

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

2 This Amended Joint Stipulation of Class Action and PAGA Settlement is entered into by
3 and between Plaintiffs Gabriel Perez (“Plaintiff Perez”) and Rigoel Garcia-Fuentes (“Plaintiff
4 Garcia-Fuentes,” together with Plaintiff Perez referred to as “Plaintiffs”), individually, on behalf
5 of all other similarly situated employees, on the one hand, and Defendants Kimberlite Corporation
6 and Sonitrol Security, Inc. (“Defendants”) on the other hand, in the lawsuit entitled *Gabriel Perez*
7 *and Rigoel Garcia-Fuentes v. Kimberlite Corporation; Sonitrol Security, Inc.*, Alameda County
8 Case No. 24CV073959, and the LWDA Letter submitted to the Labor and Workforce Development
9 Agency (“LWDA”) on October 2, 2024. Plaintiff Garcia-Fuentes is also acting as a representative
10 of the State of California with respect to the aggrieved employees. Plaintiffs and Defendants shall
11 be, at all times, collectively referred to as the “Parties.” This Agreement is intended by the Parties
12 to fully, finally and forever resolve the claims as set forth herein, based upon and subject to the
13 terms and conditions of this Agreement.

14 **DEFINITIONS**

15 1. “Agreement” or “Settlement” or “Settlement Agreement” means this Amended
16 Joint Stipulation of Class Action and PAGA Settlement.

17 2. “Action” means the court action entitled “*Gabriel Perez and Rigoel Garcia-*
18 *Fuentes v. Kimberlite Corporation; Sonitrol Security, Inc.*, Alameda County Case No.
19 24CV073959 (the “Action”), initiated on or around May 2, 2024, and any operative complaint
20 filed therein, as well as the claims asserted in Plaintiff Garcia-Fuentes’ correspondence of October
21 2, 2024 to the LWDA seeking penalties against Defendants for violations of the California Labor
22 Code under the Private Attorneys General Act of 2004 (hereinafter the “LWDA Letter.”).

23 3. “Class Counsel” means Jonathan M. Genish, Barbara DuVan-Clarke, Danielle L.
24 GruppChang, PJ Van Ert, and Annabel F. Blanchard of BLACKSTONE LAW, APC. The term
25 “Class Counsel” shall be used synonymously with the term “Plaintiffs’ Counsel.”

26 4. “Class Counsel’s Fees and Costs” means attorneys’ fees for Class Counsel’s
27 litigation and resolution of the Action and their expenses and costs incurred in connection with the
28 Action, which shall be paid from the Gross Settlement Amount. Class Counsel will request

1 attorneys' fees not to exceed thirty-five percent (35%) of the Gross Settlement Amount, *i.e.* Two
2 Hundred Ninety-Seven Thousand, Five Hundred Dollars and Zero Cents (\$297,500.00) and the
3 reimbursement of reasonable costs and expenses associated with the litigation and settlement of
4 the Action, currently estimated to be Thirty Thousand Dollars and Zero Cents (\$30,000.00), subject
5 to the Court's approval. Defendants have agreed not to oppose Class Counsel's request for fees
6 and reimbursement of reasonable costs and expenses in the amounts set forth above.

7 5. "Class List" means a complete list of all Class Members that Defendants will in
8 good faith compile from their records and provide to the Settlement Administrator within ten (10)
9 calendar days after the Court enters an Order granting Preliminary Approval of this Settlement.
10 The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include
11 each Class Member's: (1) full name; (2) last known home address; (3) last known telephone
12 number; (4) Social Security number; (5) dates of employment (*i.e.*, hire dates, and, if applicable,
13 re-hire date(s) and/or separation date(s)); (6) total Workweeks during the Class Period; (7) total
14 Pay Periods during the PAGA Period; and (8) any other reasonable information required by the
15 Settlement Administrator in order to effectuate the terms of the Settlement. This is a material term
16 of the Settlement, and if Defendants fail to comply, Plaintiffs shall have the right to void the
17 Settlement.

18 6. "Class" or "Class Members" means all current and former non-exempt employees
19 of Defendants employed in the State of California at any time during the Class Period.

20 7. "Class Period" means the period from May 2, 2020 through and ending on April 1,
21 2025.

22 8. "Class Representative(s)" means Plaintiffs Gabriel Perez and Rigoel Garcia-
23 Fuentes, each in their capacity as a representative of the Class Members.

24 9. "Class Representative Enhancement Payment(s)" means the amount that the Court
25 authorizes to be paid to each Plaintiff in addition to his Individual Settlement Payment, in
26 recognition of the effort and risk he has taken in assisting with the prosecution of the Action and
27 in exchange for a General Release of his claims as provided herein.

1 10. “Court” means the Superior Court of the State of California for the County of
2 Alameda.

3 11. “Defendants” mean Kimberlite Corporation and Sonitrol Security, Inc.

4 12. “Effective Date” means the later of the following: (a) if no timely objections are
5 filed or if all objections are withdrawn, the date upon which the Court enters Final Approval; (b)
6 if an objection is filed and not withdrawn, the date for filing an appeal and no such appeal being
7 filed; or (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such
8 appeal in a way that does not alter the terms of the Settlement, shall be referred to as the “Effective
9 Date.” Defendants and Defendants’ counsel waive all rights to appeal the Final Approval Order.

10 13. “Employer Taxes” means employer-funded taxes and contributions imposed on the
11 wage portions of the Individual Settlement Payments under the Federal Insurance Contributions
12 Act, the Federal Unemployment Tax Act, and any similar state and federal taxes and contributions
13 required of employers, such as for unemployment insurance.

14 14. “Final Approval” means the date of entry of the Court’s signed Order and Judgment
15 granting final approval of this Settlement.

16 15. “General Release” means the broader release of all claims by Plaintiffs in the
17 Action, which are in addition to Plaintiffs’ release of claims as Participating Class Members.

18 16. “Gross Settlement Amount” means the sum of Eight Hundred Fifty Thousand
19 Dollars and Zero Cents (\$850,000.00) which shall be paid by Defendants into a Qualified
20 Settlement Fund (“QSF”). The Gross Settlement Amount is non-reversionary, no portion of the
21 Gross Settlement Amount will return to Defendants and includes: (1) payments to the Class, (2)
22 Class Counsel’s fees, (3) Class Counsel’s costs, (4) Settlement Administration Costs, (5) Class
23 Representative Enhancement Payments to Plaintiffs; and (6) the PAGA Payment to the LWDA
24 and PAGA Members. The Gross Settlement Amount is exclusive of employer’s share of any
25 applicable payroll taxes, and any such employer-side payroll taxes shall be paid by Defendants
26 separately and in addition to the Gross Settlement Amount. The Gross Settlement Amount plus
27 any applicable employer-side payroll taxes shall be the maximum amount that Defendants are
28 required to pay under the Settlement. In the event that the consideration due under this Agreement

1 is not paid, then the Settlement is voidable at the option of Plaintiffs. Payment shall be made per
2 the terms of this Agreement. If the Agreement is voided, then the time for Plaintiffs to bring class
3 and/or aggrieved employee claims, will be tolled from the date that this Agreement is fully
4 executed.

5 17. “Individual Settlement Payment” means the amount payable from the Net
6 Settlement Amount to each Participating Class Member. Individual Settlement Payments shall be
7 paid by a Settlement Check made payable to Participating Class Members.

8 18. “Individual PAGA Payment” means the amount Payable from the PAGA Payment
9 to each PAGA Member. Individual PAGA Payments shall be paid by a Settlement Check made
10 payable to PAGA Members. The Settlement Check may combine the Individual Settlement
11 Payment and the Individual PAGA Payment in one check.

12 19. “LWDA Letter” Plaintiff Garcia-Fuentes’ correspondence of October 2, 2024, to
13 the LWDA seeking penalties against Defendants for violations of the California Labor Code under
14 the Private Attorneys General Act of 2004.

15 20. “Net Settlement Amount” means the funds available for payments to the Class,
16 which shall be the amount remaining after the following amounts are deducted from the Gross
17 Settlement Amount: (1) Class Counsel’s fees, (2) Class Counsel’s costs, (3) Settlement
18 Administration Costs, (4) Class Representative Enhancement Payments to Plaintiffs; and (5) the
19 PAGA Payment to the LWDA and PAGA Members.

20 21. “Notice” means the Notice of Class Action Settlement in a form substantially
21 similar to the form attached hereto as **Exhibit A** that will be mailed to Class Members’ last known
22 addresses, and which will provide Class Members with information regarding the Action and
23 information regarding the settlement of the Action.

24 22. “PAGA” means the California Labor Code Private Attorneys General Act of 2004
25 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”).

26 23. “PAGA Payment” means the Thirty-Five Thousand Dollars and Zero Cents
27 (\$35,000.00) of the Gross Settlement Amount allocated towards the settlement of claims pursuant
28 to PAGA, which amount is inclusive of payment to the LWDA for its sixty-five percent (65%)

1 share of the total amount allocated toward penalties under the PAGA (i.e., \$22,750) and payments
2 to the PAGA Members of their (35%) share of the total amount allocated toward penalties under
3 PAGA (i.e., \$12,250), all of which are to be paid from the Gross Settlement Amount. The Twelve
4 Thousand Two Hundred Fifty Dollars and Zero Cents (\$12,250.00) that will be distributed to
5 PAGA Members will be so distributed on a *pro rata* basis, based on the Pay Periods worked by
6 each PAGA Member within the PAGA Period. If the PAGA Payment is approved by the Court,
7 PAGA Members will receive payment from the employee portion of the PAGA Payment, and will
8 be deemed to be precluded from obtaining further PAGA penalties regarding any of the Released
9 PAGA Claims, regardless of whether they are Participating Class Members or not.

10 24. “PAGA Period” means the period from October 2, 2023, through and ending on
11 April 1, 2025.

12 25. “PAGA Members” means all current and former non-exempt employees of
13 Defendants employed in the State of California at any time during the PAGA Period.

14 26. “Parties” means Plaintiffs and Defendants and “Party” shall mean either Plaintiffs
15 or Defendants, individually.

16 27. “Participating Class Members” means all Class Members who do not submit a valid
17 and timely Request for Exclusion. No claim form is required for a Class Member to become a
18 Participating Class Member.

19 28. “Pay Period” shall mean any bi-weekly pay period during which a PAGA Member
20 was employed by Defendants for at least one day during the PAGA Period.

21 29. “Plaintiffs” mean Gabriel Perez and Rigoel Garcia-Fuentes.

22 30. “Preliminary Approval” means the Court Order granting Preliminary Approval of
23 the Settlement Agreement.

24 31. “Objection” means a Class Member’s valid and timely written objection to the
25 Settlement Agreement. For a written Objection to be valid, it must be submitted by the Response
26 Deadline and include: (a) the objector’s full name, signature, address, telephone number, the
27 approximate dates of employment at Defendants in California, last four digits of the Class
28 Member’s Social Security number or employee ID number; (b) the case name and number (i.e.,

1 *Perez, et al. v. Kimberlite Corporation, et al.*, Alameda County Superior Court Case No.
2 24CV073959); (c) a written statement of all grounds for the objection accompanied by legal
3 support, if any, for such objection; (d) copies of any papers, briefs, or other documents upon which
4 the objection is based, if any; and (e) a statement describing whether the objector intends to appear
5 at the Final Approval Hearing, either in person or through counsel at the objector's expense.

6 32. "Released Class Claims" means all claims, rights, demands, liabilities and causes
7 of action that are alleged, or reasonably could have been alleged, based on the facts in the operative
8 complaint in the Action, including factual claims regarding Defendants' alleged: (i) failure to pay
9 all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or
10 compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof;
11 (iv) failure to pay wages timely at time of termination or resignation; (v) failure to provide timely
12 pay wages during employment; (vi) failure to provide complete, accurate wage statements; (vii)
13 failure to reimburse business expenses; and (viii) unfair business practices. This release shall apply
14 to Released Class Claims arising during the Class Period.

15 33. "Released PAGA Claims" means all claims under the California Labor Code
16 Private Attorneys General Act of 2004 for civil penalties that were identified in the LWDA Letter,
17 or which could have been alleged premised on the facts in the LWDA Letter.

18 34. "Released Parties" means Defendants Kimberlite Corporation and Sonitrol
19 Security, Inc. as named by Plaintiffs in the operative complaint and any related entities, and their
20 past, present and/or future, officers, directors, members, investors.

21 35. "Request for Exclusion" means a valid and timely written statement submitted by
22 a Class Member requesting to be excluded from the Action. To be effective, the Request for
23 Exclusion must be in writing, submitted by the Response Deadline, and include: (a) the Class
24 Member's name, signature, address, telephone number, approximate dates of employment with
25 Defendants in California, and the last four digits of the Class Member's Social Security number
26 and/or the Employee ID number (b) the case name and number (i.e., *Perez, et al. v. Kimberlite*
27 *Corporation, et al.*, Alameda County Superior Court Case No. 24CV073959); and (c) a clear
28 statement requesting to be excluded from the settlement of the Released Class Claims similar to

1 the following: “I wish to exclude myself from the class settlement reached in the matter of *Gabriel*
2 *Perez, et al. v. Kimberlite Corporation, et al., Alameda County Case No. 24CV073959*, I
3 understand that by excluding myself, I will not receive money from the settlement and will not
4 release the Released Class Claims.” To be effective, the Request for Exclusion must be post-
5 marked by the Response Deadline and received by the Settlement Administrator. PAGA Members
6 have no right to exclude themselves from (or opt-out of) the release of Released PAGA Claims or
7 distribution of the employee portion of the PAGA Payment under the Settlement.

8 36. “Response Deadline” shall be sixty (60) calendar days after the Settlement
9 Administrator initially mails Notice to Class Members and the last date on which Class Members
10 may submit Requests for Exclusion, Objections, or Workweek Disputes. The Response Deadline
11 for Requests for Exclusion or Objections will be extended fifteen (15) calendar days for any Class
12 Member who is re-mailed a Notice by the Settlement Administrator. In the event the Response
13 Deadline falls on a Sunday or Federal holiday, the Response Deadline will be extended to the next
14 day on which the U.S. Postal Service is open. The Response Deadline may also be extended by
15 express agreement between Class Counsel and Defendants. Under no circumstances, however, will
16 the Settlement Administrator have the authority to unilaterally extend the deadline for Class
17 Members to submit a Request for Exclusion or Objection to the Settlement.

18 37. “Settlement” means the disposition of the Action pursuant to this Agreement.

19 38. “Settlement Administrator” means Apex Class Action LLC. The Parties each
20 represent that they do not have any financial interest in the Settlement Administrator or otherwise
21 have a relationship with the Settlement Administrator that could create a conflict of interest.

22 39. “Settlement Administration Costs” mean the costs payable from the Gross
23 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
24 but not limited to, printing, distributing, and tracking documents for this Settlement,
25 calculating/confirming the Class Members’ Workweeks and PAGA Members’ Pay Periods from
26 the information contained in the Class List, calculating each Participating Class Member’s
27 Individual Settlement Payment, tax reporting, distributing the Gross Settlement Amount, providing
28 necessary reports and declarations, and other duties and responsibilities set forth herein to process

1 this Settlement, and as requested by the Parties. Settlement Administration Costs shall not exceed
2 Ten Thousand Dollars (\$10,000).

3 40. "Workweek" shall mean any calendar week during which a Class Member was
4 employed at least one (1) day by Defendants during the Class Period, based on hire dates, re-hire
5 dates and termination dates.

6 **TERMS OF AGREEMENT**

7 41. Settlement Consideration: Defendants shall fund the Gross Settlement Amount and
8 all applicable employer-side payroll taxes following Final Approval by the Court and the
9 occurrence of the Effective Date, within fourteen (14) calendar days. The following will be paid
10 out of the Gross Settlement Amount: the sum of the Individual Settlement Payments, the Class
11 Representative Enhancement Payments, Class Counsel's Fees and Costs, the PAGA Payment, and
12 the Settlement Administration Costs, as specified in this Agreement. Except for any employer-
13 side taxes due on the Individual Settlement Payments, or as a result of a potential increase in the
14 number of Workweeks as set forth below in paragraph 42, Defendants shall not be required to pay
15 more than the Gross Settlement Amount plus any applicable employer-side payroll taxes. The
16 Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Amount will
17 revert to Defendants.

18 42. Potential Increase to the Gross Settlement Amount: Defendants represented there
19 were approximately 20,801 Workweeks (worked by approximately 184 Class Members) within
20 the Class Period. Should the actual number of Workweeks increase by more than ten percent (10%)
21 (*i.e.* by more than 2080 additional Workweeks) through the Class Period, Defendants shall increase
22 the Gross Settlement Amount on a *pro-rata* basis equal to the percentage increase in the total
23 number of Workweeks worked by the Class Members above Ten Percent (10%).

24 43. Funding of the Gross Settlement Amount: Within fourteen (14) calendar days of
25 the Effective Date of the Settlement, as defined in this Agreement, Defendants will deposit the
26 Gross Settlement Amount and all applicable employer-side payroll taxes into a Qualified
27 Settlement Fund ("QSF") to be established by the Settlement Administrator. Defendants shall
28 provide all information necessary for the Settlement Administrator to calculate necessary payroll

1 taxes including their official name(s), 8-digit state unemployment insurance tax ID number, and
2 other information requested by the Settlement Administrator, no later than fourteen (14) calendar
3 days after the Effective Date. This information shall be kept confidential from Plaintiffs.
4 Defendants may not vary from the Court approved scheduling for the funding of the Gross
5 Settlement Amount unless the Parties agree otherwise; it is not anticipated there would be a need
6 to alter the funding date. If Defendants have an objection to the Court approved funding timeline,
7 Defendants must seek *ex parte* relief from the Court about their objection, unless Plaintiffs agree
8 with Defendants otherwise.

9 44. Distribution of the Gross Settlement Amount: No later than fourteen (14) calendar
10 days after the funding of the Settlement, the Settlement Administrator will issue payments for: (a)
11 Individual Settlement Payments to Participating Class Members; (b) Individual PAGA Payments
12 to PAGA Members; (c) the LWDA portion of the PAGA Payment to the LWDA; (d) the Class
13 Representative Enhancement Payments to Plaintiffs; (e) Class Counsel's Fees and Costs to Class
14 Counsel; and (f) Settlement Administration Costs to the Settlement Administrator.

15 45. Class Counsel's Fees and Costs: Defendants agree not to oppose any application or
16 motion by Class Counsel for attorneys' fees of not more than Two Hundred Ninety Seven
17 Thousand Five Hundred Dollars and Zero Cents (\$297,500.00) plus the reimbursement of
18 reasonable costs and expenses associated with the litigation and settlement of the Action, in an
19 amount up to Thirty Thousand Dollars and Zero Cents (\$30,000.00), both of which will be paid
20 from the Gross Settlement Amount. Any portion of the requested fees or costs that is not awarded
21 to the Class Counsel shall be reallocated to the Net Settlement Amount and distributed to
22 Participating Class Members as provided in this Agreement.

23 46. Class Representative Enhancement Payments: Defendants agree not to oppose or
24 object to any application or motion by Plaintiffs for Class Representative Enhancement Payments
25 of Ten Thousand Dollars and Zero Cents (\$10,000.00) *each* to Plaintiffs Perez and Garcia-Fuentes.
26 The Class Representative Enhancement Payments are in exchange for the General Release of the
27 Plaintiffs' individual claims and for their time, effort and risk in bringing and prosecuting the
28 Action. Any portion of the requested Class Representative Enhancement Payments that are not

1 awarded to the Class Representatives shall be reallocated to the Net Settlement Amount and
2 distributed to Participating Class Members as provided in this Agreement.

3 47. Settlement Administration Costs: The Settlement Administrator will be paid for the
4 reasonable costs of administration of the Settlement and distribution of payments from the Gross
5 Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall
6 not exceed Ten Thousand Dollars and Zero Cents (\$10,000.00).

7 48. PAGA Payment: Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00) shall
8 be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under
9 PAGA. The Settlement Administrator shall pay sixty-five percent (65%) of the PAGA Payment,
10 or Twenty-Two Thousand Seven Hundred Fifty Dollars and Zero Cents (\$22,750.00), to the
11 LWDA and the remaining thirty-five percent (35%), or Twelve Thousand Two Hundred Fifty
12 Dollars and Zero Cents (\$12,250.00), will be distributed to PAGA Members on a *pro rata* basis
13 based on the total number of Pay Periods they were employed by Defendants during the PAGA
14 Period. PAGA Members shall receive their portion of the PAGA Payment and will be deemed to
15 be precluded from obtaining further PAGA penalties regarding the Released PAGA Claims
16 regardless of their status as Participating Class Members.

17 49. Net Settlement Amount for Payment of Class Claims: The Net Settlement Amount
18 will be used to satisfy the class portion of Participating Class Members' Individual Settlement
19 Payments in accordance with the terms of this Agreement. The estimated Net Settlement Amount
20 is as follows:

21	Gross Settlement Amount	\$	850,000.00
22	Enhancement Payments:	\$	20,000.00
23	Class Counsel's Fees:	\$	297,500.00
24	Class Counsel's Costs:	\$	30,000.00
25	PAGA Payment	\$	35,000.00
26	Settlement Administration Costs:	\$	10,000.00
27	Estimated Net Settlement Amount	\$	457,500.00

1 50. Individual Settlement Payment Calculations: Individual Settlement Payments will
2 be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein:

3 a) Calculation of Individual Settlement Payments: The Settlement
4 Administrator will calculate the total Workweeks for all Participating Class Members by adding
5 the number of Workweeks of each Participating Class Member. The respective Workweeks for
6 each Participating Class Member will be divided by the total Workweeks for all Participating Class
7 Members, resulting in the Payment Ratio for each Participating Class Member. Each Participating
8 Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate
9 each Participating Class Member's estimated share of the Net Settlement Amount: (Participating
10 Class Member's Workweeks ÷ total Workweeks) × Net Settlement Amount.

11 b) Calculation of Individual PAGA Payments: The Settlement
12 Administrator will calculate the total Pay Periods for all PAGA Members by adding the number
13 of Pay Periods of each PAGA Member. The respective Pay Periods for each PAGA Member will
14 be divided by the total Pay Periods, resulting in the Payment Ratio for each PAGA Member. Each
15 PAGA Member's Payment Ratio will then be multiplied by the employee portion of the PAGA
16 Payment to calculate each PAGA Member's estimated share of the PAGA Payment: (PAGA
17 Member's Pay Periods ÷ total Pay Periods) x \$12,250.00 (the employee portion of the PAGA
18 Payment). PAGA Members shall receive their Individual PAGA Payment and will be deemed to
19 be precluded from obtaining further PAGA penalties regarding the Released PAGA Claims
20 regardless of whether their status as Participating Class Members.

21 c) Allocation of Individual Settlement Payments: The Individual
22 Settlement Payments paid from the Net Settlement Amount will be allocated as follows: twenty
23 percent (20%) as wages, thirty percent (30%) as interest, and fifty percent (50%) as penalties and
24 non-wage damages. The Individual PAGA Payments paid from the employee portion of the PAGA
25 Payment will be allocated one hundred percent (100%) as penalties. The portion of the Individual
26 Settlement Payment allocated to wages will be reported by the Settlement Administrator on an IRS
27 Form W-2. The remaining non-wage portion, and the Individual PAGA Payments, will be reported
28 on an IRS Form-1099 by the Settlement Administrator. Individual Settlement Payments shall be

1 paid exclusively from the QSF, pursuant to the settlement formula set forth herein. Neither
2 Counsel for Plaintiffs nor Defendants intends anything contained in this Agreement to constitute
3 advice regarding taxes or taxability, nor shall anything in this Agreement be relied upon as such
4 within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as
5 amended) or otherwise.

6 51. No Credit Toward Benefit Plans: The Individual Settlement Payments made to
7 Participating Class Members and/or PAGA Members under this Settlement, as well as any other
8 payments made pursuant to this Settlement, will not modify any previously credited hours or
9 service under any employee benefit plan, policy, or bonus program sponsored by the Released
10 Parties. Such amounts will not form the basis for additional contributions to, benefits under, or any
11 other monetary entitlement under the Released Parties' sponsored benefit plans, policies, or bonus
12 programs. The payments made under the terms of this Stipulation shall not be applied retroactively,
13 currently, or on a going forward basis, as salary, earnings, wages, or any other form of
14 compensation for the purposes of the Released Parties' benefit plans, policies, or bonus programs.
15 The Released Parties retain the right to modify the language of their benefit plans, policies and
16 bonus programs to effectuate this intent, and to make clear that any amounts paid pursuant to this
17 Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring
18 term as defined by applicable plans, policies and bonus programs for purposes of eligibility,
19 vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not
20 required by this Settlement.

21 52. Settlement Administration Process: The Parties agree to cooperate in the
22 administration of the Settlement and to make all reasonable efforts to control and minimize the
23 costs and expenses incurred in administration of the Settlement. The Settlement Administrator will
24 provide the following services, in addition to any other task which may be required of it to facilitate
25 the administration of the Settlement:

26 a) Establish and maintain a Qualified Settlement Fund.

27 b) Calculate the Individual Settlement Payment each Participating Class Member and
28 the Individual PAGA Payment to each PAGA Member is eligible to receive.

1 c) Print and mail the Notice.

2 d) Conduct additional address searches for mailed Notices that are returned as
3 undeliverable.

4 e) Process Requests for Exclusion, Objections, and Workweek Disputes and field
5 inquiries from Class Members.

6 f) Print and issue Individual Settlement Payment checks, and/or Individual PAGA
7 Payment checks, remit payment of Class Counsel's Fees and costs, Settlement
8 Administration Costs, Class Representative Enhancement Payments, and LWDA
9 portion of the PAGA Payment, and prepare IRS W2 and 1099 Tax Forms and any
10 other filings required by any governmental taxing authority as necessary.

11 g) Provide declarations and/or other information to this Court as requested by the
12 Parties and/or the Court regarding the settlement administration process.

13 h) Provide weekly status reports to counsel for the Parties.

14 i) Post a notice of final judgment online at Settlement Administrator's website.

15 53. Delivery of the Class List: Within ten (10) calendar days of Preliminary Approval,
16 Defendants will provide the Class List to the Settlement Administrator, which will be kept
17 confidential from Plaintiffs and Class Counsel.

18 54. Notice by First-Class U.S. Mail: Within seven (7) calendar days after receiving the
19 Class List from Defendants, the Settlement Administrator will mail the Notice to all Class
20 Members via regular First-Class U.S. Mail, using the most current, known mailing addresses
21 identified in the Class List.

22 55. Confirmation of Contact Information in the Class List: Prior to mailing, the
23 Settlement Administrator will perform a search based on the National Change of Address Database
24 for information to update and correct for any known or identifiable address changes. Any Notice
25 returned to the Settlement Administrator as non-deliverable on or before the Response Deadline
26 will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto
27 and the Settlement Administrator will indicate the date of such re-mailing on the Notice. If no
28 forwarding address is provided, the Settlement Administrator will promptly attempt to determine

1 the correct address using a skip-trace, or other search using the name, address telephone number
2 and/or Social Security number of the Class Member involved and will then perform a single re-
3 mailing. If any notice sent to a Class Member by the Settlement Administrator is returned as
4 undeliverable to a current employee, then Defendants shall make all reasonable efforts to obtain
5 the current address from the Class Member and provide the same within seven (7) calendar days
6 of notice from the Settlement Administrator. Those Class Members who receive a re-mailed
7 Notice, whether by skip-trace or by request, will have their Response Deadline extended by an
8 additional fifteen (15) calendar days pursuant paragraph 36.

9 56. Notice: All Class Members will be mailed a Notice. Each Notice will provide: (a)
10 information regarding the nature of the Action; (b) a summary of the Settlement’s principal terms;
11 (c) the Class definition; (d) each respective Class Member’s number of allocated Workweeks and
12 Pay Periods (if applicable); (e) each Class Member’s estimated Individual Settlement Payment and
13 the formula for calculating Individual Settlement Payments; (f) each PAGA Member’s Individual
14 PAGA Payment and the formula for calculating Individual PAGA Payments; (g) the dates which
15 comprise the Class Period and the PAGA Period; (h) the deadlines by which the Class Member
16 must postmark Requests for Exclusion, Objections, or Workweek Disputes; (i) the Released Class
17 Claims and Released PAGA Claims, as set forth herein; and (j) the date for the final approval
18 hearing.

19 57. Workweek Disputes: Class Members will have an opportunity to dispute the
20 number of Workweeks allocated to them in their Notice. To the extent Class Members dispute the
21 number of Workweeks with which they have been credited, Class Members may submit a written
22 dispute regarding the number of workweeks (“Workweek Dispute”). A Workweek Dispute must
23 be in writing, submitted by the Response Deadline, and contain: (a) the Class Member’s name,
24 signature, address, telephone number, approximate dates of employment with Defendants in
25 California, and the last four digits of the Class Member’s Social Security number and/or the
26 Employee ID number (b) the case name and number (i.e., *Perez, et al. v. Kimberlite Corporation,*
27 *et al.*, Alameda County Superior Court Case No. 24CV073959); (c) a clear statement regarding the
28 number of Workweeks the Class Members contends is correct; and (d) any physical written

1 evidence the Class Member has to support their contention. Absent evidence rebutting Defendants'
2 records, Defendants' records will be presumed determinative. However, if a Class Member
3 produces evidence to the contrary by the Response Deadline, the Parties will evaluate the evidence
4 submitted by the Class Member and the Parties will make the final decision as to the number of
5 Workweeks that should be allocated to the Class Member, in the event that the Settlement
6 Administrator cannot make this determination themselves. If the Parties do not agree, the dispute
7 will be submitted to the Court.

8 58. Request for Exclusion Procedures: Any Class Member wishing to opt-out from the
9 Action must submit a timely and valid Request for Exclusion. All Requests for Exclusion will be
10 submitted to the Settlement Administrator, who will certify jointly to Class Counsel and
11 Defendants' Counsel Requests for Exclusion that were timely submitted. All Class Members who
12 do not request exclusion from the Action will be bound by all terms of the Settlement Agreement
13 and will be considered Participating Class Members if the Settlement is granted final approval by
14 the Court and the Effective Date has lapsed under this Agreement. PAGA Members do not have
15 the right to request exclusion from the release of Released PAGA Claims.

16 59. Defective Submissions: If a Class Member's Request for Exclusion is defective as
17 to the requirements listed herein, that Class Member will be given an opportunity to cure the
18 defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3)
19 business days of receiving the defective submission to advise the Class Member that his or her
20 submission is defective and that the defect must be cured to render the Request for Exclusion valid.
21 The Class Member will have their Response Deadline extended by an additional fifteen (15)
22 calendar days pursuant paragraph 36 to postmark a revised Request for Exclusion. If a Class
23 Member responds to a cure letter by submitting another defective Request for Exclusion, then the
24 Settlement Administrator will have no further obligation to give notice of a need to cure. If the
25 revised Request for Exclusion is not postmarked by the applicable Response Deadline, it will be
26 deemed untimely.

1 60. Defendants' Right to Rescind: If Class Members representing more than the
2 aggregate total of ten percent (10.0%) of the Class opt-out of the Settlement, Defendants may, at
3 their election, rescind the Settlement Agreement and all actions taken in furtherance of it will be
4 thereby null and void. Defendants shall meet and confer with Plaintiffs' Counsel before
5 withdrawing from the Settlement pursuant to this provision. If Defendants exercise their right to
6 rescind the Agreement, Defendants shall be responsible for all Settlement Administration Costs
7 incurred to the date of rescission. In such a case, the Parties, and any funds to be awarded under
8 this Settlement, shall be returned to their respective statuses as of the date and time immediately
9 prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this
10 Settlement Agreement had not been executed, except that any fees already incurred by the
11 Settlement Administrator shall be paid by Defendants.

12 61. Settlement Terms Bind All Class Members Who Do Not Opt-Out: Upon the
13 Effective Date and complete funding of the Gross Settlement Amount, any Class Member who
14 does not submit a timely and valid Request for Exclusion will be bound by all of its terms,
15 including the release of the Released Class Claims, as well as any Judgment that may be entered
16 by the Court if it grants final approval to the Settlement. Class Members who opt-out of the
17 Settlement shall not be bound by such Judgment or release of Released Class Claims. The names
18 of Class Members who have opted-out of the settlement shall be disclosed to the Counsel for both
19 Plaintiffs and Defendants and noted in the proposed Judgment submitted to the Court.

20 62. Objection Procedures: To object to the Settlement, a Participating Class Member
21 must submit a timely and valid Objection to the Settlement Administrator. The postmark date will
22 be deemed the exclusive means for determining that the Objection is timely. Participating Class
23 Members who fail to object in the manner specified above will be foreclosed from making a written
24 objection, but shall still have a right to appear at the Final Approval Hearing in order to have their
25 objections heard by the Court. At no time will any of the Parties or their counsel seek to solicit or
26 otherwise encourage Participating Class Members to submit written Objections to the Settlement
27 or appeal from the Order and Judgment. Class Counsel will not represent any Class Members with
28 respect to any objections to this Settlement.

1 63. Certification Reports Regarding Individual Settlement Payment Calculations: The
2 Settlement Administrator will provide Defendants’ Counsel and Class Counsel a weekly report
3 which certifies: (a) the number of Class Members who have submitted valid Requests for
4 Exclusion; (b) the number of Notices returned and re-mailed and (c) whether any Class Member
5 has submitted a Workweek Dispute. Additionally, the Settlement Administrator will provide to
6 counsel for both Parties any updated reports regarding the administration of the Settlement
7 Agreement as needed or requested.

8 64. Uncashed Settlement Checks: Any checks issued by the Settlement Administrator
9 to Participating Class Members and PAGA Members will be negotiable for at least one hundred
10 eighty (180) calendar days. Pursuant to CCP § 384 and the Parties’ agreement, after the expiration
11 of the 180-day period, on Defendants’ behalf, the Settlement Administrator shall remit any
12 amounts from Voided Settlement Checks and otherwise unclaimed funds (the “Residue”), plus any
13 interest earned on the Residue to Legal Aid at Work (“LAAW”) hereafter referred to as the “Cy
14 Pres Recipient.” The Parties agree that this disposition results in no “unpaid residue” under
15 California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to
16 Participating Class Members and PAGA Members, whether or not they all cash their Settlement
17 Checks or PAGA payment checks. Therefore, Defendants will not be required to pay any interest
18 on such amounts. The Individual Settlement Payments provided to Participating Class Members
19 and Individual PAGA Payments to PAGA Members shall prominently state the expiration date or
20 a statement that the Settlement Check will expire in one hundred eighty (180) days, or alternatively,
21 such a statement may be made in a letter accompanying the Individual Settlement
22 Payment/Individual PAGA Payment. Expired Individual Settlement Payments/Individual PAGA
23 Payments will not be reissued, except for good cause and as mutually agreed by the Parties in
24 writing. The Parties agree no unclaimed funds will result from the Settlement.

25 65. Administration of Taxes by the Settlement Administrator: The Settlement
26 Administrator will be responsible for issuing to Plaintiffs, Participating Class Members, and Class
27 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant
28

1 to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll
2 taxes and penalties to the appropriate government authorities.

3 66. Tax Liability: Defendants make no representation as to the tax treatment or legal
4 effect of the payments called for hereunder, and Plaintiffs and Participating Class Members are not
5 relying on any statement, representation, or calculation by Defendants or by the Settlement
6 Administrator in this regard. Plaintiffs and Participating Class Members understand and agree that
7 they will be solely responsible for the payment of any taxes and penalties assessed on the payments
8 described herein. Defendants' share of any employer payroll taxes and other required employer
9 withholdings due on the Individual Settlement Payments, including, but not limited to, Defendant's
10 FICA and FUTA contributions, shall be paid separately and apart from the Gross Settlement
11 Amount.

12 67. Circular 230 Disclaimer: Each Party to this Agreement (for purposes of this section,
13 the "acknowledging party" and each Party to this Agreement other than the acknowledging party,
14 an "other party") acknowledges and agrees that: (1) no provision of this Agreement, and no written
15 communication or disclosure between or among the Parties or their attorneys and other advisers,
16 is or was intended to be, nor shall any such communication or disclosure constitute or be construed
17 or be relied upon as, tax advice within the meaning of United States Treasury Department circular
18 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon
19 his, her or its own, independent legal and tax counsel for advice (including tax advice) in
20 connection with this Agreement, (b) has not entered into this Agreement based upon the
21 recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not
22 entitled to rely upon any communication or disclosure by any attorney or advisor to any other Party
23 to avoid any tax penalty that may be imposed on the acknowledging party, and (3) no attorney or
24 adviser to any other Party has imposed any limitation that protects the confidentiality of any such
25 attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon
26 disclosure by the acknowledging party of the tax treatment or tax structure of any transaction,
27 including any transaction contemplated by this Agreement.

1 68. No Prior Assignments: The Parties and their counsel represent, covenant, and
2 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to
3 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
4 action, cause of action or right herein released and discharged.

5 69. Release by Participating Class Members: Upon the Effective Date and the full
6 funding of the Gross Settlement Amount and all applicable employer-side payroll taxes,
7 Participating Class Members shall fully and finally release and discharge the Released Parties from
8 the Released Class Claims. This release shall be binding on all Participating Class Members.

9 70. Release by State of California and the LWDA : Upon the Effective Date and full
10 funding of the Gross Settlement Amount and all applicable employer-side payroll taxes, the
11 LWDA and the State of California, through Plaintiff Garcia-Fuentes as their agent and/or proxy,
12 shall fully and finally release and discharge the Released Parties from the Released PAGA Claims.
13 The Parties intend for this Settlement to have claim preclusion, issue preclusion, or otherwise bar
14 a representative action to the broadest extent possible by law if an aggrieved employee were to
15 bring a subsequent claim on behalf of the LWDA based on the Released PAGA Claims.

16 71. Release of Additional Claims & Rights by Plaintiffs: Upon the Effective Date and
17 full funding of the Gross Settlement Amount and all applicable employer-side payroll taxes,
18 Plaintiffs for each of themselves and their spouse(s), heirs and assigns, fully and finally release the
19 Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises,
20 agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses,
21 debts, penalties and expenses of any nature and description whatsoever, known or unknown,
22 suspected or unsuspected, asserted or that might have been asserted, whether in tort, contract,
23 equity, or otherwise, arising out of Plaintiffs' employment with Defendants, payment of wages
24 during that employment and the cessation of that employment and/or violation of any federal, state
25 or local statute, rule, ordinance or regulation. Such claims include but are not limited to any and
26 all Released Class Claims and Released PAGA Claims and termination thereof, California Civil
27 Code, to include §§3287, 3336 and 3294; 12 CCR §11040; 8 CCR § 11060; California Code of
28 Civil Procedure §1021.5; California common law of contract; 29 CFR §778.223; and 29 CFR

1 §778.315; federal common law and, to the extent permitted by law, the Employee Retirement
2 Income Security Act, 29 U.S.C. §§1001, *et seq.* (ERISA) §778.315; and federal common law. In
3 addition, Plaintiffs’ General Release includes but is not limited to, all claims for lost wages and
4 benefits, emotional distress, retaliation, restitution, penalties, punitive damages, and attorneys’
5 fees and costs (except those provided by this Settlement Agreement) arising under federal, state,
6 or local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way
7 of example only, (as amended) 42 U.S.C. §1981, Title VII of the Civil Rights Act of 1964, the
8 Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and
9 the California Fair Employment and Housing Act (FEHA); and the law of contract and tort. This
10 release excludes the release of claims not permitted by law. Plaintiffs’ General Release includes
11 all claims, whether known or unknown. Even if Plaintiffs discover facts in addition to or different
12 from those they now know or believe to be true with respect to the subject matter of Plaintiffs’
13 General Release, those claims will remain released and forever barred to the extent allowed by law
14 (“Plaintiffs’ General Release”). Specifically, Plaintiffs waive all rights and benefits afforded by
15 California Civil Code Section 1542, which provides:

16 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
17 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
18 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
19 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
20 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
21 DEBTOR OR RELEASED PARTY.

22 Notwithstanding the foregoing, Plaintiffs do not waive or release any claim which cannot be
23 waived or released by private agreement. Further, nothing in this Agreement shall prevent
24 Plaintiffs from filing a charge or complaint with, or from participating in, an investigation or
25 proceeding conducted by the SEC, OSHA, EEOC, DFEH, NLRB or any other federal, state or
26 local agency charged with the enforcement of any employment or other applicable laws. Plaintiffs,
27 however, each understand that by signing this Agreement, they waive the right to recover any
28 damages or to receive other relief in any claim or suit brought by or through the EEOC, the DFEH

1 or any other state or local deferral agency on their behalf to the fullest extent permitted by law, but
2 expressly excluding any monetary award or other relief available from the SEC/OSHA, including
3 an SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be waived.

4 72. Nullification of Settlement Agreement: In the event that: (a) the Court does not
5 enter the Preliminary Approval Order and approve the Released Class Claims or Released PAGA
6 Claims specified herein without requiring material changes to the “Basic Settlement Terms”
7 (defined as relating to the monetary sums to be paid in the Settlement, the parameters of the
8 Released Class Claims and Released PAGA Claims and the covered Class Period, revisions to the
9 escalator clause contained herein; and revisions to Defendants’ Option to Nullify the Settlement
10 Agreement provision contained herein); (b) the Court does not finally approve the Settlement
11 without requiring material changes to the Basic Settlement Terms as provided herein; (c) the Court
12 strikes or does not approve any Basic Settlement Term of this Settlement Agreement; (d)
13 Defendants exercise their option to nullify the Settlement Agreement based on an excessive
14 number of opt-outs, as described in the above; or (e) the Settlement does not become final as
15 written and agreed to by the Parties for any other reason, then this Settlement Agreement, and any
16 documents generated to bring it into effect, will be null and void, all amounts deposited into the
17 QSF will be returned to Defendants, and the Parties shall be returned to their original respective
18 positions. Any order or judgment entered by the Court in furtherance of this Settlement Agreement
19 will likewise be treated as void from the beginning and the Stipulations and Recitals contained
20 herein shall be of no force or effect and shall not be treated as an admission by the Parties or their
21 counsel. Should the Court fail to approve this Settlement for any reason, the Parties agree that they
22 will return to and attend mediation with a mutually agreed Mediator in an effort to reach a
23 settlement that may be approved by the Court, unless the Parties are able to resolve the issue
24 without resort to a mediator.

25 73. Preliminary Approval Hearing: Plaintiffs will obtain a hearing before the Court to
26 request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary
27 Approval Order for: (a) conditional certification of the Class for settlement purposes only, (b)
28 Preliminary Approval of the Settlement Agreement, and (c) setting a date for a Final

1 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the
2 Notice to be sent to all Class Members as specified herein. In conjunction with the Preliminary
3 Approval hearing, Plaintiffs will submit this Agreement, which sets forth the terms of the
4 Settlement, and will include the proposed Notice attached as **Exhibit A**. Defendants agree that
5 they will not oppose Plaintiffs' motion for Preliminary Approval. Any failure by the Court to fully
6 and completely approve the Agreement as to the Action will result in this Settlement Agreement,
7 and all obligations under this Settlement Agreement being nullified and voided.

8 74. Final Settlement Approval Hearing and Entry of Judgment: Upon expiration of the
9 Response Deadline, and with the Court's permission, a Final Approval/Settlement Fairness
10 Hearing will be conducted to determine the Final Approval of the Settlement Agreement along
11 with the amounts properly payable for: (a) Individual Settlement Payments; (b) Class Counsel's
12 Fees and Costs; (c) the Class Representative Enhancement Payments; (d) the Settlement
13 Administration Costs; and (e) the PAGA Payment. Any failure by the Court to fully and completely
14 approve the Settlement Agreement as to all of the Action, or the entry of any Order by another
15 Court with regard to any of the Action which has the effect of modifying material terms of this
16 Agreement as described above or preventing the full and complete approval of the Settlement
17 Agreement as written and agreed to by the Parties, will result in this Agreement and all obligations
18 under this Agreement being null and void. Defendants agree they shall not oppose the granting of
19 the Motion for Final Approval, provided Defendants have not exercised their right to rescind
20 pursuant to the terms of this Agreement.

21 75. Judgment and Continued Jurisdiction: Upon Final Approval of the Settlement by
22 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
23 Judgment to the Court for its approval. After entry of the Judgment and Effective Date of this
24 Agreement, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the
25 interpretation and enforcement of the terms of the Settlement, (b) Settlement administration
26 matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth
27 in this Settlement.
28

1 76. Exhibits Incorporated by Reference: The terms of this Settlement include the terms
2 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
3 herein. Any Exhibits to this Settlement are an integral part of the Settlement.

4 77. Entire Agreement: This Settlement Agreement and any attached Exhibits constitute
5 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
6 agreements in relation to settlement terms may be deemed binding on the Parties.

7 78. Amendment or Modification: This Settlement Agreement may be amended or
8 modified only by a written instrument signed by counsel for all Parties or their successors-in-
9 interest.

10 79. Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant
11 and represent they are expressly authorized by the Parties whom they represent to negotiate this
12 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
13 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
14 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
15 counsel will cooperate with each other and use their best efforts to affect the implementation of
16 the Settlement. If the Parties are unable to reach agreement on the form or content of any document
17 needed to implement the Settlement, or on any supplemental provisions that may become
18 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court
19 or Mediator to resolve such disagreement.

20 80. Binding on Successors and Assigns: This Settlement Agreement will be binding
21 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
22 defined.

23 81. California Law Governs: All terms of this Settlement Agreement and Exhibits
24 hereto will be governed by and interpreted according to the laws of the State of California.

25 82. Execution and Counterparts: This Settlement Agreement is subject only to the
26 execution of all Parties. However, the Settlement Agreement may be executed in one or more
27 counterparts. All executed counterparts and each of them, including facsimile and scanned copies
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1 of the signature page, will be deemed to be one and the same instrument provided that counsel for
2 the Parties will exchange among themselves original signed counterparts.

3 83. Acknowledgement that the Settlement is Fair and Reasonable: The Parties believe
4 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have
5 arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation,
6 taking into account all relevant factors, present and potential. The Parties further acknowledge that
7 they are each represented by competent counsel and that they have had an opportunity to consult
8 with their counsel regarding the fairness and reasonableness of this Settlement.

9 84. Invalidity of Any Provision: Before declaring any provision of this Agreement
10 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible
11 consistent with applicable precedents so as to define all provisions of this Agreement valid and
12 enforceable.

13 85. Waiver of Certain Appeals: The Parties agree to waive appeals and to stipulate to
14 class certification for purposes of this Settlement only; except, however, that either party may
15 appeal any court order that materially alters the Settlement Agreement's terms.

16 86. Class Action Certification for Settlement Purposes Only: The Parties agree to
17 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the
18 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
19 that certification for purposes of the Settlement is not an admission that class action certification
20 is proper under the standards applied to contested certification motions and that this Agreement
21 will not be admissible in this or any other proceeding as evidence that either: (a) a class action
22 should be certified or (b) Defendants are liable to Plaintiffs or any Class Member, other than
23 according to the Settlement's terms.

24 87. Non-Admission of Liability: The Parties enter into this Agreement to resolve the
25 dispute that has arisen between them and to avoid the burden, expense and risk of continued
26 litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, they
27 have violated any federal, state, or local law; violated any regulations or guidelines promulgated
28 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached

1 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
2 engaged in any other unlawful conduct with respect to their employees. Neither this Agreement,
3 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed
4 as an admission or concession by Defendants of any such violations or failures to comply with any
5 applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this
6 Agreement and its terms and provisions shall not be offered or received as evidence in any action
7 or proceeding to establish any liability or admission on the part of Defendants or to establish the
8 existence of any condition constituting a violation of, or a non-compliance with, federal, state,
9 local or other applicable law. Except as set forth elsewhere herein, in the event that this Agreement
10 is not approved by the Court, or any appellate court, is terminated, or otherwise fails to be
11 enforceable, Plaintiffs will not be deemed to have waived, limited or affected in any way any
12 claims, rights or remedies, or defenses in the Action, and Defendants will not be deemed to have
13 waived, limited, or affected in any way any of their objections or defenses in the Action. The
14 Parties shall be restored to their respective positions in the Action prior to the entry of this
15 Settlement.

16 88. Captions: The captions and section numbers in this Agreement are inserted for the
17 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
18 provisions of this Agreement.

19 89. Waiver: No waiver of any condition or covenant contained in this Settlement
20 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered
21 to imply or constitute a further waiver by such party of the same or any other condition, covenant,
22 right or remedy.

23 90. Enforcement Action: In the event that one or more of the Parties institutes any legal
24 action or other proceeding against any other Party or Parties to enforce the provisions of this
25 Settlement or to declare rights and/or obligations under this Settlement, the successful Party or
26 Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees
27 and costs, including expert witness fees incurred in connection with any enforcement actions.
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1 91. Neutral Employment Reference: Defendants agree that they will provide a neutral
2 reference regarding any future employment references related to Plaintiffs. In the event that any
3 potential or future employers of Plaintiffs request a reference regarding Defendants' employment
4 of Plaintiffs, Defendants shall only provide Plaintiffs' dates of employment and job titles during
5 employment. Defendants shall not refer to the Action or this Settlement.

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

11 93. Representation By Counsel: The Parties acknowledge that they have been
12 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
13 and that this Agreement has been executed with the consent and advice of counsel and reviewed
14 in full. Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on the
15 Agreement.

16 94. All Terms Subject to Final Court Approval: All amounts and procedures described
17 in this Settlement Agreement herein will be subject to final Court approval.

18 95. Cooperation and Execution of Necessary Documents: The Parties agree to
19 cooperate to promote participation in the Settlement, and in seeking court approval of the
20 Settlement. The Parties and their counsel agree not to take any action to encourage any Class
21 Members to opt out of and/or object to the Settlement. Defendants agree not to obtain any
22 settlement agreement waivers, or Pick-Up Stix agreements from any Class Member prior to the
23 funding of the Gross Settlement Amount concerning claims released via this Agreement, or enter
24 into any arbitration agreement with any Class Member that covers the claims released via this
25 Agreement during the Settlement approval process prior to the funding of the Gross Settlement
26 Amount and that the Parties will work in good faith to reach an agreement approved by the Court.

27 96. Confidentiality: The Parties and their counsel agree to keep the terms of the
28 Settlement confidential until the filing of Plaintiffs' Motion for Preliminary Approval. Plaintiffs,

1 Class Counsel, Defendants and their counsel agree that they will not issue any press releases,
2 initiate any contact with the press, respond to any press inquiry or have any communication with
3 the press about the fact, amount or terms of the Settlement Agreement. Nothing in this Settlement
4 Agreement shall limit Defendants' ability to fulfill disclosure obligations reasonably required by
5 law or in furtherance of business purposes, including the fulfillment of obligations stated in this
6 Settlement Agreement or limit Class Counsel's communications with the Class Members in
7 furtherance of approval of this Settlement.

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

13 98. Submission to the LWDA: The Settlement Agreement shall be submitted by
14 Plaintiffs to the LWDA within the time limits and as prescribed by law.

15
16 **PLAINTIFF PEREZ**

17
18 Dated: _____

_____ Gabriel Perez

19
20 **PLAINTIFF GARCIA-FUENTES**

21
22 Dated: _____

_____ Rigoel Garcia-Fuentes

23
24 **DEFENDANT KIMBERLITE CORPORATION**

25
26 Dated: 8/11/25 _____

27  _____
By: Joev Rao-Russell, President and CEO
28 Kimberlite Corporation

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DEFENDANT SONITROL SECURITY, INC.

Dated: 8/11/2025


By: Joey Rao-Russell, President and CEO
Sonitrol Security, Inc.

APPROVED AS TO FORM ONLY:

BLACKSTONE LAW, APC.

Dated: _____

Jonathan M. Genish
Barbara DuVan-Clarke
*Attorneys for Plaintiffs Perez and
Garcia-Fuentes*

McPHARLIN SPRINKLES & THOMAS LLP

Dated: August 12, 2025


Jeanine DeBacker, Esq.
*Attorneys for Defendants Kimberlite Corporation
and Sonitrol Security, Inc.*

1 Class Counsel, Defendants and their counsel agree that they will not issue any press releases,
2 initiate any contact with the press, respond to any press inquiry or have any communication with
3 the press about the fact, amount or terms of the Settlement Agreement. Nothing in this Settlement
4 Agreement shall limit Defendants' ability to fulfill disclosure obligations reasonably required by
5 law or in furtherance of business purposes, including the fulfillment of obligations stated in this
6 Settlement Agreement or limit Class Counsel's communications with the Class Members in
7 furtherance of approval of this Settlement.

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9 authority to enter into this Settlement, and further intend that this Settlement Agreement will be
10 fully enforceable and binding on all Parties and agree that it will be admissible and subject to
11 disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality
12 provisions that otherwise might apply under federal or state law.

13 98. Submission to the LWDA: The Settlement Agreement shall be submitted by
14 Plaintiffs to the LWDA within the time limits and as prescribed by law.

15
16 **PLAINTIFF PEREZ**

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18 Dated: 08/11/2025

19 
20 _____
21 Gabriel Perez

22 **PLAINTIFF GARCIA-FUENTES**

23 Dated: _____

24 _____
25 Rigoel Garcia-Fuentes

26 **DEFENDANT KIMBERLITE CORPORATION**

27 Dated: _____

28 _____
By: Joey Rao-Russell, President and CEO
Kimberlite Corporation

1 Class Counsel, Defendants and their counsel agree that they will not issue any press releases,
2 initiate any contact with the press, respond to any press inquiry or have any communication with
3 the press about the fact, amount or terms of the Settlement Agreement. Nothing in this Settlement
4 Agreement shall limit Defendants' ability to fulfill disclosure obligations reasonably required by
5 law or in furtherance of business purposes, including the fulfillment of obligations stated in this
6 Settlement Agreement or limit Class Counsel's communications with the Class Members in
7 furtherance of approval of this Settlement.

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

13 98. Submission to the LWDA: The Settlement Agreement shall be submitted by
14 Plaintiffs to the LWDA within the time limits and as prescribed by law.

15
16 **PLAINTIFF PEREZ**

17
18 Dated: _____

Gabriel Perez

19
20 **PLAINTIFF GARCIA-FUENTES**

21
22 Dated: 08/12/2025

Rigoel Garcia-Fuentes

23
24 **DEFENDANT KIMBERLITE CORPORATION**

25
26 Dated: _____

By: Joey Rao-Russell, President and CEO
Kimberlite Corporation

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DEFENDANT SONITROL SECURITY, INC.

Dated: _____

By: Joey Rao-Russell, President and CEO
Sonitrol Security, Inc.

APPROVED AS TO FORM ONLY:

BLACKSTONE LAW, APC.

Dated: 08/12/2025



Jonathan M. Genish
Barbara DuVan-Clarke
*Attorneys for Plaintiffs Perez and
Garcia-Fuentes*

McPHARLIN SPRINKLES & THOMAS LLP

Dated: _____

Jeanine DeBacker, Esq.
*Attorneys for Defendants Kimberlite Corporation
and Sonitrol Security, Inc.*