

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE**

MATTHEW CLARDY, individually and on behalf of others similarly situated, and as an aggrieved employee and Private Attorney General;

Plaintiff,

vs.

INMAR, INC., a North Carolina Corporation; INMAR SUPPLY CHAIN SOLUTIONS, LLC, a North Carolina Limited Liability Company; and DOES 1 through 50, inclusive,

Defendants.

**Case No.: 30-2020-01151878-CU-OE-CXC**

**Assigned for all purposes to Honorable:  
William Claster, Dept. CX104**

**CLASS ACTION AND PAGA  
SETTLEMENT AGREEMENT**

**Complaint Filed: July 29, 2020**

**Trial Date: Not set**

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This Class Action and PAGA Settlement Agreement (“Settlement” or “Settlement Agreement”) is made and entered into between Plaintiff Matthew Clardy (“Plaintiff” or “Class Representative”) on the one hand, individually and on behalf of the Class and PAGA Members (as defined below), by and through his counsel of record (hereinafter referred to as Class Counsel), and Defendants Inmar, Inc. and Inmar Supply Chain Solutions, LLC (collectively “Defendants”) on the other hand, by and through their counsel of record, subject to the approval of the Court, as provided below. This Settlement Agreement is intended by Plaintiff and Defendants to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof, as follows:

1. **Definitions.**

As used herein, for the purposes of this Settlement Agreement only, the following terms shall be defined as set forth below:

- 1.1 “Action” refers to the civil action entitled: *Matthew Clardy v. Inmar, Inc. and Inmar Supply Chain Solutions, LLC*, Case No. 30-2020-01151878-CU-OE-CXC, pending in the Superior Court of California, County of Orange.
- 1.2 “Class” refers to all current and former hourly-paid, non-exempt employees of Inmar Supply Chain Solutions, LLC who were employed by Inmar Supply Chain Solutions, LLC in the state of California at any time during the Class Period.
- 1.3 “Class Counsel” refers to the following attorneys of record for the Class Representative, Heather Davis and Amir Nayebdadash of Protection Law Group, LLP.
- 1.4 “Class Counsel’s Fees and Costs” refers to attorneys’ fees for Class Counsel’s litigation and resolution of this Action and their expenses and costs incurred in connection with the Action, which are agreed upon by the Parties and shall be paid from the Gross Settlement Amount, subject to Court approval.
- 1.5 “Class Members” shall mean all individuals identified in Paragraph 1.2.
- 1.6 “Settlement Class” or “Settlement Class Member” refers to all Class Members, or individual Class Members as defined in Paragraph 1.2 who do not request exclusion from the Settlement pursuant to Paragraph 15 of this Settlement Agreement.
- 1.7 “Class List” means a complete list of all Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator within fourteen

(14) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include Class Member's: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a non-exempt employee of Defendants in the State of California; (6) total Workweeks during the Class Period; (7) total Workweeks during the PAGA Period; and (8) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement. Notwithstanding this deadline, Defendants shall provide Plaintiff with an accurate number of Class Members within thirty (30) days of execution of this Settlement.

- 1.8 "Class Settlement Notice" refers to the form of direct-mail notice to Class Members substantially in the form attached hereto as Exhibit A, as may be modified by the Court.
- 1.9 "Class Member Payment" shall refer to the amount paid to a Settlement Class Member who does not timely submit a Request for Exclusion attached as Exhibit B.
- 1.10 "Class Period" shall be defined as the period commencing on July 29, 2016, and ending on either the date of preliminary approval of the Settlement by the Court or ninety (90) days from the date of mediation, *i.e.* January 5, 2022, whichever date occurs earlier.
- 1.11 "PAGA Members" are defined as all current and former hourly-paid, non-exempt employees of Inmar Supply Chain Solutions, LLC who were employed by Inmar Supply Chain Solutions, LLC in the state of California at any time during the PAGA Period.
- 1.12 "PAGA Period" shall be defined as the period commencing on June 22, 2019 and ending on either the date of preliminary approval of the Settlement by the Court or ninety (90) days from the date of mediation, *i.e.* January 5, 2022, whichever date occurs later.
- 1.13 "Class Representative" refers to Plaintiff Matthew Clardy.
- 1.14 "Exclusion Deadline" refers to a date that is sixty (60) calendar days after the date that the Notice Packet is initially mailed to Class Members, and is the deadline by which Class Members' Requests for Exclusion must be received by the Claims Administrator in order to be timely.
- 1.15 "Fairness Hearing" refers to the hearing at which the Court will make a final determination on whether the terms of the Settlement

Agreement are fair, reasonable, and adequate for the Class and meet all applicable requirements for approval.

- 1.16 “Final Approval” means the Court entering an order granting final approval of the Settlement Agreement.
- 1.17 “Effective Date” means the later of the following: (a) if no timely objections are filed or if all objections are withdrawn, the date upon which the Court enters Final Approval; (b) if an objection is filed and not withdrawn, the date for filing an appeal and no such appeal being filed; (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the terms of the settlement.
- 1.18 “Labor and Workforce Development Agency Payment” means the amount that the Parties have agreed to pay to the California Labor and Workforce Development Agency (“LWDA”) in connection with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”). The Parties have agreed that Twenty-Five Thousand Dollars (\$25,000.00) of the Gross Settlement Amount will be allocated to the resolution of any claims alleged arising under PAGA. Pursuant to PAGA, 75%, or Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750.00), of the PAGA Settlement Amount will be paid to the LWDA, and 25%, or Six Thousand Two Hundred Fifty Dollars (\$6,250.00), of the PAGA Settlement Amount will be part of the Net Settlement Amount to be available for distribution to PAGA Members. PAGA Members will receive payment from the employee portion of the PAGA Payment regardless of their decision to participate in the class action if the PAGA Payment is approved by the Court.
- 1.19 “Net Settlement Amount” (also referred to herein as “NSA”) shall be defined as the Gross Settlement Amount less: (1) Class Counsel’s fees, (2) Class Counsel’s costs, (3) Settlement Administration Costs, (4) Incentive Payment to Plaintiff; and (5) PAGA Penalties to be paid to the LWDA and PAGA Members. The NSA is the maximum amount that shall be available for distribution to and on behalf of Class Members for Class Member Payments.
- 1.20 “Notice Packet” refers to the Class Settlement Notice, Request for Exclusion Form, and Objection Form to be sent by First Class U.S. Mail to each Class Member by the Settlement Administrator as set forth herein in the form substantially similar attached as Exhibits “A,” “B” and “C,” subject to approval by the Court.
- 1.21 “Objection Deadline” refers to a date that is sixty (60) calendar days after the date that the Notice Packet is initially mailed to Class

Members, and is the deadline by which any objections must be filed with the Court and sent for service to the Settlement Administrator in order to be timely.

- 1.22 “Operative Complaint” refers to the First Amended Class Action and Representative Action Complaint filed by Plaintiff Matthew Clardy on August 27, 2020 in the Action.
- 1.23 “Parties” refers to Plaintiff Matthew Clardy and Defendants Inmar, Inc. and Inmar Supply Chain Solutions, LLC, collectively.
- 1.24 “Plaintiff’s Incentive Payment” refers to the Court’s award of a monetary payment to the Plaintiff for his services as Class Representative as described in Paragraph 7, to be paid for by Defendants from the Gross Settlement Amount.
- 1.25 “Preliminary Approval” refers to the Court granting preliminary approval of the Settlement.
- 1.26 “Preliminary Approval Order” refers to the Court’s Order granting Preliminary Approval of the Settlement.
- 1.27 “Released Claims” are those claims defined in Paragraph 12.1 that are released by Settlement Class Members.
- 1.28 “Released Parties” as used herein means Defendants and their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.
- 1.29 “Settlement” refers to the settlement of the Action on behalf of the Settlement Class under the terms and conditions set forth in this Settlement Agreement.
- 1.30 “Settlement Administration Costs” refers to the costs that the Parties agree to pay the Settlement Administrator, subject to Court approval, for its fees and costs to perform the notice, claims administration, and distribution functions further described in this Settlement Agreement. The Parties anticipate that the Settlement Administration Costs will not exceed \$10,000.00 based on an all-in proposal provided by the Settlement Administrator.
- 1.31 “Settlement Administrator” refers to the third-party administrator, subject to Court approval, to perform the notice, calculation of amounts due each Class Member and applicable withholdings,

claims administration, and distribution functions further described in this Settlement Agreement. The Parties agree to use ILYM Group, Inc. subject to Court approval. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

1.32 “Gross Settlement Amount” (also referred to herein as “GSA”) refers to the settlement payment Defendants are obligated to make upon the Effective Date occurring, which is: Six Hundred Thousand Dollars and Zero cents (\$600,000.00). This sum shall include all payments made to Settlement Class Members, the Court-approved Plaintiff’s Incentive Payment to the Class Representative, the Court-approved Settlement Administration Costs, the Court-approved Class Counsel’s Fees and Costs, and the Labor and Workforce Development Agency Payment for a release of all Private Attorneys General Act claims as set forth herein. The GSA is non-reversionary; no portion of the GSA will return to Defendants. Defendants’ obligation to pay their share of applicable payroll taxes and withholdings on the wage allocation shall be in addition to the Gross Settlement Amount.

1.33 “Workweek” shall mean any calendar week, (*i.e.*, a week beginning with Sunday and ending with Saturday), in which a Class Member or PAGA Member worked at least 1 day during the Class or PAGA Periods.

## 2. **Procedural History and Recitals.**

2.1 On or about July 29, 2020, Plaintiff Matthew Clardy, by and through his counsel (Heather Davis and Amir Nayebdadash), commenced the Action in the Orange County Superior Court asserting putative class action claims against Defendants on behalf of himself and other similarly situated hourly employees employed by Defendants in California for various California Labor Code violations. On August 27, 2020, Plaintiff filed a First Amended Complaint adding a PAGA cause of action.

2.2 On or about September 30, 2020, Defendants answered the Operative Complaint, in which they denied the allegations contained therein and alleged a number of affirmative defenses to the claims contained in the Operative Complaint.

2.3 The Parties engaged in substantial formal and informal discovery including an exchange and analysis of documents and data.



- 2.4 On October 7, 2021, the Parties participated in a mediation session before mediator Mark Rudy, an experienced mediator who has mediated numerous wage-hour class actions. Mr. Rudy issued a mediator's proposal, which all Parties accepted, and the Parties agreed to prepare this formal settlement agreement, subject to Court approval.
- 2.5 Defendants deny that they are liable to Plaintiff or the Class and further deny that, for any purpose other than settling the Action, this Action is appropriate for class treatment.
- 2.6 Class Counsel represent that they have thoroughly investigated the Class Representative's claims against Defendants. Class Counsel represent that they have conducted their own investigation into the underlying facts, events, and issues related to the subject matter of this Action. Class Counsel represent that they have further undertaken an extensive analysis of the legal principles applicable to the claims asserted against Defendants, and the potential defenses thereto. Both Class Representative and Defendants have had an opportunity to evaluate their respective positions on the merits of the claims asserted.
- 2.7 Class Counsel also have engaged in intensive arms-length negotiations with counsel for Defendants with a view toward achieving substantial benefits for the Class while avoiding the cost, delay and uncertainty of further litigation, trial and appellate review.
- 2.8 As a consequence of said negotiations, and of Class Counsel's investigation, analysis and discovery, Plaintiff and Class Counsel determined to enter into this Settlement Agreement on the terms and conditions hereinafter set forth, believing such Settlement to be fair, reasonable and adequate and in the best interests of Class Members. Plaintiff and Class Counsel have determined to execute this Settlement Agreement and urge approval by the Court of the proposed Settlement after considering (1) the substantial factual and legal defenses asserted by Defendants to the claims asserted in the Action; (2) the potential difficulties Plaintiff and Class Members would encounter in establishing the elements of their claims; (3) the adequacy of the named Plaintiff to represent the proposed class; (4) the potential difficulties Plaintiff would face in establishing his claims are suitable for class treatment, and other class certification requirements; (5) the substantial benefits that Class Members shall receive pursuant to the proposed Settlement; (6) the fact that the proposed Settlement ensures that Class Members shall receive relief in the most expeditious and efficient manner practicable, and thus much sooner than would be possible were the claims to be litigated successfully through class certification, trial and appeal; and (7) the

fact that the proposed Settlement allows persons who would otherwise fall within the definition of the Class, if they so desire, to opt out of the Action and individually pursue the claims alleged in the Action.

- 2.9 As set forth above, without admitting any wrongdoing or liability, Defendants are willing to agree to the terms of the proposed Settlement provided that the Released Claims (as defined below) are settled and compromised, in order to fully resolve all issues relating to the subject matter of the Action.

NOW THEREFORE, in consideration of the covenants and agreements set forth herein, and of the release and dismissal of all Released Claims, Plaintiff (on behalf of himself and as the Class Representative on behalf of the Class), Class Counsel, and Defendants agree to the terms and provisions of this Settlement Agreement, subject to the approval of the Court.

**3. Stipulation to Certification and Limitation on Effect of Settlement.**

- 3.1 The Settlement shall not constitute, in this or any other proceeding, an admission of any kind by Defendants, including without limitation, that certification of a class is appropriate or proper or that Plaintiff could establish any of the requisite elements for class treatment of any of the claims in the Action. For purposes of this settlement only, the Parties stipulate to the certification of the Class under California Code of Civil Procedure Section 382. In the event that the Settlement is not finally approved, or the Settlement is otherwise terminated, Defendants expressly reserve all rights to challenge certification of a class on all available grounds.

**4. Establishment of the Gross Settlement Amount.**

- 4.1 This Settlement shall be made on a non-claims-made basis and will be non-reversionary. Defendants shall pay a total of no more than the GSA, except for the employers' share of applicable payroll taxes and withholdings on the wage allocation of each Class Member Payment, or as a result of an increase in the number of workweeks as set forth below.
- 4.2 The GSA is based on Class Members having worked a total of 12,000 workweeks during the Class Period. If the qualifying Workweeks worked by the Class Members during the Class Period increases by more than 10% (*i.e.*, by more than 1,200 Workweeks) Defendants shall increase the GSA on a pro-rata basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 10%. For example, if the number of Workweeks increases by 11%, the GSA will increase by 1%.

4.3 Payment by Defendants pursuant to this Settlement Agreement shall settle for Settlement Class Members, all Released Claims between the Released Parties and Settlement Class Members including all Class Member Payments, the Court-approved Plaintiff's Incentive Payment to the Class Representative, the Court-approved Settlement Administration Costs, the Court-approved Class Counsel's Fees and Costs, and the Labor and Workforce Development Agency Payment.

**5. Calculation of the NSA and Distribution of Settlement Proceeds.**

5.1 This Settlement shall be a "non-claims-made" settlement. Each Settlement Class Member will be entitled to a share (for the individual Class Member's settlement amount) of the NSA in accordance with the formula set forth below. Payments will be made from the NSA only to Settlement Class Members, as set forth herein.

5.1.1 Each Settlement Class Member and PAGA Member will be paid a portion of the NSA in accordance with the following formula: The Class Member Payment for each Settlement Class Member will be calculated by the Settlement Administrator using the class data provided by Defendants as follows. All Class Members who do not timely opt out of the Settlement ("Settlement Class Members") shall receive payment from the Net Settlement Amount. The amount that each Settlement Class Member will be eligible to receive under the Settlement will be calculated by dividing each participating Class Member's individual Workweeks by the total Workweeks of all Settlement Class Members and multiplying the resulting fraction by the Net Settlement Amount. Compensable Workweeks will be any calendar week, (*i.e.*, a week beginning with Sunday and ending with Saturday), in which a Class Member worked at least 1 day. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Class Member Payment for each Settlement Class Member who did not request exclusion so that the amount actually distributed to participating Settlement Class Members equals 100 percent of the Net Settlement Amount.

5.1.2 Settlement Class Members' individual settlement payments will be designated as 20% wages, 40% interest, and 40% penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from the employee's wages and all other authorized and required withholdings. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from

employees' wages. The Settlement Administrator will be responsible for issuing to Settlement Class Members a form W-2 for amounts deemed "wages" and an IRS Form 1099 for the amounts deemed penalties and interest.

- 5.1.3 If any checks to Settlement Class Members and PAGA Members remain uncashed 180 calendar days after distribution of the Net Settlement Amount, such remaining funds shall be forwarded to the Controller of the State of California pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, to be held in trust for those Settlement Class Members and PAGA Members who did not timely cash their Settlement checks. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as all payments to the Settlement Class Members and PAGA Members will be paid out, whether or not these individuals cash their Settlement checks. Therefore, Defendants will not be required to pay any interest on such amounts.
- 5.1.4 The amount distributed to Settlement Class Members in the form of Class Member Payments will not exceed the Net Settlement Amount.
- 5.2 Payments to Class Members pursuant to this Settlement Agreement are not intended by the Parties to be compensation for purposes of determining eligibility for or benefit calculations of any health and welfare benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, including, without limitation, all plans, subject to Employee Retirement Income Security Act ("ERISA"). The Parties agree that the payments are not intended to represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

## **6. Attorneys' Fees and Costs.**

Class Counsel shall move for attorneys' fees and costs contemporaneously with the motion for the Final Approval Order requesting, and to which Defendants agree to not oppose, an attorneys' fees award that is up to thirty-three and one-third percent (33 1/3%) of the Gross Settlement Amount, or One Hundred Ninety-Nine Thousand Nine Hundred Eighty Dollars (\$199,980.00) and reasonable costs of up to Thirty-Five Thousand Dollars (\$35,000.00). Any attorney fees and costs not approved by the Court shall become part of the NSA and shall be allocated to the NSA and be apportioned to the Class Members as described in Paragraph 5 of this Agreement. If the Court awards a lower amount of attorneys' fees or costs requested by Class Counsel, the other terms of this Agreement shall apply. The award of an attorneys' fees and costs award in the amounts sought is not a material term of this

Agreement and the award of any of these items at less than requested by Class Counsel does not give rise to a basis to abrogate this Agreement. However, Class Counsel retains the right to appeal any such reductions, but such appeal will delay Defendants' obligation to make all payments set forth in this Agreement.

**7. Incentive Payment and Plaintiff's Release.**

7.1 Class Counsel shall file a motion requesting an Incentive Payment for Plaintiff to which Defendants agree not to object, of up to Four Thousand Dollars (\$4,000.00) from the GSA in consideration for serving as Class Representative. Defendants will not oppose a request for an Incentive Payment so long as it does not exceed this amount. Should the Court approve an Incentive Payment in an amount less than that set forth herein, the unapproved portion or portions shall revert to the NSA and be apportioned to Class Members as described in Paragraph 5 of this Settlement Agreement. The award of an Incentive Payment in the amount sought is not a material term of this Agreement and the award of an amount less than requested by Plaintiff does not give rise to a basis to abrogate this Agreement.

7.2 **Plaintiff's Settlement of Class and PAGA Action:** The Settlement of this Action does not include, settle, or absolve Defendants with respect to Plaintiff's single plaintiff action filed in Los Angeles Superior Court entitled *Matthew Clardy v. Inmar Inc., et al* (Case No. 21STCV10378) (the "Single Plaintiff Action"). The Settlement of this Action, including the releases set forth herein, shall have no impact on Plaintiff's right to assert claims or pursue remedies or damages, including loss of wages or earnings and for emotional distress and psychological injury, in the Single Plaintiff Action, except to the extent Plaintiff releases wage and representative claims in accordance with paragraph 12.

7.3 **Neutral Employment Reference.** Defendants agree that they will adopt a neutral reporting policy regarding any future employment references related to Plaintiff. In the event that any potential or future employers of Plaintiff request a reference regarding Defendants' employment of Plaintiff, Defendants shall only provide Plaintiff's dates of employment, job titles during employment, and final rate of pay. Defendants shall not refer to the Action or this Settlement.

**8. PAGA Settlement Amount.**

Subject to Court approval, the Parties agree that the amount of Twenty-Five Thousand Dollars (\$25,000.00) of the Gross Settlement Amount will be allocated to the resolution of any claims arising under PAGA. Pursuant to PAGA, 75%, or

Eighteen Thousand Seven Hundred Fifty Hundred Dollars (\$18,750.00), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency, and 25%, or Six Thousand Two Hundred Fifty Dollars (\$6,250.00), of the PAGA Settlement Amount will be part of the Net Settlement Amount available for distribution to PAGA Members. The 25% of the PAGA Settlement Amount shall be paid to PAGA Members on a *pro rata* basis, based on the total number of Workweeks (full or partial) worked by each PAGA member during the PAGA Period. If the Labor and Workforce Development Agency Payment approved by the Court is different than the specific amount, it does not give rise to a basis to abrogate this Settlement Agreement. Any unapproved amount of Labor and Workforce Development Agency Payment shall be allocated to the NSA and be apportioned to Class Members as described in Paragraph 5 of this Settlement Agreement.

**9. Costs of Settlement Administration.**

The Parties agree to use ILYM Group, Inc. as the Settlement Administrator in this Action. This administration duty shall include without limitation, establishing and maintaining a Qualified Settlement Fund (“QSF”) pursuant to Section 468B(g) of the Internal Revenue Service for the purposes of administering the Settlement, obtaining tax identification number(s) for Defendants applicable to the Settlement, calculating the Class and PAGA Member Payments, performing an initial National Change of Address (“NCOA”) search upon receipt of the Class Member mailing addresses, translate the Notice to Spanish, mailing the Notice Packets, performing one skip trace on Notice Packets returned as undeliverable, reviewing and processing requests for exclusion, reviewing and submitting to Class Counsel and Defendants’ counsel any received objections, mailing the Class Members Payments and tax forms to the Settlement Class Members, and making all required distributions. The Settlement Administrator will report payment of the individual Class Member Payments to all required taxing and other authorities and requisite reporting documentation to the applicable taxing agencies, and issue Internal Revenue Service Forms 1099s. Subject to Court approval, all Settlement Administration Costs shall be taken from the Gross Settlement Amount. The Parties agree to allocate up to \$10,000.00 to Settlement Administration Costs based on the all-in proposal provided by the Settlement Administrator, which shall be paid from the GSA. Any unapproved amount of Settlement Administration Costs shall be allocated to the NSA and apportioned to the Class Members as described in Paragraph 5 of this Settlement Agreement. The award of Settlement Administrator Costs in the amount sought is not a material term of this Agreement and the award of an amount less than requested by Plaintiff does not give rise to a basis to abrogate this Agreement.

**10. Payment Procedure.**

10.1 Funding the Settlement. Within fourteen (14) calendar days after the Effective Date, Defendants will deposit money into the QSF

established by the Settlement Administrator, in an amount equal to the GSA.

- 10.2 Payments to Class Members, Class Counsel, Class Representative, and Taxing Authorities. Within twenty (20) calendar days after the Effective Date, the Settlement Administrator will pay: (1) the NSA to the Settlement Class Members per the terms of this Settlement Agreement and the Final Approval; (2) the Court approved Class Counsel's Fees and Costs; (3) the Court approved Settlement Administration Costs; (4) the Court approved Plaintiff Incentive Payment to the Class Representative; and (5) the Court approved Labor and Workforce Development Agency Payment to the proper authority.
  - 10.3 Uncashed Class Payments. In the event that a Class Member Payment check, as calculated set forth in Paragraph 5, is not cashed within 180 calendar days from the date of issuance by the Settlement Administrator, such remaining funds shall be forwarded to the Controller of the State of California pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, to be held in trust for those Settlement Class Members and PAGA Members who did not timely cash their settlement checks as set forth in paragraph 5.1.3. In such event, the affected Class Members will be deemed to have irrevocably waived any right in or claim to an individual settlement payment, but the settlement and their release of Released Claims will remain binding upon them.
11. **Tax Treatment.**
- 11.1 Tax Treatment of Claimed Portion of Settlement Payments. The Class Member Payment will be allocated based on the allegations in the Action as follows: twenty percent (20%) will be paid as wages subject to withholding of all applicable local, state and federal taxes; and forty percent (40%) will be paid as interest and forty percent (40%) as penalties from which no taxes will be withheld. The Settlement Administrator will issue to each Settlement Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the penalties and interest allocations.
  - 11.2 Tax Treatment of Plaintiff Incentive Payment. Plaintiff will receive an IRS Form 1099 for his individual Incentive Payment, and will be responsible for payment of any taxes owing on said amount.
  - 11.3 Tax Treatment of Attorneys' Fees And Cost Award. Class Counsel will receive an IRS Form 1099 for any amount awarded to Class

Counsel in the form of attorneys' fees or costs and will be responsible for payment of any taxes owing on said amount.

- 11.4 No Tax Advice. Class Counsel and Defendants are not giving any tax advice in connection with the settlement or any payments to be made pursuant to this settlement.

**12. Release.**

In exchange for the consideration set forth in this Settlement Agreement, Plaintiff and the Class Members agree to release all claims as set forth herein as applicable.

- 12.1 Upon remittance of the Gross Settlement Amount by Defendants to the Settlement Administrator, Plaintiff and all Class Members who do not opt out of this Action by filing a timely, valid Request for Exclusion (*i.e.*, Settlement Class Members) shall hereby fully and finally release and discharge, for the time period from July 29, 2016 through the date of Preliminary Approval or January 5, 2022, whichever date occurs earlier, the Released Parties from any and all claims, rights, demands, liabilities and causes of action that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Operative Complaint in this Action, including the following claims: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to provide complete, accurate wage statements; (v) failure to pay wages timely at time of termination or resignation; (vi) failure to provide timely pay wages during employment; (vii) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the Operative Complaint; (viii) failure to maintain required payroll records and causes of action or legal theories of relief pleaded in the Operative Complaint including but not limited to Labor Code sections 210, 226.3, 1197.1, and 558. (collectively, the "Released Claims"). This release shall apply to claims arising during the Class Period.
- 12.2 As of the date of the Final Approval, Plaintiff, the LWDA, and the State of California releases the Released Parties of and from the released PAGA claims that could have been asserted under PAGA based on the factual allegations in the Action, for the PAGA Period. The fact that a PAGA Member has decided not to participate in the Class Settlement shall not affect the release of PAGA claims arising under PAGA. A copy of this Agreement will be provided to the



LWDA concurrently with submission of the Preliminary Approval Motion.

13. **Class Settlement Notice and Claims Administration.**

13.1 Engagement of Settlement Administrator. The Settlement Administrator shall perform the notice and other settlement claims administration functions set forth below.

13.1.1 The Settlement Administrator shall provide Defendants' counsel and Class Counsel with weekly summary reports, including the total number of Class Settlement Notices that were returned as undeliverable, the total number of objections and Requests for Exclusion, and the amounts not claimed by Class Members as a result of the submission of timely and valid Requests for Exclusion, if any. The Settlement Administrator shall maintain records of its work, which shall be available for inspection upon request by Defendants' counsel or Class Counsel.

13.2 Identification of Class Members and Tax Rate Information.

13.2.1 No later than fourteen (14) calendar days after the date on which the Court enters an order granting preliminary approval of the Settlement, Defendants shall provide the Settlement Administrator with the Class List and Tax Rate Information. Defendants shall provide the Settlement Administrator with a Microsoft Excel spreadsheet containing the following information for each class Member: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a non-exempt employee of Defendants in the State of California; (6) total Workweeks during the Class Period; (7) total Workweeks during the PAGA Period; and (8) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement ("Class List"). This is a material term of the Settlement, and if Defendants fail to comply, Plaintiff shall have the right to void the Settlement.

13.2.2 The Contact Information of Class Members provided to the Settlement Administrator is confidential, and the Settlement Administrator shall treat the Contact Information as private and confidential and take all necessary precautions to maintain the confidentiality of the Contact Information of the Class Member. This Contact Information is to be used

only to carry out the Settlement Administrator's duties as specified in this Agreement.

13.2.3 Upon its receipt of the Contact Information, the Settlement Administrator shall access the NCOA Database, and update the addresses maintained by Defendants.

13.2.4 The Settlement Administrator shall provide the Notice Packet by First Class U.S. Mail, forwarding requested, to the Class Members at the addresses identified through the process described above. This mailing shall occur no later than seven (7) calendar days after receiving the Class List from Defendants.

13.2.5 As to any Notice Packets that are returned as undeliverable within twenty (20) calendar days after the date of the initial mailing or where the NCOA Database indicates that the last known address of any Class Member is invalid or otherwise undeliverable, the Settlement Administrator shall perform one-skip trace procedure. Such skip-trace procedure shall be performed within two (2) business days of the date on which the Settlement Administrator is informed that a Notice Packet is undeliverable. If this procedure reveals a new address, the Settlement Administrator shall within five (5) business days thereafter re-mail the Notice Packet to the new address.

13.2.6 If Defendants and the Settlement Administrator determine, based upon further review of available data, that a person previously identified as being a Class Member should not be so included or identify a person who should have been included as a Class Member but was not so included, Defendants and the Settlement Administrator shall promptly delete or add such person as appropriate and immediately notify Class Counsel prior to such deletions or additions (and the reasons therefore).

13.2.7 Other than the obligations set forth in this Settlement Agreement, Defendants shall have no additional obligation to identify or locate any Class Member or have any liability in connection with the provision of information to the Settlement Administrator or otherwise.

### 13.3 Class Settlement Notice.

13.3.1 Class Settlement Notice for Persons Identified as Class Members. The Class Settlement Notice shall be a pre-

printed notice, in substantially the form attached hereto as Exhibit A, to be approved by the Court. The Class Settlement Notice shall be provided in English and in Spanish. The Class Settlement Notice also shall include the number of Workweeks worked by the Class Member during the Class Period and the estimated individual payment each Class Member will receive if they participate in the Settlement, as calculated herein, based on the assumption that no Class Member submits a timely and valid Request for Exclusion. The Class Settlement Notice will also include instructions on how to opt-out of and object to the Settlement. In addition, the Class Settlement Notice shall indicate that the Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the Fairness Hearing. The Notice shall also advise the Class Members of where they can find the Settlement Agreement by describing (a) the full title and filing date either of the Settlement Agreement or of the declaration or other document to which the Agreement is attached when filed with the Court, (b) the address of the courthouse to which the case is assigned, and (c) the address of the court's website at which the case file can be viewed on-line.

**14. Objections to the Settlement.**

Any Class Member who does not submit a valid and timely Request for Exclusion (*i.e.*, a Settlement Class Member) may object to the proposed Settlement Agreement. The Class Notice will provide that Class Members who wish to object to the Settlement must serve on the Settlement Administrator, not later than sixty (60) calendar days after the date the Settlement Administrator initially mails the Notice Packet to the Class Members ("Objection Deadline"), an Objection Form and any supporting papers objecting to the Settlement. A Class Member who does not serve an objection in the manner and by the deadline specified in the Class Settlement Notice and the Objection Form will be deemed to have waived all objections and will be foreclosed from making any objections to the Settlement. The Settlement Administrator shall send all objections to counsel for Defendants and Class Counsel not later than one (1) business day after receipt of said objections. Class members will not be barred from appearing at the Fairness Hearing if they have not complied with the objection procedures for mailing objections to the Settlement Administrator.

**15. Right to Request Exclusion.**

15.1 Any Class Member may elect to opt out of the Settlement by submitting a written Request for Exclusion from the Settlement to

the Settlement Administrator that is signed and completed. To be timely, all such Requests for Exclusion must be received no later than sixty (60) calendar days after the date the Settlement Administrator initially mails the Notice Packet to the Class Members. Class Members requesting exclusion must ensure their Request for Exclusion contains their full and correct name and current address and the last four numbers of their social security number. The Settlement Administrator shall send all Requests for Exclusion to Defendants' counsel and Class Counsel not later than one (1) business day after receipt of said Request for Exclusion. A Class Member who fails to comply with the opt-out procedure set forth in the Class Settlement Notice and on the Request for Exclusion Form on or before the Exclusion Deadline, as set by the Court, shall not be excluded and shall instead be bound by all provisions of the Settlement Agreement and all orders issued pursuant thereto.

- 15.2 Any Class Member who elects to opt out of the Class in the manner and within the time limits specified above and in the Class Settlement Notice and Request for Exclusion Form: (1) shall not have any rights under the Settlement Agreement; (2) shall not be entitled to receive any compensation under the Settlement Agreement; (3) shall not have standing to submit any objection to the Settlement Agreement; and (4) shall not be bound by the Settlement Agreement or the final judgment (with the exception of claims arising under PAGA). Eligible PAGA Members will receive their share of the employee portion of PAGA penalties and will be deemed to have released any claims arising out of PAGA, regardless of whether they opt-out from the release of their class claims.
- 15.3 At the conclusion of the opt-out period the Settlement Administrator shall supply Class Counsel with a draft declaration regarding administration of the Notice Packet, the number and identity of individuals who requested to be excluded from the settlement, if any, and the number of objections to the settlement, if any. Class Counsel shall be responsible for reviewing and approving the draft declaration.
- 15.4 Except for persons who elect to opt out of the Class in the manner and within the time limits specified above and in the Class Settlement Notice and request for Exclusion Form, all Class Members shall be deemed to be within the Class for all purposes under this Settlement Agreement, shall be bound by the terms and conditions of this Settlement Agreement (including the release provisions in Paragraph 12.1), including all orders issued pursuant thereto, and shall be deemed to have waived all unstated objections

and unstated opposition to the fairness, reasonableness, and adequacy of this Settlement Agreement, and any of its terms.

- 15.5 If the Settlement Agreement is given final approval and the Effective Date occurs, it shall operate as a full, complete, and final release of all Plaintiff's Released Claims, and all Released Claims of Settlement Class Members.
- 15.6 Eligible PAGA Members will receive their share of the employee portion of the PAGA penalties and will be deemed to have released any claims arising out of PAGA, regardless of whether they opt-out from the release of their class claims.

**16. Payment of Settlement Proceeds.**

As provided in Paragraph 5, payments to Settlement Class Members shall commence twenty (20) calendar days after the Effective Date. However, the deadlines for the provision of Class Member Payments to particular Settlement Class Members may be extended to provide for the resolution of any disputes regarding the validity or amount of any claims.

**17. Agreement to Cooperate.**

The Parties agree to cooperate to promote participation in the Settlement, and in seeking court approval of the Settlement. The Parties and their counsel agree not to take any action to encourage any Class Members to opt out of and/or object to the Settlement. Defendants agree not to obtain waivers or Pick Up Stix agreements from the Class Members during the Settlement approval process and will work in good faith to reach an agreement approved by the Court. Defendants further agree that they will not oppose Plaintiff's motion for preliminary approval or motion for final approval.

**18. Application for Preliminary Approval Order.**

After the Parties' execution of this Agreement, the Plaintiff shall file for preliminary approval of the proposed Settlement, requesting a Preliminary Approval Order that contains the following provisions:

- (1) preliminarily approving the Settlement Agreement and its terms;
- (2) approving the form of the Class Settlement Notice, Request for Exclusion Form, and Objection Form and finding that the proposed method of disseminating the Class Settlement Notice meets the requirements of due process and is the best notice practicable under the circumstances;

- (3) establishing the procedures and the deadline by which Class Members may assert objections to the certification of the Class and/or to the Settlement;
- (4) establishing a deadline to submit papers/briefing in response to any objections and for Plaintiff to submit papers/briefing in support of final approval of the Settlement Agreement including the Plaintiff's Incentive Payment for the Class Representative and the Class Counsel's Fees and Costs;
- (5) establishing procedures and the deadline by which individuals may exclude themselves from the Action;
- (6) appointing Class Counsel, the Settlement Administrator, and the Class Representatives; and
- (7) setting a hearing date for the Fairness Hearing.

Class Counsel will be responsible for drafting all documents necessary to obtain preliminary approval of the Settlement and will provide these papers to Defendants' counsel three (3) business days in advance of such filing. Defendants may review and suggest revisions to Plaintiff's Motion for Preliminary Approval, which Class Counsel will consider and accept if deemed reasonable.

**19. Final Approval Order and Judgment.**

The Parties shall jointly request that the Court enter a Final Approval Order and Judgment, which includes the following provisions:

- (1) confirming certification of the Settlement Class for settlement purposes;
- (2) finding that the dissemination of the Class Notice, Request for Exclusion Form, and Objection Form in the form and manner ordered by the Court was accomplished as directed, met the requirements of due process;
- (3) finally approving the Settlement Agreement and the Settlement as fair, reasonable and adequate and directing consummation of the Settlement in accordance with its terms and provisions;

The Judgment shall include the following provisions:

- (1) directing the Parties to implement the terms of the Settlement Agreement;

- (2) releasing and discharging the Released Parties from any and all liability with respect to all of the Released Claims as hereinabove provided;
- (3) resolving and settling all of Plaintiff's Released Claims as hereinabove provided, with the release precluding him from instituting, commencing, or continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf himself, or in any other capacity of any kind whatsoever, any action in this Court, any other court, or any arbitration, administrative, or mediation proceeding or any other similar proceeding, against any Released Parties that asserts any claims that are Plaintiff's Released Claims under the terms of the Settlement;
- (4) resolving and settling all the Released Claims by all Settlement Class Members as hereinabove provided;
- (5) awarding the Plaintiff's Incentive Payment to the Class Representative as determined by the Court;
- (6) approving payments to the LWDA; and
- (7) reserving continuing and exclusive jurisdiction over all matters related to the administration and consummation of the terms of this Settlement and enforcement of the Judgment.

**20. Effect of Settlement Not Being Final.**

In the event that the Settlement does not become Final, then the Settlement Agreement shall become null and void, and all negotiations, proceedings, and statements relating thereto shall be without prejudice as to the rights of any and all Parties hereto, and all Parties and their respective predecessors and successors shall be deemed to have reverted to their respective positions in the Action as of the date and time immediately prior to the execution of this Settlement Agreement, and except as otherwise expressly provided herein. If the Court fails to approve this Settlement for any reason, the Parties agree to attend mediation again in an effort to reach a settlement approved by the Court. If the Court does not approve either preliminarily or finally any material term or condition of the Settlement Agreement, or if the Court effects a material change to the Parties' settlement, then this entire Settlement Agreement will be, at the Parties' discretion, voidable and unenforceable.

**21. Voiding the Agreement.**

Notwithstanding any other provision of this Settlement Agreement, Defendants shall retain the right, in the exercise of their sole discretion, to nullify

the Settlement, if more than 5% of Class Members choose to validly and timely request exclusion from this Settlement. If Defendants exercise this option, Defendants shall be responsible for all Settlement Administrator Costs incurred through the date of nullification by Defendants. Defendants shall meet and confer with Plaintiff's counsel before withdrawing from the Settlement pursuant to this provision.

**22. No Admissions.**

Defendants expressly deny any liability. The Parties understand and agree that this Settlement Agreement is the result of a good faith compromise settlement of disputed claims, and no part of this Settlement Agreement or any conduct or written or oral statements made in connection with this Settlement and this Settlement Agreement, whether or not the Settlement is finally approved and/or consummated, may be offered as evidence or construed to be an admission or concession of any kind by Defendants, or any of the Class Members, Released Parties, or Plaintiff.

**23. Avoidance of Undue Publicity.**

The Parties and their counsel agree that there will be no affirmative publicity of this settlement. They will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount, or terms of the settlement. If counsel for either party receives an inquiry about the settlement from the media, counsel may respond only after the motion for preliminary approval has been filed and only by confirming the accurate terms of the settlement. Nothing in this provision shall prevent Defendants from making any required disclosure or Class Counsel from referencing the Settlement in adequacy filings.

**24. Extensions of Time.**

Without further order of the Court, the Parties hereto may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement.

**25. Construction.**

This Settlement Agreement was entered into after substantial good faith, arms-length negotiations between the Parties' counsel. This Settlement Agreement has been entered into without any coercion and under no duress. The Parties acknowledge and agree that all Parties had an equal hand in drafting this Settlement Agreement so that it shall not be deemed to have been prepared or drafted by one party or another.



**26. Due Authority of Attorneys.**

Each of the attorneys executing this Settlement Agreement on behalf of one or more Parties hereto warrants and represents that he or she has been duly authorized and empowered to execute this Settlement Agreement on behalf of each such respective Party and to bind them to the terms hereof.

**27. Entire Agreement.**

This Settlement Agreement (including all Exhibits hereto) sets forth the entire agreement of the Parties with respect to its subject matter and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Settlement Agreement, whether oral or written, regarding the subjects covered herein. The Parties acknowledge that no representations, inducements, warranties, promises, or statements relating to the subjects covered herein, oral or otherwise, have been made by any of the Parties which are not embodied or incorporated by reference herein.

**28. Modification or Amendment.**

This Settlement Agreement may be modified or amended only by a written instrument signed by counsel for all Parties or their successors in interest.

**29. Successors.**

This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and assigns, and upon any corporation, partnership or other entity into or with which any Party hereto may merge, combine or consolidate.

**30. Counterparts.**

This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

**31. Waivers.**

The waiver by any Party of any breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

**32. Governing Law.**

This Settlement Agreement shall be governed by and construed, enforced, and administered in accordance with the internal laws of the State of California.

33. **Headings.**

The headings contained in this Settlement Agreement are for convenience and reference purposes only, and shall not be given weight in its construction.

34. **Invalidity of Any Provision.**

Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

35. **Waiver of Certain Appeals.**

Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except, however, that either party may appeal any court order that materially alters the Settlement Agreement's terms.

36. **Mutual Preparation.**

The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against one Party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

37. **Representation by Counsel.**

The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Agreement.

38. **Cooperation and Execution of Necessary Documents.**

The Parties agree to cooperate in seeking court approval of the Settlement. The Parties and their counsel agree not to take any action to encourage any Class Members to opt out of and/or object to the Settlement. Defendants agree not to obtain any settlement agreement waivers, Pick Up Stix agreements or arbitration agreements from any Class Member prior to the funding of the Gross Settlement Amount concerning claims released via this Agreement, or enter into any arbitration agreement with any Class Member that covers the claims released via this Agreement during the Settlement approval process prior to the funding of the Gross Settlement Amount and that the Parties will work in good faith to reach an agreement approved by the Court.

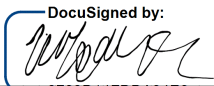
39. **Notices.**

Any notices, requests, demands, or other communications required or permitted to be given pursuant to this Settlement Agreement, other than notice to the Class or Class Members, shall be in writing and mailed as follows: (1) to Class Representative, the Class, and Class Counsel to the attention of Heather Davis and Amir Nayebdadash, Protection Law Group, LLP, 237 California Street, El Segundo, California 90245, (424) 290-3095; and (2) to Defendants and counsel for Defendants, to the attention of Susan Pangborn and Kendra Chapman, Kilpatrick Townsend & Stockton LLP, Two Embarcadero Center, Suite 1900, San Francisco, California 94111, (415) 576-0200.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:

**APPROVED AND ACCEPTED:**

Dated: 7/22/2022

DocuSigned by:  
  
By: \_\_\_\_\_  
3783D14FDDA34E6...  
Plaintiff Matthew Clardy

INMAR, INC.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Its \_\_\_\_\_

INMAR SUPPLY CHAIN SOLUTIONS, LLC

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Its \_\_\_\_\_

39. **Notices.**

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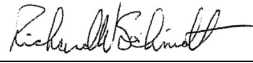
**APPROVED AND ACCEPTED:**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Plaintiff Matthew Clardy


INMAR, INC.

Dated: July 18, 2022

By:   
Its CFO

INMAR SUPPLY CHAIN SOLUTIONS, LLC

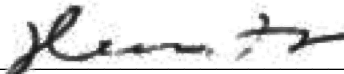
Dated: July 18, 2022

By:   
Its CFO

**APPROVED AS TO FORM:**


PROTECTION LAW GROUP, LLP

Dated: July 22, 2022

By:   
Heather Davis  
Amir Nayebdadash  
Attorneys for Plaintiff

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: July 25, 2022

By:   
Susan Pangborn  
Kendra Chapman  
Attorneys for INMAR, INC. and INMAR SUPPLY  
CHAIN SOLUTIONS, LLC

END OF DOCUMENT