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15 Attorneys for Plaintiff
KAMADA MCDANIEL

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF ALAMEDA**

18 KAMADA MCDANIEL, individually, and on
19 behalf of other members of the general public
20 similarly situated, and on behalf of aggrieved
employees pursuant to the Private Attorneys
21 General Act ("PAGA");

22 Plaintiff,

23 v.

24 ROYAL CUP, INC., a Delaware corporation;
and DOES 1 through 100, inclusive;

25 Defendants.

26 through 100, inclusive,

27 Defendants.
28

Case No. RG19001661

[Assigned to Hon. Brad Seligman,
Department 23 for all purposes]

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT AND
RELEASE**

Complaint filed: January 8, 2019

1 **JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE**

2 This Joint Stipulation of Class Action Settlement and Release (“Settlement” or “Settlement
3 Agreement”) is made and entered into by and between Plaintiff Kamada McDaniel (“Plaintiff” or “Class
4 Representative”), as an individual and on behalf of all others similarly situated and aggrieved employees,
5 as defined below, and Defendant Royal Cup, Inc. (“Defendant,” “Royal Cup” and/or the “Company”)
6 (collectively with Plaintiff, the “Parties”).

7 **DEFINITIONS**

8 The following definitions are applicable to this Settlement Agreement. Definitions contained
9 elsewhere in this Settlement Agreement will also be effective:

10 1. “Action” means the *McDaniel v. Royal Cup, Inc.* pending in Alameda County Superior
11 Court, Case No. RG19001661.

12 2. “Appeal” means a timely appeal by a Class Member to the Order and Judgment
13 approving the Settlement, or an appeal by one of the Parties to an order that materially alters the
14 Settlement.

15 3. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and
16 approved by the Court for Plaintiff’s Counsel’s litigation and resolution of the Action, and all costs
17 incurred and to be incurred by Class Counsel in the Action, including but not limited to, costs associated
18 with documenting the Settlement, providing any notices required as part of the Settlement or Court order,
19 securing the Court’s approval of the Settlement, administering the Settlement, obtaining entry of an
20 Order and Judgment approving the Settlement, and expenses for any experts. Plaintiff’s Counsel will
21 request not more than One Hundred Ninety-Two Thousand and Five Hundred Dollars (\$192,500) in
22 attorneys’ fees and Twenty Thousand Dollars (\$20,000) in litigation costs and expenses. Defendant has
23 agreed not to oppose Plaintiff’s Counsel’s request for attorneys’ fees and costs and expenses as set forth
24 above.

25 4. “Class Counsel” means Douglas Han, Shunt Tatavos-Gharajeh, Daniel J. Park, and
26 Justice Law Corporation

27 5. “Class List” means a complete list of all Class Members that Defendant will diligently
28 and in good faith compile from its records and provide to the Settlement Administrator within fourteen

1 (14) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in
2 Microsoft Office Excel and will include each Class Member's full name; most recent mailing address
3 and telephone number; Social Security number; dates of employment; the respective number of
4 Workweeks that each Class Member worked during the Class Period; and any other relevant information
5 needed to calculate settlement payments.

6 6. "Class Member(s)" or "Settlement Class" means all current and former California-based
7 salaried or exempt Territory Managers and/or similarly situated positions that worked for Defendant in
8 the State of California at any time during the Class Period.

9 7. "Class Notice" means the Notice of Class Action Settlement substantially in the form
10 attached hereto as Exhibit A, or as otherwise approved by the Court, which is to be mailed to Class
11 Members.

12 8. "Class Period" means the period from January 7, 2015 through the date of Preliminary
13 Approval.

14 9. "Class Representative Enhancement Payment" means the amounts to be paid to Plaintiff
15 in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for
16 executing a General Release of claims. Subject to the Court granting final approval of this Settlement
17 Agreement and subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of
18 Class Representative Enhancement Payment of Ten Thousand Dollars and No Cents (\$10,000.00) to
19 Plaintiff. Any Class Representative Enhancement Payment approved by the Court shall be paid to
20 Plaintiff from the Gross Settlement Amount, and shall be in addition to any distribution to which he may
21 otherwise be entitled as a Class Member. Such Enhancement Award shall not be considered wages, and
22 the Settlement Administrator shall issue Plaintiff a Form 1099 reflecting such payment.

23 10. "Class Representative" means Kamada McDaniel.

24 11. "Class and/or Gross Settlement Amount" means the Class Settlement Amount of Five
25 Hundred Fifty Thousand Dollars and No Cents (\$550,000.00), to be paid by Defendant in full
26 satisfaction of all wage and hour claims that were asserted or could have been asserted based on the
27 factual or legal allegations contained in the Action, which includes all Individual Settlement Payments to
28 Participating Class Members, the Labor and Workforce Development Agency Payment (including the

1 PAGA Allocation as defined below), Plaintiff’s Class Representative Enhancement Payment, Attorneys’
2 Fees and Costs, and Settlement Administration Costs. Any employer payroll taxes required by law,
3 including the employer FICA, FUTA, and SDI contributions will be paid separately and apart from the
4 Class Settlement Amount. This Class Settlement Amount has been agreed to by Plaintiff and Defendant
5 based on the aggregation of the agreed-upon settlement value of individual claims. There will be no
6 reversion of the Class Settlement Amount to Defendant.

7 12. “Court” means Department 23 of the Alameda County Superior Court.

8 13. “Defendant” means Defendant Royal Cup, Inc.

9 14. “Effective Date” shall be when Final Approval of the Settlement can no longer be
10 appealed by an objector, plaintiff-in-intervention, or in the absence of any objections (or if all objections
11 are withdrawn with Court approval by the time of the Final Approval hearing), five (5) calendar days
12 following Notice of Entry of Judgment. If objections are heard by the Court and overruled, and no
13 appeal is taken of the Judgment by an objector or plaintiff-in-intervention, then the Effective Date shall
14 be sixty-five (65) calendar days after Notice of Entry of Judgment. If any appeal is taken from the
15 Court’s overruling of any objections to the Settlement, then the Effective Date shall be ten (10) calendar
16 days after all appeals are withdrawn or after an appellate decision affirming the Final Approval and
17 Judgment become final.

18 15. “Final Approval” means the Court’s Order granting final approval of the Settlement.

19 16. “Individual Settlement Payment” means each Participating Class Member’s respective
20 share of the Net Settlement Amount.

21 17. “Labor and Workforce Development Agency Payment” means the payment of Fifteen
22 Thousand Dollars (\$15,000) to the California Labor and Workforce Development Agency for its portion
23 of the civil penalties.

24 18. “Net Settlement Amount” means the portion of the Class Settlement Amount remaining
25 after deducting the Class Representative Enhancement Payment, the Labor and Workforce Development
26 Agency Payment, Attorneys’ Fees and Costs, and Settlement Administration Costs. The Net Settlement
27 Amount will be distributed to Participating Class Members. There will be no reversion of the Net
28 Settlement Amount to Defendant.

1 19. “Notice of Entry of Judgment” means a Notice of Entry of Judgment pursuant to Code
2 of Civil Procedure § 664.5(c) filed and served by Plaintiff.

3 20. “Notice of Objection” means a Class Member’s valid and timely written objection to the
4 Settlement Agreement. For the Notice of Objection to be valid, it must include: (i) the objector’s full
5 name, signature, address, and telephone number; (ii) a written statement of all grounds for the objection
6 accompanied by any legal support for such objection; (iii) copies of any papers, briefs, or other
7 documents upon which the objection is based; and (iv) a statement whether the objector intends to appear
8 at the Fairness Hearing. Any Class Member who does not submit a timely written objection to the
9 Settlement Administrator, or who fails to otherwise comply with the specific and technical requirements
10 of this section, will be foreclosed from objecting to the Settlement and seeking any adjudication or
11 review of the Settlement, by appeal or otherwise. Class Members who submit Notices of Objection must
12 make themselves available for deposition.

13 21. “Parties” means Plaintiff and Defendant collectively.

14 22. “Participating Class Members” means all Class Members who do not submit timely and
15 valid Requests for Exclusion.

16 23. “Plaintiff” means Kamada McDaniel.

17 24. “Plaintiff’s Counsel” means Douglas Han, Shunt Tatarvos-Gharajeh, Daniel J. Park and
18 Justice Law Corporation.

19 25. “Preliminary Approval” means the Court order granting preliminary approval of the
20 Settlement Agreement.

21 26. “Released Claims” means any and all claims, debts, liabilities, demands, obligations,
22 guarantees, costs, expenses, attorneys’ fees, penalties (including penalties under California’s Private
23 Attorney General Act, Labor Code Section 2698 et seq. (the “PAGA”), and damages arising from the
24 claims pled in the Action, specifically claims arising from allegations of misclassification of employees
25 as exempt employees, including expressly the following claims pled in the Action: for: (i) unpaid
26 overtime or failure to pay minimum wage under Labor Code section 510, 1194, and 1198; (ii) failure to
27 provide meal periods under Labor Code sections 226.7 and 512; (iii) failure to provide rest periods under
28 Labor Code sections 226.7; (iv) claims for the above alleged violations under California Business &

1 Professions Code section 17200 et seq.; (v) violations under Labor Code section 2699 et seq. as well as
2 any and all wage and hour claims that were asserted or could have been asserted based on the factual or
3 legal allegations contained in the Action, arising at any time during the Class Period including, but not
4 limited to, any additional claims under the Labor Code sections 201, 202, 203, 204, 226(a), 226.3, 558,
5 1174(d) and 2802.

6 27. “Released Party” or “Released Parties” means Defendant (along with any of its past,
7 present, and future parents, affiliates, subsidiaries, franchisees, divisions, joint ventures, predecessors,
8 successors, and assigns, and each of its respective and former officers, directors, board members,
9 trustees, shareholders, members, employees, agents, attorneys, auditors, accountants, advisors, benefits
10 administrators or third-party administrators, consultants, pension and welfare benefit plans, plan
11 fiduciaries, administrators, trustees, experts, contractors, stockholders, representatives, partners, agents,
12 insurers, reinsurers, and other persons acting on its behalf).

13 28. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a
14 request to be excluded from the Settlement. The Request for Exclusion must: (i) set forth the name,
15 address, telephone number and last four digits of the Social Security Number of the Class Member
16 requesting exclusion; (ii) be signed by the Class Member; (iii) be returned to the Settlement
17 Administrator; (iv) clearly state that the Class Member does not wish to be included in the Settlement;
18 and (v) be postmarked on or before the Response Deadline.

19 29. “Response Deadline” means the deadline by which Class Members must postmark to
20 the Settlement Administrator Requests for Exclusion or Notices of Objection to the Settlement. The
21 Response Deadline will be sixty (60) calendar days from the initial mailing of the Class Notice by the
22 Settlement Administrator, unless the 60th day falls on a Sunday or Federal holiday, in which case the
23 Response Deadline will be extended to the next day on which the U.S. Postal Service is open.

24 30. “Settlement Administration Costs” means the costs to the Settlement Administrator for
25 administering this Settlement, including, but not limited to, printing, distributing, and tracking documents
26 for this Settlement, tax reporting, distributing the Class Settlement Amount, and providing necessary
27 reports and declarations, as requested by the Parties. Based on an estimated Settlement Class of
28

1 approximately 24 members, the Settlement Administration Costs are currently estimated to be Five
2 Thousand Five Hundred Dollars and No Cents (\$5,500.00).

3 31. “Settlement Administrator” means CPT Group Inc., or any other third-party class action
4 settlement administrator agreed to by the Parties and approved by the Court for the purposes of
5 administering this Settlement. The Parties each represent that they do not have any financial interest in
6 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that
7 could create a conflict of interest.

8 32. “Workweeks” or “Weeks Worked” means the number of days of employment for each
9 Class Member during the applicable Class Period, subtracting days on leave of absence (if any), dividing
10 by seven (7), and rounding up to the nearest whole number. All Class Members will be credited with at
11 least one Workweek.

12 **BACKGROUND OF THE ACTION**

13 **A. Case Background**

14 33. This case is a putative wage and hour class and PAGA action involving Plaintiff
15 Kamada McDaniel’s (“McDaniel” and/or “Plaintiff”) alleged claims that he other similarly-situated
16 employees were misclassified as exempt employees while employed in California by Defendant Royal
17 Cup, Inc. (“Royal Cup” and/or “Defendant”). Royal Cup is an importer, roaster, and distributor of
18 coffee and tea products.

19 34. After exhausting his administrative remedies, by sending a PAGA letter to the Labor
20 Workforce Development Agency, on January 8, 2019, Plaintiff McDaniel filed the instant class and
21 representative action alleging individually and on behalf of a purported class of current and former
22 Territory Manager employees of Royal Cup claims for unpaid minimum wages, unpaid overtime wages,
23 unpaid meal and rest periods, paystub violations, and other derivative civil penalties.

24 35. Royal Cup denies any liability to McDaniel and the purported class for the unpaid
25 overtime claims primarily based upon the California Industrial Wage Commission which exempts
26 “employees whose hours of service are regulated by . . . [t]he United States Department of
27 Transportation Code of Federal Regulations, Title 49, Section 395.1 to 395.13, Hours of Service of
28 Drivers” from its “Hours and Days of Work” provisions. To fall within this exemption in this case,

1 Royal Cup had to meet four criteria: (1) Royal Cup must be a motor carrier; (2) the Territory Managers
2 must have driven, or reasonably have been expected to drive, to deliver goods more than a de minimis
3 amount of time; (3) the goods must generally flow in interstate commerce; and (4) McDaniel must have
4 used vehicles weighing 10,001 or more pounds. Royal Cup claimed that all these criteria were met in
5 this case. Royal Cup further denies any liability to McDaniel and the purported class for the meal and
6 rest break claims because they are preempted by federal law.

7 **B. Pre-Trial Proceedings, Discovery, Negotiations And Mediation**

8 36. The Parties conducted significant investigation and discovery of the facts and law both
9 before and after the Action was filed. Defendant produced documents relating to its policies, practices,
10 and procedures, classifying its Territory Managers as exempt employees, job descriptions, job
11 expectations, compensation plans, meal and rest period policies, and payroll and operational policies. As
12 part of Defendant's production, Plaintiff also reviewed time records, pay records, route records, other
13 documents evidencing job duties, and information relating to the size and scope of the Class, as well as
14 data permitting Plaintiff to understand the number of workweeks in the Class Period. The Parties agree
15 that the above-described investigation and evaluation, as well as the information exchanged during the
16 settlement negotiations and subsequent mediation, are more than sufficient to assess the merits of the
17 respective Parties' positions and to compromise the issues on a fair and equitable basis.

18 37. The Parties engaged in arms-length negotiations, and participated in a full-day
19 Mediation on September 18, 2019, with Kelly A. Knight, Esq. (the "Mediation"). At the Mediation,
20 Plaintiff considered the very real possibility of obtaining no recovery in this matter, and Defendant
21 considered the possibility of liability to a purported class of Territory Managers, and both considered the
22 costs of long and protracted litigation. At the Mediation, Plaintiff argued, among other things, that the
23 Motor Carrier Exemption is to be construed narrowly against employers and applies only to those falling
24 "plainly and unmistakably within [the] terms and spirit of the exemption." (*Arnold v. Ben Knowsky, Inc.*
25 (1960) 361 U.S. 388, 396, and that Defendant bears the burden of proving the exemption applies.
26 (*Arnold v. Ben Knowsky, Inc.* (1960) 361 U.S. at 394, n. 11.) With the assistance of the mediator, the
27 Parties were able to settle their dispute at the Mediation.

28 38. The Parties have performed a thorough study of the law relating to the claims alleged in

1 the Action and based on that investigation and discovery, and taking into account the heavily contested
2 issues, the expense and time necessary to pursue prosecution and defense of the Action through trial, the
3 risks and costs of further prosecution of the Action, the uncertainty of complex litigation, the fairness and
4 reasonableness of the settlement agreed to by the Parties, and the best interest of the Class Members to
5 whom substantial benefits will accrue, the Parties have agreed to the settlement described in this
6 Stipulation.

7 39. Benefits of Settlement to Class Members. Plaintiff and Class Counsel recognize the
8 expense and length of continued proceedings necessary to continue the litigation against Defendant
9 through trial and through any possible appeals. Plaintiff and Class Counsel also have taken into account
10 the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays
11 inherent in such litigation. Plaintiff and Class Counsel have conducted extensive settlement negotiations,
12 including participating in the Mediation. Based on the foregoing, Plaintiff and Class Counsel believe the
13 Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best
14 interests of the Class Members.

15 40. Defendant's Reasons for Settlement. Defendant recognizes that the defense of this
16 litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of
17 Defendant has been and, unless this Settlement is made, will continue to be devoted to the defense of the
18 claims asserted by Plaintiff. Defendant, therefore, has agreed to settle in the manner and upon the terms
19 set forth in this Agreement to put to rest the Class Released Claims.

20 41. Defendant's Denial of Wrongdoing. Defendant generally and specifically denies any
21 and all liability or wrongdoing of any sort with regard to any of the claims alleged, makes no concessions
22 or admissions of liability of any sort, and contends that for any purpose other than settlement, the Action
23 is not appropriate for class treatment. Defendant asserts a number of defenses including, among other
24 things, the Motor Carrier Exemption, to the alleged claims and has denied any wrongdoing or liability
25 arising out of any of the alleged facts or conduct in the Action. Neither this Agreement, nor any
26 document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may
27 be construed as, or may be used as an admission, concession, or indication by or against Defendant or
28 any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement

1 be construed as an admission that Plaintiff can serve as an adequate Class Representative except for
2 purposes of settlement. There has been no final determination by any court as to the merits of the claims
3 asserted by Plaintiff against Defendant or as to whether a class or classes should be certified, other than
4 for settlement purposes only.

5 42. Plaintiff's Claims. Plaintiff asserts that Defendant's defenses are without merit. Neither
6 this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out
7 this Agreement is, may be construed as, or may be used as an admission, concession or indication by or
8 against Plaintiff, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or
9 lack thereof, in the Action. However, in the event that this Settlement is finally approved by the Court,
10 Plaintiff Class Members, and Class Counsel will not oppose Defendant's efforts to use this Agreement to
11 prove that Plaintiff and Class Members have resolved and are forever barred from re-litigating the Class
12 Released Claims.

13 **C. Intent of Settlement**

14 43. The purpose of this Stipulation is to settle and compromise the Covered Claims alleged
15 by Plaintiffs and Class Members against Defendant and the Released Parties (as defined above) and as
16 described in this Stipulation, including the wage and hour claims which arise out of the factual
17 allegations in the Action during the Class Period (as defined above).

18 **TERMS OF AGREEMENT**

19 The Plaintiff, on behalf of themselves and the Settlement Class, and Defendant agree as follows:

20 44. Funding of the Class Settlement Amount. Within fifteen (15) calendar days after the
21 Effective Date, Defendant will make a deposit of the Class Settlement Amount into a Qualified
22 Settlement Account ("QSA") within the meaning of Section 468B of the Internal Revenue Code of
23 1986, as amended, and Treas. Reg. Section 1.468B-1, et seq., (the "Settlement Fund Account") and shall
24 be administered to be established by the Settlement Administrator pursuant to the final terms of the
25 Settlement as approved by the Court. The Administrator shall request and obtain from the IRS an
26 appropriate Tax ID for the Settlement Fund. The Administrator shall serve as a Trustee of the Settlement
27 Fund and shall act as a fiduciary with respect to the handling, management and distribution of the
28 Settlement Fund Account, including the handling of all tax-related issues, reporting and payments. The

1 Administrator shall act in a manner necessary to qualify and maintain the Settlement Fund Account as a
2 Qualified Settlement Fund and the Parties shall cooperate to ensure such treatment and shall not take a
3 position in any filing or before any tax authority inconsistent with such treatment.

4 45. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application
5 or motion by Class Counsel for Attorneys' Fees and Costs, not to exceed One Hundred Ninety-Two
6 Thousand and Five Hundred Dollars and No Cents (\$192,500.00) in attorneys' fees and Twenty
7 Thousand Dollars and No Cents (\$20,000.00) in litigation costs and expenses to compensate Class
8 Counsel for all past and future attorneys' fees necessary to prosecute, settle and administer the Litigation
9 and this Settlement, including for the work performed and all work remaining to be performed in
10 documenting the Settlement, securing the Court's approval of the Settlement, administering the
11 Settlement, ensuring that the Settlement is fairly administered and implemented, and obtaining judgment,
12 to be paid out of the Settlement Amount and not from any additional payment by Center. The Parties
13 stipulate that for purposes of settlement, the Plaintiff is the prevailing party in the Action and are entitled
14 to attorneys' fees and costs under the applicable fee-shifting statutes, including, *inter alia*, California
15 Code of Civil Procedure section 1021.5, Labor Code sections 218.5, 1194(a) and 2699(g).

16 46. Class Representative Enhancement Payment. In exchange for general releases, and in
17 recognition of his effort and work in prosecuting the Action on behalf of Class Members, Defendant
18 agrees not to oppose or impede any application or motion for Class Representative Enhancement
19 Payment of Ten Thousand Dollars and No Cents (\$10,000.00). The Class Representative Enhancement
20 Payment will be paid from the Class Settlement Amount and will be in addition to Plaintiff's Individual
21 Settlement. Payments paid pursuant to the Settlement. Plaintiff will be solely and legally responsible to
22 pay any and all applicable taxes on the payments made pursuant to this paragraph.

23 47. Settlement Administration Costs. The Settlement Administrator will be paid for the
24 reasonable costs of administration of the Settlement and distribution of payments from the Class
25 Settlement Amount, which is currently estimated to be Five Thousand Five Hundred Dollars and No
26 Cents (\$5,500.00). These costs, will include, *inter alia*, the required tax reporting on the Individual
27 Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing Class Notices, calculating
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1 and distributing the Class Settlement Amount and Attorneys' Fees and Costs, and providing necessary
2 reports and declarations.

3 48. PAGA Allocation. The Parties agree to allocate Twenty Thousand Dollars and No
4 Cents (\$20,000.00) from the Class Settlement Amount to the resolution of all Class Members' claims
5 arising under the California Labor Code Private Attorneys General Act of 2004 (California Labor Code
6 sections 2698, *et seq.*, "PAGA"). Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA
7 allocation, or Fifteen Thousand Five Hundred Dollars (\$15,000), will be paid to the California Labor and
8 Workforce Development Agency, and the remaining Twenty Five Percent (25%) of the PAGA
9 allocation, or Five Thousand Dollars (\$5,000) will be allocated to the Net Settlement Amount. Class
10 Counsel shall be responsible for providing the LWDA with a copy of the Settlement Agreement and the
11 final approval order and judgment as required by the Labor Code. Upon receipt of the PAGA Payments
12 approved by the Court, the Settlement Administrator shall distribute to the LWDA the PAGA Payment.
13 If the Court orders a larger amount for PAGA civil penalties, such amount will be paid from the Gross
14 Settlement Amount and not from any further contribution by Defendant.

15 49. Net Settlement Amount. The entire Net Settlement Amount will be distributed to
16 Participating Class Members. No portion of the Net Settlement Amount will revert or be retained by
17 Defendant.

18 50. Individual Settlement Payment Calculations. Individual Settlement Payments will be
19 calculated and apportioned from the Net Settlement Amount based on the number of Workweeks a Class
20 Member worked during the Class Period. Specific calculations of Individual Settlement Payments will
21 be made as follows:

22 50(a) Defendant will calculate the total number of Workweeks worked by each Class Member
23 during the Class Period, and based on those calculations the Settlement Administrator
24 will calculate the aggregate total number of Workweeks worked by all Class Members
25 during the Class Period.

26 50(b) To determine each Class Member's estimated "Individual Settlement Payment," the
27 Settlement Administrator will use the following formula: The Net Settlement Amount
28 will be divided by the aggregate total number of Workweeks, resulting in the

1 “Workweek Value.” Each Class Member’s “Individual Settlement Payment” will be
2 calculated by multiplying each individual Class Member’s total number of Workweeks
3 by the Workweek Value.

4 50(c) The Settlement Administrator shall be responsible for reducing Individual Settlement
5 Payment based on any required deductions for each Participating Class Members as
6 specifically set forth herein, including employee-side tax withholdings or deductions.

7 50(d) The entire Net Settlement Amount will be disbursed to all Class Members who do not
8 submit timely and valid Requests for Exclusion. If there are any timely and valid
9 Requests for Exclusion from members of the Plaintiff Class, the Settlement
10 Administrator shall proportionately increase the Individual Settlement Payment for each
11 Participating Class Member according to the number of Workweeks worked, so that the
12 amount actually distributed to the Settlement Class equals 100% of the Net Settlement
13 Amount.

14 51. No Credit To Benefit Plans. The Individual Settlement Payments made to Participating
15 Class Members under this Settlement, as well as any other payments made pursuant to this Settlement,
16 will not be utilized to calculate any additional benefits under any benefit plans to which any Class
17 Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans,
18 stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it
19 is the Parties’ intention that this Settlement Agreement will not affect any rights, contributions, or
20 amounts to which any Class Members may be entitled under any benefit plans.

21 52. Administration Process. The Parties agree to cooperate in the administration of the
22 settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in
23 administration of the Settlement.

24 53. Delivery of the Class List. Within fourteen (14) calendar days of Preliminary Approval,
25 Defendant will provide the Class List to the Settlement Administrator.

26 54. Notice by First-Class U.S. Mail. Within ten (10) days after receiving the Class List from
27 Defendant, the Settlement Administrator will mail a Class Notice to all Class Members via regular First-
28 Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

1 55. Confirmation of Contact Information in the Class List. Prior to mailing, the Settlement
2 Administrator will perform a search based on the National Change of Address Database for information
3 to update and correct for any known or identifiable address changes. Any Class Notices returned to the
4 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly
5 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
6 Administrator will indicate the date of such re-mailing on the Class Notice. If no forwarding address is
7 provided, the Settlement Administrator will promptly attempt to determine the correct address using a
8 skip-trace, or other search using the name, address and/or Social Security number of the Class Member
9 involved, and will then perform a single re-mailing. Any Class Member receiving a re-mailed notice
10 shall have an additional ten (10) calendar days to submit an objection or Request for Exclusion.

11 56. Class Notices. All Class Members will be mailed a Class Notice. Each Class Notice
12 will provide: (i) information regarding the nature of the Actions; (ii) a summary of the Settlement's
13 principal terms; (iii) the Settlement Class definition; (iv) the total number of Workweeks each respective
14 Class Member worked for Defendant during the Class Period; (v) each Class Member's estimated
15 Individual Settlement Payment and the formula for calculating Individual Settlement Payments; (vi) the
16 dates which comprise the Class Period; (vii) instructions on how to submit Requests for Exclusion or
17 Notices of Objection; (viii) the deadlines by which the Class Member must postmark Request for
18 Exclusions or Notices of Objection to the Settlement; and (ix) the claims to be released.

19 57. Disputed Information on Class Notices. Class Members will have an opportunity to
20 dispute the information provided in their Class Notices. To the extent Class Members dispute their
21 employment dates or their Workweeks, Class Members may produce evidence to the Settlement
22 Administrator showing that such information is inaccurate. The Settlement Administrator will decide the
23 dispute. Defendant's records will be presumed correct, but the Settlement Administrator will evaluate
24 the evidence submitted by the Class Member and will make the final decision as to the merits of the
25 dispute. All disputes will be resolved within ten (10) business days of the Response Deadline.

26 58. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the
27 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The
28 Settlement Administrator will mail the Class Member a cure letter within three (3) business days of

1 receiving the defective submission to advise the Class Member that his or her submission is defective
2 and that the defect must be cured to render the Request for Exclusion valid. The Class Member will
3 have until the later of (i) Response Deadline or (ii) fifteen (15) calendar days from the date of the cure
4 letter, whichever date is later, to postmark a revised Request for Exclusion. If the revised Request for
5 Exclusion is not postmarked within that period, it will be deemed untimely.

6 59. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
7 Settlement Agreement must sign and postmark a written Request for Exclusion to the Settlement
8 Administrator within the Response Deadline. In the case of Requests for Exclusion that are mailed to the
9 Settlement Administrator, the postmark date will be the exclusive means to determine whether a Request
10 for Exclusion has been timely submitted.

11 60. Option to Rescind the Settlement Agreement: Defendant may elect, at its option, to
12 rescind the Settlement if more than 25% of Class Members submit timely Requests for Exclusion. If
13 Defendant exercises its conditional right to rescind, it must do so by written communication to Class
14 Counsel that is received by Class Counsel within thirty (30) calendar days of the Response Deadline. In
15 the event that Defendant exercises its conditional right to rescind, Defendant will be responsible for all
16 Settlement Administration Costs incurred to the date of rescission.

17 61. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
18 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid
19 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released
20 Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the
21 Settlement.

22 62. Objection Procedures. To object to the Settlement Agreement, a Class Member must
23 postmark a Notice of Objection to the Settlement Administrator. The Notice of Objection must be
24 signed by the Class Member and contain all information required by this Settlement Agreement. The
25 postmark date will be deemed the exclusive means for determining whether a Notice of Objection is
26 timely. Class Members who fail to object in the manner specified above will be deemed to have waived
27 all objections to the Settlement and will be foreclosed from making any objections, whether by appeal or
28 otherwise, to the Settlement Agreement. Class Members who postmark timely Notices of Objection will

1 have a right to appear at the Final Approval Hearing in order to have their objections heard by the Court.
2 At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members
3 to submit written objections to the Settlement Agreement or appeal from the Order and Judgment. Class
4 Counsel will not represent any Class Members with respect to any such objections to this Settlement.

5 63. Certification Reports Regarding Individual Settlement Payment Calculations. The
6 Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report that
7 certifies the number of Class Members who have submitted valid Requests for Exclusion, objections to
8 the Settlement, and whether any Class Member has submitted a challenge to any information contained
9 in their Class Notice. Additionally, the Settlement Administrator will provide to counsel for both Parties
10 any updated reports regarding the administration of the Settlement Agreement as needed or requested.

11 64. Distribution Timing of Settlement Payments. Distribution of the Settlement Payments
12 will be made within twenty-one (21) days of the Effective Date.

13 65. Un-cashed Settlement Checks. Funds represented by Individual Settlement Payment
14 checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for
15 more than 180 days after issuance will be tendered to a mutually agreed upon 501(c)(3) organization to
16 be determined, subject to section 384 of the California Code of Civil Procedure.

17 66. Certification of Completion. Upon completion of administration of the Settlement, the
18 Settlement Administrator will provide a written declaration under oath to certify such completion to the
19 Court and counsel for all Parties.

20 67. Treatment of Individual Settlement Payments. All Individual Settlement Payments will
21 be allocated as follows: (i) 33.3% of each Individual Settlement Payment will be allocated as wages for
22 which IRS Forms W-2 will be issued; and (ii) 66.7% will be allocated to alleged unpaid penalties and
23 interest for which IRS Forms 1099-MISC will be issued. The allocation to interest and statutory penalties
24 includes all payments made in connection with individual settlement agreements related to the Actions.
25 Plaintiffs will be solely and legally responsible to pay any and all applicable taxes on non-W2 payments
26 made pursuant to this paragraph.

27 68. Administration of Taxes by the Settlement Administrator. The Settlement
28 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Plaintiff's

1 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to
2 this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes
3 and penalties to the appropriate government authorities.

4 69. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES
5 OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS
6 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”)
7 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND
8 NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES
9 OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
10 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED
11 OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
12 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
13 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS
14 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
15 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
16 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
17 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY
18 UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO
19 ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
20 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
21 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF
22 ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER
23 SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
24 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
25 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
26 AGREEMENT.

27 70. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
28 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,

1 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
2 action or right herein released and discharged.

3 71. Nullification of Settlement Agreement. In the event that: (i) the Court does not finally
4 approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other
5 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
6 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
7 likewise be treated as void from the beginning.

8 72. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to
9 request the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval
10 Order. The Preliminary Approval Order will provide for the Class Notice to be sent to all Class
11 Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will
12 submit this Settlement Agreement, which sets forth the terms of this Settlement, and will include the
13 proposed Class Notice, which is attached hereto as Exhibit A.

14 73. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
15 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the
16 Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the
17 Final Approval of the Settlement Agreement along with the amounts properly payable for: (i) Individual
18 Settlement Payments; (ii) the Labor and Workforce Development Agency Payment; (iii) the Class
19 Representative Enhancement Payment; (iv) Attorneys' Fees and Costs; and (v) all Settlement
20 Administration Costs. The Final Approval/Settlement Fairness Hearing will not be held earlier than
21 thirty (30) days after the Response Deadline. Class Counsel will be responsible for drafting all
22 documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the
23 attorneys' fees and costs application to be heard at the final approval hearing.

24 74. Release by the Settlement Class. Upon the Effective Date and conditioned upon full
25 satisfaction of the payment obligations in this Settlement, all Participating Class Members will be
26 deemed to have released waived and forever discharged the Released Claims, and will be barred and
27 enjoined from bringing or prosecuting any of the Released Claims against the Released Parties.
28

1 75. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the
2 Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment to
3 the Court for its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely
4 for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii)
5 settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under
6 court rules or as set forth in this Settlement Agreement.

7 76. Release by Plaintiff. Upon the Effective Date, in addition to the claims being released
8 by all Participating Class Members, Plaintiff covenants not to sue and will release and forever discharge
9 the Released Parties, to the fullest extent permitted by law, of and from any and all claims, known and
10 unknown, asserted and not asserted, including, without limitation, any and all claims, debts, liabilities,
11 demands, obligations, guarantees, costs, expenses, attorneys' fees, penalties (including penalties under
12 Labor Code Section 2698 et seq. (PAGA), and damages arising from the claims pled in the Action,
13 specifically claims arising from allegations of misclassification of employees as exempt employees,
14 including expressly the following claims pled in the Action: for: (i) unpaid overtime or failure to pay
15 minimum wage under Labor Code section 510, 1194, and 1198; (ii) failure to provide meal periods
16 under Labor Code sections 226.7 and 512; (iii) failure to provide rest periods under Labor Code sections
17 226.7; (iv) claims for the above alleged violations under California Business & Professions Code section
18 17200 et seq.; (v) violations under Labor Code section 2699 et seq. as well as any and all wage and hour
19 claims that were asserted or could have been asserted based on the factual or legal allegations contained
20 in the Action, arising at any time during the Class Period including, but not limited to, any additional
21 claims under the Labor Code sections 201, 202, 203, 204, 226(a), 226.3, 558, 1174(d) and 2802, which
22 Plaintiff has or may have against the Released Parties as of the date of execution of this Settlement
23 Agreement. To the extent the foregoing releases are releases to which Section 1542 of the California
24 Civil Code or similar provisions of other applicable law may apply, Plaintiff expressly waives any and
25 all rights and benefits conferred upon them by the provisions of Section 1542 of the California Civil
26 Code or similar provisions of applicable law, which are as follows:

27 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
28 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO

1 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE,
2 AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
3 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
4 PARTY.

5 77. Confidentiality and Limitation on Publicity. Although this Settlement is not
6 confidential, the Parties and their respective counsel agree that prior to the filing of the motion for
7 Preliminary Approval, they will keep all settlement negotiations and/or communications leading up to
8 the execution of this Settlement Agreement strictly confidential. Thereafter, Plaintiffs and Class
9 Counsel, and anyone acting on their behalf, shall not issue any press release or statements to the media,
10 or otherwise publicize in any medium, including but not limited to any social media site, website
11 postings, internet blog, chatrooms, Facebook, law firm website, or other social media postings, any
12 information regarding the Litigation, the Settlement or this Settlement Agreement, and they agree not to
13 otherwise publicize any information regarding the settlement other than pursuant to the Court-authorized
14 Notice. However, nothing herein shall prohibit (i) Royal Cup or its counsel from making any necessary,
15 appropriate or required disclosures to government regulators, auditors and the like, or to any putative
16 class member asserting any similar claim and/or to such counsel to notify them of this Settlement; or (ii)
17 the Parties and their counsel from making any appropriate disclosures to their respective spouses,
18 personal attorney(s), accountant(s), insurer(s) and/or financial advisor(s). This provision does not limit
19 or restrict the ability of Class Counsel to file this Settlement Agreement with the Court in connection
20 with the settlement approval process. Further, nothing herein shall prevent Class Counsel from referring
21 or citing to this Action and the pleadings and other papers filed in obtaining approval of this Settlement
22 in any court filings and proceedings in other cases for the purposes of demonstrating their experience and
23 adequacy as Class Counsel.

24 78. Non-Disparagement/Non-Cooperation. Plaintiff agrees that he will not make any
25 statements, written or oral, including but not limited to, posting comments, videos, or audio recordings
26 on social media websites or applications (including, but not limited to, Facebook, Twitter, Instagram,
27 Glassdoor, Snapchat, LinkedIn, WhatsApp, Photobucket, Yelp, YouTube, and Reddit) or cause or
28 encourage others, including current and/or former employees of Released Parties, to make any such

1 statements that defame, disparage, or in any way criticize the personal and/or business reputations,
2 practices, or conduct of any Released Party. Plaintiff agrees that he will not act in any manner that may
3 damage the business or reputation of any Released Party. Plaintiff also agrees that he will not use name,
4 image, or likeness of any Released Party in any statements, written or oral, including but not limited to,
5 posting comments, videos, or audio recordings on social media websites, provided that Plaintiff may use
6 the Company brand logo only to identify employment history to prospective employers. Plaintiff agrees
7 that he will not counsel or assist any attorneys or their clients in the presentation or prosecution of any
8 disputes, differences, grievances, claims, charges or complaints by any third party against any Released
9 Party, unless under a subpoena or other court order to do so.

10 79. Disputes. Attorney Kelly A. Knight will act as the mediator on any disputes that arise
11 during the process of finalizing the Parties' Settlement Documents.

12 80. Exhibit Incorporated by Reference. The terms of this Settlement Agreement include the
13 terms set forth in the attached Exhibit, which is incorporated by this reference as though fully set forth
14 herein. Any Exhibit to this Settlement Agreement is an integral part of the Settlement.

15 81. Entire Agreement. This Settlement Agreement and attached Exhibit constitute the
16 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements
17 may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section
18 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is
19 to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and
20 the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or
21 contradict the terms of this Settlement Agreement.

22 82. Amendment or Modification. No amendment, change, or modification to this
23 Settlement Agreement will be valid unless in writing and signed, either by the Parties or their counsel.

24 83. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
25 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
26 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
27 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
28 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with

1 each other and use their best efforts to effect the implementation of the Settlement. If the Parties are
2 unable to reach agreement on the form or content of any document needed to implement the Settlement,
3 or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement,
4 the Parties may seek the assistance of the Court to resolve such disagreement.

5 84. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
6 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

7 85. California Law Governs. All terms of this Settlement Agreement and Exhibit hereto
8 will be governed by and interpreted according to the laws of the State of California.

9 86. Execution and Counterparts. This Settlement Agreement is subject only to the execution
10 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
11 executed counterparts and each of them, including facsimile and scanned copies of the signature page,
12 will be deemed to be one and the same instrument provided that counsel for the Parties will exchange
13 among themselves original signed counterparts.

14 87. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
15 Settlement Agreement is a fair, adequate and reasonable settlement of the Actions and have arrived at
16 this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into
17 account all relevant factors, present and potential. The Parties further acknowledge that they are each
18 represented by competent counsel and that they have had an opportunity to consult with their counsel
19 regarding the fairness and reasonableness of this Settlement.

20 88. Invalidity of Any Provision. Before declaring any provision of this Settlement
21 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
22 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement
23 valid and enforceable.

24 89. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that
25 either party may appeal any court order that materially alters the Settlement Agreement's terms.

26 90. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute
27 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
28 entering into this Settlement, Defendant does not admit, and specifically denies, that it violated any

1 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or
2 any other applicable laws, regulations or legal requirements; breached any contract; violated or breached
3 any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with
4 respect to their employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor
5 any of the negotiations connected with it, will be construed as an admission or concession by Defendant
6 of any such violations or failures to comply with any applicable law. Except as necessary in a
7 proceeding to enforce the terms of this Settlement, this Settlement Agreement and its terms and
8 provisions will not be offered or received as evidence in any action or proceeding to establish any
9 liability or admission on the part of Defendant or to establish the existence of any condition constituting a
10 violation of, or a non-compliance with, federal, state, local or other applicable law.

11 91. Waiver. No waiver of any condition or covenant contained in this Settlement
12 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to
13 imply or constitute a further waiver by such party of the same or any other condition, covenant, right or
14 remedy.

15 92. Enforcement Actions. In the event that one or more of the Parties institutes any legal
16 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
17 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
18 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
19 expert witness fees incurred in connection with any enforcement actions.

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

25 94. Representation By Counsel. The Parties acknowledge that they have been represented
26 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
27 that this Settlement Agreement has been executed with the consent and advice of counsel. Further,
28

1 Plaintiff and Plaintiff's Counsel warrant and represent that there are no liens on the Settlement
2 Agreement.

3 95. All Terms Subject to Final Court Approval. All amounts and procedures described in
4 this Settlement Agreement herein will be subject to final Court approval.

5 96. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
6 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
7 Settlement Agreement.

8 97. Binding Agreement. The Parties warrant that they understand and have full authority to
9 enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully
10 enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in
11 any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that
12 otherwise might apply under federal or state law.

13 **READ CAREFULLY BEFORE SIGNING**


14 **PLAINTIFF**

15 Dated: 11/11/2019
16 _____

15 
16 _____
16 Plaintiff Kamada McDaniel

17 **ROYAL CUP, INC.**

18
19 Dated: _____

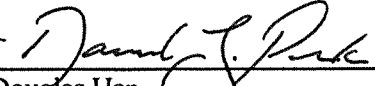
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21 WILLIAM L. WANN, JR.
21 Please Print Name of Authorized Signatory

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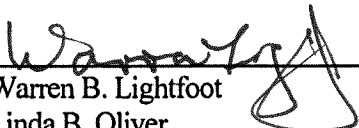
JUSTICE LAW CORPORATION

Dated: NOVEMBER 13, 2019

By: 
Douglas Han
Shunt Tatavos-Charafeh
Attorneys for Plaintiff Kamada McDaniel

MAYNARD, COOPER & GALE, LLP

Dated: 11/14/19

By: 
Warren B. Lightfoot
Linda B. Oliver
Attorneys for Defendant
Royal Cup, Inc.