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WHOLESALE MART

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

ERICH TRAN, an individual and on behalf of
all others similarly situated,

Plaintiff,

v.

MARUKAI CORPORATION, a Hawaii
corporation doing business as MARUKAI
WHOLESALE MART; MARIE BREEN, an
individual, and DOES 1 through 100
inclusive,

Defendants.

CASE NO.: 24STCV12039

[Assigned for all purposes to Honorable
Carolyn B. Kuhl in Dept. 12]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: May 14, 2024

Trial Date: None Set

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Erich Tran (“Plaintiff”) and defendant Marukai Corporation, dba Marukai
3 Wholesale Mart (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as
4 “Parties,” or individually as “Party.”

5 **1. DEFINITIONS**

6 1.1. “Action(s)” means the Plaintiff’s wage and hour class action against Defendant, captioned
7 *Erich Tran v. Marukai Corporation, et al.*, Case No. 24STCV20189, initiated on May 14, 2024,
8 and pending in the Superior Court of the State of California, County of Los Angeles; and separate
9 representative action under PAGA captioned *Erich Tran v. Marukai Corporation, et al.*, Case
10 No. 24STCV20189, initiated on August 9, 2024, and pending in the Superior Court of the State
11 of California, County of Los Angeles.

12 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to
13 appoint to administer the Settlement.

14 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
15 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
16 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
17 Preliminary Approval of the Settlement.

18 1.4. “Aggrieved Employee” means a person employed by Defendant in California and
19 classified as a non-exempt, hourly-paid employee who worked for Defendant during the PAGA
20 Period.

21 1.5. “Class” means all persons employed by Defendant in California and classified as a non-
22 exempt, hourly-paid employee who worked for Defendant during the Class Period.

23 1.6. “Class Counsel” means David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group,
24 P.C.

25 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
26 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
27 expenses, respectively, incurred to prosecute the Action.

28 1.8. “Class Data” means Class Member identifying information in Defendant’s custody,

possession, or control, including the Class Member's (1) name; (2) last known address(es); (3) last known telephone number(s); (4) last known Social Security Number(s); and (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

1.9. "Class Member" or "Settlement 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 and Spanish 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 May 14, 2020, through August 18, 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 Los Angeles.

1.16. "Defendant" means named defendant Marukai Corporation, dba Marukai Wholesale Mart.

1.17. "Defense Counsel" means Michael R. Goldstein and Michael A. Mauge of Musick, Peeler & Garrett LLP.

1.18. "Effective Date" means the later of: (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 based upon the Final Approval.

1.22. “Gross Settlement Amount” means \$4,000,000.00 (Four Million Dollars and Zero Cents) which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and Administrator’s Expenses.

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 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: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel

Litigation Expenses Payment, and Administration Expenses 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. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

1.31. “PAGA Period” means the period from May 14, 2023, through the end of the Class Period.

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

1.33. “PAGA Notice” means plaintiff’s May 14, 2024, letter to defendant and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$100,000.00) and the 75% to the LWDA (\$300,000.00) in settlement of PAGA claims.

1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. “Plaintiff” means Erich Tran, the named plaintiff in the Action.

1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval and Approval of PAGA Settlement.

1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4 below.

1.41. “Released Parties” means: Defendant, Marie Breen, and each of their former, present and future owners, parents, affiliated companies and subsidiaries, and all of their current, former, and

1 future officers, directors, attorneys, members, managers, employees, consultants, partners,
2 shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers,
3 reinsurers, and/or legal representatives.

4 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be
5 excluded from the Class Settlement signed by the Class Member.

6 1.43. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to
7 Class Members and Aggrieved Employees, and shall be the last date on which Class Members
8 may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the
9 Settlement. Class Members to whom Notice Packets are resent after having been returned
10 undeliverable to the Administrator shall have an additional 15 days beyond the Response
11 Deadline has expired.

12 1.44. “Settlement” means the disposition of the Action effected by this Agreement and the
13 Judgment.

14 1.45. “Workweek” means any week during which a Class Member worked for Defendant, for
15 at least one day during the Class Period, based on hire dates, re-hire dates (as applicable), and
16 termination dates (as applicable).

17 **2. RECITALS**

18 2.1. On May 14, 2024, Plaintiff commenced this Action by filing a class action complaint
19 against Defendant for: (1) failure to pay overtime; (2) failure to pay minimum wages; (3) failure
20 to provide meal periods; (4) failure to provide rest periods, or compensation in lieu thereof; (5)
21 waiting time penalties; (6) wage statement violations; (7) failure to timely pay wages; (8) failure
22 to indemnify; (9) violation of labor code sections 227.3 and (10) unfair competition (“Class
23 Action”).

24 2.2. Also on May 14, 2024, Plaintiff filed with the LWDA and served on Defendant a notice
25 under Labor Code section 2699, et seq. seeking to represent other non-exempt employees against
26 Defendant for various Labor Code violations (“PAGA Notice”).

27 2.3. On August 9, 2024, after sixty-five (65) days had passed without any action by the LWDA
28 with respect to the Labor Code violations alleged in the PAGA Notice, Plaintiff filed a separate

representative action under PAGA against Defendant in the Superior Court of California, County of Los Angeles, Case No. 24STCV20189, for the Labor Code violations set out in the PAGA Notice (the “PAGA Action”).

2.4. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

2.5. Prior to mediation Plaintiff obtained, through informal discovery: (1) a sampling of time and payroll records for Class Members during the Class Period; (2) class data points, including the number of Class Members and Workweeks during the Class Period, the number of Aggrieved Employees and Pay Periods during the PAGA Period; (3) Defendant’s wage and hour policy documents, including two employee handbooks; (4) all documents pertaining to Plaintiff available to Defendant, including Plaintiff’s personnel and payroll records.

2.6. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.7. On August 18, 2025, the Parties participated in an all-day mediation presided over by Todd Smith, Esquire. The mediation was successful, and the Parties agreed to globally resolve all class and PAGA claims in the Action. As part of this Agreement, the Parties agree to stipulate to Plaintiff’s filing of a First Amended Complaint in the Class Action, adding all allegations brought in the PAGA Action, and request for dismissal without prejudice of the PAGA Action, thereby effectively consolidating the two actions for purposes of Settlement (hereinafter, the “Action”). The First Amended Complaint is the operative complaint in the Action (“Operative Complaint”).

2.8. The Court has not granted class certification.

2.9. 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 8.1 below, Defendant promises to pay \$4,000,000.00 as the Gross Settlement Amount, unless increased

pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to Plaintiff of not more than \$7,500.00 in addition to any Individual Class Payment and any Individual PAGA Payment Plaintiff 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 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 (1/3) of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to be \$1,333,333.33 and a Class Counsel Litigation Expenses Payment of not more than \$50,000.00. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class

1 Litigation Expenses Payment not later than 16 court days prior to the Final Approval
2 Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel
3 Litigation Expenses Payment less than the amounts requested, the Administrator will
4 allocate the remainder to the Net Settlement Amount. Released Parties shall have no
5 liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any
6 portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses
7 Payment. The Administrator will pay the Class Counsel Fees Payment and Class
8 Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel shall
9 assume full responsibility and liability for taxes owed on the Class Counsel Fees
10 Payment and the Class Counsel Litigation Expenses Payment and hold Defendant
11 harmless, and indemnify Defendant, from any dispute or controversy regarding any
12 division or sharing of any of these Payments. There will be no additional charge of any
13 kind to either the Settlement Class Members or request for additional consideration from
14 Defendant for such work unless, Defendant materially breaches this Agreement,
15 including any term regarding funding, and further efforts are necessary from Class
16 Counsel to remedy said breach, including, without limitation, moving the Court to
17 enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs
18 and expenses in amounts that are less than the amounts provided for herein, then the
19 unapproved portion(s) shall be a part of the Net Settlement Amount.

20 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
21 \$19,950.00 except for a showing of good cause and as approved by the Court. To the
22 extent the Administration Expenses are less or the Court approves payment less than
23 \$19,950.00, the Administrator will retain the remainder in the Net Settlement Amount.

24 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated
25 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked
26 by all Participating Class Members during the Class Period and (b) multiplying the result
27 by each Participating Class Member's Workweeks.

28 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating

1 Class Member's Individual Class Payment will be allocated to settlement of
2 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
3 withholding and will be reported on an IRS W-2 Form. The 80% of each
4 Participating Class Member's Individual Class Payment will be allocated to
5 settlement of claims for interest and penalties (the "Non-Wage Portion"). The
6 Non-Wage Portions are not subject to wage withholdings and will be reported
7 on IRS 1099 Forms. Participating Class Members assume full responsibility
8 and liability for any employee taxes owed on their Individual Class Payment.

9 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
10 Class Payments. Non-Participating Class Members will not receive any
11 Individual Class Payments. The Administrator will retain amounts equal to
12 their Individual Class Payments in the Net Settlement Amount for distribution
13 to Participating Class Members on a pro rata basis.

14 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
15 \$400,000.00 to be paid from the Gross Settlement Amount, with 75% (\$300,000.00)
16 allocated to the LWDA PAGA Payment and 25% (\$100,000.00) allocated to the
17 Individual PAGA Payments.

18 3.2.5.1. The Administrator will calculate each Individual PAGA
19 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share
20 of PAGA Penalties \$100,000.00 by the total number of PAGA Period Pay
21 Periods worked by all Aggrieved Employees during the PAGA Period and (b)
22 multiplying the result by each Aggrieved Employee's PAGA Period Pay
23 Periods. Aggrieved Employees assume full responsibility and liability for any
24 taxes owed on their Individual PAGA Payment.

25 3.2.5.2. If the Court approves PAGA Penalties of less than the
26 amount requested, the Administrator will allocate the remainder to the Net
27 Settlement Amount. The Administrator will report the Individual PAGA
28 Payments on IRS 1099 Forms.

1 **4. SETTLEMENT FUNDING AND PAYMENTS**

2 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records
3 to date, Defendant estimates there are 3,244 Class Members who collectively worked a total of
4 200,000 Workweeks, and 1,779 Aggrieved Employees who worked a total of 42,605 PAGA Pay
5 Periods.

6 4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the
7 Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the
8 form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the
9 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
10 of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator
11 employees who need access to the Class Data to effect and perform under this Agreement.
12 Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class
13 Data omitted class member identifying information and to provide corrected or updated Class
14 Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant
15 must send the Class Data to the Administrator, the Parties and their counsel will expeditiously
16 use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or
17 omitted Class Data.

18 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
19 Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by
20 transmitting the funds into a Qualified Settlement Fund ("QSF") within the meaning of Treasury
21 Regulation Section 1.468B-1, et seq., to be established by the Settlement Administrator no later
22 than 14 days after the Effective Date.

23 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the
24 Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments,
25 all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses
26 Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and
27 the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment,
28 the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment

1 shall not precede disbursement of Individual Class Payments, and the Individual PAGA
2 Payments.

3 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
4 Individual PAGA Payments and send them to the Class Members via First Class U.S.
5 Mail, postage prepaid. The face of each check shall prominently state the date (not less
6 than 180 days after the date of mailing) when the check will be voided. The
7 Administrator will cancel all checks not cashed by the void date. The Administrator
8 will send checks for Individual Settlement Payments to all Participating Class Members
9 (including those for whom Class Notice was returned undelivered). The Administrator
10 will send checks for Individual PAGA Payments to all Aggrieved Employees including
11 Non-Participating Class Members who qualify as Aggrieved Employees (including
12 those for whom Class Notice was returned undelivered). The Administrator may send
13 Participating Class Members a single check combining the Individual Class Payment
14 and the Individual PAGA Payment. Before mailing any checks, the Settlement
15 Administrator must update the recipients' mailing addresses using the National Change
16 of Address Database.

17 4.4.2. The Administrator must conduct a Class Member Address Search for all other
18 Class Members whose checks are returned undelivered without USPS forwarding
19 address. Within 7 days of receiving a returned check the Administrator must re-mail
20 checks to the USPS forwarding address provided or to an address ascertained through
21 the Class Member Address Search. The Administrator need not take further steps to
22 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
23 The Administrator shall promptly send a replacement check to any Class Member whose
24 original check was lost or misplaced, requested by the Class Member prior to the void
25 date.

26 4.4.3. For any Class Member whose Individual Class Payment check or Individual
27 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
28 shall transmit the funds represented by such checks to the California State Controller's

Office, Unclaimed Property Division in the name of the Aggrieved Employee thereby leaving no unpaid residue pursuant to the requirements of Code of Civil Procedure section 384.

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. RELEASE OF CLAIMS

Effective upon entry of Judgment, the Order granting Final Approval of this Settlement, and on the date when Defendant fully funds the entire Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel 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, release and discharge Released Parties from all any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action of any kind or nature whatsoever, known or unknown, suspected or unsuspected, asserted or unasserted, arising out of, relating to, or resulting from his employment and/or separation of employment with Defendant, which Plaintiff, at any time up until the execution of this Settlement Agreement, had or claimed to have or may have including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA Notice. ("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 only, Plaintiff expressly waives and relinquish 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 Who Are Not Aggrieved Employees: For the duration of the Class Period, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint including: (1) all claims for failure to pay overtime wages; (2) all claims for failure to pay minimum wages; (3) all claims for failure to provide meal periods, or compensation in lieu thereof; (4) all claims for failure to provide compliant rest periods, or compensation in lieu thereof; (5) all claims for waiting time penalties; (6) all claims for non-compliant wage statements; (7) all claims for failure to timely pay wages; (8) all claims for failure to failure to reimburse business expenses; (9) all claims for violation of labor code section 227.3; and (10) unfair competition. Except as set forth in Section 5.2 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 Non-Participating Class Members Who Are Aggrieved Employees: For the duration of the PAGA Period, all Non-Participating Class Members who are Aggrieved

1 Employees are deemed to release, on behalf of themselves and their respective former and present
2 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
3 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been
4 alleged, based on the facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION FOR PRELIMINARY APPROVAL

7 The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion
8 for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary
9 Approvals.

10 6.1. Defendant’s Declaration in Support of Preliminary Approval. Within 7 days of full
11 execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
12 declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or
13 potential conflicts of interest with the Administrator .

14 6.2. Plaintiff’s Responsibilities. Plaintiff will prepare and to deliver to Defense Counsel all
15 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
16 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
17 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor
18 Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and
19 Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from
20 the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting
21 to its willingness to serve; competency; operative procedures for protecting the security of Class
22 Data; amounts of insurance coverage for any data breach, defalcation of funds or other
23 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
24 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
25 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve
26 and disclosing all facts relevant to any actual or potential conflicts of interest with Class
27 Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to
28 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. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval 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 and conferring, 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 and conferring, 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 ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. 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.

1 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
2 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section
3 468B-1.

4 7.4. Notice to Class Members

5 7.4.1. No later than three (3) business days after receipt of the Class Data, the
6 Administrator shall notify Class Counsel that the list has been received and state the
7 number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the
8 Class Data.

9 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
10 days after receiving the Class Data, the Administrator will send to all Class Members
11 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
12 the Class Notice with Spanish translation, substantially in the form attached to this
13 Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the
14 dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable
15 to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable)
16 used to calculate these amounts. Before mailing Class Notices, the Administrator shall
17 update Class Member addresses using the National Change of Address database.

18 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice
19 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
20 using any forwarding address provided by the USPS. If the USPS does not provide a
21 forwarding address, the Administrator shall conduct a Class Member Address Search,
22 and re-mail the Class Notice to the most current address obtained. The Administrator
23 has no obligation to make further attempts to locate or send Class Notice to Class
24 Members whose Class Notice is returned by the USPS a second time.

25 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks
26 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days
27 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
28 notice is re-mailed. The Administrator will inform the Class Member of the extended

1 deadline with the re-mailed Class Notice.

2 7.4.5. If the Administrator, Defendant or Class Counsel are contacted by or otherwise
3 discover any persons who believe they should have been included in the Class Data and
4 should have received Class Notice, the Parties will expeditiously meet and confer, and
5 in good faith, in an effort to agree on whether to include them as Class Members. If the
6 Parties agree, such persons will be Class Members entitled to the same rights as other
7 Class Members, and the Administrator will send, via email or overnight delivery, a Class
8 Notice requiring them to exercise options under this Agreement not later than 15 days
9 after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are
10 later.

11 7.5. Requests for Exclusion (Opt-Outs).

12 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
13 must send the Administrator, by mail, a signed written Request for Exclusion not later
14 than 45 days after the Administrator mails the Class Notice (plus an additional 15 days
15 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
16 from a Class Member or his/her representative that reasonably communicates the Class
17 Member's election to be excluded from the Settlement and includes the Class Member's
18 name, address and email address or telephone number. To be valid, a Request for
19 Exclusion must be timely postmarked by the Response Deadline.

20 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
21 fails to contain all the information specified in the Class Notice. The Administrator
22 shall accept any Request for Exclusion as valid if the Administrator can reasonably
23 ascertain the identity of the person as a Class Member and the Class Member's desire
24 to be excluded. The Administrator's determination shall be final and not appealable or
25 otherwise susceptible to challenge. If the Administrator has reason to question the
26 authenticity of a Request for Exclusion, the Administrator may demand additional proof
27 of the Class Member's identity. The Administrator's determination of authenticity shall
28 be final and not appealable or otherwise susceptible to challenge.

1 7.5.3. Every Class Member who does not submit a timely and valid Request for
2 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
3 to all benefits and bound by all terms and conditions of the Settlement, including the
4 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,
5 regardless whether the Participating Class Member actually receives the Class Notice
6 or objects to the Settlement.

7 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
8 Non-Participating Class Member and shall not receive an Individual Class Payment or
9 have the right to object to the class action components of the Settlement. Because future
10 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
11 Participating Class Members who are Aggrieved Employees are deemed to release the
12 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
13 PAGA Payment.

14 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
15 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
16 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
17 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge
18 the allocation by communicating with the Administrator via mail. The Administrator must
19 encourage the challenging Class Member to submit supporting documentation. In the absence
20 of any contrary documentation, the Administrator is entitled to presume that the Workweeks
21 contained in the Class Notice are correct so long as they are consistent with the Class Data. The
22 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
23 Periods shall be final and not appealable or otherwise susceptible to challenge. The
24 Administrator shall promptly provide copies of all challenges to calculation of Workweeks
25 and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination
26 the challenges.

27 7.7. Objections to Settlement

28 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 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 45 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 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 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 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

1 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
2 other identifying information of Class Members who have submitted invalid Requests
3 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted
4 (whether valid or invalid).

5 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
6 reports to Class Counsel and Defense Counsel that, among other things, tally the number
7 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
8 Exclusion (whether valid or invalid) received, objections received, challenges to
9 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
10 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
11 Weekly Reports must include provide the Administrator’s assessment of the validity of
12 Requests for Exclusion and attach copies of all Requests for Exclusion and objections
13 received.

14 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
15 address and make final decisions consistent with the terms of this Agreement on all
16 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
17 Administrator’s decision shall be final and not appealable or otherwise susceptible to
18 challenge.

19 7.8.5. Administrator’s Declaration. Before the date by which Plaintiff is required to file
20 the Motion for Final Approval of the Settlement, the Administrator will provide to Class
21 Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its
22 due diligence and compliance with all of its obligations under this Agreement,
23 including, but not limited to, its mailing of Class Notice, the Class Notices returned as
24 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total
25 number of Requests for Exclusion from Settlement it received (both valid or invalid),
26 the number of written objections and attach the Exclusion List. The Administrator will
27 supplement its declaration as needed or requested by the Parties and/or the Court. Class
28 Counsel is responsible for filing the Administrator’s declaration(s) in Court.

1 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
2 disburses all funds in the Gross Settlement Amount, the Administrator will provide
3 Class Counsel and Defense Counsel with a final report detailing its disbursements by
4 employee identification number only of all payments made under this Agreement. At
5 least 7 days before any deadline set by the Court, the Administrator will prepare, and
6 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in
7 Court attesting to its disbursement of all payments required under this Agreement. Class
8 Counsel is responsible for filing the Administrator's declaration in Court.

9 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

10 Based on its records, Defendant estimates that, as of the date of this Settlement
11 Agreement, (1) there are approximately 3,244 Class Members and 200,000 Total Workweeks
12 during the Class Period and (2) there are approximately 1,779 Aggrieved Employees who worked
13 42,605 Pay Periods during the PAGA Period.

14 8.1. Increase in Workweeks. Defendant represents that there are no more than 200,000
15 Workweeks worked during the Class Period. In the event the number of Workweeks worked by
16 Class Members during the Class Period increases by more than 10%, or 20,000 Workweeks,
17 then the Gross Settlement Amount shall be increased proportionally by the Workweeks in
18 excess of 200,000 Workweeks multiplied by the Workweek Value. The Workweek Value shall
19 be calculated by dividing the originally agreed-upon Gross Settlement Amount (\$4,000,000) by
20 200,000, which amounts to a Workweek Value of \$20.00. Thus, for example, should there be
21 230,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased
22 by \$600,000 ((230,000 Workweeks – 200,000 Workweeks) x \$20.00 per Workweek.)

23 **9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests
24 for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members,
25 Defendant may, but IS not obligated, elect to withdraw from the Settlement. The Parties agree
26 that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect
27 whatsoever, and that no Party will have any further obligation to perform under this
28 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] 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 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 endeavor to provide drafts of these documents to Defense Counsel not later than 7 court days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer, 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 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, Administrator Expenses Payment and/or individual claims of plaintiff for alleged wrongful termination, 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 reflected 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.

1 Nothing in this Agreement is intended or should be construed as an admission by Defendant that
2 any of the allegations in the Operative Complaint have merit or that Defendant has any liability
3 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that
4 Defendant's defenses in the Action have merit. The Parties agree that class certification and
5 representative treatment is for purposes of this Settlement only. If, for any reason the Court does
6 grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to
7 contest certification of any class for any reasons, and Defendant reserves all available defenses
8 to the claims in the Action, and Plaintiff reserves the right to move for class certification on any
9 grounds available and to contest Defendant's defenses. The Settlement, this Agreement and
10 Parties' willingness to settle the Action will have no bearing on, and will not be admissible in
11 connection with, any litigation (except for proceedings to enforce or effectuate the Settlement
12 and this Agreement).

13 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and
14 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
15 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
16 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
17 or indirectly, specifically or generally, to any person, corporation, association, government
18 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom
19 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
20 extent necessary to report income to appropriate taxing authorities; (4) in response to a court
21 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
22 government agency. Each Party agrees to immediately notify each other Party of any judicial or
23 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant
24 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or
25 other communication, before the filing of the Motion for Preliminary Approval, any with third
26 party regarding this Agreement or the matters giving rise to this Agreement except to respond
27 only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class
28 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 or agreed to by all Parties or their representatives, and approved by the Court. Plaintiff and Defendant expressly agree that should the Parties agree to amend, modify, change, or waive this Agreement, or any part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any amendments of this Agreement, amended Agreements, or amendments to the Agreement, on behalf of the Parties once fully executed, which includes, but is not limited to, authorization of the use of signatures previously provided by the Parties.

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 Evidence Code section 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 California Rules of Court rule. 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

1 Settlement funds, Plaintiff shall destroy all paper and electronic versions of Class Data received
2 from Defendant unless, prior to the Court's discharge of the Administrator's obligation,
3 Defendant makes a written request to Class Counsel for the return, rather than the destruction, of
4 Class Data.

5 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
6 inserted for convenience of reference only and does not constitute a part of this Agreement.

7 12.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall
8 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
9 weekend or federal legal holiday, such date or deadline shall be on the first business day
10 thereafter.

11 12.17. Notice. All notices, demands or other communications between the Parties in connection
12 with this Agreement will be in writing and deemed to have been duly given as of the third
13 business day after mailing by United States mail, or the day sent by email or messenger,
14 addressed as follows:

15 Plaintiff – David D. Bibiyan and Vedang J. Patel, Bibiyan Law Group, P.C., 1460 Westwood
16 Blvd., Los Angeles, CA 90024

17 Defendant – Michael R. Goldstein and Michael R. Mauge, Musick Peeler & Garrett LLP, 333
18 South Hope Street, Suite 2900, Los Angeles, CA 90017.

19 12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts
20 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
21 be accepted as an original. All executed counterparts and each of them will be deemed to be one
22 and the same instrument if counsel for the Parties will exchange between themselves signed
23 counterparts. Any executed counterpart will be admissible in evidence to prove the existence
24 and contents of this Agreement.

25 12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
26 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
27 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
28 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement

process.

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

///

IT IS SO AGREED:

Erich Tran

Plaintiff, Erich Tran

For Defendant, Marukai Corporation dba
Marukai Wholesale Mart

AGREED AS TO FORM ONLY:

David Bibiyan

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiff

Michael R. Goldstein
Michael R. Mauge
Counsel for Defendant

1 process.

2 12.20. Severability. In the event that one or more of the provisions contained in this Agreement
3 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
4 illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel
5 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
6 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
7 Agreement.

8 ///

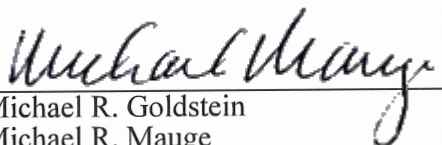
9 **IT IS SO AGREED:**

10
11 _____
12 Plaintiff, Erich Tran

13  4/6 -
14 _____
15 Koichi Toyo
16 For Defendant, Marukai Corporation dba
17 Marukai Wholesale Mart

18 **AGREED AS TO FORM ONLY:**

19
20 _____
21 David D. Bibiyan
22 Vedang J. Patel
23 Counsel for Plaintiff

24 
25 _____
26 Michael R. Goldstein
27 Michael R. Mauge
28 Counsel for Defendant