or admitted in evidence as, received as, or deemed to be evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage. If, for any reason the Court does not approve this Settlement or enter the Order approving it for any reason, or if the Effective Date does not occur for any reason, Defendant shall retain all of its rights to object to the maintenance of the Action as a representative action or otherwise. The Settlement, other papers or proceedings related to the Settlement, and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement). This Section and all other provisions of this Settlement Agreement notwithstanding, any and all provisions of this Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

9.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to this Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

9.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

9.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying this Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

9.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

9.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

9.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives.

9.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

9.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

9.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Settlement Agreement. This Settlement Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

9.11 Confidentiality. This Settlement and the communications leading to its execution are intended by the Parties to remain confidential and non-public. The communications and discussions regarding this Settlement Agreement are further covered by mediation and settlement privileges. Neither Plaintiff nor Plaintiff's Counsel shall engage in the release of any press releases or advertising relating to this Settlement or Defendant, nor shall they initiate any publicity of any kind related to this Settlement. The terms of this Settlement (including but not limited to the Gross Settlement Amount) shall remain confidential and shall not be discussed or disclosed by Plaintiff (other than to his attorneys, spouses (if any), and/or financial advisors (if any) or by Plaintiff's Counsel, until the approval application or motion is filed in the Court overseeing the Action.

9.12 Duty of Good Faith. The Parties and their respective counsel shall make all good faith efforts to effectuate the terms of this Settlement Agreement.

9.13 Fair Settlement. The Parties and their respective counsel believe and warrant that this Settlement reflects a fair, reasonable, and adequate settlement of the Action reached through arms-length negotiations, through the assistance of a neutral mediator, taking into account all relevant factors, current and potential.

9.14 Agreement Constitutes a Complete Defense. To the extent permitted by law, this Settlement Agreement may be pled as a full and complete defense to any action, suit, or other proceedings that may be ongoing, instituted, prosecuted, or attempted, with respect to the Released Claims, against the Released Parties.

9.15 Use and Return of PAGA Member Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Member Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Plaintiff shall return all paper and electronic versions of PAGA Member Data received from Defendant or otherwise certify that they have destroyed any and all copies of Confidential Information, within thirty (30) days after final approval of the Settlement.

9.16 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

9.17 Tax Allocation. The Parties shall allocate the Net Settlement Amount as one hundred percent (100%) 1099 penalties and interest.

9.18 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

9.19 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Young W. Ryu, Esq. (SBN 266372)
young.ryu@loywr.com
Kee Seok Mah, Esq. (SBN 345736)
kee.mah@loywr.com
LOYR, APC
1055 West 7th Street, Suite 2290
Los Angeles, CA 90017
Telephone: (213) 318-5323
Facsimile: (800) 576-1170

To Defendant:

Summer Wynn, Esq.
Cooley LLP
10265 Science Center Drive
San Diego, CA 92121
swynn@cooley.com

9.20 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (*i.e.*, Adobe Sign), 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 if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

9.21 No Injunctive Relief. As part of this Settlement, Defendant shall not be required to enter any consent decree, nor shall Defendant be required to agree to any provision of injunctive relief.

9.22 Stay of Litigation. If warranted, the Parties shall jointly seek to stay all dates and deadlines before the Court pending approval of this Settlement. The Parties also agree to refrain from further litigation of this matter, except such proceedings necessary to implement and obtain entry of the Order granting approval of the Settlement. The Parties further agree that the mutual, voluntary cessation of litigation shall terminate if the Settlement is not approved by the Court.

[SIGNATURE PAGE FOLLOWS]

PLAINTIFF:

MAHOO AMIN


Mahoo Amin (Apr 18, 2024 11:04 PDT)

Mahoo Amin

Dated: _____

DEFENDANT:

USGI MEDICAL, INC.

By: Arnold Podgorsky

Name: Arnie Podgorsky

Title: President and Interim CEO

Dated: April 19, 2024