

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Matthew Wood (“Plaintiff”) and defendant Empire Marketing Strategies, Inc. (“EMPIRE” or Defendant). The Agreement refers to Plaintiff and Empire collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

1.1. “Action” means 1) the lawsuit entitled *Matthew Wood v. Empire Marketing Strategies, Inc.* filed and pending in the Superior Court of the State of California, County of Orange, Case No. 30-2023-01324789-CU-OR-CXC (“*Wood*”), (2) the operative complaint in *Wood* as of September 11, 2024, (3) the Second Amended Complaint (“SAC”), which will be the operative complaint per the approval of the Stipulation of the Parties filed with the Court for leave to file the SAC, (4) any other or predecessor complaint filed in *Wood*, (5) the letter issued by Plaintiff to the Labor Workforce Development Agency (“LWDA”) on or about April 24, 2023 (“LWDA Letter”) alleging Defendant committed wage and hour violations as to its non-exempt employees and seeking permission to pursue relief and/or civil recourse, including but not limited to civil penalties and attorneys’ fees, in relation to same under the Private Attorneys General Act (“PAGA”), and (6) the amended letter to be issued by Plaintiff to the LWDA (“Amended LWDA Letter”) that adds meal period and rest break violations to the list of wage and hour violations Defendant allegedly committed as to its non-exempt employees that Plaintiff seeks permission to pursue relief and/or civil recourse as to.

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

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

1.4. “Aggrieved Employee” means any and all current and former non-exempt employees of Defendant who worked for Defendant in California at any time from and including on April 24, 2022, through November 7, 2024, which is 90 days after August 9, 2024, the date the Parties accepted Hon. Joan Lewis (Ret.)’s mediator’s proposal.

1.5 “Class” means all current and former non-exempt employees of Defendant who worked for Defendant in California at any time between and including on November 14, 2018, through November 7, 2024, which is 90 days after August 9, 2024, the date the Parties accepted Hon. Joan Lewis (Ret.)’s mediator’s proposal.

1.6. “Class Counsel” means Ian M. Silvers of BISNAR CHASE LLP and Farid Masoud of Culver Law Firm.

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

1.8. “Class Data” means Class Member identifying information in Empire’s possession including the Class Member’s name, last-known mailing address, Social Security Number, and number of Class Period Workweeks and PAGA pay periods, as applicable.

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.

1.10. “Class Member Address Search” means the Administrator’s investigation and search for Class Members’ current 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 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 and including November 14, 2018, through November 7, 2024, which is 90 days after August 9, 2024, the date the Parties accepted Hon. Joan Lewis (Ret.)’s mediator’s proposal.

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 Orange.

1.16. “Defendant” or “Empire” means named Defendant Empire Marketing Strategies, Inc.

1.17. “Defense Counsel” means Justin Michitsch and Scott J. Kerr from Gordon, Rees, Scully and Mansukhani, LLP.

1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters an order granting Final Approval of the Settlement; and (b) the Order is final. The Final Order 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 Final Order; (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 Final Order; or if a timely appeal from the Final Order 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 (including any attorney’s fees and costs, administration costs and service payment).

1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21. “Final Order” means the determination entered by the Court upon Granting Final Approval of the Settlement. 1.22. “Gross Settlement Amount” means \$1,200,000 (One Million Two Hundred Thousand Dollars), which is the total amount Empire agrees to pay under the Settlement except as provided in Paragraph 8 below besides employer-side taxes on the wage portion of the payments made to the Participating Class Members, which it will pay outside of the Gross Settlement Amount. The Gross Settlement Amount will be used to pay Individual Class Payments (which includes employee-side taxes on the wage portion of the payments made to Participating Class Members), Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and the Administrator’s Expenses.

1.22. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks he/she worked during the Class Period.

1.23. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of pay periods he/she worked during the PAGA Period.

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

1.25. “LWDA PAGA Payment” means the 75% of the amount in the Settlement allocated for PAGA Penalties, which is paid to the LWDA under Labor Code section 2699, subd. (i).

1.26. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, PAGA Penalties, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.27. “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.

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

1.29. “PAGA Period” means the period from April 24, 2022 (or one year prior to the date of Plaintiff’s LWDA Letter), through November 7, 2024, which is 90 days after August 9, 2024, the date the Parties accepted Hon. Joan Lewis (Ret.)’s mediator’s proposal.

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

1.31. “PAGA Notice” means Plaintiff’s April 24, 2023 letter to Empire and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a) as well as Plaintiff’s August 30, 2024 amended letter to Empire and the LWDA providing notice pursuant to Labor Code section 2699.3,

subd.(a), that included additional alleged wage and hour violations committed by Empire during the PAGA Period.

1.32. "PAGA Penalties" means the total amount of money (\$75,000) of the Settlement allocated to be paid out of the Gross Settlement Amount for resolution of the PAGA claim, allocated 25% to the Aggrieved Employees (\$18,750) and the 75% to the LWDA (\$56,250).

1.33. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.34. "Plaintiff" means Matthew Wood, the named plaintiff in the Action.

1.35. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.36. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of the Class and PAGA Settlement.

1.37. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.38. "Released PAGA Claims" means the claims being released as described in Paragraph 5.2 below.

1.39. "Released Parties" means: Defendant Empire Marketing Strategies, Inc., and any of its former and/or current parents, subsidiaries, and affiliates (which includes entities that could be considered to have jointly employed the Class Members or PAGA Members during those Class Members' or PAGA Members' respective period(s) of employment by Defendant), as well as each of the entities listed above's (including Defendant's) officers, directors, managers, owners, executives, partners, employees, shareholders, agents, attorneys, and any other predecessors, successors, or assigns.

1.40. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member, in the form attached as Exhibit B or a document substantially similar.

1.41. "Response Deadline" means 45 days after the Administrator mails Notice to Class Members and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 10 days beyond the Response Deadline has expired.

1.42. "Settlement" means the disposition of the Action effected by this Agreement and the Final Order.

1.43. "Workweek" means any week during which a Class Member worked for Empire for at least one day, during the Class Period.

2. RECITALS.

2.1. On May 11, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Empire for (1) failure to pay overtime wages under Labor Code Sec. 204, 210, 218, 510, 1194; (2) failure to reimburse business expenses under Labor Code Sec. 2802; (3) failure to provide accurate wage statements under Labor Code Sec. 226, 1174, 1174.5; (4) waiting time penalties under Labor Code Sec. 201, et seq.; (5) unfair competition under Bus. & Prof. Code Sec. 17200, et seq. On October 2, 2023 (after the 65 days required by PAGA expired and the Parties submitted a stipulation regarding PAGA), Plaintiff filed a First Amended Complaint alleging an additional cause of action against Empire for PAGA civil penalties.

Empire denies the allegations in the Operative Complaint or any other amended complaint filed in the Action (as noted below), denies any failure to comply with the laws identified in the Operative Complaint or otherwise, and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Empire and the LWDA by sending the PAGA Notice.

2.3. On April 16, 2024, the Parties participated in an all-day mediation presided over by Hon. Joan Lewis (Ret.), at the end of which the case did not resolve. However, over the course of the following months and further discussions and briefing, the Parties resolved the Action via acceptance of a mediator's proposal on August 9, 2024. The agreement reached and this Settlement is intended to fully and finally release the Released Parties from the Class Released Claims and PAGA Released Claims.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, a sample of time and pay records, policies, and datapoints including regarding the class and PAGA size and workweeks. 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*").

2.5. The Court has not granted class certification.

2.6. 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.

2.7 On August 30, 2024, Plaintiff submitted an amended PAGA Notice to Empire and the LWDA addressing additional claims that had been discussed as part of the mediation and which the Parties agreed to resolve. Subsequently, on September 26, 2024 the Parties filed a Stipulation and Order seeking leave to file the Second Amended Complaint. that (1) adds causes of action for failure to provide meal periods and/or pay meal period premiums/wages and failure to provide rest breaks and/or pay rest break premiums/wages and (2) amends Plaintiff's PAGA cause of action to include violation of California meal period and rest break laws, requirements, and/or regulations as additional bases for civil penalties and other relief pursued under and/or available through the PAGA, as these claims were addressed as part of the mediation and were always intended to be included in the Settlement since their assertion in the case and 3) clarified other items in the already pleaded claims.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Empire promises to pay \$1,200,000 (subject to the escalator clause in Section 8) and no more as the Gross Settlement Amount for resolution of the Action and as consideration for this Settlement, and to pay employer-side taxes on the wage portion of the payments made to the Participating Class Members outside of the Gross Settlement Amount. Empire has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 5.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Empire.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Empire 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, with no taxes withheld on this portion. Plaintiff assumes full responsibility and liability for any taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which is currently estimated to be \$420,000 (prior to any escalator clause) and a Class Counsel Litigation Expenses Payment of not more than \$35,000 as approved by the Court. Empire will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Empire harmless, and indemnifies Empire, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$8,000 except for on a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$8,000, any excess will revert to the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 10% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 90% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest, expenses and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members, unless otherwise stated, assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$75,000 to be paid from the Gross Settlement Amount, with 75% (\$56,250) allocated to the LWDA PAGA Payment and 25% (\$18,750) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$18,750) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4.SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks. Based on a review of its records to date, Empire estimates there are 125 Class Members who collectively worked a total of approximately 15,677 Workweeks as of August 9, 2024.

4.2. Class Data. Not later than 10 court days after the Court grants Preliminary Approval of the Settlement, Empire 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. Empire 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 Empire must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Empire shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Empire's share of employer-side taxes on the Wage Portion by transmitting the funds to the Administrator no later than 15 court days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 10 days after Empire funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment, as applicable, and pay itself the approved Administration Expense Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to

any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

5.RELEASES OF CLAIMS. Effective on the date when Empire fully funds the entire Gross Settlement Amount and funds all employer-side 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 or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all known and unknown claims, causes of action, disputes, transactions, or occurrences as of the date he signs this Agreement, 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, 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. Overall, as a result of the Agreement and payment of the amounts addressed herein (as approved by the Court including any reductions), Plaintiff will release all claims he has, may have, or may claim to have against the Released Parties, collectively or individually, as of the date he signs this Agreement except as noted above.

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

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE

MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY.

5.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (1) all claims alleged in the Action, (2) all claims under state, federal, or local law, that could be asserted in the Action based on the facts alleged in the SAC, and (3) all claims under the California Labor Code, Wage Orders, wage and hour regulations, and/or other provisions of law, that could have been asserted, alleged, or brought in the Action based on the facts and/or allegations pled in the Action. The claims alleged in the Action that are being released by the Settlement are: (1) failure to pay overtime wages under Labor Code Sec. 204, 210, 218, 510, 1194; (2) failure to reimburse business expenses under Labor Code Sec. 2802; (3) failure to provide accurate wage statements under Labor Code Sec. 226, 1174, 1174.5; (4) waiting time penalties under Labor Code Sec. 201, et seq.; (5) unfair competition under Bus. & Prof. Code Sec. 17200, et seq.; (6) failure to provide meal periods in accordance with California law and/or pay meal period premiums/wages; and (7) failure to provide rest breaks in accordance with California law and/or pay rest break premiums/wages. All claims set forth above/in this paragraph are referred to herein as the “Class Released Claims.” Note, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from (1) all claims alleged in or that could have been alleged in the LWDA Letter and/or Amended LWDA Letter based on the facts alleged therein, (2) all claims that could have been alleged or brought in civil court for civil penalties or otherwise based on the facts alleged in the LWDA Letter and/or Amended LWDA Letter, (3) all claims for civil penalties and other relief under PAGA based on the facts alleged in the LWDA Letter and/or Amended LWDA Letter, and (4) the PAGA cause of action as set forth in the SAC. All claims set forth above/in this paragraph are referred to herein as the “PAGA Released Claims.”

6.MOTION FOR PRELIMINARY APPROVAL. Plaintiff agrees to prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”).

6.1 Empire’s Confirmation Regarding Pending Matters. Within 5 court days of the full execution of this Agreement, Empire will confirm in writing to Plaintiff’s Counsel that Defendant is not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar*;

(ii) a draft proposed Order Granting Preliminary Approval; (iii) a draft proposed Class Notice, Request for Exclusion Form and Objection Form; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; and (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; and all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator.

6.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement (to the extent reasonably possible); 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. Class Counsel can, but is not obligated to, provide Defense Counsel a copy of Plaintiff’s draft Motion for Preliminary Approval, in whole or part, before filing it for Defense Counsel’s review and comment. But, if Class Counsel does so, Defense Counsel is not obligated to review or provide comments and/or input. Regardless, if the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected ILYM Group to serve as the Administrator and verified that, as a condition of appointment, ILYM Group 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 the purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

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

7.4 Notice to Class Members.

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

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 10 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice, Request for Exclusion Form and Objection Form substantially in the form attached to this Agreement as Exhibits A-C. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment payable to the Class Member, and the number of Workweeks used to calculate these amounts. Before mailing Class Notices, Request for Exclusion Forms, and Objection Forms, the Administrator shall update Class Member addresses using the National Change of Address database.

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

7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional 10 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

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

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later

than 45 days after the Administrator mails the Class Notice (plus an additional 10 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge (absent good cause as found by the Court). If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

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

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement.

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

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail, in the form attached as Exhibit C or a document substantially similar. 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 10 days for Class Members whose Class Notice was re-mailed).

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

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

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

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

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

7.8.4 Workweek Challenges. Class Members and PAGA Members will have an opportunity to dispute the number of Qualified Workweeks and/or Qualified PAGA Workweeks to which they have been credited, as reflected in their respective Class Notices. In order to dispute Qualified

Workweeks and/or Qualified PAGA Workweeks, Class Members and/or PAGA Members must submit a written letter to the Settlement Administrator that: (a) contains the case; (b) is signed by the Class Member and/or PAGA Member; (c) states the full name, address, telephone number, and the last four digits of the Social Security Number of the disputing Class Member and/or PAGA Member; (d) states that the Class Member and/or PAGA Member disputes the number of Qualified Workweeks and/or Qualified PAGA Workweeks credited to him or her and what he or she contends is the correct number that should be credited to him or her; (e) includes information and/or attaches documentation demonstrating that the number of Qualified Workweeks and/or Qualified PAGA Workweeks that he or she contends should be credited to him or her is correct; and (f) is returned by mail to the Settlement Administrator at the specified address, postmarked or faxed on or before the Response Deadline. The date of the postmark on the mailing envelope or fax on the submission will be the exclusive means to determine whether a dispute has been timely submitted. Absent evidence rebutting the accuracy of Defendant's records and data as they pertain to the number of Qualified Workweeks and/or Qualified PAGA Workweeks to be credited to a disputing Class Member and/or PAGA Member, Defendant's records will be presumed correct and determinative of the dispute. However, if a Class Member and/or PAGA Member produces information and/or documents to the contrary, the Settlement Administrator will evaluate the materials submitted by the Class Member and/or PAGA Member and the Settlement Administrator will resolve and determine the number of eligible Qualified Workweeks and/or Qualified PAGA Workweeks that the disputing Class Member and/or PAGA Member should be credited with under the Settlement. The Settlement Administrator shall notify Class Counsel and Defendant's Counsel of the fact that a Class Member and/or PAGA Member has made a dispute and advise them of the outcome.

7.8.5 Administrator's Declaration. Not later than 10 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration in Court.

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

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE. Based on its records, as of the date of mediation, there were approximately 125 Class Members and 15,677 Workweeks worked by Class Members. From November 14, 2018 to August 9, 2024, Defendant estimates there were approximately 17,130 Workweeks worked by Class Members. If the number of Workweeks for the Participating Class Members is more than 107% of 17,130 (i.e., more than 18,329 Workweeks in total), then the Gross Settlement Amount shall proportionally increase by the percentage increase in total Workweeks beyond 107%. So, for example, if the total number of Workweeks for the Participating Class Members is determined to be 112% of 17,130 (or 19,185 Workweeks), then the Gross Settlement Amount shall increase by 5% (which is the percentage increase in total Workweeks beyond 107%). Note, the Gross Settlement Amount shall not increase if the total Workweeks for the Participating Class Members is determined to be 18,329 or less.

9. EMPIRE'S RIGHT TO WITHDRAW. If 8% or more of Class Members opt out of the Settlement via submission of timely and valid Requests for Exclusion, Empire may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Empire 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, Empire will remain responsible for paying all Settlement Administration Expenses incurred to that point. Empire must notify Class Counsel and the Court of its selection to withdraw not later than seven court days after the Administrator sends the final Exclusion List to Defense Counsel.

10. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a Proposed Final Approval Order and a proposed Final Order (collectively "Motion for Final Approval") and Motion for Class Counsel Fee and Costs, Administration Costs and Class Representative Service Payment. Plaintiff shall provide drafts of these documents to Defense Counsel not later than five days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

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

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

10.4 Waiver of Right to Appeal. Provided the Final Order is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment 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 Final Order, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate the Final Order, 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 Final Order, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Final Order 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 Final Order. If the reviewing Court vacates, reverses, or modifies the Final Order 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 the Final Order, 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 Final Order within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12.ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Empire that any of the allegations in the Operative Complaint or any complaint filed prior thereto and/or any contention, allegation, or assertion in any LWDA letter issued by Plaintiff in relation to the Action have merit or that Empire has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Empire's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Final Order Empire reserves the right to contest certification of any class for any reasons, and Empire 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 Empire's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Final Order. 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 Empire, 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, Empire nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

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

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

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

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

12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14 Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Empire in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court.

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

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

12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business

day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Ian M. Silvers, Esq.
BISNAR|CHASE LLP
1301 Dove Street, Suite 120
Newport Beach, California 92660
Telephone: (949) 752-2999
Facsimile: (949) 752-2777

Farid Masoud
Culver Law Firm
440 N. Barranca Avenue, #7217
Covina, CA 91723
Telephone: (949) 822-8244

To Empire:

Justin M. Michitsch , Esq.
Scott J. Kerr, Esq.
GORDON REES SCULLY MANSUKHANI, LLP
101 W. Broadway, Suite 200,
San Diego, CA 92101
Telephone: (619) 696-6700
Facsimile: (619) 696-7124

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

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

12.20 Enforceable Under 664.6. This is a binding and enforceable agreement. Notwithstanding anything else contained herein, this Agreement shall be enforceable under California Code of Civil Procedure section 664.6 and admissible under California Evidence Code section 1123(a). Regardless of any settlement privilege or other rules of evidence, this Agreement may be admitted in Court and is enforceable even if a finalized settlement document cannot be agreed upon.

Date: 10 / 23 / 2024

Matthew Wood

Plaintiff Matthew Wood

Date: 11/11/2024

Robert C. Halpin

By: Robert C. Halpin
For Defendant Empire Marketing Strategies,
Inc.

Date: 10/24/2024

Ian M. Silvers

Ian Silvers
Counsel for Plaintiff

Date: 11/11/2024

APPROVED AS TO FORM

Justin M. Michitsch

Justin M. Michitsch
Scott Kerr
Counsel for Empire Marketing Strategies,
Inc.