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11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF ORANGE**

14 EMERY DIEGO MCCAIN, individually, and on
15 behalf of all others similarly situated

16 Plaintiff,

17 v.

18 INFINITE ELECTRONICS INTERNATIONAL,
19 INC.; and DOES 1 through 10, inclusive,

20 Defendants.

Case No. 30-2024-01423919-CU-OE-CXC

Assigned to: Hon. David A. Hoffer, Dept.
CX103

**FIRST AMENDED CLASS ACTION AND
PAGA SETTLEMENT AGREEMENT**

Complaint Filed: September 9, 2024

Trial Date: Not Set

1 This First Amended Class Action and PAGA Settlement Agreement and Release (“Agreement” or
2 “Settlement”) is made by and between Plaintiff Emery Diego McCain (“Plaintiff”) and Infinite
3 Electronics International, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant
4 collectively as “Parties,” or individually as “Party.”

5 **1. DEFINITIONS**

6 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
7 Defendant, captioned *Emery Diego McCain v. Infinite Electronics International, Inc.*, No. 30-2024-
8 01423919-CU-OE-CXC, filed on September 9, 2024 in Superior Court of California, County of Orange.

9 1.2. “Operative Complaint” means the First Amended Complaint filed in this Action on or
10 about November 12, 2024.

11 1.3. “Administrator” means Simpluris, the neutral entity the Parties have agreed to appoint to
12 administer the Settlement.

13 1.4. “Administration Costs” means the amount to be paid to the Administrator from the Gross
14 Settlement Amount to reimburse its reasonable fees and expenses in conjunction with administration of
15 this Settlement.

16 1.5. “Aggrieved Employees” means and includes all individuals who were or have been
17 employed by Defendant in California as non-exempt employees at any time during the PAGA Period.

18 1.6. “Aggrieved Employee Data” means Aggrieved Employee identifying information in
19 Defendants’ possession including the Aggrieved Employee’s name, last-known mailing address, Social
20 Security number, and number of PAGA Pay Periods worked during the PAGA Period.

21 1.7. “Aggrieved Employee Address Search” means the Administrator’s investigation and
22 search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods
23 and means including, but not limited to, the National Change of Address database, skip traces, and direct
24 contact by the Administrator with Aggrieved Employees.

25 1.8. “Class” means all persons who worked for any Defendant in California as an hourly,
26 nonexempt employee at any time during the Class Period.

27 1.9. “Class Counsel” means attorneys for Plaintiff Emery Diego McCain listed on the first page
28 of this Agreement, Kane Moon, Allen Feghali, S. Phillip Song, and Morgan Simpson of Moon Law Group,

1 PC.

2 1.10. “Class Data” means Class Member identifying information in Defendant’s possession
3 including the Class Member’s name, last-known mailing address, Social Security number, email address
4 (if known and available to Defendant), and number of Workweeks and PAGA Pay Periods.

5 1.11. “Class Member” means a member of the Class, as either a Participating Class Member or
6 a Non- Participating Class Member who qualifies as an Aggrieved Employee.

7 1.12. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
8 the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to
9 compensate Class Counsel for their legal work in connection with the Action, including their pre-filing
10 investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-
11 Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

12 1.13. “Class Member Address Search” means the Administrator’s investigation and search for
13 current Class Member mailing addresses using all reasonably available sources, methods and means
14 including, but not limited to, the National Change of Address database, skip traces, and direct contact by
15 the Administrator with Class Members by use of available email addresses, phone numbers, social security
16 numbers, credit reports, LinkedIn and Facebook.

17 1.14. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
18 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class
19 Members in English in the form, without material variation, attached as Exhibit A and incorporated by
20 reference into this Agreement.

21 1.15. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the
22 Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to
23 facilitate printing by the Administrator).

24 1.16. “Class Period” means the period of time from September 9, 2020 to August 15, 2026.

25 1.17. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action
26 seeking Court approval to serve as a Class Representative.

27 1.18. “Class Representative Service Payment” means the service payment made to the Plaintiff
28 as Class Representative in order to compensate for initiating the Action, performing work in support of

the Action, and undertaking the risk of liability for Defendant’s expenses.

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

1.20. “Court” means the Superior Court of California, County of Orange.

1.21. “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) the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; (b) the dismissal of any appeal, writ, or other appellate proceeding opposing the Class settlement with no right to pursue further remedies or relief; or (c) any appeal, writ, or the issuance of such other final appellate order, upholding the Court’s final order with no right to pursue further remedies or relief.

1.22. “Defendant” means Infinite Electronics International, Inc.

1.23. “Defense Counsel” means the attorneys listed on the first page of this Agreement for Defendant, Jason Mills and Brian Fahy of Morgan, Lewis & Bockius LLP.

1.24. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.

1.25. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

1.26. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.

1.27. “Gross Settlement Amount” or “GSA” means \$500,000.00 (five hundred thousand dollars and zero cents) which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payments, and the Administration Costs. This Gross Settlement Amount is an all-in amount without any reversion to

Defendants.

1.28. “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.

1.29. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 35% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.

1.30. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

1.31. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (m).

1.32. “LWDA PAGA Payment” means the 65% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (m).

1.33. “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 the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.

1.34. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.

1.35. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.36. “PAGA Period” means the period of time from September 9, 2023 to August 15, 2026.

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

1.38. “PAGA Notice” means the Plaintiff’s September 9, 2024 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.39. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the

1 Gross Settlement Amount, allocated 35% to the Aggrieved Employees and the 65% to LWDA in
2 settlement of PAGA claims.

3 1.40. “Participating Class Member” means a Class Member who does not submit a valid and
4 timely Request for Exclusion.

5 1.41. “Plaintiff” means Emery Diego McCain, the named plaintiff in the Action.

6 1.42. “Released Class Claims” means all claims that were alleged, or reasonably could have been
7 alleged, based on the facts stated in the Operative Complaint and that occurred during the Class Period
8 while employed in a non-exempt position in California. Except as expressly set forth in this Agreement,
9 Participating Class Members do not release any other claims, including claims for vested benefits,
10 wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance,
11 disability, social security, workers’ compensation, or Class claims based on facts occurring outside the
12 Class Period.

13 1.43. “Released PAGA Claims” means all claims for PAGA penalties that were alleged, or
14 reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA
15 Notice, which occurred during the PAGA Period during employment in a nonexempt position in
16 California. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour
17 claims, claims for wrongful termination, discrimination, unemployment insurance, disability, social
18 security, workers’ compensation, and PAGA claims outside of the PAGA Period.

19 1.44. “Released Parties” means Defendant and each of its former and present directors, officers,
20 shareholders, and owners.

21 1.45. “Request for Exclusion” means a Class Member’s submission of a written request to be
22 excluded from the Class Settlement signed by the Class Member.

23 1.46. “Response Deadline” means sixty (60) calendar days after the Administrator mails Class
24 Notice Packet to Class Members and Aggrieved Employees and shall be the last date on which Class
25 Members may: (a) submit Requests for Exclusion from the Settlement, and/or (b) submit Challenges to
26 Workweeks and/or Pay Periods, or (cv) submit his or her Objection to the Settlement. Class Members to
27 whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall
28 have an additional 14 calendar days beyond the Response Deadline has expired.

1 1.47. “Settlement” means the disposition of the Action and all related claims effectuated by this
2 Agreement and the Judgment.

3 1.48. “Workweek(s)” means any week(s) during the Class Period in which a Class Member
4 worked for Defendant as a Class Member for at least one day.

5 **2. RECITALS**

6 2.1. On September 9, 2024, Plaintiff commenced this Action by filing a Class Action Complaint
7 against Defendant in the Superior Court of the State of California, County of Orange. Plaintiff filed an
8 amended complaint on November 12, 2024 (the “Operative Complaint” asserting claims that Defendant:

9 (a) Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];

10 (b) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];

11 (c) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];

12 (d) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];

13 (e) Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802];

14 (f) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];

15 (g) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226];

16 (h) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and

17 (i) Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.]

18 2.2. On January 31, 2025, Defendant filed an Answer to the Operative Complaint.

19 2.3. Defendant denies the allegations in the Operative Complaint, denies any failure to comply
20 with the laws identified in the Operative Complaint and denies any and all liability for the causes of action
21 alleged.

22 2.4. On October 13, 2025, the Parties participated in an all-day mediation presided over by
23 Steve Rottman, Esq., a respected mediator of wage and hour representative and class actions. Following
24 the mediation, each side, represented by its respective counsel, were able to agree to settle the Action
25 based upon a mediator’s proposal which was memorialized via email. This Agreement formally
26 memorializes the Parties acceptance of the proposal and agreement to fully settle this Action. The
27 Agreement supersedes the any other agreements, understandings, or representations between the Parties.

28 2.5. Prior to mediation, Plaintiff obtained sufficient documents and information to sufficiently

1 investigate the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court
2 approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v.*
3 *Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-130 (2008) ("*Dunk/Kullar*").

4 2.6. This Agreement represents a compromise and settlement of highly disputed claims.
5 Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims
6 in the Action of Plaintiff, the Class, or aggrieved employees have merit or that Defendant bears any
7 liability to Plaintiff, the Class, or aggrieved employees on those claims or any other claims, or as an
8 admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to
9 certification of the Class for purposes of this Settlement only. If for any reason the settlement does not
10 become effective, Defendant reserves the right to contest certification of any class for any reason and
11 reserves all available defenses to the claims in the Action.

12 2.7. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any
13 other pending matter or action asserting claims that will be extinguished or affected by the Settlement.
14 The Parties, however, make the Court aware of a contemporaneous settlement agreement to settle
15 Plaintiff's individual claims asserted in *McCain vs. Infinite Electronics International, Inc.*, Case No.
16 24STCV26426, and filed in Superior Court of California, County of Los Angeles. The claims asserted in
17 that case were mediated concurrently with the claims asserted in the Operative Complaint. The Gross
18 Settlement Amount does not include the consideration to be paid in settling Plaintiff's individual claims
19 asserted in *McCain vs. Infinite Electronics International, Inc.*, Case No. 24STCV26426.

20 **3. MONETARY TERMS**

21 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant
22 promises to pay \$500,000.00 and no more as the Gross Settlement Amount. This amount is all-inclusive
23 of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion
24 of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the
25 Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes)
26 prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire
27 Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved
28 Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will

1 revert to Defendant.

2 3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this
3 Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in
4 the amounts specified by the Court in the Final Approval.

5 (a) To Plaintiff: Class Representative Service Payment to the Class Representative of not more than
6 \$7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class
7 Representative is entitled to receive as a Participating Class Member, and in addition to contemporaneous
8 settlement agreement referenced in paragraph 2.7 of this Agreement). Defendant will not oppose
9 Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part
10 of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek
11 Court approval for any Class Representative Service Payments no later than 16 court days prior to the
12 Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the
13 amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The
14 Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff
15 assumes full responsibility and liability for employee taxes owed on the Class Representative Service
16 Payment.

17 (b) To Class Counsel: A Class Counsel Fees Payment of not more than 30% of the Gross
18 Settlement Amount, which is currently estimated to be \$150,000.00, and a Class Counsel Litigation
19 Expenses Payment of not more than \$25,000.00. Defendant will not oppose requests for these payments
20 provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class
21 Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the
22 Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel
23 Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the
24 remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any
25 other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or
26 Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment
27 and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full
28 responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel

1 Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any
2 dispute or controversy regarding any division or sharing of any of these payments.

3 (c) To the Administrator: An Administration Expenses Payment not to exceed \$8,657.00 except for a
4 showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment
5 is less, or the Court approves payment less than \$8,657.00, the Administrator will retain the remainder in
6 the Net Settlement Amount for distribution to Participating Class Members.

7 (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000.00 to be paid
8 from the Gross Settlement Amount, with 65% (\$13,000.00) allocated to the LWDA PAGA Payment and
9 35% (\$7,000.00) allocated to the Individual PAGA Payments.

10 i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount
11 of the Aggrieved Employees' 35% share of PAGA Penalties (\$7,000.00) by the total number
12 of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b)
13 multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved
14 Employees assume full responsibility and liability for any taxes owed on their Individual
15 PAGA Payment.

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

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

22 i. Tax Allocation of Individual Class Payments. 33 1/2% of each Participating Class Member's
23 Individual Class Payment will be allocated to settlement of wage claims (the "Wage
24 Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS
25 W-2 Form. 66 2/3% of each Participating Class Member's Individual Class Payment will be
26 allocated to settlement of claims for non-wages, expense reimbursement, interest and
27 penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage
28 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.

ii. 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.

4. SETTLEMENT FUNDING

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on its records, Defendant has represented that the Class consists of 185 Class Members who collectively worked a total of 25,000 Workweeks during the Class Period, and 125 Aggrieved Employees who worked a total of 4,387 PAGA Pay Periods.

4.2. Class Data. Not later than 30 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 the 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 21 days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

5.1. Within 14 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

1 Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel
2 Litigation Expenses Payment, and the Class Representative Service Payment.

3 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual
4 PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The
5 face of each check shall prominently state the “void date”, which is 180 days after the date of mailing,
6 when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The
7 Administrator will send checks for Individual Class Payments to all Participating Class Members
8 (including those for whom Class Notice was returned undelivered). The Administrator will send
9 checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class
10 Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned
11 undelivered). The Administrator may send Participating Class Members a single check combining the
12 Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the
13 Administrator must update the recipients’ mailing addresses using the National Change of Address
14 Database. If a Participating Class Member’s or Aggrieved Employee’s check is not cashed within 120
15 days after its last mailing to the affected individual, the Administrator will also send the individual a notice
16 informing him or her that unless the check is cashed by the void date, it will expire and become non-
17 negotiable and offer to replace the check if it was lost or misplaced but not cashed.

18 5.3. The Administrator must conduct a Class Member Address Search for all other Class
19 Members whose checks are returned undelivered without a USPS forwarding address. Within 7 days of
20 receiving a returned check the Administrator must re- mail checks to the USPS forwarding address
21 provided or to an address ascertained through the Class Member Address Search. The Administrator need
22 not take further steps to deliver checks to Class Members whose re-mailed checks are returned as
23 undelivered. 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 date.

25 5.4. For any Class Member whose Individual Class Payment check or Individual PAGA
26 Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds
27 represented by such checks to the California Controller's Unclaimed Property Fund in the name of the
28 Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil

1 Procedure Section 384, subd. (b).

2 5.5. The payment of Individual Class Payments and Individual PAGA Payments shall not
3 obligate Defendant to confer any additional benefits or make any additional payments to Class Members
4 (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

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

9 6.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses,
10 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and
11 discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class
12 Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged,
13 based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably
14 could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice
15 ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this
16 Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social
17 security benefits, or workers' compensation benefits that arose at any time, or based on occurrences
18 outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from,
19 or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless,
20 that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or
21 additional facts or Plaintiff's discovery of them.

22 (a) Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff's Release,
23 Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section
24 1542 of the California Civil Code, which reads: A general release does not extend to claims that the
25 creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing
26 the release, and that if known by him or her would have materially affected his or her settlement
27 with the debtor or Released Party.

28 6.2. Release by Participating Class Members. All Participating Class Members, on behalf of

1 themselves and their respective former and present representatives, agents, attorneys, heirs,
2 administrators, successors, and assigns, release Released Parties from the Released Class Claims.

3 6.3. Release of PAGA Claims. All Aggrieved Employees are deemed to release, on behalf of
4 themselves and their respective former and present representatives, agents, attorneys, heirs,
5 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.

6 **7. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a
7 motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s
8 procedures and instructions.

9 7.1. Defendant’s Responsibilities. Within 14 days of the full execution of this Agreement,
10 Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to
11 any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant shall
12 aver that they are not aware of any other pending matter or action asserting claims that will be extinguished
13 or adversely affected by the Settlement. In this Declaration, Defendant shall also aver as to the number of
14 Class Members and the number of Workweeks for the Class during the Class Period.

15 7.2. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
16 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
17 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
18 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code
19 Section 2699, subd. (s)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of
20 PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator
21 attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve;
22 competency; operative procedures for protecting the security of Class Data; amounts of insurance
23 coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or
24 potential conflicts of interest with Class Members; and the nature and extent of any financial relationship
25 with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming
26 willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts
27 of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class
28 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. (s)(1)), this Agreement (Labor Code section 2699, subd. (s)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration 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.

7.3. 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.

7.4. 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.

8. SETTLEMENT ADMINISTRATION

8.1. Selection of Administrator. The Parties have jointly selected Simpluris to serve as the Administrator and verified that, as a condition of appointment, Simpluris 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 Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and an email and fax number to receive communications from Class Members; receiving and reviewing for validity

1 completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of
2 Class Notice Packets and receipt of Requests for Exclusion, objections, and disputes; calculating
3 Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments
4 due under the Settlement; issuing the tax reports required under this Settlement; and otherwise
5 administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they
6 have no interest or relationship, financial or otherwise, with the Administrator other than a professional
7 relationship arising out of prior experiences administering settlements.

8 8.2. Employer Identification Number. The Administrator shall have and use its own
9 Employer Identification Number for the purposes of calculating payroll tax withholdings and
10 providing reports to the state and federal tax authorities.

11 8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that
12 meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section
13 468B-1.

14 8.4. Notice to Class Members.

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

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

26 (c) Not later than 7 days after the Administrator’s receipt of any Class Notice returned by the USPS as
27 undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the
28 USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member

1 Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has
2 no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice
3 is returned by the USPS a second time.

4 (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods,
5 and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided
6 in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the
7 Class Member of the extended deadline with the re-mailed Class Notice.

8 (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise
9 discovers any persons who believe they should have been included in the Class Data and should have
10 received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good
11 faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons
12 will be Class Members entitled to the same rights as other Class Members, and the Administrator will send,
13 via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not
14 later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are
15 later.

16 8.5. Requests for Exclusion (Opt-Outs)

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

24 (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all
25 the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as
26 valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the
27 Class Member's desire to be excluded. If the Administrator has reason to question the authenticity of a
28 Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The

1 Administrator shall submit all of its findings regarding any disputed Request for Exclusion to the Court
2 for determination. The Court's determination shall be final.

3 (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be
4 a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and
5 conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of
6 the Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or
7 objects to the Settlement.

8 (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating
9 Class Member and shall not receive an Individual Class Payment or have the right to object to the class
10 action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon
11 entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to
12 release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA
13 Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for
14 Exclusion will be accepted, and the objection will be void.

15 8.6. Challenges to Calculation of Workweeks. Each Class Member shall have until the
16 Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to
17 challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member
18 in the Class Notice. The Class Member may challenge the allocation by communicating with the
19 Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member
20 to submit supporting documentation. In the absence of any contrary documentation, the Administrator is
21 entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are
22 consistent with the Class Data. The Administrator shall promptly provide copies of all challenges to
23 calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the
24 Administrator's determination as to the challenges. The Parties shall file with the Court all Challenges
25 submitted by Class Members, the evidence submitted, and the resolution of the Challenges. The Court's
26 determination shall be final.

27 8.7. Objections to Settlement.

28 (a) Only Participating Class Members may object to the class action components of the Settlement

1 and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the
2 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative
3 Service Payment.

4 (b) Participating Class Members may send written objections to the Administrator, by fax,
5 email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may
6 appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final
7 Approval Hearing. A Participating Class Member who elects to send a written objection to the
8 Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class
9 Members whose Class Notice was re-mailed).

10 (c) Non-Participating Class Members have no right to object to any of the class action components
11 of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only
12 the Request for Exclusion will be accepted, and the objection will be void.

13 8.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
14 performed or observed by the Administrator contained in this Agreement or otherwise.

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

23 (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review
24 on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the
25 expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to
26 Class Counsel and Defense Counsel containing (a) the names and other identifying information of
27 Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the
28 names and other identifying information of Class Members who have submitted invalid Requests for

1 Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or
2 invalid).

3 Workweek and/or Pay Period Challenges. The Administrator has the authority to address
4 and make decisions consistent with the terms of this Agreement on all Class Member
5 challenges over the calculation of Workweeks and/or Pay Periods. However, the
6 Administrator shall submit all of its findings regarding any disputed challenges to the
Court for determination. The Court's determination shall be final.

7 (c) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to
8 Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices
9 mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or
10 invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or
11 resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly
12 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.

13 (d) Administrator's Declaration. Not later than 7 days before the date by which Plaintiff is
14 required to file the Motion for Final Approval of the Settlement, the Administrator will provide to
15 Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its
16 due diligence and compliance with all of its obligations under this Agreement, including, but not
17 limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of
18 Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from
19 Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion
20 List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the
21 Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

22 (e) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of
23 the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel
24 with a final report detailing its disbursements by employee identification number only of all payments
25 made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator
26 will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for
27 filing in Court attesting to its disbursement of all payments required under this Agreement. Class
28 Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration

attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.

9.1. Based on its records, Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 7.1 above. If the actual number of Workweeks during the Class Period increases by more than 10 percent over 25,000 (i.e., 27,500 Workweeks), Defendant shall increase the Gross Settlement Amount by the percentage increase over 10 percent.

10. DEFENDANT'S RIGHT TO WITHDRAW.

10.1. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% 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 Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.

11. MOTION FOR FINAL APPROVAL.

11.1. Unless otherwise ordered by the Court, 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(s)(2), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.2. Response to Objections. Each Party retains the right to respond to any objection raised by

1 a Participating Class Member, including the right to file responsive documents in Court no later than 5
2 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

3 11.3. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval
4 on any material change to the Settlement (including, but not limited to, the scope of release to be granted
5 by Class Members), the Parties will expeditiously work together in good faith to address the Court's
6 concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award
7 less than the amounts requested for a Class Representative Service Payment, Class Counsel Fees Payment,
8 Class Counsel Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute
9 a material modification to the Agreement within the meaning of this paragraph.

10 11.4. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
11 Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely
12 for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration
13 matters, and (iii) addressing such post-Judgment matters as are permitted by law.

14 11.5. Waiver of the Right to Appeal. Provided the Judgment is consistent with the terms and
15 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
16 Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel,
17 and all Participating Class Members who did not object to the Settlement as provided in this
18 Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and
19 appellate proceedings, the right to file motions to vacate judgment, motions for new trial,
20 extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to
21 oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations
22 to perform under this Agreement will be suspended until such time as the appeal is finally resolved
23 and the Judgment becomes final, except as to matters that do not affect the amount of the Net
24 Settlement Amount.

25 11.6. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
26 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
27 modification of this Agreement (including, but not limited to, the scope of release to be granted by
28 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 an equal basis, any additional Administration Expenses reasonably incurred at the time of 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.

12. 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.

13. ADDITIONAL PROBLEMS.

13.1. 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. To the extent Class Counsel publicizes the Settlement on their website or elsewhere in writing, such publication shall include a statement acknowledging that the Court made no determination as to liability. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves 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).

13.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement

1 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or
2 permit another person to disclose, disseminate or publicize, any of the terms of the Agreement
3 directly or indirectly, specifically or generally, to any person, corporation, association,
4 government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses,
5 all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter;
6 (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to
7 a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
8 government agency. Each Party agrees to immediately notify each other Party of any judicial or
9 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant
10 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or
11 other communication, before the filing of the Motion for Preliminary Approval, with any third
12 party regarding this Agreement or the matters giving rise to this Agreement except to respond
13 only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class
14 Counsel's communications with Class Members in accordance with Class Counsel's ethical
15 obligations owed to Class Members.

16 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and
17 employees have not and will not solicit any Class Member to opt out of or object to the Settlement,
18 or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
19 Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical
20 obligations owed to Class Members.

21 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this
22 Agreement together with its attached exhibits shall constitute the entire agreement between the
23 Parties relating to the Settlement, superseding any and all oral representations, warranties,
24 covenants, or inducements made to or by any Party.

25 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
26 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
27 action required or permitted to be taken by such Parties pursuant to this Agreement to
28 effectuate its terms, and to execute any other documents reasonably required to effectuate

1 the terms of this Agreement including any amendments to this Agreement.

2 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
3 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
4 Settlement Agreement, submitting supplemental evidence and supplementing points and authorities
5 as requested by the Court. In the event the Parties are unable to agree upon the form or content
6 of any document necessary to implement the Settlement, or on any modification of the Agreement
7 that may become necessary to implement the Settlement, the Parties will seek the assistance of the
8 mediator first and then Court for resolution.

9 13.7. Prior Assignments. The Parties separately represent and warrant that they have not
10 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
11 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
12 action, or right released and discharged by the Party in this Settlement.

13 13.8. Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are
14 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be
15 relied upon as such within the meaning of United States Treasury Department Circular 230 (31
16 CFR Part 10, as amended) or otherwise.

17 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
18 modified, changed, or waived only by an express written instrument signed by all Parties or their
19 representatives, and approved by the Court.

20 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure
21 to the benefit of, the successors of each of the Parties.

22 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
23 governed by and interpreted according to the internal laws of the state of California, without
24 regard to conflict of law principles.

25 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and
26 preparation of this Agreement. This Agreement will not be construed against any Party on the basis
27 that the Party was the drafter or participated in the drafting.

28 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders

1 entered during Action and in this Agreement relating to the confidentiality of information shall
2 survive the execution of this Agreement. In addition, the Parties also agree that, to the extent they are
3 in possession of information protected by the Insurance Portability and Accountability Act (HIPAA)
4 in connection with the Action, such information shall not be disclosed except as otherwise
5 permitted by HIPAA.

6 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.
7 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by
8 Defendant in connection with the mediation, other settlement negotiations, or in connection with the
9 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
10 be used in any way that violates any existing contractual agreement, statute, or rule of court. Not
11 later than 90 days after the date when the Court discharges the Administrator's obligation to provide
12 a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all
13 paper and electronic versions of Class Data received from Defendant.

14 13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
15 inserted for convenience of reference only and does not constitute a part of this Agreement.

16 13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall
17 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
18 weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

19 13.17. Notice. All notices, demands or other communications between the Parties in
20 connection with this Agreement will be in writing and deemed to have been duly given as of the
21 third business day after mailing by United States mail, or the day sent by email or messenger,
22 addressed as follows:

23 *To Plaintiff and the Class:*

24 Kane Moon
kmoon@moonlawgroup.com
25 Allen Feghali
afeghali@moonlawgroup.com
26 S. Phillip Song
psong@moonlawgroup.com
27 Morgan Simpson
msimpson@moonlawgroup.com
28 MOON LAW GROUP, PC
725 S. Figueroa St., Suite 3100
Los Angeles, California 90017

Telephone: (213) 232-3128
Facsimile: (213) 232-3125

To Defendant:

Jason Mills
jason.mills@morganlewis.com
Brian Fahy
brian.fahy@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
300 South Grand Avenue
Los Angeles, CA 90071
Telephone: (213) 612-2500
Facsimile: (213) 612-2501

13.18. 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.

13.19. 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 583.3 IO for the entire period of not less than one (1) year starting from the date of the signing of this Agreement by all parties until the entry of the Final Approval order and Judgment or if not entered the date this agreement shall no longer be of any force or effect.

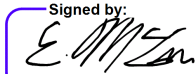
13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIS AND COUNSEL

1 **14. EXECUTION BY PARTIS AND COUNSEL**

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3 Date: 9/29/2026

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By: _____
Plaintiff Emery Diego McCain

6 Date: 9/30/2026

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By: Scott Rosner
Scott Rosner
Defendant Infinite Electronics
International, Inc.

9 Date: 9/30/2026

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By: Kane Moon
Kane Moon
Moon Law Group, PC

12 Date:

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By: Jason Mills
Jason Mills
Brian Fahy
Morgan, Lewis & Bockius LLP

1 **14. EXECUTION BY PARTIS AND COUNSEL**

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3 Date:

4 By: /s/
5 Plaintiff Emery Diego McCain

6 Date: 9/30/2026

7 By: /s/ Scott Rosner
8 Scott Rosner
9 Defendant Infinite Electronics
International, Inc.

10 Date:

11 By: /s/
12 Kane Moon
Moon Law Group, PC

13 Date: 9/30/2026

14 By: /s/ Brian Fahy
15 Jason Mills
16 Brian Fahy
Morgan, Lewis & Bockius LLP