

BIBIYAN LAW GROUP, P.C.

David D. Bibiyan (SBN 287811)

david@tomorrowlaw.com

Vedang J. Patel (SBN 328647)

vedang@tomorrowlaw.com

Brandon Chang (SBN 316197)

brandon@tomorrowlaw.com

1460 Westwood Boulevard

Los Angeles, California 90024

Tel: (310) 438-5555; Fax: (310) 300-1705

Attorneys for Plaintiff, EDGAR MARCELO CASTILLO SANTIAGO,
on behalf of himself and all others similarly situated and aggrieved

CALLAHAN THOMPSON SHERMAN & CAUDILL, LLP

Lee A. Sherman (SBN 172198)

lshearn@ctsclaw.com

Randy Hy (SBN 290395)

rhy@ctsclaw.com

2601 Main Street, Suite 800

Irvine, CA 92614

Telephone: (949) 261-2872

Facsimile: (949) 261-6060

Attorneys for Defendants, FAMAROCK, LLC (f/k/a FAMAROCK, INC.)
and HANS ROCKENWAGNER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

EDGAR MARCELO CASTILLO
SANTIAGO, an individual and on behalf of
all others similarly situated,

Plaintiff,

v.

FAMAROCK, INC., a California
Corporation; HANS ROCKENWAGNER an
individual; PATRICK STACY an individual;
and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 22STCV41096

[Assigned for all purposes to the Hon.
Stuart Rice in Dept. 1]

**FIRST AMENDED CLASS AND PAGA
SETTLEMENT AGREEMENT**

Action Filed: December 30, 2022
Trial Date: None Set

1 This First Amended Class and PAGA Settlement Agreement (“Settlement,” “Agreement”
2 or “Settlement Agreement”) is made by and between plaintiff Edgar Marcelo Castillo Santiago
3 (“Plaintiff”) on behalf of himself, the Class, and the State of California pursuant to the Private
4 Attorneys’ General Act, on the one hand, and defendants Famarock, LLC, formerly known as
5 Famarock, Inc. (“Defendant Famarock”) and Hans Rockenwagner (collectively, “Defendants”),
6 on the other hand. The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or
7 individually as “Party.”

8 In consideration of the mutual covenants, promises, and agreements set forth in this
9 Settlement Agreement, the Parties agree, subject to the Court’s approval, to the resolution of the
10 Action, the Released Claims, and the Released PAGA Claims, subject to the following terms and
11 conditions.

12 **1. DEFINITIONS**

13 1.1. “Action” or “Actions” means the Plaintiff’s wage and hour class action, captioned *Edgar*
14 *Marcelo Castillo Santiago v. Famarock, Inc., et al.*, Case No. 22STCV41096, initiated on
15 December 30, 2022, and pending in the Superior Court of the State of California, County of Los
16 Angeles (“Class Action”); and representative action under PAGA captioned *Edgar Marcelo*
17 *Castillo Santiago v. Famarock, Inc., et al.*, Case No. 23STCV08586, initiated on April 18, 2023,
18 and pending in the Superior Court of the State of California, County of Los Angeles (“PAGA
19 Action”), to be consolidated by amended complaint in the Class Action.

20 1.2. “Administrator” means ILYM Group, Inc. (“ILYM”), the neutral entity the Parties have
21 agreed to appoint to administer the Settlement.

22 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
23 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
24 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
25 Preliminary Approval of the Settlement.

26 1.4. “Aggrieved Employee” means a person currently or formerly employed by Defendant
27 Famarock in California and classified as a non-exempt, hourly-paid employee who worked for
28 Defendant Famarock during the PAGA Period.

1 1.5. “Class” means all persons currently or formerly employed by Defendant Famarock in
2 California and classified as non-exempt, hourly-paid employees who worked for Defendant
3 Famarock during the Class Period.

4 1.6. “Class Counsel” means David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group,
5 P.C.

6 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
7 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
8 expenses, respectively, incurred to prosecute the Action.

9 1.8. “Class Data” means Class Member identifying information in Defendant Famarock’s
10 custody, possession, or control, including the Class Member’s (1) name; (2) last known
11 address(es); (3) last known telephone number(s); (4) last known Social Security Number(s); and
12 (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation
13 date(s)).

14 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either
15 a Participating Class Member or Non-Participating Class Member (including a Non- Participating
16 Class Member who qualifies as an Aggrieved Employee).

17 1.10. “Class Member Address Search” means the Administrator’s investigation and search for
18 current Class Members’ mailing addresses using all reasonably available sources, methods and
19 means including, but not limited to, the National Change of Address database, skip traces, and
20 direct contact by the Administrator with Class Members.

21 1.11. “Class Notice” means the COURT APPROVED NOTICE OF PROPOSED CLASS AND
22 REPRESENTATIVE ACTION SETTLEMENT AND DATE FOR FINAL APPROVAL
23 HEARING, to be mailed to Class Members in English and Spanish in the form, without material
24 variation, attached as Exhibit A and incorporated by reference into this Agreement.

25 1.12. “Class Period” means the period from December 30, 2018 through May 31, 2024.

26 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action
27 seeking Court approval to serve as a Class Representative.

28 ///

1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Los Angeles.

1.16. “Defendants” means named defendants Famarock, LLC, formerly known as Famarock, Inc., and Hans Rockenwagner, unless otherwise specified.

1.17. “Defense Counsel” means Lee A. Sherman of Callahan Thompson Sherman & Caudill, LLP.

1.18. “Effective Date” means the later of: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

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

1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final Approval.

1.22. “Gross Settlement Amount” means \$1,100,000.00 (One Million One Hundred Thousand Dollars and Zero Cents) which is the total amount Defendants agree to pay under the Settlement, except as provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and Administrator’s Expenses.

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

Class Period.

1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

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

1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

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

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

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

1.31. “PAGA Period” means the period from December 30, 2021 through May 31, 2024.

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

1.33. “PAGA Notice” means Plaintiff’s December 30, 2022 letter to Defendants and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

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

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

1.36. "Plaintiff" means Edgar Marcelo Castillo Santiago, the named plaintiff in the Action.

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

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

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

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

1.41. "Released Parties" means: Defendants and their current and former parents, partners, predecessors or successors, holding companies, affiliated companies or entities, including, but not limited to, owners, shareholders, members, partners, officers, directors, managers, employees, and agents.

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

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

1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

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

///

///

1 **2. RECITALS**

2 2.1. On December 30, 2022, Plaintiff commenced this Action by filing a Complaint alleging
3 causes of actions against Defendants and Patrick Stacy for: failure to pay overtime and minimum
4 wages; failure to provide meal breaks, rest breaks, or compensation in lieu thereof; waiting time
5 penalties; wage statement violations; failure to timely pay wages during employment; failure to
6 provide suitable seating; and unfair competition (“Class Action”).

7 2.2. On April 18, 2023, after 65 days passed without any communication from the LWDA,
8 Plaintiff filed a separate representative action under PAGA in the Los Angeles County Superior
9 Court, captioned *Edgar Marcelo Castillo Santiago v. Famarock, Inc., et al.*, Case Number
10 23STCV08586, for civil penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1,
11 and 2699, in connection with the allegations made in the PAGA Notice (“PAGA Action”).

12 2.3. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

13 2.4. Prior to mediation Plaintiff obtained, through informal discovery: (a) a sample of payroll
14 history from 2021 through 2023; (b) payroll records for a sample of current and former
15 employees; (c) class data points, including average hourly rates of pay and total hours worked
16 from December 30, 2018 through the date of mediation and from December 30, 2021 through
17 the date of mediation; (d) all policy documents of Defendant Famarock related to the claims in
18 this case; (e) Defendant Famarock’s employee handbook; and (f) Plaintiff’s personnel file.

19 2.5. On February 1, 2024, the Parties participated in an all-day mediation presided over by
20 Lynn Frank, Esquire. The mediation was successful, and the Parties agreed to globally resolve
21 all class and PAGA claims alleged in the Action.

22 2.6. As part of this Agreement, the Parties agree to stipulate to Plaintiff filing a First Amended
23 Complaint in the Class Action adding all allegations brought in the PAGA Action, and thereafter
24 filing a request for dismissal of the PAGA Action, without prejudice, thereby effectively
25 consolidating the two actions for purposes of Settlement (hereinafter, the “Action”). The First
26 Amended Complaint shall be the operative complaint in the Action (“Operative Complaint”).

27 2.7. Furthermore, as part of this Agreement, the Parties agree to stipulate to the dismissal of
28 individual defendant Patrick Stacy from the Class Action, without prejudice.

2.8. The Court has not granted class certification.

2.9. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below, Defendants promise to pay \$1,100,000.00 as the Gross Settlement Amount, unless increased pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

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

3.2.1. To Plaintiff: Class Representative Service Payment to Plaintiff of not more than \$10,000.00 in addition to any Individual Class Payment and any Individual PAGA Payment Plaintiff is entitled to receive as a Participating Class Member. Defendants 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 prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class

Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one third (1/3) of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to be \$366,666.67.00 and a Class Counsel Litigation Expenses Payment of not more than \$30,000.00. Defendants will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assume full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from Defendants for such work unless, Defendants materially breach this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$9,950.00 except for a showing of good cause and as approved by the Court. To the

1 extent the Administration Expenses are less, or the Court approves payment less than
2 \$9,950.00, the Administrator will retain the remainder in the Net Settlement Amount.

3 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated
4 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked
5 by all Participating Class Members during the Class Period and (b) multiplying the result
6 by each Participating Class Member's Workweeks.

7 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
8 Class Member's Individual Class Payment will be allocated to settlement of
9 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
10 withholding and will be reported on an IRS W-2 Form. 40% of each
11 Participating Class Member's Individual Class Payment will be allocated to
12 settlement of claims for interest and the other 40% for penalties (the "Non-Wage
13 Portion"). The Non-Wage Portions are not subject to wage withholdings and
14 will be reported on IRS 1099 Forms. Participating Class Members assume full
15 responsibility and liability for any employee taxes owed on their Individual
16 Class Payment.

17 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
18 Class Payments. Non-Participating Class Members will not receive any
19 Individual Class Payments. The Administrator will retain amounts equal to their
20 Individual Class Payments in the Net Settlement Amount for distribution to
21 Participating Class Members on a pro rata basis.

22 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
23 \$100,000.00 to be paid from the Gross Settlement Amount, with 75% (\$75,000.00)
24 allocated to the LWDA PAGA Payment and 25% (\$25,000.00) allocated to the
25 Individual PAGA Payments.

26 3.2.5.1. The Administrator will calculate each Individual PAGA
27 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share
28 of PAGA Penalties \$25,000.00 by the total number of Workweeks worked by

all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's Workweeks worked during the PAGA Period. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant Famarock estimates there are 494 Class Members who collectively worked a total of 61,222 Workweeks, and 291 of Aggrieved Employees who worked a total of 12,058 PAGA Pay Periods.

4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the Settlement, Defendant Famarock will simultaneously 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 Famarock 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 Famarock 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. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds into a Qualified Settlement Fund (QSF) established by the Administrator

no later than six (6) months after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. 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 the 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 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. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 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

1 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
2 The Administrator shall promptly send a replacement check to any Class Member whose
3 original check was lost or misplaced, requested by the Class Member prior to the void
4 date.

5 4.4.3. For any Class Member whose Individual Class Payment check or Individual
6 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
7 shall transmit the funds represented by such checks to the California Controller's
8 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid
9 residue" subject to the requirements of California Code of Civil Procedure Section 384,
10 subd. (b).

11 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
12 not obligate Defendants to confer any additional benefits or make any additional
13 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
14 specified in this Agreement.

15 **5. RELEASE OF CLAIMS**

16 Effective upon entry of Judgment, the Order granting Final Approval of this Settlement
17 becomes final, and on the date when Defendants fully fund the entire Gross Settlement Amount
18 and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments,
19 Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as
20 follows:

21 5.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses,
22 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
23 and discharge Released Parties from all claims, transactions, or occurrences, including, but not
24 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts
25 contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could
26 have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA
27 Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to
28 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability

benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

5.2. Release by Participating Class Members: For the duration of the Class Period, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint including: failure to pay overtime; failure to pay minimum wages; failure to provide meal periods or additional pay in lieu thereof; failure to provide rest breaks or additional pay in lieu thereof; failure to timely pay wages upon separation; failure to timely pay wages owed during employment; inaccurate itemized wage statements; unreimbursed business expenses; failure to provide one day's rest in seven; failure to maintain accurate payroll records; failure to provide notice of material terms of employment; failure to provide paid sick leave and COVID supplemental sick leave; failure to provide reporting time pay; violations of California Labor Code §§ 200, 201, 202, 203, 204, 210, 212, 216, 218.5, 218.6, 225.5, 226, 226.3, 226.7, 227.3, 232, 232.5, 233, 234, 235.5, 245-249, 292, 293, 510, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1197.5, 1198, 1198.5, 2800, 2802, 2810.5, 6409.6, 6432, the applicable California Wage Orders, and all related or corresponding

1 federal laws; violation of California Business and Professions Code § 17200 *et seq.* (“Released
2 Class Claims”).

3 5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not
4 release any other claims, including claims for vested benefits, unemployment insurance,
5 disability, social security, workers’ compensation, or claims based on facts occurring outside the
6 Class Period.

7 5.4. Release by Aggrieved Employees: For the duration of the PAGA Period, all Aggrieved
8 Employees are deemed to release, on behalf of themselves and their respective former and present
9 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
10 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been
11 alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, including,
12 claims for PAGA penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and
13 2699 in connection with alleged violations of Labor Code sections Labor Code sections 96, 98.6,
14 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 232, 232.5, 246 *et seq.*, 432, 510, 512,
15 558, 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699, 2802, 2810.3 and 2810.5,
16 among others (“Released PAGA Claims”). The Released Class Claims and the Released PAGA
17 Claims are hereinafter collectively referred to as the “Released Claims.”

18 **6. MOTION FOR PRELIMINARY APPROVAL**

19 The Parties agree to Class Counsel’s filing of a motion for preliminary approval (“Motion
20 for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary
21 Approvals.

22 6.1. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
23 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
24 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
25 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor
26 Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and
27 Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from
28 the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting

1 to its willingness to serve; competency; operative procedures for protecting the security of Class
2 Data; amounts of insurance coverage for any data breach, defalcation of funds or other
3 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
4 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
5 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve
6 and disclosing all facts relevant to any actual or potential conflicts of interest with Class
7 Members; (vi) a signed declaration from Class Counsel attesting to its competency to represent
8 the Class Members; its timely transmission to the LWDA of all necessary PAGA documents
9 (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor
10 Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and
11 (vii) all facts relevant to any actual or potential conflict of interest with Class Members and the
12 Administrator.

13 6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
14 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
15 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
16 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
17 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
18 Administrator.

19 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
20 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
21 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
22 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
23 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
24 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
25 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
26 Court's concerns.

27 ///

28 ///

1 **7. SETTLEMENT ADMINISTRATION**

2 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc.
3 (“ILYM”) to serve as the Administrator and verified that, as a condition of appointment, ILYM
4 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
5 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
6 represent that they have no interest or relationship, financial or otherwise, with the Administrator
7 other than a professional relationship arising out of prior experiences administering settlements.

8 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
9 Identification Number for purposes of calculating payroll tax withholdings and providing reports
10 state and federal tax authorities.

11 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
12 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section
13 468B-1.

14 7.4. Notice to Class Members

15 7.4.1. No later than three (3) business days after receipt of the Class Data, the
16 Administrator shall notify Class Counsel that the list has been received and state the
17 number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class
18 Data.

19 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
20 days after receiving the Class Data, the Administrator will send to all Class Members
21 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
22 the Class Notice with Spanish translation, substantially in the form attached to this
23 Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the
24 dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable
25 to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable)
26 used to calculate these amounts. Before mailing Class Notices, the Administrator shall
27 update Class Member addresses using the National Change of Address database.

28 ///

1 7.4.3. Not later than 3 business days after the Administrator's receipt of any Class Notice
2 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
3 using any forwarding address provided by the USPS. If the USPS does not provide a
4 forwarding address, the Administrator shall conduct a Class Member Address Search,
5 and re-mail the Class Notice to the most current address obtained. The Administrator
6 has no obligation to make further attempts to locate or send Class Notice to Class
7 Members whose Class Notice is returned by the USPS a second time.

8 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
9 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days
10 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
11 notice is re-mailed. The Administrator will inform the Class Member of the extended
12 deadline with the re-mailed Class Notice.

13 7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
14 discovers any persons who believe they should have been included in the Class Data
15 and should have received Class Notice, the Parties will expeditiously meet and confer,
16 and in good faith, in an effort to agree on whether to include them as Class Members.
17 If the Parties agree, such persons will be Class Members entitled to the same rights as
18 other Class Members, and the Administrator will send, via email or overnight delivery,
19 a Class Notice requiring them to exercise options under this Agreement not later than
20 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, which
21 ever are later.

22 7.5. Requests for Exclusion (Opt-Outs).

23 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
24 must send the Administrator, by mail, a signed written Request for Exclusion not later
25 than 45 days after the Administrator mails the Class Notice (plus an additional 15 days
26 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
27 from a Class Member or his/her representative that reasonably communicates the Class
28 Member's election to be excluded from the Settlement and includes the Class Member's

1 name, address, signature, and email address or telephone number. To be valid, a Request
2 for Exclusion must be timely postmarked by the Response Deadline.

3 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
4 fails to contain all the information specified in the Class Notice. The Administrator shall
5 accept any Request for Exclusion as valid if the Administrator can reasonably ascertain
6 the identity of the person as a Class Member and the Class Member's desire to be
7 excluded. The Administrator's determination shall be final and not appealable or
8 otherwise susceptible to challenge. If the Administrator has reason to question the
9 authenticity of a Request for Exclusion, the Administrator may demand additional proof
10 of the Class Member's identity. The Administrator's determination of authenticity shall
11 be final and not appealable or otherwise susceptible to challenge.

12 7.5.3. Every Class Member who does not submit a timely and valid Request for
13 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
14 to all benefits and bound by all terms and conditions of the Settlement, including the
15 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,
16 regardless whether the Participating Class Member actually receives the Class Notice
17 or objects to the Settlement.

18 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
19 Non-Participating Class Member and shall not receive an Individual Class Payment or
20 have the right to object to the class action components of the Settlement. Because future
21 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
22 Participating Class Members who are Aggrieved Employees are deemed to release the
23 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
24 PAGA Payment. In other words, the Parties agree that there is no statutory right for any
25 Aggrieved Employee to opt out or otherwise exclude himself or herself from the
26 Agreement as it relates to PAGA claims and payments.

27 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
28 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 and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via 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 and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of 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 mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-mailed).

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

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

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain and use an internet website to post information of interest to Class Members including

1 the date, time and location for the Final Approval Hearing and copies of the Settlement
2 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
3 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
4 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
5 the Final Approval and the Judgment. The Administrator will also maintain and monitor
6 an email address and a toll-free telephone number to receive Class Member calls and
7 emails.

8 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
9 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
10 Not later than 5 days after the expiration of the deadline for submitting Requests for
11 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
12 containing (a) the names and other identifying information of Class Members who have
13 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
14 other identifying information of Class Members who have submitted invalid Requests
15 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted
16 (whether valid or invalid).

17 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
18 reports to Class Counsel and Defense Counsel that, among other things, tally the number
19 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
20 Exclusion (whether valid or invalid) received, objections received, challenges to
21 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
22 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
23 Weekly Reports must include/provide the Administrator’s assessment of the validity of
24 Requests for Exclusion and attach copies of all Requests for Exclusion and objections
25 received.

26 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
27 address and make final decisions consistent with the terms of this Agreement on all
28 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The

1 Administrator's decision shall be final and not appealable or otherwise susceptible to
2 challenge.

3 7.8.5. Administrator's Declaration. Before the date by which Plaintiff is required to file
4 the Motion for Final Approval of the Settlement, the Administrator will provide to Class
5 Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its
6 due diligence and compliance with all of its obligations under this Agreement,
7 including, but not limited to, its mailing of Class Notice, the Class Notices returned as
8 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total
9 number of Requests for Exclusion from Settlement it received (both valid or invalid),
10 the number of written objections and attach the Exclusion List. The Administrator will
11 supplement its declaration as needed or requested by the Parties and/or the Court. Class
12 Counsel is responsible for filing the Administrator's declaration(s) in Court.

13 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
14 disburses all funds in the Gross Settlement Amount, the Administrator will provide
15 Class Counsel and Defense Counsel with a final report detailing its disbursements by
16 employee identification number only of all payments made under this Agreement. At
17 least 7 days before any deadline set by the Court, the Administrator will prepare, and
18 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in
19 Court attesting to its disbursement of all payments required under this Agreement. Class
20 Counsel is responsible for filing the Administrator's declaration in Court.

21 7.8.7. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
22 Member who does not affirmatively opt-out of the Settlement by submitting a valid and
23 timely Request for Exclusion will be deemed a Participating Class Member and will be
24 bound by all terms of the Agreement, including those pertaining to the Released Claims,
25 as well as the Final Approval Order and Judgment that may be entered by the Court if it
26 grants final approval to the Settlement.

27 ///

28 ///

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

2 Based on its records, Defendant Famarock estimates that, as of the date of this Settlement
3 Agreement, (1) there are 494 Class Members and 61,222 Total Workweeks during the Class
4 Period and (2) there are 291 Aggrieved Employees who worked 12,058 Pay Periods during the
5 PAGA Period.

6 8.1. Defendant Famarock represents that there are no more than 61,222 Workweeks worked
7 by Class Members from December 30, 2018 through February 1, 2024. In the event the number
8 of Workweeks worked by Class Members during the Class Period increases by more than 10%,
9 or 6,122 Workweeks, then the Gross Settlement Amount shall be increased proportionally by the
10 Workweeks in excess of 67,344 (61,222 + 6,122) Workweeks multiplied by the Workweek
11 Value. The Workweek Value shall be calculated by dividing the originally agreed-upon Gross
12 Settlement Amount (\$1,100,000.00) by 61,222, which amounts to a Workweek Value of \$17.97.
13 Thus, for example, should there be 70,000 Workweeks in the Class Period, then the Gross
14 Settlement Amount shall be increased by \$47,728.32 ((70,000 Workweeks – 67,344 Workweeks)
15 x \$17.97 per Workweek).

16 **9. DEFENDANTS' RIGHT TO WITHDRAW**

17 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds
18 five percent (5%) of the total of all Class Members, Defendants may, but are not obligated, elect
19 to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement
20 shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any
21 further obligation to perform under this Agreement; provided, however, Defendants will remain
22 responsible for paying all Settlement Administration Expenses incurred to that point. Defendants
23 must notify Class Counsel and the Court of their election to withdraw not later than seven (7)
24 days after the Administrator sends the final Exclusion List to Defense Counsel. Late elections
25 will have no effect.

26 **10. MOTION FOR FINAL APPROVAL**

27 Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for
28 final approval of the Settlement that includes a request for approval of the PAGA settlement

1 under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed
2 Judgment (collectively “Motion for Final Approval”). Plaintiff shall endeavor to provide drafts
3 of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class
4 Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve
5 any disagreements concerning the Motion for Final Approval.

6 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by
7 a Participating Class Member, including the right to file responsive documents in Court no later
8 than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the
9 Court.

10 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
11 Approval on any material change to the Settlement (including, but not limited to, the scope of
12 release to be granted by Class Members), the Parties will expeditiously work together in good
13 faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final
14 Approval. The Court’s decision to award less than the amounts requested for the Class
15 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
16 Expenses Payment, Administrator Expenses Payment and/or individual claims of plaintiff for
17 alleged wrongful termination, shall not constitute a material modification to the Agreement
18 within the meaning of this paragraph.

19 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
20 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
21 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
22 and (iii) addressing such post-Judgment matters as are permitted by law.

23 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
24 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
25 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
26 respective counsel, and all Participating Class Members who did not object to the Settlement as
27 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
28 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions

1 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
2 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
3 Parties' obligations to perform under this Agreement will be suspended until such time as the
4 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
5 the amount of the Net Settlement Amount.

6 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
7 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
8 modification of this Agreement (including, but not limited to, the scope of release to be granted
9 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
10 expeditiously work together in good faith to address the appellate court's concerns and to obtain
11 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
12 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
13 the Court's award of the Class Representative Service Payment or any payments to Class Counsel
14 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
15 as long as the Gross Settlement Amount remains unchanged.

16 **11. AMENDED JUDGMENT**

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

19 **12. ADDITIONAL PROVISIONS**

20 12.1. No Admission of Liability, Class Certification or Representative Manageability for Other
21 Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
22 Nothing in this Agreement is intended or should be construed as an admission by Defendants
23 that any of the allegations in the Operative Complaint have merit or that Defendants have any
24 liability for any claims asserted; nor should it be intended or construed as an admission by
25 Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class
26 certification and representative treatment is for purposes of this Settlement only. If, for any reason
27 the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants
28 reserve the right to contest certification of any class for any reasons, and Defendants reserve all

1 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
2 certification on any grounds available and to contest Defendants' defenses. The Settlement, this
3 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
4 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
5 Settlement and this Agreement).

6 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and
7 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
8 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
9 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
10 or indirectly, specifically or generally, to any person, corporation, association, government
11 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom
12 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
13 extent necessary to report income to appropriate taxing authorities; (4) in response to a court
14 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
15 government agency. Each Party agrees to immediately notify each other Party of any judicial or
16 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel,
17 Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any
18 conversation or other communication, before the filing of the Motion for Preliminary Approval,
19 any with third party regarding this Agreement or the matters giving rise to this Agreement except
20 to respond only that "the matter was resolved," or words to that effect. This paragraph does not
21 restrict Class Counsel's communications with Class Members in accordance with Class
22 Counsel's ethical obligations owed to Class Members.

23 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and
24 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
25 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
26 ability to communicate with Class Members in accordance with Class Counsel's ethical
27 obligations owed to Class Members.

28 ///

1 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
2 together with its attached exhibits shall constitute the entire agreement between the Parties
3 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
4 inducements made to or by any Party.

5 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
6 represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate
7 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
8 its terms, and to execute any other documents reasonably required to effectuate the terms of this
9 Agreement including any amendments to this Agreement.

10 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
11 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
12 Settlement Agreement, submitting supplemental evidence and supplementing points and
13 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
14 or content of any document necessary to implement the Settlement, or on any modification of the
15 Agreement that may become necessary to implement the Settlement, the Parties will seek the
16 assistance of a mediator and/or the Court for resolution.

17 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not
18 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
19 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
20 action, or right released and discharged by the Party in this Settlement.

21 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are
22 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
23 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
24 Part 10, as amended) or otherwise.

25 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
26 modified, changed, or waived only by an express written instrument signed by all Parties or their
27 representatives, and approved by the Court.

28 ///

1 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
2 the benefit of, the successors of each of the Parties.

3 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
4 governed by and interpreted according to the internal laws of the state of California, without
5 regard to conflict of law principles.

6 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
7 this Agreement. This Agreement will not be construed against any Party on the basis that the
8 Party was the drafter or participated in the drafting.

9 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
10 during Action and in this Agreement relating to the confidentiality of information shall survive
11 the execution of this Agreement.

12 12.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
13 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants
14 in connection with the mediation, other settlement negotiations, or in connection with the
15 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
16 be used in any way that violates any existing contractual agreement, statute, or rule of court.

17 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
18 inserted for convenience of reference only and does not constitute a part of this Agreement.

19 12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
20 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
21 weekend or federal legal holiday, such date or deadline shall be on the first business day
22 thereafter.

23 12.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
24 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
25 be accepted as an original. All executed counterparts and each of them will be deemed to be one
26 and the same instrument if counsel for the Parties will exchange between themselves signed
27 counterparts. Any executed counterpart will be admissible in evidence to prove the existence and
28 contents of this Agreement.

12.18. 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.

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

IT IS SO AGREED:

Edgar Castillo

Edgar Marcelo castillo Santiago (May 18, 2025 07:24 PDT)

Plaintiff, Edgar Marcelo Castillo Santiago

For Defendant, Famarock, LLC (f/k/a
Famarock, Inc.)

Defendant, Hans Rockenwagner

AGREED AS TO FORM ONLY:

Vedang J. Patel

David D. Bhojani

Vedang J. Patel

Counsel for Plaintiff

Randy Hy

Counsel for Defendants

12.18. 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.

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

IT IS SO AGREED:

Plaintiff, Edgar Marcelo Castillo Santiago


Hans Rockenwagner (May 20, 2025 10:47 PDT)

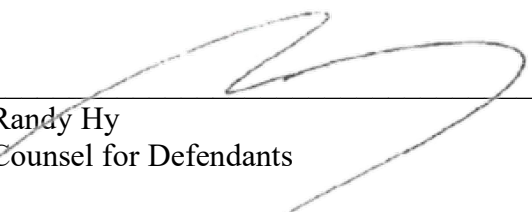
For Defendant, Famarock, LLC (f/k/a
Famarock, Inc.)


Hans Rockenwagner (May 20, 2025 10:47 PDT)

Defendant, Hans Rockenwagner

AGREED AS TO FORM ONLY:

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiff



Randy Hy
Counsel for Defendants