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Attorneys for Plaintiff ORGIL KHATANBAATAR
on behalf of herself and other similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

ORGIL KHATANBAATAR, on behalf of
herself and all others similarly situated, and
the general public,

Plaintiff,

v.

INFOGAIN TECHNOLOGIES, INC., a
California corporation; ADVANCED
RESOURCE STAFFING, a business entity of
unknown form; and DOES 1 through 50,
inclusive,

Defendants.

CLASS ACTION:

Case No. 23CV424955

Assigned for all purposes to:

Hon.: Theodore C. Zayner

Dept.: 19

**DECLARATION OF MARTA MANUS IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Date: August 5, 2026

Time: 2:30 p.m.

Dept.: 19

Original Complaint Filed: October 27, 2023

First Amended Complaint: December 21, 2023

Second Amended Complaint: May 7, 2026

Trial: None set

**DECLARATION OF MARTA MANUS IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

I, Marta Manus, declare:

1. I am an attorney licensed to practice before all courts of the State of California. I am counsel for the Plaintiff Orgil Khatanbaatar and have personal knowledge of the facts herein. If called as a witness, I could and would competently testify thereto.

I. PROCEDURAL HISTORY

2. On October 27, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198); (2) Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7, and 1198); (3) Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198); (4) Failure to Pay Proper Sick Pay (Lab. Code § 246); (5) Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a)); (6) Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203); (7) Failure to Indemnify (Lab. Code § 2802); and (8) Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*) Simultaneously, on October 27, 2023, Plaintiff gave timely notice to the LWDA and Defendant that Plaintiff intended to proceed with a representative action under PAGA (LWDA-CM-990351-23) pursuant to Labor Code § 2699.3, subd.(a). On December 21, 2023, Plaintiff filed the First Amended Complaint, which added claims for penalties under Labor Code § 2698, *et seq.*

3. On February 5, 2024, Plaintiff requested dismissal of the first through eighth causes of action in the First Amended Complaint, which the Court signed on February 23, 2024.

4. As part of the Settlement, on May 7, 2026, Plaintiff filed a Second Amended Complaint ("SAC") ("Operative Complaint") realleging the first through eighth causes of actions from the First Amended Complaint.

5. Plaintiff contends, via the Operative Complaint, that Defendant violated California's wage and hour laws by failing to provide all meal periods and rest periods; failing to pay hourly wages and overtime; failing to pay proper sick pay; failing to provide accurate itemized wage statements; failing to timely pay final wages due during and upon separation of

1 employment; failing to indemnify and thereby also violating California Business & Professions
2 Code sections 17200, *et seq.*, and incurring penalties under PAGA. Defendant denies the
3 allegations in the Operative Complaint, denies any failure to comply with the laws identified in
4 the Operative Complaint, and denies any and all liability for the causes of action alleged.

5 6. On March 31, 2025, the Parties participated in a mediation presided over by
6 respected wage and hour mediator Brandon McKelvey, Esq. and were able to reach an agreement
7 on general settlement terms. The Parties, recognizing the burdens and risks of continuing with
8 the litigation, entered into the Settlement Agreement to resolve the claims in the Operative
9 Complaint.

10 **II. THE SETTLEMENT**

11 7. To settle the action, Defendant will pay the Gross Settlement Amount of
12 \$307,500.00, exclusive of the employer's portion of payroll taxes and fees (i.e. Defendant will
13 pay the employer-side payroll taxes on the wages portion separately from the Gross Settlement
14 Amount). It shall be an opt-out class, there is no claim form requirement, and no residual will
15 revert to Defendant. The Gross Settlement Amount represents approximately 59% of the total
16 estimated realistic exposure, which demonstrates that the settlement is fair and reasonable. Thus,
17 the Settlement represents a fair and reasonable recovery for the claims in the Operative
18 Complaint.

19 8. There is a total of approximately 6,500 Workweeks worked by Class Members,
20 resulting in a recovery of an estimated \$22.62 per Workweek (estimated Net Settlement Amount¹
21 of \$147,000.00 divided by 6,500). Using a straight average, each Class Member will receive an
22 average estimated Individual Settlement Award of approximately \$1,204.92 (estimated NSA of
23 \$147,000.00 divided by 122 Class Members), with the highest estimated Individual Settlement
24 Award of approximately \$6,582.42 (total weeks in the Class Period (291) multiplied by \$22.62).
25 Additional proposed disbursements from the GSA are as follows:

26 ///

27
28 ¹ The Net Settlement Amount of \$147,000.00 is calculated by deducting the proposed disbursements in
paragraph 6, all subject to Court approval and thus subject to change from the Gross Settlement Amount
of \$307,500.

1	Class Counsels' Fees	\$102,500.00 (1/3 of the Gross Settlement Amount)
2		
3	Class Counsels' costs for actual expenses incurred	Up to \$25,000
4	Administration Expenses	Estimated to be up to \$8,000
5	Class Representative Service Payment to Named Plaintiff	\$10,000
6		
7	PAGA Penalties	\$15,000 (\$11,250 to LWDA; \$3,750 to Aggrieved Employees)

8 9. As detailed in the Settlement Agreement, the Parties have agreed on Apex
9 Class Action, LLC ("Apex" or "Administrator") as the Administrator and respectfully
10 request that this Court appoint Apex to handle the claims administration procedures,
11 including the Class Notice procedure, including posting relevant case-related settlement
12 documents, including the judgment on Apex's website. To my knowledge, none of the
13 parties or attorneys involved in this action has ever had any financial interest in or affiliation
14 with the proposed Administrator.

15 10. Following preliminary approval, the Administrator will mail the Court
16 Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval
17 ("Class Notice") per the Settlement Agreement. The Parties respectfully request that this
18 Court approve the Class Notice to be disseminated to the Class consistent with the manner
19 and timing as set forth in this Memorandum and the Settlement Agreement.

20 **III. SETTLEMENT DOCUMENTS**

21 11. The Parties have finalized the terms of the following documents, including the
22 Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval
23 attached to the Settlement Agreement ("Class Notice"), which will be translated into Spanish as
24 well. True and correct copies of the following documents are attached hereto:

- 25 a. Class Action And PAGA Settlement Agreement attached hereto as
- 26 **Exhibit 1;**
- 27 b. Class Notice in English, **Exhibit A** to Exhibit1 hereto; and

28 ///

c. [Proposed] Order Granting Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement filed concurrently with this motion.

12. Attached hereto as **Exhibit 2** is a true and correct copy of the Declaration Kimberly Sutherland on behalf of Apex.

13. Attached hereto as **Exhibit 3** is a true and correct copy of the confirmation of submission of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement, including the Settlement Agreement the LWDA.

IV. CONDITIONAL CERTIFICATION OF THE CLASS FOR SETTLEMENT PURPOSES

14. The Settlement proposes the following Class: all current and former non-exempt employees of Defendant who worked in California during the Class Period. The Class definition is sufficiently specific to enable potential Class Members and the Court to identify the Class Members, all of whom have indeed been identified by Defendant's employment and payroll records. There are approximately 122 Class Members, which is sufficient to satisfy numerosity requirements. The evidence to support the claims as to the Class consists of Defendant's policies, payroll records, time records and the forms of wage statements given to Defendant's non-exempt employees.

15. The proposed Class Representative worked for Defendant as a non-exempt employee under Defendant's uniform employment policies applicable to all current and former non-exempt employees of Defendant who worked in California during the Class Period from October 27, 2019, through May 30, 2025 (the "Class Period").² Plaintiff asserts that these are all policy questions that are uniform and can be proven by common objective evidence. The evidence to support these claims on a class wide basis consists of Defendant's policies, payroll

² The Settlement Agreement provides, "Based on its records, Defendant represented at mediation there are 122 Class Members who collectively worked a total of 6,500 Workweeks during the Class Period. If the number of Workweeks during the Class Period increases by more than 10% (i.e., to 7,150 or more), Defendant, at its sole discretion, will either: (a) pay the pro rata percentage increase in excess of 10% of the Gross Settlement Amount to include the additional Workweeks (i.e. an 11% increase in Workweeks would result in a 1% increase to the Gross Settlement Amount); or (b) set the end date for the Class Period and the PAGA Period to the date one day before the number of Workweeks exceeds 7,150." See Ex. 1 at ¶ 8.

1 records, time records and the forms of wage statements given to Defendant's non-exempt
2 employees. The Class Representative was subject to the same policies as other Class Members
3 and was similarly situated to the other Class Members.

4 16. Plaintiff's claims are typical of those of other Class Members. The Class
5 Representative has agreed to act as such and understands their responsibilities. The Class
6 Representative has no claims or other interests that are antagonistic to the Class.

7 **V. PRELIMINARY APPROVAL OF THE SETTLEMENT**

8 17. The Settlement for each participating Class Member is fair, reasonable, and
9 adequate given the inherent risk of litigation, the risk relative to trial, and the costs of litigation.
10 The Settlement represents a fair and reasonable value of all claims. There is no claim form
11 required so all Class Members will be paid unless they opt out, and there is no reversion to
12 Defendant. Finally, the only governmental involvement in this case is the existence of a PAGA
13 claim, and Plaintiff has notified the LWDA of this Settlement. (Ex. 3.) The Settlement Amount
14 balanced against the merits of the Plaintiff's case is reasonable.

15 18. Here, the Settlement was reached through arm's-length negotiation with an
16 experienced, highly regarded neutral mediator, Brandon McKelvey, Esq. Before mediation, the
17 Parties engaged in informal discovery. To prepare for the mediation, Defendant produced a
18 representative sample of time and pay data for Class Members, along with relevant policy
19 documents and other information necessary for Plaintiff to properly evaluate the strength and
20 weaknesses of the claim and engage in meaningful settlement discussions. The Parties agreed on
21 the proposed Settlement after extensive negotiations that resulted in a mediator's proposal.

22 19. The Settlement here provides pro rata distribution to Class Members based upon
23 the number of workweeks. Accordingly, the Settlement treats the Class Members equitably, and
24 the proposed distribution plan supports preliminary approval.

25 20. The Settlement that has been reached, subject to this Court's approval, is the
26 product of tremendous effort and a great deal of expense by the Parties and their Counsel. Class
27 Counsel are knowledgeable about and have done extensive research with respect to the
28 applicable law and potential defenses to the claims of the Class Members. The Parties

1 investigated relevant law as applied to the facts of the case, potential defenses, and damages
2 claimed by Plaintiff on behalf of herself, the Class, and the Aggrieved Employees.

3 21. Based on the documents and information provided by Defendant and their own
4 independent investigation and evaluation, Class Counsel and Plaintiff are of the opinion that the
5 Settlement with Defendant for the consideration and on the terms set forth in this Settlement is
6 fair, reasonable, and adequate, and is in the best interest of the Class Members in light of all
7 known facts and circumstances, including the risk of significant delay and uncertainty associated
8 with litigation, various defenses asserted by Defendant, and numerous potential appellate issues.

9 22. The Gross Settlement Amount is, of course, a compromise figure. Plaintiff
10 considered the risks of decertification, the risks related to proof of Plaintiff's claims, and the
11 strengths and weaknesses of Defendant's defenses. Plaintiff also considered the possibility that if
12 a settlement were reached after additional years of litigation, the great expenses of litigation
13 would reduce the amount of funds available to class members for settlement. Furthermore,
14 Plaintiff took into consideration the time delay and financial repercussions of liability trials,
15 numerous damages trials, and the possibility of an appeal by Defendant. The details for the
16 reasonably expected recovery per claim are detailed below in the following paragraphs.

17 23. **Failure to Provide All Meal Periods:**

18 a. *Facts*

19 Plaintiff alleged that Defendant failed to provide all off-duty and uninterrupted, timely
20 meal periods of at least 30 uninterrupted minutes during Plaintiff's work shifts. Due to work
21 demands, Plaintiff and Class Members were oftentimes not provided with a timely, uninterrupted
22 meal period. Although Plaintiff and Class Members were entitled to two meal periods due to the
23 length of shifts being more than ten hours, they were told to record only one meal period equal to
24 one-hour, resulting in no second meal periods being provided to Plaintiff and Class Members.

25 b. *Law*

26 Employers must generally provide "a first meal period [of at least 30 minutes] no later
27 than the end of an employee's fifth hour of work, and a second meal period [of at least 30
28 minutes] no later than the end of an employee's 10th hour of work." (*Brinker v. Superior Court*

1 (2012) 53 Cal.4th 1004, 1041.)

2 *c. Expected Recovery*

3 Plaintiff conservatively assumed two meal break violations per employee per workweek
4 using the average hourly rate of pay of \$39.10 for non-exempt employees. Plaintiff's damages
5 analysis determined that the maximum recovery was approximately \$505,875.80 ($\$39.10 \times 2$
6 violations $\times 6,469$ workweeks) = \$505,875.80, excluding interest due to meal period violations.

7 Defendant contended that employees were provided with the opportunity to take all meal
8 periods, and if they did not do so, it was purely voluntary. Defendant argued that under
9 California law, employers do not have a duty to ensure that employees take all meal periods, so
10 long as they provide meal periods and do not inhibit employees from taking all compliant meal
11 periods. Accordingly, the realistic recovery for the meal period is approximately 75%. As a
12 result, the adjusted reasonable value is estimated to be approximately \$126,468.95.

13 **24. Failure to Authorize and Permit All Rest Periods:**

14 *a. Facts*

15 Plaintiff also alleged that Defendant failed to authorize and permit all duty-free rest
16 periods due to frequent work-related interruptions from management.

17 *b. Law*

18 "Employees are entitled to 10 minutes' rest for shifts from three and one-half to six
19 hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts
20 of more than 10 hours up to 14 hours, and so on." (*Brinker Restaurant Corp. v. Superior Court*
21 (2012) 53 Cal.4th 1004, 1029.) The applicable wage order imposes a similar obligation, and
22 states that rest breaks must occur in the middle of each work period, insofar as is practicable. (8
23 C.C.R. § 11040(12).)

24 *c. Expected Recovery*

25 Plaintiff conservatively assumed two rest break violations per workweek per employee,
26 which yielded an estimated maximum recovery of approximately \$505,875.80, excluding, in
27 unpaid rest period premiums. Defendant contended that Class Members were permitted all
28 required breaks and were not discouraged or prevented from taking their rest breaks.

1 Additionally, there are no records of rest periods, and therefore this claim would depend
2 primarily on anecdotal evidence. Thus, Plaintiff applied a 90% discount to the rest break claim,
3 for an adjusted estimated recovery of \$50,587.58.

4 **25. Failure to Pay Hourly Wages and Overtime**

5 *a. Facts*

6 Plaintiff alleged that Defendants had a common policy and practice of failing to pay
7 Plaintiff and Class members proper wages and overtime for all hours worked. First, Plaintiff
8 contended that Defendants implemented an unlawful time-rounding policy and practice which
9 rounded down and reduced the actual working hours recorded by Plaintiff and Class Members,
10 and upon which their pay was based, and generally did so to the detriment of the Plaintiff and
11 Class Members. Furthermore, Plaintiff contended that Plaintiff and Class Members were
12 instructed to understate their time records to reflect fewer hours than worked.

13 Next, Plaintiff contended that Plaintiff and Class Members were also consistently
14 required to perform work, off-the-clock, for which they were not paid wages. Specifically,
15 Plaintiff and Class Members were systemically required to work beyond the eight (8) hours that
16 Defendants demanded Plaintiff and Class Members logged daily. Further, Plaintiff contended
17 that Defendants also required Plaintiff and Class Members to participate in work-related calls
18 and activities for hours while off-the-clock.

19 *b. Law*

20 Labor Code §§ 510 and 1194 require employers to pay applicable wages for all hours
21 worked. “Hours worked” means the time during which an employee is subject to the control of
22 an employer and includes all the time during which the employee is suffered or permitted to
23 work, whether or not required to do so.” (8 C.C.R. §11040(2)(K); *Morillion v. Royal Packing*
24 *Co.* (2000) 22 Cal.4th 575, 582.)

25 *c. Expected Recovery*

26 Plaintiff conservatively estimated two hours of unpaid time per workweek per employee
27 at the regular rate of pay with one hour per workweek attributed to regular hours and 1 hour per
28 workweek attributed to overtime hours, using the average hourly rate of \$39.10 and the average

overtime hourly rate of \$58.65. The estimated total amount of unpaid wages for other off-the-clock work totaled \$632,344.75, excluding interest.

Plaintiff estimated the probability of prevailing on this claim is approximately 25% because Defendant contended that proof of this claim would depend largely on anecdotal evidence as there are not records of time worked off-the-clock, and ultimately this claim may be determined to be too individualized for purposes of class certification. Based on these risks, the adjusted estimated exposure for this claim of approximately \$158,086.19.

26. Failure to Pay Proper Sick Pay

a. Facts

Plaintiff alleged Defendant had a common policy and practice of systemically failing to pay Plaintiff and Class Members the requisite sick time pay in accordance with California Law. Specifically, Plaintiff and Class Members worked for Defendants for more than 30 days but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12-month period of work.

b. Law

Labor Code Section 246 affords an employee “who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked” and “no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.”

c. Expected Recovery

Plaintiff did not estimate potential liability for the sick leave claim because this claim would yield a nominal recovery and was not a driver for settlement.

27. Failure To Provide Compliant Wage Statements:

a. Facts

Plaintiff alleged that Defendant failed to provide Plaintiff and Class Members with accurate wage statements as mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage statements as “a detachable part of the check, draft, or voucher

1 paying the employee's wages, or separately if wages are paid by personal check or cash, an
2 accurate itemized statement in writing." Additionally, the wage statements issued to Plaintiff and
3 Class Members were not recorded in "ink or other indelible form." Moreover, Defendant failed
4 to provide accurate wage statements as they did not accurately reflect, all hours worked,
5 including over time.

6 In addition to the independent violations, if Plaintiffs prevail on any of the underlying
7 claims, they will prevail on the derivative Labor Code § 226 claim. Because of Defendant's
8 alleged illegal wage and hour policies as set forth above, all wages earned, and all hours worked
9 were not accurately reflected on Class Members' wage statements.

10 *b. Law*

11 Labor Code § 226(a) requires every employer, semimonthly or at the time of each
12 payment of wages, to furnish each of its employees an accurate itemized statement in writing
13 showing, among other things, total hours worked by the employee, all applicable hourly rates in
14 effect during each pay period and the corresponding number of hours worked at each hourly rate.

15 *c. Expected Recovery*

16 Plaintiff's damages analysis estimated that the maximum recovery for this claim was
17 approximately \$284,000 for the one-year statutory period using the maximum penalty of \$4,000
18 per 71 employees in the one-year statutory period. However, Plaintiff must prove intentional
19 violations to prevail. Further, this is a penalty and not a wage loss, and courts rarely grant the full
20 amount of the penalty. Based on these risks, the realistic exposure for this claim is approximately
21 25% of the maximum, for an adjusted maximum recovery of \$71,000.

22 **28. Failure to Pay all Wages Due Upon Separation – Labor Code § 203:**

23 *a. Facts*

24 If Plaintiff prevails on any of the underlying wage claims, Plaintiff will prevail on the
25 derivative Labor Code § 203 claim, because Defendant has not paid all wages and penalties
26 because of these alleged violations.

27 *b. Law*

28 Under Labor Code § 203, the approximately 108 Class Members who are no longer

employed by Defendant are entitled to 30 days of waiting time penalties because Defendant did not pay them all wages due and/or related penalties upon separation.

c. Expected Recovery

During the statutory three-year period, approximately 108 employees left Defendant's employ. Based on average hourly rates, the 30-day maximum waiting time penalties for those Class Members is \$1,103,472. Plaintiff estimated approximately 10% chance of prevailing at the time of trial on this claim as it is simply derivative of the underlying claims, and Plaintiffs must prove this is a "willful" violation to prevail. Furthermore, trial judges rarely if ever grant the full amount of the penalty on top of wages owed. Finally, there are the general risks of trial. As such, the realistic maximum exposure for this claim was approximately \$101,347.20.

29. Failure to Fully Reimburse All Work-Related Business Expenses

a. Facts

Plaintiff alleged that Defendant failed to reimburse Plaintiff and Class Members for business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiff contended that Plaintiff and Class Members were required to use their personal cell phones to conduct work activities, including both phone calls and text messages, and incurred costs from the phone use. Additionally, Plaintiff alleged that Plaintiff and Class Members were at times required to work from home with their work computers, and incurred costs for internet and utilities use, including electricity, gas, and water, which were not reimbursed.

b. Law

Labor Code § 2802 states that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties." This section "is designed to prevent employers from passing their operating expenses on to their employees." (*Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554, 562.)

"When employees must use their personal cell phones for work related calls, Labor Code section 2802 requires the employer to reimburse them." (*Cochran v. Schwan's Home Serv., Inc.* (2014) 228 Cal.App.4th 1137, 1140, fn omitted.) The duty to reimburse is triggered when "the

1 employer either knows or has reason to know that the employee has incurred a reimbursable
2 expense.” (*Stuart v. RadioShack Corp.* (N.D.Cal. 2009) 641 F.Supp.2d 901, 903.)

3 If the use of the personal phone is mandatory, then reimbursement is always required,
4 regardless of whether the employee would have incurred phone expenses absent the job.
5 (*Cochran, supra*, 228 Cal.App.4th at p. 1144 [“Otherwise, the employer would receive a
6 windfall because it would be passing its operating expenses on to the employee.”].) To comply
7 with section 2802, “the employer must pay some reasonable percentage of the employee’s cell
8 phone bill.” (*Id.* at p. 1140.)

9 *c. Expected Recovery*

10 Assuming a recovery of \$5 per workweek per Class Member for the use of personal cell
11 phones (\$5 x 6,470 workweeks = \$32,350) and an additional \$2 per workweek per Class
12 Member for home office expenses (\$2 x 6,470 workweeks = \$12,940), Plaintiff’s damages
13 analysis estimated that Class Members’ maximum recovery was approximately \$45,290
14 (\$32,350 + \$12,940) in unreimbursed expenses. Defendant contended that Class Members were
15 not required to use their personal cell phones and working from home was purely voluntary.
16 Thus, Plaintiff estimated the probability of prevailing on this claim was approximately 40%. As
17 such, the adjusted realistic exposure for this claim is approximately \$18,116.

18 30. **Business & Professions Code section 17200, et. seq.** Regarding the claim for
19 violations of Business & Professions Code section 17200, *et. seq.*, the forgoing analysis assumes
20 the longer four-year statute of limitations that is available under the UCL for the unpaid wage
21 and break violations. This cause of action is derivative of the other claims that have already been
22 analyzed. Accordingly, the damages available under this cause of action have already been
23 analyzed or are duplicative of damages discussed above.

24 31. **PAGA Civil Penalties – Labor Code section 2698:** Regarding the claim for
25 violations of the Private Attorneys General Act (PAGA), Plaintiff calculated the potential
26 exposure is \$138,300 using the initial violation rate of \$100 per pay period in the PAGA Period.
27 At the time of mediation, there were an estimated 1,383 PAGA Pay Periods. Using \$100 per pay
28 period for only one violation, the PAGA penalties would equal \$138,300 (1,383 PAGA pay

1 periods x \$100). The strength of the PAGA claim would be impacted by the factors discussed
2 above for the non-PAGA claims. Based on recent PAGA decisions, even if Plaintiff was
3 successful on this claim through trial, the Court would likely exercise its discretion under PAGA
4 and significantly reduce the penalties and would also not impose PAGA penalties on top of Cal.
5 Labor Code § 226 and 203 penalties because doing so would result in duplicative penalties.
6 Additionally, courts are authorized to reduce PAGA penalties to avoid excessive aggregate
7 penalties. Thus, the maximum PAGA penalties of \$138,300 were reduced by 75% for a realistic
8 exposure of a total of \$34,575 in PAGA penalties. Given the discretionary nature of PAGA
9 penalties and the need to prove each underlying violation, the \$15,000 that the parties allocated
10 to PAGA Penalties is a reasonable settlement of that claim. Of this amount, 25%, or \$3,750, will
11 be distributed to the approximately 71 Aggrieved Employees, resulting in an estimated average
12 PAGA payment of \$52.82 per Aggrieved Employee (\$3,750 divided by 71).

13 32. The proposed PAGA Penalties portion of the Settlement is both just and in the
14 public's interest. The Parties believe and agree that the Settlement provides for a fair, adequate,
15 and reasonable resolution of the representative PAGA claim. The Parties also believe that the
16 proposed Settlement is to the advantage of the State of California and the Aggrieved Employees
17 when considering the time and expense necessary to complete protracted litigation which,
18 regardless of the verdict, would undoubtedly be subject to further significant delay and expense
19 pending possible appeals. Moreover, the Settlement provides a substantial sum to the State. It
20 also provides a small sum to each PAGA Member on a pro-rata basis based on the number of
21 PAGA Workweeks they worked during the PAGA Period (defined as the period from October
22 27, 2022, through May 30, 2025.)

23 33. Based upon the foregoing, this case had a reasonable value of approximately
24 \$525,605.92 for the underlying Labor Code claims and a total of \$560,180.92 (\$525,605.92 +
25 \$34,575), including PAGA penalties. After considering the sharply disputed factual and legal
26 issues involved in the lawsuit, the risks attending further prosecution, and the substantial benefits
27 to be received under the compromise and settlement of the action, Class Counsel are of the
28 opinion that settlement is in the best interests of the Class and is fair and reasonable.

1 Accordingly, the Gross Settlement Amount of \$307,500 represents approximately 59% of the
2 maximum potential value of the underlying Labor Code claims (valued at \$525,605.92) and
3 approximately 55% of the overall value including PAGA penalties (total case value of
4 \$560,180.92), which is an exceptional result.

5 34. After analyzing and weighing the evidence discussed above as well as the legal
6 issues, Class Counsel and Plaintiff concluded that the settlement of \$307,500 represents a fair
7 and reasonable discount from the estimated recovery. The Settlement will allow the parties to
8 avoid the expense and time commitments of continued litigation and provides a significant
9 benefit for the Class which would not otherwise have been available. The Gross Settlement
10 Amount of \$307,500 is a fair, reasonable, and adequate settlement for the claims at issue.

11 **VI. THE NOTICE PROCEDURE SHOULD BE APPROVED.**

12 35. The Class Notice provides proper notice to the Class of the terms of the
13 Settlement Agreement and the options available to the Class, including the ability of the
14 Class Members to Opt-Out or submit a Request for Exclusion from the non-PAGA portion
15 of the Settlement and not be bound by the non-PAGA portion of the Settlement Agreement
16 or receive any Individual Class Payment under it; to object to the terms of the Settlement; or
17 to do nothing and receive a Settlement Payment and be bound by the terms of the
18 Settlement; the date of the Final Approval Hearing, and how to obtain further information
19 through Class Counsel, the Administrator's website, or the Court's docket. The Class Notice
20 will be sent via first-class mail to each of the approximately 122 Class Members at their
21 addresses from Defendant's records.

22 36. Class Members will receive separate checks for the class portion and PAGA
23 portion, respectively.

24 37. The Class Notice should be approved as the best and most practicable way to
25 ensure the greatest possible number of Class Members will receive notice. Plaintiff
26 respectfully requests that this Court approve the Class Notice to be disseminated to the Class
27 consistent with the manner and timing as set forth in this Memorandum and the Parties'
28 Settlement Agreement. Per the Settlement Agreement, the Class Notice will also be

translated into Spanish. (Ex. 1, p. 11.)

VII. ATTORNEYS' EXPERIENCE

38. D.Law (formerly known as Davtayan Law Firm) prosecutes wage and hour cases, including class actions and PAGA actions on behalf of employees and others who have had their rights violated. D.Law, either on its own or with co-counsel, is currently serving as plaintiffs' counsel of record in numerous wage and hour and employment class action and PAGA action cases pending in both state and federal court.

39. D.Law is well-qualified and has ample experience, knowledge, and resources to act as counsel and represent Plaintiffs and the putative Class and aggrieved employees in this action. Our practice is exclusively focused on employment matters and representing plaintiffs in wage and hour actions with the same or similar causes of actions brought forth in the matter pending before this Court.

40. D.Law has litigated and successfully resolved many wage and hour class action cases involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. *De La Rosa v. The Coca Cola Company et al.* (Superior Court of California in Napa, 17CV000787), *Harvey v. Bed Bath & Beyond of California Limited Liability Company* (Superior Court of California in Alameda, RG17885153), *Paredes v. Bottling Group LLC et. al.* (Superior Court of California in Kern), *Ramirez v. Harris Ranch Beef Company* (Superior Court of California in Fresno, 16CECG04103), *Gates v. Gate Gourmet, Inc. et. al.* (Southern District of California, 16-cv-01084-L-AGS), *Hargrave v. Antelope Valley Hospital* (Superior Court of California in Los Angeles, BC663252), *Ramirez v. Milton Roy et. al.* (Superior Court of California in Los Angeles, BC 632 276), *Hawkins v. AvalonBay Communities* (Superior Court of California in Santa Clara, 17CV316492), *Jones Tharpe et al. v. Sprint Corporation et al.* (Superior Court of California in Los Angeles, BC644645), *Ortega et al. v. Nestle Waters North America, Inc. et al.* (Superior Court of California in Los Angeles, BC623610), *Schultz v. Jimbo's Natural Family, Inc.* (Superior Court of California in San Diego, 37-2017-00022348-CUE-OE-CTL), *Ambrose v. Victor Valley Global et al.* (Superior Court of California in San Bernardino, CIVDS1709289), *Puerta-Gildardo v. Real Time Staffing Services LLC et. al.* (Superior Court of California in Los Angeles, BC565445),

Vargo v. Pregis Innovative Packaging LLC (Superior Court of California in Tulare, 270836),
Conlin v. Aegis Senior Communities LLC (Northern District of California, 17-cv-05534-LHK),
Galarza v. Kloeckner Metals Corporation (Central District of California, 2:17-cv-04910-FMO),
Estes v. L3 Technologies, Inc. et al. (Southern District of California, 3:17-cv-02356-H-JMA),
Rowser v. Trunk Club, Inc. (Central District of California, 2:17-cv-05064-DSF-RAO), *Leach v.*
The Claremont Colleges, Inc. (Superior Court of California in Los Angeles, BC686451), *Vaesau v.*
PCT Enterprises, Inc. dba Precision Cabinets (Superior Court of California, County of Contra
Costa MSC18-02404), *Terry v. TF Louderback, Inc. dba Bay Area Beverage Company* (Superior
Court of the State of California, County of Contra Costa, MSC18-00859), *Roach v. Westcare*
California, Inc. (Superior Court of California in Kern County, BCV-17-102367-SDS), *Patton v.*
Church & Dwight Co., Inc. (Central District of California, EDCV 18-903-MWF (KKx)), *Juarez v.*
ISL Employees, Inc. (Superior Court of California in Madera, MCV074787), *Ferraro v. USC*
Verdugo Hill s Hospital, et al. (Superior Court of California in Los Angeles, 18STCV09463), *Ford*
v. Account Control Technology, Inc., et al. (Superior Court of California in Los Angeles,
19STCV09369), *Ornelas v. iStorage, et al.* (Superior Court of California in San Francisco, CGC-
18-571421), *Martinez v. Ronpak, Inc.* (Superior Court of California in Riverside, RIC1901307),
Barrera et al. v. Exclusive Wireless, Inc. (Superior Court of California in Stanislaus, 9000687),
Barajas v. Mancha Development Company LLC (Superior Court of California in Orange County,
30-2018-00974707-CU-OE-CXC), *Prado v. IMAX Corporation dba IMAC Worldwide Home*
(Superior Court of California in San Bernardino, CIVDS1820265), *Rodriguez v. ND Industries,*
Inc. (Superior Court of California in Los Angeles, 19STCV38096), *Singletary v. Motel 6*
Operating LP, et al. (Southern District of California, 3:20-cv-0270-LAB-AHG), *Quizon v. CF*
Watsonville East, LLC, et al. (Superior Court of California in Santa Cruz, 20CV01868),
Stephenson v. Bakersfield Dodge, Inc. (Superior Court of California in Kern, BCV-20-102693),
Bacerra v. Hugo Boss Retail, Inc. (Superior Court of California in San Diego, 37-2021-00002933-
CU-OE-CTL), *Walker v. Ariat International, Inc.* (Superior Court of California in Alameda,
HG19026439), *Orr v. Petvet Care Centers (California) Inc.* (Superior Court of California in Santa
Clara, 19CV354063), *Jimenez v. OEC Distribution Services, Inc.* (Superior Court of California in

1 San Bernardino, CIVDS1915743), *Viridi v. Absolute Security International* (Superior Court of
2 California in San Bernardino, CIVDS 1909589), *Raj v. First Transit, Inc* (Superior Court of
3 California in Sacramento, 34-2021-00295895-CU-OE-GDS), *Marchbanks v. Torrid*
4 *Administration, Inc.* (Superior Court of California in San Diego, 37-2020-00008179-CU-OE-NC),
5 among others.

6 41. I am a 2008 California Western School of Law graduate and was admitted to the
7 California State Bar in December 2008. Since graduating from law school, I have dedicated my
8 entire career to litigating employment class and PAGA actions. I have litigated and settled
9 hundreds of wage and hour class actions and have obtained numerous six and seven figure
10 settlements. As such, I have significant experience specifically working on wage and hour class
11 actions from the plaintiff's side.

12 42. The collective experience of the D.Law attorneys in litigating employment wage
13 and hour matters has been integral in identifying legal issues, evaluating the strengths and
14 weaknesses of a case, and generally negotiating fair and reasonable class and representative action
15 settlements. Practice in the narrow field of wage and hour litigation requires skill and knowledge
16 concerning the constantly evolving substantive law (state and federal), as well as the procedural
17 law of class and representative action litigation. In this action, the attorneys at D.Law are fully
18 equipped to use the skills and knowledge developed over decades of prosecuting and defending
19 wage and hour class actions to fairly and adequately represent the interests of the Class Members
20 and aggrieved employees. Therefore, based on our resources, experience, and knowledge, the
21 attorneys at D.Law are well-qualified to act as class counsel and represent the Plaintiff and the
22 putative Class Members and aggrieved employees in this action.

23 43. We understand the responsibilities owed as counsel to the Settlement Class
24 Members and aggrieved employees we represent. The attorneys at D.Law thoroughly investigated
25 the claims asserted in this action and have remained committed to dedicating the resources
26 necessary to represent the Class and vigorously pursue their claims. Based upon my experience and
27 understanding of the claims and defenses in this action, I believe the settlement is fair, adequate,
28 and reasonable for the Class Members and aggrieved employees and all involved, and that the

1 Settlement is well within the range of reasonableness that would permit it to be finally approved. I
2 am not aware of any conflict of interest with Plaintiffs or any other Class Member that would
3 interfere with the duties as Class Counsel.

4 **VIII. THE STIPULATED AWARD OF ATTORNEYS' FEES AND COSTS**

5 44. Under the Settlement, Class Counsel will request, without opposition from
6 Defendant, an award of Attorneys' Fees and Costs consisting of One Hundred Two Thousand Five
7 Hundred and Zero Cents (\$102,500), one-third of the Gross Settlement Amount, and actual
8 reasonable litigation costs incurred for reimbursement of actual reasonable litigation costs, not to
9 exceed \$25,000. This request is fair, reasonable, and adequate to compensate Class Counsel for the
10 substantial work they have put into this case and, moreover, the risk they assumed by taking it in
11 the first place. The attorneys' fees award is intended to reimburse Class Counsel for all
12 uncompensated work that they have already done and for all the work they will continue to do in
13 carrying out and overseeing the notification to Class Members, communicating with Class
14 Members regarding their claims, and assisting in the administration of the settlement if it is
15 preliminarily approved. At the time of filing the Motion for Final Approval of Settlement and
16 Attorneys' Fees and Costs, Plaintiff will submit detailed time records and invoices supporting the
17 request for attorneys' fees and litigation costs. Defendant will not oppose Class Counsels' fees and
18 cost request.

19 **IX. THE CLASS REPRESENTATIVE'S SERVICE PAYMENT**

20 45. The Settlement provides for a Class Representative Service Payment of \$10,000 to
21 Plaintiff Orgil Khatanbaatar for their service in litigating the action. Plaintiff has devoted a
22 substantial amount of time to helping Class Counsel effectively develop and prosecute this action
23 at every stage of the litigation. Plaintiff provided Class Counsel with information about
24 Defendant, reviewed documents, consulted Class Counsel throughout the litigation, participated
25 in the mediation process, and reviewed and signed the settlement agreement. Plaintiff has spent a
26 significant amount of time with Class Counsel detailing their knowledge of Defendant's
27 practices. Plaintiff has diligently, adequately, and fairly represented the Class Members, and has
28 not placed their interests above any member of the putative Class. This sort of payment to a

1 Class representative has been a common feature of settlements negotiated by Class Counsel and
2 routinely approved by courts. The Class Representative Service Payment of \$10,000 is fair and
3 reasonable.

4 **X. THE PRESENCE OF A GOVERNMENTAL PARTICIPANT**

5 46. Class Counsel will be submitting the Settlement Agreement to the LWDA
6 concurrently with the filing of this Motion pursuant to Labor Code § 2699(1)(2). On the date of
7 the date of filing the Plaintiff's Motion for Preliminary Approval, Plaintiff submitted the Motion to
8 the LWDA. Attached hereto as **Exhibit 3** is the LWDA confirmation.

9 I declare under penalty of perjury under the laws of the State of California and the United
10 States of America that the foregoing is true and correct.

11 Executed on July 10, 2026, at San Diego, California.

12
13 

14 Marta Manus, Esq.

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Orgil Khatanbaatar (“Plaintiff”) and defendant Infogain Technologies, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Orgil Khatanbaatar v. Infogain Technologies, Inc., et al.*, Case No. 23CV424955, filed on October 27, 2023, in Superior Court of the State of California, County of Santa Clara.
- 1.2. “Administrator” means Apex Class Action, LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 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 Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all current and former non-exempt employees of Defendant who worked in California during the PAGA Period.
- 1.5. “Class” means all current and former non-exempt employees of Defendant who worked in California during the Class Period.
- 1.6. “Class Counsel” means D.Law, Inc.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, number of relevant workweeks during the Class Period, number of PAGA Pay Periods, and other information necessary to mail Class Notice.
- 1.9. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member 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 Class Members.

- 1.11. “Class Notice” means the Court Approved Notice of Class Action Settlement and hearing date for Final Court Approval, to be mailed to Class Members in English with a Spanish translation in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from October 27, 2019, through May 30, 2025.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Santa Clara.
- 1.16. “Defendant” means the named Defendant Infogain Technologies, Inc.
- 1.17. “Defense Counsel” means Jackson Lewis P.C.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$307,500.00 (Three Hundred Seven Thousand Five Hundred Dollars and Zero Cents), which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, the Administration Expenses Payment, Individual PAGA Payments, and the LWDA PAGA Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “Operative Complaint” means the operative Second Amended Complaint which will be filed in the Action.
- 1.31. “Pay Period” means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.32. “PAGA Period” means the period from October 27, 2022, through May 30, 2025.
- 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.)
- 1.34. “PAGA Notice” means Plaintiff’s October 27, 2023, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to Aggrieved Employees and 75% to the LWDA in settlement of PAGA Claims.
- 1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. “Plaintiff” means Orgil Khatanbaatar, the named plaintiff in the Action.
- 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.40. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

- 1.41. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.42. “Released Parties” means Defendant and its present and former parent companies, subsidiaries, divisions, related entities, or affiliated companies, and their officers, directors, employees, agents, attorneys, successors and assigns, whether in their individual or official capacities, including, but not limited to, Infogain Corporation.
- 1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.44. “Response Deadline” means 60 days after the Administrator mails the Class Notice to Class Members and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 15 calendar days beyond the expiration of the Response Deadline.
- 1.45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46. “Workweek” means any week during which a Class Member worked for Defendant for at least one day during the Class Period.

2. RECITALS.

- 2.1. On October 27, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198); (2) Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7, and 1198); (3) Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198); (4) Failure to Pay Proper Sick Pay (Lab. Code § 246); (5) Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a)); (6) Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203); (7) Failure to Indemnify (Lab. Code § 2802); and (8) Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*) Simultaneously, on October 27, 2023, Plaintiff gave timely notice to the LWDA and Defendant that Plaintiff intended to proceed with a representative action under PAGA (LWDA-CM-990351-23) pursuant to Labor Code § 2699.3, subd.(a). On December 21, 2023, Plaintiff filed the First Amended Complaint, which added claims for penalties under Labor Code § 2698, *et seq.*
- 2.2. On February 5, 2024, Plaintiff requested dismissal of the first through eighth causes of action in the FAC, which the Court signed on February 23, 2024.
- 2.3. As part of this Settlement, Plaintiff will file a Second Amended Complaint (“SAC”) realleging the first through eighth causes of actions from the FAC (“Operative Complaint”)

- 2.4. Defendant denies the allegations in the Operative Complaint, deny any failure to comply with the laws identified in the Operative Complaint, and deny any and all liability for the causes of action alleged.
- 2.5. On March 31, 2025, the Parties participated in private mediation before Brandon McKelvey and were able to reach an agreement on general terms, which were memorialized in mediator's proposal.
- 2.6. In advance of mediation, Class Counsel conducted a thorough investigation into the facts of, and applicable law to, the Action. Prior to mediation, Plaintiff also obtained and analyzed a representative sampling of time and pay data for Class Members and the necessary policy documents through informal discovery to properly evaluate the strength and weaknesses of the claim and engage in meaningful settlement discussions. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116 (2008) ("*Dunk/Kullar*").
- 2.7. The Court has not granted class certification because the Parties engaged in mediation and reached a settlement before the issue of class certification could be briefed.
- 2.8. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant will pay an all-in and non-reversionary sum of \$307,500.00. The Gross Settlement Amount does not include employer payroll taxes owed on the wage portions of the Individual Class Payments, which Defendant will pay separately.
- 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 the Final Approval:
- 3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement

Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

- 3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$102,500.00, and a Class Counsel Litigation Expenses Payment of actual and reasonable litigation costs and expenses incurred in to prosecute the Action. Defendant will not oppose requests for Class Counsel Fees Payment of not more than One-Third of the Gross Settlement Amount and for a Class Counsel Litigation Expenses Payment which does not exceed \$25,000.00. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.2.3 To the Administrator: An Administration Expenses Payment not to exceed \$8,000.00 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 \$8,000.00, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- 3.2.4.1 Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest (10%) and penalties (70%) (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage

withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$15,000.00 to be paid from the Gross Settlement Amount, with 75% (\$11,250.00) allocated to the LWDA PAGA Payment and 25% (\$3,750.00) allocated to the Individual PAGA Payments.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$3,750.00 by the total number of Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Workweeks and Pay Periods. Based on a review of its records, Defendant estimates that, at the time of the mediation, there were approximately 122 Class Members who collectively worked a total of 6,500 Workweeks, and 71 of Aggrieved Employees who worked a total of approximately 2,699 of PAGA Pay Periods.

4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class 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 Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.

4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (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. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all PAGA Members including Non-Participating Class Members who qualify as PAGA Members (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 3 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 Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no

"unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, and Aggrieved Employees will release claims against all Released Parties as follows:

5.1. **Plaintiff's Release.** Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, releases and discharges Released Parties from all claims, transactions, or occurrences, that occurred during the Class Period, including all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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 his or her settlement with the debtor or Released Party.

5.2 **Release by Participating Class Members:** All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims arising during the Class Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair

Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for civil penalties under PAGA arising during the PAGA Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and PAGA Notice ("Released PAGA Claims").

6. **MOTION FOR PRELIMINARY APPROVAL**. Plaintiff will prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approval.

6.1. Defendant's Statement of Non-Opposition in Support of Preliminary Approval. Defendant may file a Statement of non-opposition in support of preliminary approval to be filed with or after the motion for preliminary approval documents.

6.2. Plaintiff's Responsibilities. Plaintiff will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3. Responsibilities of Counsel. Class Counsel will obtain a prompt hearing date for the Motion for Preliminary Approval, file the Motion for Preliminary Approval no later than

16 (sixteen) court days before the hearing, unless otherwise ordered by the Court, and deliver the Court's Preliminary Approval Order to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected Apex Class Action, LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action, LLC 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 and their Counsel 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 US Treasury Regulation section 468B-1.

7.4. Notice to Class Members.

7.4.1 No later than three (3) calendar days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 7 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail and email where email addresses are available, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and Pay Periods (if applicable) used to

calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

- 7.4.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received the Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email and first class mail, a Class Notice requiring them to exercise options under this Agreement not later than 15 days after receipt of the Class Notice, or the deadline dates in the Class Notice, whichever is later.

7.5 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves from (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails and emails (if email address is available) the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably

ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are PAGA Members are deemed to release the Released PAGA Claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails and emails (if email address is available) the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks and Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks and/or Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination regarding the challenges. The Administrator shall also notify each challenging Class Member of its determination within 7 days of receiving the challenge.

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the

Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8 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.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly

Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

7.8.6 Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**. Based on its records, Defendant represented at mediation there are 122 Class Members who collectively worked a total of 6,500 Workweeks during the Class Period. If the number of Workweeks during the Class Period increases by more than 10% (i.e., to 7,150 or more), Defendant, at its sole discretion, will either: (a) pay the pro rata percentage increase in excess of 10% of the Gross Settlement Amount to include the additional Workweeks (i.e. an 11% increase in Workweeks would result in a 1% increase to the Gross Settlement Amount); or (b) set the end date for the Class Period and the PAGA Period to the date one day before the number of Workweeks exceeds 7,150. If this escalator clause is triggered, and Defendant, at its sole discretion, elects to pay the pro rate percentage increase in excess of 10% of the Gross Settlement Amount to include the additional Workweeks, the Parties agree that the portion of the Gross Settlement Amount allocated to

Class Counsel Fees Payment will increase proportionally such that the total amount of Class Counsel Fees Payment remains one-third of the Gross Settlement Amount after the upward adjustment required by this provision is implemented. Defendant agrees to provide an updated number of Class Members and Workweeks to Plaintiff prior to the filing of the Motion for Preliminary Approval, and Defendant, at that time, agrees to inform Plaintiff of Defendant's election to either: (a) pay the pro rata percentage increase in excess of 10% of the Gross Settlement Amount to include the additional Workweeks (i.e. an 11% increase in Workweeks would result in a 1% increase to the Gross Settlement Amount); or (b) set the end date for the Class Period and the PAGA Period to the date one day before the number of Workweeks exceeds 7,150.

9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
 - 10.1. **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 10.2. **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this

Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement 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).

- 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4. 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 the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5. Attorney Authorization. Class 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.

- 12.6. 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 the 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.
- 12.7. 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.
- 12.8. No Tax Advice. Neither Plaintiff, Class 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.
- 12.9. 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, and approved by the Court.
- 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11. 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.
- 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class 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. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.15. 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.

12.16. 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.

12.17. 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:

D.Law, Inc.

Emil Davtyan

Emil@d.law

David Yeremian

d.yeremian@d.law

David Keledjian

d.keledjian@d.law

Enoch J. Kim

e.kim@d.law

Norayr Zakaryan

n.zakaryan@d.law

450 N. Brand Blvd., Suite 840

Glendale, CA 91203

Telephone: (818) 962-6465

Fax: (818) 962-6469

To Defendant:

Jackson Lewis P.C.

Gabriel N. Rubin

Gabriel.Rubin@jacksonlewis.com

Liam N. Gaarder Feingold

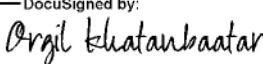
Liam.GaarderFeingold@jacksonlewis.com

50 California Street
9th Floor
San Francisco, CA 94111
Telephone: (415) 394-9400
Fax: (415) 394-9401

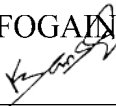
12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument 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.

12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

DATED: 2/5/2026

DocuSigned by:
BY: 
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Orgil Khatanbaatar

DATED:

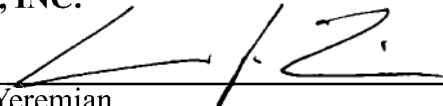

INFOGAIN TECHNOLOGIES, INC.

Name: KULESH BANSAL
Time: 04/12/2026, 6:30AM PT

APPROVED AS TO FORM ONLY:

DATED: 2/5/2026

D.LAW, INC.

BY: 
David Yeremian
David Keledjian
Enoch J. Kim
Eric J. Naessig
Counsel for Plaintiff Orgil Khatanbaatar

DATED: 4/13/2026

Jackson Lewis P.C.

BY: 
Gabriel N. Rubin
~~Liam N. Gaarder Feingold~~
Counsel for Defendant Infogain Technologies, Inc.

Exhibit A

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING
DATE FOR FINAL COURT APPROVAL**

Orgil Khatanbaatar v. Infogain Technologies, Inc. | Case No. 23CV424955

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) entitled *Orgil Khatanbaatar v. Infogain Technologies, Inc.* for alleged wage and hour violations. For the purposes of this Notice, Infogain Technologies, Inc. shall be referred to here as the “Company.” The Action was filed by a former Company employee (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of hourly, non-exempt employees (“Class Members”) who worked for Company during the Class Period from October 27, 2019 to May 30, 2025 and (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly, non-exempt employees who worked for Company during the PAGA Period from October 27, 2022 to May 30, 2025 (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Company to fund Individual Class Payments, and (2) a PAGA Settlement requiring Company to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on the Company’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to the Company’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on the Company’s records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires the Company to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against the Company.

If you worked for the Company during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against the Company.

- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against the Company, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

The Company will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against the Company that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. The Company must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to the Company's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.
--	--

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of the Company. The Action accuses the Company of violating California labor laws by failing to pay hourly wages, overtime wages, wages due upon termination and sick pay and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA").

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether the Company or Plaintiff is correct on the merits. In the meantime, Plaintiff and the Company hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and the Company have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, the Company does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) the Company has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

- a. The Company Will Pay \$307,500.00 as the Gross Settlement Amount (Gross Settlement). The Company has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, the Company will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

- b. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
- i. Up to \$102,500.00 (One-Third of the Gross Settlement) to Class Counsel for attorneys' fees, along with actual, reasonable litigation costs, which are currently estimated to not exceed \$25,000.00. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - ii. Up to \$10,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - iii. Up to \$8,000.00 to the Administrator for services administering the Settlement.
 - iv. Up to \$15,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

- c. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
- d. Taxes Owed on Payments to Class Members. The Settlement shall be broken down as follows: 20% ("Wage Portion") of each Individual Class Payment to taxable wages and 80% ("Non-Wage Portion") to penalties and interest. The remaining 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest (10%) and penalties (70%). The Wage Portion is subject to withholding and will be reported on IRS W-2 Forms. The Company will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and the Company have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

- e. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check are sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.
- f. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against the Company.
- g. You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against the Company based on the PAGA Period facts alleged in the Action.
- h. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and the Company have agreed that, in either case, the Settlement will be void: the Company will not pay any money and Class Members will not release any claims against the Company.
- i. Administrator. The Court has appointed a neutral company, Apex Class Action, LLC (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.
- j. Participating Class Members' Release. After the Judgment is final and the Company has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against the Company or related entities for

wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims arising during the Class Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint (“Released Class Claims”). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

- k. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and the Company has fully funded the Gross Settlement and separately paid all employer payroll taxes, all Aggrieved Employees will be barred from asserting PAGA claims against the Company, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against the Company or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees’ Releases for Participating and Non-Participating Class Members are as follows:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for civil penalties under PAGA arising during the PAGA Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and PAGA Notice (“Released PAGA Claims”).

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

- a. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
- b. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$3,750.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

- c. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of Pay Periods you worked during the PAGA Period, as recorded in the Company's records, are stated on the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept the Company's calculation of Workweeks and/or Pay Periods based on the Company's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and the Company's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

- a. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
- b. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as in this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Orgil Khatanbaatar v. Infogain Technologies, Inc.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by _____, or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and the Company are asking the Court to

approve. At least 16 court days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website _____ or the Court's website _____.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is _____. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Orgil Khatanbaatar v. Infogain Technologies, Inc.* and include your name, current address, telephone number, and approximate dates of employment for the Company and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ in Department 19 of the Santa Clara Superior Court, located at 161 North First Street, San José, CA 95113. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually by following the instructions on the Court's website (<https://santaclara.courts.ca.gov/online-services/remote-hearings>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website (_____) beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything the Company and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at _____. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to <https://portal.scscourt.org/search> and entering the Case Number for the Action, Case No. 23CV424955. You can also make an

appointment to personally review court documents in the Clerk's Office at the Old Courthouse by calling (408) 882-2310.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION
ABOUT THE SETTLEMENT.**

The Contact information for the Settlement Administrator is as follows:

Email Address:
Mailing Address:
Telephone:
Fax Number:

The addresses for the Parties' counsel are as follows:

Class Counsel	Counsel for Defendant
Emil Davtyan David Yeremian D.Law, Inc. 450 N Brand Blvd., Suite 840 Glendale, CA 91203 Tel.: (818) 962-6465 Fax: (818) 962-6469 E-Mail: Emil@d.law d.yeremian@d.law	Gabriel N. Rubin Liam N. Gaarder Feingold Jackson Lewis P.C. 50 California Street, 9th Floor San Francisco, CA 94111-4615 Tel: (415) 394-9400 Fax: (415) 394-9401 E-mail: Gabriel.Rubin@jacksonlewis.com Liam.GaarderFeingold@jacksonlewis.com

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT 2

D.LAW, INC.

David Keledjian, Esq. (SBN 309135)
David Arakelyan, Esq. (SBN 337076)
Enoch J. Kim, Esq. (SBN 261146)
Marta Manus , Esq. (SBN 260132)
250 N Madison Avenue, 2nd Floor
Pasadena, CA 91101-1639
Telephone: (818) 962-6465/ Fax: (818) 962-6469
Emails: d.keledjian@d.law, d.arakelyan@d.law
e.kim@d.law, m.manus@d.law

Attorneys for Plaintiff ORGIL KHATANBAATAR
on behalf of herself and other similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

ORGIL KHATANBAATAR, on behalf of
herself and all others similarly situated, and
the general public,

Plaintiff,

v.

INFOGAIN TECHNOLOGIES, INC., a
California corporation; ADVANCED
RESOURCE STAFFING, a business entity of
unknown form; and DOES 1 through 50,
inclusive,

Defendants.

CLASS ACTION:

Case No. 23CV424955

Assigned for all purposes to:

Hon.: Theodore C. Zayner

Dept.: 19

**DECLARATION OF KIMBERLY
SUTHERLAND IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARILY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Date: August 5, 2026

Time: 2:30 p.m.

Dept.: 19

Original Complaint Filed: October 27, 2023

First Amended Complaint: December 21, 2023

Second Amended Complaint: May 7, 2026

Trial: None set

DECLARATION OF KIMBERLY SUTHERLAND

I, Kimberly Sutherland, declare as follows:

1. I am the Senior Vice President of Apex Class Action LLC., a class action settlement administration company headquartered in Irvine, California. I have personal knowledge of the facts outlined in this declaration and, if called as a witness, I could and would competently testify thereto.

2. Apex Class Action's team has been directly involved with class action administration for a combined 75 years and has successfully managed numerous class action cases during that time. Our team comprises experienced professionals with extensive knowledge of class action settlement administration. In addition, Apex Class Action has the necessary technology and infrastructure to efficiently manage large-scale class action cases. We utilize state-of-the-art software and systems to ensure that all aspects of the administration process are executed accurately and efficiently.

3. The legal practitioners or parties involved do not possess any form of ownership stake or affiliation with Apex Class Action.

4. Apex Class Action has extensive expertise in the dissemination of class action notices and administration of class action settlements. Our range of services includes first-class mail via the United States Postal Service, a bilingual toll-free call center, interactive & static website development and support, enterprise database management, response processing, and Qualified Settlement Fund (QSF) distribution for class actions of various sizes. We uphold the highest level of confidentiality in all our operations, and any class data and communication received by us will be treated with the utmost confidentiality and will not be disclosed to any unauthorized party. Attached is our current CV as **Exhibit A**, highlighting our primary competencies in class action administration.

5. Apex Class Action ensures that Client and Class Member Information is only used for the purposes specified in the relevant agreements or court orders governing the provision of its legal services. To safeguard class member information, Apex Class Action has implemented a comprehensive process to identify, assess, and mitigate risks in all areas of its

1 operations, regularly evaluating the effectiveness of its security measures. Access to class
2 member information is limited to employees, agents, or subcontractors who require it to
3 perform their duties, and Apex Class Action conducts background checks on all personnel with
4 access to sensitive personal information, to ensure they do not pose a threat to the security of
5 client or class member information. To guarantee the security of the settlement administration
6 process, Apex Class Action maintains \$1,000,000.00 in Professional Liability and
7 \$5,000,000.00 in Cyber Liability Insurance coverage, as required by legal standards and best
8 practices in the legal profession.

9 6. Apex Class Action disbursement process involves (i) obtaining a Federal
10 Employer Identification Number (FEIN) from the Internal Revenue Service (IRS) under the
11 name of the settlement case; (ii) establishing a QSF to manage the distribution of settlement
12 funds; (iii) establishing a case specific website where relevant case-related settlement
13 documents will be accessible, including the judgment; (iv) conducting preliminary and final
14 calculations to determine the individual settlement amounts, including attorneys' fees, costs,
15 enhancement awards, and any other court-approved designees; (v) calculating and reporting
16 state and federal taxes as applicable; (vi) and disseminating approved settlement funds and tax
17 forms via First-Class USPS mail.

18 7. The administration fees for Apex Class Action's management of this settlement
19 are calculated using a combination of per hour, per piece, and static rates, per person, and will
20 not exceed \$5,990.00, as specified in **Exhibit B**. This document presents a comprehensive plan
21 detailing the specific administration services that will be provided.

22 I declare under penalty of perjury under the laws of the state of California that the
23 foregoing is true and correct. Executed this 8th day of June 2026, in Irvine, California.

24 

25 _____
26 Kimberly Sutherland
27
28

EXHIBIT A



CASE TYPES

- Consumer
- Data Breach
- Mass Tort Disbursement
- Wage & Hour
- Private Attorneys
General Act (PAGA)
- Belaire West
- Class Certification
- Fair Labor Standards
Act (FSLA)
- Telephone Consumer
Protection Act (TCPA)
- Employee Retirement
Income Security Act
(ERISA)
- Product Liability

SUMMARY

Apex Class Action brings together a seasoned team of professionals adept at navigating the intricate landscape of legal processes and settlement administration. Armed with extensive expertise, we offer a comprehensive understanding of the nuances inherent in settlement procedures. Our organization excels in communication and organization, leveraging cutting-edge technology to streamline project management and adhere to rigorous timelines with precision and efficiency.

From initial pre-settlement consultation to the final stages of disbursement and tax reporting, our technology platform and stringent data security protocols revolve around integration, automation, and observability. This ensures swift and precise payment for class members, bolstering efficiency and accuracy throughout the process.

PRELIMINARY CONSULTATION

Our complimentary preliminary consultation serves as the cornerstone for establishing a comprehensive framework. This framework ensures that all stakeholders grasp the project's scope, timeline, and budget parameters effectively. Following the alignment of objectives and expectations between plaintiff and defense counsel, our team diligently explores additional avenues to identify potential class members. We go the extra mile by offering detailed interactive banner ad campaigns and print media options, maximizing outreach and engagement to achieve optimal results.

CASE MANAGEMENT

At Apex Class Action, our expert Case Managers and Data Managers take charge of overseeing all aspects of the settlement administration process. Their role is pivotal in ensuring strict adherence to court orders, settlement agreements, and industry benchmarks. Working hand in hand with both plaintiff and defense counsel, we meticulously manage every aspect of the settlement administration process.

Our comprehensive mailing and notification services commence with meticulous data scrubbing and the establishment of a class database, guaranteeing the accuracy of contact information. Subsequently, the database undergoes validation using the USPS National Change of Address (NCOA) database to ensure precision and reliability. Additionally, we provide court-certified translation services covering over 65 languages, facilitating effective communication across diverse demographics. In instances where mail is returned as undeliverable, we undertake skip tracing to obtain updated addresses for class members, ensuring that all notices reach their intended recipients without delay.



To ensure transparency throughout the entire process, a steady cadence of reports, as defined during the preliminary consultation, is generated throughout the administration process for both the plaintiff and defense counsel.

Our capability to provide cost-effective pricing is rooted in our adept utilization of cutting-edge technology, a team of highly skilled professionals, and an optimized process. Should the courts approve the utilization of modern electronic notification methods like email and banner ads, we ensure both certainty and cost-effectiveness. Through electronic disbursement, we offer a highly efficient strategy wherein settlement awards are directly delivered to class members, mitigating potential drawbacks associated with traditional mail delivery and enhancing overall efficiency.

TAX COMPLIANCE & CASE RESOLUTION

Apex leverages its proprietary technology to efficiently manage all necessary state and federal tax reporting requirements. This includes establishing a Settlement Federal Tax Identification Number (FIEN) with the IRS and Qualified Settlement Fund (QSF) EDD accounts where applicable. We handle taxes associated with settlements involving multiple state tax filings, as well as manage all payroll tax filings such as Form 940, 941, and state filings. Additionally, our services encompass the preparation of information returns (Forms W-2, 1099, and 1042-S) for reportable payments and the preparation of the annual Federal income tax return (Form 1120-SF). Moreover, we provide comprehensive management of qualified settlement funds (QSF), ensuring that all accounts are FDIC-insured bank accounts. Our full suite of comprehensive tax management services includes:

- Prepare and fill all applicable returns (Forms W-2, 1099, and 1042-S)
- Payroll tax filings, including Form 940, 941, and state filings
- FID-Insured QSF Bank Accounts
- State and Federal Tax Reporting
- IRS Federal Tax Identification Number
- QSF Audit Reports
- Prepare And File 1120-SF Tax Returns with Quarterly Tax Obligations

CONTACT

Address

18 Technology Dr. Ste. 154
Irvine, CA 92618

Email

kimberly@apexclassaction.com
Info@apexclassaction.com

Phone

1.321.223.5065
1.800.355.0700

EXHIBIT B

**Quotation Request:**

Eric Naessig
D.Law
enaessig@d.law
818.875.2008

Case Name:

Khatanbaatar v. Infogain Technologies, Inc.

Date:

Wednesday, December 17, 2025

RFP Number:

304100020

Prepared By:

Kimberly Sutherland
Apex Class Action LLC
kimberly@apexclassaction.com
321.223.5065

Settlement Specifications

Estimated Class Size:	122
Certified Language Translation:	Yes
Static Settlement Website	Yes
Percentage of Undeliverable Mail	15%

Professional Services**Fee Calculation****Rate(s)****Quantity****Estimated Cost****Data Analytics and Standardization**

Import and Standardize Data*	Per Hour	\$125.00	1	\$125.00
Data Analyst	Per Hour	\$150.00	2	\$300.00

*Data provided must be in a workable format. Apex can standardize provided data at an additional cost of \$150/hr.

Sub Total: \$425.00

Mailing of Class Notice

Form Set Up	Per Hour	\$120.00	1	\$120.00
Print & Mail Class Notice	Per Piece	\$1.50	122	\$183.00
USPS First Class Postage	Per Piece	\$0.78	122	\$95.16
Remail Undeliverable Mail (Skip-Trace)	Per Piece	\$2.25	18	\$41.18
Receive and Process Undeliverable Mail	Per Hour	\$75.00	1	\$75.00
Process Class Member Correspondence via mail, e-mail & fax	Per Piece	\$75.00	1	\$75.00
NCOA Address Update (USPS)	Static Rate	\$25.05	1	\$25.05
Certified Language Translation: Spanish	Static Rate	\$950.00	1	\$950.00

Sub Total: \$1,564.39

Project Management

Project Management	Per Hour	\$150.00	2	\$300.00
Project Coordinator	Per Hour	\$90.00	2	\$180.00
Data Analyst and Reporting	Per Hour	\$140.00	1	\$140.00

Sub Total: \$620.00



APEX

CLASS ACTION ADMINISTRATION

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Toll-Free Contact Center, Website & Reporting				
Bilingual Toll-Free Contact Center	Static Rate	\$40.00	1	\$40.00
Settlement Website: Static Apex URL	Static Rate	\$500.00	1	\$500.00
Settlement Status Reports	Static Rate	\$750.00	1	Waived
			Sub Total:	\$540.00

Distribution & Settlement Fund Management				
Settlement Calculations (Preliminary and Final)	Per Hour	\$120.00	2	\$240.00
Account Management and Reconciliation	Per Hour	\$140.00	2	\$280.00
Print & Mail Distribution Settlement Check (W-2/1099)	Per Piece	\$1.50	122	\$183.00
USPS First Class Postage	Per Piece	\$0.78	122	\$95.16
Remail Distribution to Updated Address (Skip Trace)	Per Piece	\$2.25	12	\$27.45
Individual Income Tax Preparation & Reporting	Per Hour	\$100.00	4	\$400.00
QSF Income Tax Reporting (per calendar year)	Per Year	\$950.00	1	\$950.00
Unclaimed Funds: State Controller's Unclaimed Property Fund	Static Rate	\$190.00	1	\$190.00
			Sub Total:	\$2,365.61

Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	\$135.00	1	\$135.00
Project Management Reconciliation	Per Hour	\$100.00	1	\$100.00
Declarations	Per Hour	\$120.00	2	\$240.00
			Sub Total:	\$475.00

			WILL NOT EXCEED:	\$5,990.00
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Thank you for your business!



Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. **Apex warrants** that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.

9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of this term may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. **Ownership** of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.

13. Upon the completion of the administration and unless retention instructions are ordered by the court, Apex will notify the client that it will destroy and/or return all confidential information and property within 90 days upon the client's written request. Alternatively, the material may be stored for one year at a monthly fee of \$1.50 per storage box for paper documents and \$0.01 per image for electronic copies over a period of three years, which compensates Apex for its electronic and hard-copy storage costs. Apex will not be liable for any damages, liability, or expenses incurred in connection with any delay in delivery of, or damage to disks, magnetic tapes, or any input data provided by the client or its representatives unless Apex has agreed in writing to assume such responsibility.

14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.

16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.

18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.

EXHIBIT 3