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Attorneys for Plaintiff and the Putative Class

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

JORDANA LEE KOPIN, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

ORBIT BABY, INC., a Delaware
Corporation; THE ERGO BABY CARRIER,
INC., a Hawaii Corporation; and DOES 1-20,
inclusive,

Defendants.

UNLIMITED JURISDICTION

CASE NO.: RG16813239

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

Assigned for All Purposes to the Honorable Winifred
Smith (Dept. 21)

Action Filed: April 26, 2016
Trial Date: None Set

DOWNEY BRAND LLP

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ORBIT BABY, INC., a Delaware Corporation;

and THE ERGO BABY CARRIER, INC., a Hawaii Corporation

1 **PREAMBLE**

2 This Joint Stipulation of Class Action Settlement and Release of All Claims (the “Stipulation of
3 Settlement” or “Agreement”) is entered into as of December 7, 2017, by and among plaintiff Jordana
4 Lee Kopin (“Named Plaintiff”) and all those on whose behalf she is prosecuting this action (each of
5 them a “Plaintiff” and all of them “Plaintiffs”), on the one hand, and defendants Orbit Baby, Inc. and
6 The ERGO Baby Carrier, Inc. (“Defendants”), on the other hand. All references in this Agreement to a
7 “party” or the “parties” shall refer to a party or the parties to this Agreement.

8 **RECITALS**

9 The Agreement is made with reference to the following facts:

10 A. On or about April 26, 2016, Named Plaintiff filed a putative class action complaint
11 entitled *Jordana Lee Kopin v. Orbit Baby, Inc. and The ERGO Baby Carrier, Inc.*, Alameda County
12 Superior Court Case No. RG16813239, alleging claims for untrue and misleading advertising in
13 violation of California Business & Professions Code section 17500 *et seq.*; unfair, fraudulent and
14 deceptive business practices in violation of Business & Professions Code section 17200 *et seq.*; breach
15 of express warranty in violation of California Commercial Code section 2313; violation of California’s
16 Song-Beverly Consumer Warranty Act; and violation of the California Consumer Legal Remedies Act
17 (California Civil Code section 1750 *et seq.*). Defendants filed a demurrer to the complaint on or about
18 June 3, 2016. In response thereto, on or about June 20, 2016, Named Plaintiff filed a First Amended
19 Complaint alleging claims for untrue and misleading advertising in violation of California Business &
20 Professions Code section 17500 *et seq.*; unfair, fraudulent and deceptive business practices in violation
21 of Business & Professions Code section 17200 *et seq.*; breach of express warranty in violation of
22 California Commercial Code section 2313; violation of California’s Song-Beverly Consumer Warranty
23 Act; and violation of the California Consumer Legal Remedies Act (California Civil Code section 1750
24 *et seq.*) (hereinafter the “Action”).

25 B. In the Action, Named Plaintiff seeks to assert claims on behalf of herself and a class of
26 current and former owners and purchasers of Orbit Baby car seat products, in connection with
27 Defendants’ alleged false, deceptive, and/or misleading representations that the car seat products are
28 free of hazardous chemicals, such as brominated, chlorinated, or other unsafe chemicals.

1 C. On or about September 22, 2016, Defendants filed an answer to the First Amended
2 Complaint, denying generally and specifically all material allegations therein, and raising various
3 affirmative defenses including, among others, Defendants' contention that because Defendant Orbit
4 Baby, Inc. is the entity which designed, manufactured and sold the car seat products and Defendant The
5 ERGO Baby Carrier, Inc. simply owns the stock of Orbit Baby, Inc., for this independent reason
6 Defendant The ERGO Baby Carrier, Inc. was improperly named as a defendant in the Action.

7 D. Prior to the Action, Defendant Orbit Baby, Inc. ceased manufacturing car seats.

8 E. Defendants filed a Notice of Related Case in the Action, and identified the following two
9 cases as related to the Action: (1) *Center for Environmental Health ("CEH") v. Orbit Baby, Inc.*,
10 Alameda County Superior Court Case No. RG16829826 (hereinafter the "CEH Case") and (2) *Spencer*
11 *Price v. Orbit Baby, Inc. and The ERGO Baby Carrier, Inc.*, United States District Court, Central
12 District of California, Case No. 2:16-cv-8849 (hereinafter the "Price Case"). The CEH Case and the
13 Price Case have now been resolved.

14 F. Plaintiffs and Defendants now desire to settle and compromise, on the terms set forth
15 herein, any and all claims between them, including all claims asserted in the Action or which reasonably
16 could have been asserted in the Action. Defendants have entered into this Agreement to resolve any and
17 all controversies and disputes arising out of or relating to the allegations made in the Action, and to
18 avoid the time, burden and expense involved in defending the Action. Plaintiffs have entered into this
19 agreement to liquidate and recover on the claims asserted in the Action, and to avoid the risk, delay, and
20 uncertainty of continued litigation. It is understood and agreed that this Agreement is a compromise of
21 disputed claims which remain contested; that the terms and conditions of this Agreement are in no way
22 to be construed as an admission of liability on the part of any of the parties; and that the parties each
23 deny liability and merely intend, by this Agreement, to avoid further litigation.

1 **AGREEMENT**

2 **NOW, THEREFORE**, in consideration of the foregoing recitals, which are incorporated into and
3 are an integral part of this Agreement, and in consideration of the mutual promises below, the parties
4 agree as follows:

5 **1. DEFINITIONS.** In addition to the definitions contained elsewhere in this Agreement, the
6 following definitions shall apply:

7 (a) “Bar Date” shall be the date set by the Court as the deadline for Class
8 Members to opt-out of, or to object to this Agreement. The Bar Date shall be sixty (60) days after
9 the date the Court designates in the Preliminary Approval/Notice Order that Notice must be
10 delivered to the class members.

11 (b) “Claims Administrator” shall mean Dahl Administration LLC.

12 (c) “Claims Deadline” shall be the date set by the Court as the deadline for
13 Class Members to make claims under the settlement. The Claims Deadline shall be sixty (60)
14 days after the date the Court designates in the Preliminary Approval/Notice Order that Notice
15 must be delivered to the class members.

16 (d) “Claim Form” shall mean the claim form provided for under the terms of
17 this Agreement, as ordered by the Court in its Preliminary Approval/Notice Order, and shall refer
18 to the Claim Forms attached hereto as **Exhibit 2A (to be used for known class members) and**
19 **2B (to be made available to unknown class members).**

20 (e) “Class Counsel” shall mean Heather F. Auyang, James M. Lee, Timothy
21 S. Fox, and David A. Crane of LTL Attorneys LLP and Rana S. Ziaee of Ziaee Law.

22 (f) “Class Period” shall mean the period beginning April 26, 2012 and
23 ending on the date of an order of preliminary approval of the settlement.

24 (g) “Class,” “Class Member,” or “Settlement Class” shall mean any person
25 who, while residing in the State of California, purchased an Orbit Baby car seat for personal use
26 and not for resale at any time during the Class Period. However, the settlement class shall NOT
27 include:
28

- (1) Defendants' respective officers, directors, employees and counsel;
- (2) Class Counsel and members of their families within the first degree of consanguinity;
- (3) All judicial officers and members of their families within the first degree of consanguinity;
- (4) Any person who previously released any claims covered by this Settlement;
- (5) Any person who received a full monetary refund from Defendants for their Orbit Baby car seats; and
- (6) Any person who submits a timely and valid Request for Exclusion as provided in this Agreement.

(h) "Court" shall mean the Superior Court of the State of California, in and for the County of Alameda.

(i) "Defendants' Counsel" shall mean Janlynn Fleener of Downey Brand LLP.

(j) "Effective Date" shall be the day on which the Court enters a Final Approval Order, provided no objections are made to this Agreement. If there are objections to the Agreement and they remain unwithdrawn by the time of entry of the Final Approval Order, then the Effective Date shall be the later of: (1) Sixty (60) days after entry of the Final Approval Order, if no appeals are taken from the Final Approval Order; or (2) if appeals are taken from the Final Approval Order, then the date of termination of such appellate proceedings upholding the Agreement.

(k) "Request for Exclusion" shall mean a written request by a Class Member who elects to opt out of this Agreement.

(l) "Final Approval Hearing Date" shall be the date set by the Court for the hearing on any and all motions for final approval of this Agreement.

(m) “Final Approval Order” shall mean the Order and Judgment approving this Agreement issued by the Court at or after the Final Approval Hearing Date. The parties’ proposed Final Approval Order is attached hereto as **Exhibit 7**.

(n) “Final Report” shall mean the report prepared by the Claims Administrator of all receipts and disbursements from the Settlement Fund, as described in Section 8, below.

(o) “Motion for Final Approval” shall mean the motion or motions filed by Class Counsel, as referenced in Section 5 below.

(p) “Net Settlement Fund” shall mean the net amount of the Settlement Fund after payment of court approved attorneys’ fees and costs, any court approved service award, the costs of Notice and any fees paid to the Claims Administrator.

(q) “Notice” shall mean the notice to Class Members of the settlement provided for under the terms of this Agreement, as ordered by the Court in its Preliminary Approval/Notice Order, and shall refer to the forms of Notice attached hereto as **Exhibit 1A (to be used for known class members)** and **Exhibit 1B (to be made available to unknown class members)**.

(r) “Preliminary Approval/Notice Order” shall mean the Order issued by the Court preliminarily approving this Agreement and authorizing the sending of the Notice to Class Members, as provided in Sections 3 and 4 below.

(s) “Proof of Purchase” shall mean a sales invoice or receipt that indicates or evidences a customer’s purchase of an Orbit Baby infant or toddler car seat(s) from a retailer or directly from Orbit Baby, Inc.

(t) “Settlement Fund” shall mean the nine hundred ninety-five thousand dollars (\$995,000) to be paid by Defendants under the terms of this Agreement. The Settlement Fund shall be the total amount Defendants are obligated to pay to settle and resolve the Action and includes (i) Class Counsel’s fees and costs; (ii) any service award payments to the Named Plaintiff; (iii) costs associated with administering the Notice in accordance with Section 4; and (iv) any fees paid to the Claims Administrator for services rendered in connection with the

administration process. Defendants shall not make any additional or further contributions to the Settlement Fund, even if the total amount of all overcharges exceeds the value of the Net Settlement Fund.

2. CLASS ACTION SETTLEMENT. Named Plaintiff will propose and recommend to the Court that the Action be certified as a class action, with the class comprised of the Class Members. Defendants agree solely for purposes of the settlement provided for in this Agreement, and the implementation of such settlement, that the Action shall proceed as a class action under California Code of Civil Procedure Section 382 and Civil Code Section 1781(b); provided, however, that if a Final Approval Order is not issued, then Defendants shall retain all rights to object to maintaining the Action as a class action. Plaintiff and Class Counsel shall not reference this Agreement in support of any subsequent motion relating to certification of a class.

3. PRELIMINARY SETTLEMENT APPROVAL. As soon as practicable, pursuant to Rule 3.769 of the California Rules of Court, Class Counsel shall file a motion seeking a Preliminary Approval/Notice Order. The Preliminary Approval/Notice Order shall provide for: preliminary approval of this Agreement, provisional certification of a class for settlement purposes, appointment of Class Counsel as counsel to the provisionally certified class, and requirement that the Notice be given to the Class Members as provided in Section 4 below, or as otherwise determined by the Court. Class Counsel will submit a proposed Preliminary Approval Order in substantially the form attached hereto as **Exhibit 8**.

4. NOTICE TO THE CLASS.

(a) ***Spreadsheet of Class Members' Identifying Information.*** No later than fourteen (14) days prior to the hearing on the Preliminary Approval/Notice Order, Defendants shall provide to the Claims Administrator a spreadsheet of the names, last-known addresses, email addresses, and last-known home telephone numbers of Class Members known to the Defendants through, for instance, warranty registrations, online sales or other databases within the possession, custody or control of the Defendants. Defendants shall provide such identifying information to the Claims Administrator in Excel format or other format deemed acceptable by the Claims Administrator.

(b) ***Mailing of Notice to Known Class Members.***

1 (1) Notice and Claim Form shall be mailed to the class by first-class
2 United States mail to the best available mailing addresses for
3 identified Class Members. The Claims Administrator will run the
4 names and addresses through the National Change of Address
5 Registry and update as appropriate. If a mailed Notice is returned
6 with forwarding address information, the Claims Administrator
7 shall re-mail the Notice and Claim Form to the forwarding address.
8 For all mailed Notices and Claim Forms that are returned as
9 undeliverable, the Claims Administrator shall use standard skip
10 tracing devices to obtain forwarding address information and, if the
11 skip tracing yields a different forwarding address, the Claims
12 Administrator shall re-mail the Notice and Claim Form to the
13 address identified in the skip trace, as soon as reasonably practicable
14 after the receipt of the returned mail.

15 (2) The Claims Administrator shall send the Notice and Claim Form by
16 U.S. First Class Mail to Class Members for whom Defendants have
17 provided names, addresses and other identifying information within
18 fourteen (14) days after entry of the Preliminary Approval/Notice
19 Order.

20 (3) The Notice and Claim Form attached hereto as Exhibits 1A and 2A,
21 respectively, shall be used for known class members.

22 (c) ***Emailing of Notice to Known Class Members.*** The Claims Administrator
23 shall send the Notice and Claim Form by email to Class Members for whom Defendants have
24 email addresses within fourteen (14) days after entry of the Preliminary Approval/Notice Order.

25 (d) ***Settlement Website.*** The Notice and Claim Form shall also be posted on
26 a settlement website created by the Claims Administrator via a domain name agreed to by Plaintiff
27 and Defendants (hereinafter the “Settlement Website”). Class Members shall be permitted to
28 submit Claim Forms online through the Settlement Website. The Settlement Website shall be

1 online within 14 days following entry of the Preliminary Approval Order/Notice Order. The
2 Notice and Claim Form attached hereto as Exhibits 1B and 2B, respectively, shall be the form of
3 notice and claim form posted to the Settlement Website.

4 (e) **Press Release.** Within fourteen (14) days after entry of the Preliminary
5 Approval/Notice Order, the Claims Administrator shall publish via PR Newswire the press release
6 attached hereto as **Exhibit 4**.

7 (f) **Web-Based Notice Plan.** Within fourteen (14) days after entry of the
8 Preliminary Approval/Notice Order, the Claims Administrator shall also implement the notice plan
9 described in **Exhibit 5** hereto.

10 (g) **Retailers.** Defendants shall provide the Claims Administrator with a list
11 of California retailers that have sold Orbit Baby car seats during the Class Period by no later than
12 fourteen (14) days prior to the hearing on the Preliminary Approval/Notice Order. Within fourteen
13 (14) days after entry of the Preliminary Approval/Notice Order, the Claims Administrator shall
14 mail a copy of the bulletin attached hereto as **Exhibit 6** to said retailers, for dissemination to their
15 customers as the retailers see fit. As noted in Exhibit 6, the retailers will be expressly informed
16 that the bulletin is informational only and that they are not required to take any action.

17 (h) **Database.** The Claims Administrator shall maintain a database showing
18 addresses to which each Notice and Claim Form was sent and any Notice and Claim Forms that
19 were not delivered, and each claim that was made. A summary report of this information shall be
20 provided to Class Counsel and Defendants' Counsel at least five (5) days prior to the deadline to
21 file the Motion for Final Approval. The database maintained by the Claims Administrator
22 regarding the Notice and Claims shall also be available to the Parties and the Court upon request.

23 (i) **Costs.** All costs associated with publishing, mailing and administering
24 the Notice and Claim Form as provided for in this Section, and all costs of administration,
25 including but not limited to the Claims Administrator's fees and costs, shall be paid out of the
26 Settlement Fund.

(j) **Claims Deadline.** All claims must be postmarked or submitted online through the Settlement Website no later than sixty (60) days after the date the Court designates in the Preliminary Approval/Notice Order that Notice must be delivered to the class members.

5. MOTION FOR FINAL APPROVAL. On the date set forth for the Final Approval Hearing in the Preliminary Approval/Notice Order, a Final Approval Hearing shall be held before the Court in order to consider and determine whether (i) the Court should give this Agreement final approval; (ii) Class Counsel's application for attorneys' fees and costs should be granted; and (iii) any timely objections made and all responses thereto have merit. At the Final Approval Hearing, Named Plaintiff, Class Counsel and Counsel for Defendants shall ask the Court to give final approval to this Agreement. Upon final approval, Class Counsel will submit a proposed Final Approval Order in substantially the form attached hereto as **Exhibit 7**.

6. ENTRY OF JUDGMENT. The Final Approval Order shall constitute the Court's final judgment in this action. The Court shall retain jurisdiction to enforce the terms of the Final Approval Order.

7. THE SETTLEMENT FUND AND DISTRIBUTION.

(a) Within fourteen (14) days after entry of the Preliminary Approval/Notice Order, Defendants shall transfer \$20,000 of the Settlement Fund to the Claims Administrator, as a prepayment toward the estimated direct cost of providing notice of the settlement (hereinafter the "Notice Cost Prepayment"). In the event a Final Approval Order is not issued, the balance (if any) of the Notice Cost Prepayment shall be refunded within two (2) business days to Defendants.

(b) Within ten (10) days after the entry of the Final Approval Order, Defendants shall transfer to the Claims Administrator the balance of the Settlement Fund (that is, the full amount of the Settlement Fund less the Notice Cost Prepayment which will have already been made pursuant to paragraph 7(a) above). In the event a Final Approval Order is not issued, the Settlement Fund (including accrued interest, if any, but less the Notice Cost Prepayment of \$20,000 *or* the actual amount of direct costs incurred by the Claims Administrator in connection

1 with the provision of notice to the Class, if the actual direct costs were less than \$20,000) shall
2 be refunded within two (2) business days to Defendants.

3 (c) All funds held by the Claims Administrator shall be deemed and
4 considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the
5 Court, until distributed pursuant to this Agreement.

6 (d) The following payments of court approved attorneys' fees and costs, any
7 court approved service award, the costs of Notice and any fees paid to the Claims Administrator
8 shall be made from the Settlement Fund as follows, to arrive at the Net Settlement Fund:

9 (1) Plaintiffs' Fees and Costs. Plaintiffs' reasonable attorneys' fees and
10 costs, as determined and approved by the Court, shall be paid from the Settlement
11 Fund. Court approved fees and costs shall be paid to Class Counsel from the
12 Settlement Fund fifteen (15) days after Final Approval. Should the judgment
13 approving the settlement be reversed on appeal, Class Counsel shall immediately
14 repay fees and costs to Defendants; should the award of fees and costs be reduced
15 on appeal, Class Counsel shall immediately repay into the Settlement Fund an
16 amount equal to the reduction ordered by the appellate court. Defendants agree that
17 an attorneys' fees award of up to thirty-five percent (35%) of the Settlement Fund
18 is reasonable, and as such agree not to oppose any application for up to this amount.

19 (2) Service Award. Named Plaintiff will apply to the Court for a service
20 award of up to \$7,500, and Defendants agree this amount is reasonable. Subject to
21 the Court's approval, the service award shall be paid from the Settlement Fund
22 fifteen (15) days after Final Approval.

23 (3) Claims Administrator's Fees. The Claims Administrator's fees and
24 costs, including estimated fees and costs to fully implement the terms of this
25 Agreement, as approved by the Court, shall be paid within fifteen (15) days after
26 the Effective Date.

27 (e) The amount due to each member of the Settlement Class shall be
28 calculated as provided for in this paragraph.

1 (1) The Settlement Class shall first be determined, and shall be comprised
2 of (i) consumers who have been identified by Defendants based on
3 warranty registration cards, online sales or other identifying information
4 within Defendants' possession, custody or control and (ii) consumers who
5 make a timely claim per the terms of this Agreement and provide the
6 required Proof of Purchase.

7 (2) Once the Settlement Class is determined, Class Members who have
8 not opted out of the settlement will receive a pro-rata share of the Net
9 Settlement Fund based on: (i) the number of purchased Orbit Baby infant
10 or toddler car seats indicated in records within Defendants' possession,
11 custody or control, or (ii) the number of purchased Orbit Baby infant or
12 toddler car seats indicated by Class Members on timely returned Claim
13 Form, as discussed in Section 4(j), along with Proof of Purchase for each
14 unit.

15 (f) Individual payments shall be paid to the Settlement Class ten (10) days
16 after the Effective Date.

17 (g) The funds paid to Class Members shall compensate the Class Members
18 for any and all damages alleged in the Action as a result of the conduct of Defendants.

19 (h) In no event does any portion of the Settlement Fund revert to Defendants,
20 unless a Final Approval Order is not issued, in which case, as set forth above in Section 7(b), the
21 Settlement Fund shall be refunded to Defendants.

22 **8. THE CLAIMS ADMINISTRATOR.**

23 (a) The Claims Administrator shall be bound by and shall perform the
24 obligations imposed on it under the terms of this Agreement and the Court's Preliminary
25 Approval/Notice Order. The Claims Administrator has agreed to cap its fees for Notice and
26 administration of this class action, assuming no material changes to the scope of administration
27 and no material delays due to appeals, at \$52,000.00.
28

1 (b) The Claims Administrator shall be subject to the jurisdiction of the Court
2 with respect to the administration of this Agreement.

3 (c) The Claims Administrator shall keep all information regarding Class
4 Members confidential except as otherwise provided herein. All data created and/or obtained and
5 maintained by the Claims Administrator pursuant to this Agreement shall be destroyed twelve
6 (12) months after the Final Report is submitted to the Court, provided that Class Counsel and
7 Defendants' Counsel, or either of them, shall receive a complete digital copy of the Claims
8 Administrator's records, together with a declaration establishing completeness and authenticity,
9 which they may maintain consistent with their own document retention policies.

10 (d) The Claims Administrator shall provide the data in its claims
11 administration database to Defendants' Counsel and/or Class Counsel in response to any written
12 request, including an email request. The written request shall be copied to the other party when
13 made.

14 (e) Within one hundred-ninety (190) days after the Effective Date, the
15 Claims Administrator shall prepare a declaration which shall set forth the total payments issued
16 to the Settlement Class by the Claims Administrator, the total amount of any checks uncashed
17 and/or returned, the efforts made to follow up on uncashed and undeliverable checks, and the total
18 amount of money being held by the Claims Administrator.

19 **9. UNCASHED SETTLEMENT PAYMENT.** Funds represented by individual settlement
20 payment checks returned as undeliverable and individual settlement payment checks remaining uncashed
21 for more than one hundred twenty (120) days after issuance shall be tendered by the Claims Administrator
22 to the California State Controller's Office (SCO), Unclaimed Property Division.
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10. OPT-OUTS.

(a) A Class Member who wishes to exclude himself or herself from this Agreement, and from the release of claims and defenses provided for under the terms of this Agreement, shall submit a Request for Exclusion by mail to the Claims Administrator. For an Request for Exclusion to be valid, it must be postmarked on or before the Bar Date. Any Request for Exclusion shall identify the Class Member, state that the Class Member wishes to exclude himself or herself from the Agreement, and shall be signed and dated. A Request for Exclusion Form shall be furnished to Class Members in substantially the form attached hereto as **Exhibit 3**. Any individual who submits a Request for Exclusion will not be permitted to object to the terms of this Agreement.

(b) The Claims Administrator shall maintain a list of persons who have excluded themselves and shall provide such list to Defendants' Counsel and Class Counsel at least ten (10) days prior to the Final Approval hearing. The Claims Administrator shall retain the originals of all Requests for Exclusion (including the envelopes with the postmarks). The Claims Administrator shall make the original Request(s) for Exclusion available to Class Counsel, Defendants' Counsel and/or the Court upon two (2) court days written notice.

11. OBJECTIONS.

(a) Any Class Member, other than a Class Member who timely submits an Request for Exclusion, may object to this Agreement.

(b) To be valid and considered by the Court, the objection must be sent by first class mail, postage pre-paid, to the Court and the Claims Administrator. The objection must be postmarked on or before the Bar Date, and must include the following information:

- (1) A heading referring to the Kopin v. Orbit Baby Action;
- (2) The objector's name, address, telephone number, and the contact information for any attorney retained by the objector in connection with the objection or otherwise in connection with the Action;
- (3) A statement of the factual and legal basis for each objection and any exhibits the objector wishes the Court to consider in connection with its objection;

(4) A statement as to whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying the counsel by name, address and telephone number.

12. RELEASE OF CLAIMS. Except as to the rights and obligations provided for under the terms of this Agreement, Named Plaintiff, on behalf of herself and all of her respective past, present and future predecessors, successors, assigns, devisees, relatives, heirs, legatees, and agents, and each of the Class Members who do not opt out of this Agreement, including their respective past, present and future predecessors, successors, assigns, devisees, relatives, heirs, legatees, insurers and agents (collectively, the “Plaintiff Releasees”), hereby release and forever discharge Defendants, and all of their past, present and future predecessors, successors, subsidiaries, divisions, employees, affiliates, assigns, officers, directors, shareholders, representatives, attorneys, insurers and agents (collectively, the “Defendant Releasees”), from any and all claims, causes of action, debts, liabilities, demands, obligations, or damages of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, which Plaintiff Releasees now have or may have against any of the Defendant Releasees relating to or arising out of the allegations that were or could have been reasonably made in the Action (collectively, the “Released Claims”). Named Plaintiff, for herself and on behalf of Class Members who do not opt out of this Agreement, acknowledges that she has read section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

This general release language does not release claims which are not within the definition of Released Claims. Named Plaintiff, for herself and on behalf of Class Members who do not opt out of this Agreement, warrants that she and they understand that section 1542 gives her/them the right not to release existing claims of which she/they are not now aware, unless she/they voluntarily choose to waive this right. Limited to the scope of the Released Claims, Plaintiff Releasees voluntarily waive the rights described in section 1542, and elect to assume all risks as set forth herein, known or unknown, that may

1 now exist.

2 **13. CONDITIONS TO SETTLEMENT.**

3 (a) This Agreement shall be subject to and is expressly conditioned on the
4 occurrence of all of the following events:

5 (i) The Court has entered the Preliminary Approval/Notice Order, as required
6 by Section 3 above;

7 (ii) The Court has entered the Final Approval Order as required by Section 5
8 above, and all objections, if any, to such order are overruled, and all appeals taken from
9 the Court's Final Approval Order are resolved in favor of approval; and

10 (iii) The Effective Date has occurred.

11 (b) If all of the conditions specified in Section 13(a) are not met, then this
12 Agreement shall be cancelled and terminated.

13 (c) In the event this Agreement fails to become effective in accordance with
14 Sections 13(a) and/or (b) immediately above, then the parties shall be restored to their respective
15 positions in the Action as of the effective date of this Agreement. In such event, the terms and
16 provisions of this Agreement shall have no further force and effect with respect to the parties and
17 shall not be used in the Action or in any other action or proceeding for any other purpose.

18 **14. REPRESENTATIONS.**

19 (a) The parties to this Agreement represent that they have each read this
20 Agreement and are fully aware of and understand all of its terms and the legal consequences
21 thereof. The parties represent that they have consulted or have had the opportunity to consult
22 with and have received or have had the opportunity to receive advice from legal counsel in
23 connection with their review and execution of this Agreement.

24 (b) The parties have not relied on any representations, promises or
25 agreements other than those expressly set forth in this Agreement.

26 (c) The parties represent that there has not been any assignment, transfer,
27 conveyance or other disposition of any rights, obligations or liabilities released under the terms
28 of this Agreement, and that there will be no assignment or transfer or purported assignment or

transfer to any person or entity whatsoever, of any claim, debt, liability, demand, obligation, cost, expense, action, defense or cause of action hereinabove released.

(d) The Named Plaintiff, on behalf of the Class Members, represents that she has made such inquiry into the terms and conditions of this Agreement as she deems appropriate, and that by executing this Agreement, she believes the Agreement and all the terms and conditions set forth herein, are fair and reasonable to the class.

(e) The Named Plaintiff represents that she has no conflicts or other personal interests that would in any way impact her representation of the Class Members in connection with the execution of this Agreement.

(f) Defendants represent and warrant that they have obtained all corporate authority necessary to execute this Agreement.

15. FURTHER ASSURANCES. Each of the parties hereto agrees to execute and deliver all such further documents consistent with this Agreement, and to take all such further actions consistent with this Agreement, as may be required in order to carry the provisions of this Agreement into effect, subject to Class Counsel's obligation to protect the interests of the Class Members. Warranties, representations, agreements, and obligations contained in this Agreement shall survive the execution and delivery of this Agreement and shall survive any and all performances in accordance with this Agreement.

16. APPLICABLE LAW. This Agreement shall be governed by and interpreted, construed, and enforced pursuant to the laws of the State of California.

17. NO ORAL WAIVER OR MODIFICATION. No waiver or modification of any provision of this Agreement or of any breach thereof shall constitute a waiver or modification of any other provision or breach, whether or not similar, nor shall any actual waiver or modification constitute a continuing waiver. No waiver or modification shall be binding unless executed in writing by the party making the waiver or modification.

18. ENTIRE AGREEMENT. This Agreement, including the exhibits and schedules attached hereto, constitutes the entire agreement made by and between the parties pertaining to the subject matter hereof, and fully supersedes any and all prior or contemporaneous understandings, representations, warranties, and agreements made by the parties hereto or their representatives pertaining to the subject

1 matter hereof. No extrinsic evidence whatsoever may be introduced in any judicial proceeding involving
2 the construction or interpretation of this Agreement.

3 **19. BINDING ON SUCCESSORS.** This Agreement shall inure to the benefit of, and shall
4 bind, each of the parties hereto and their successors.

5 **20. SEVERABILITY.** In the event any one or more of the provisions of this Agreement is
6 determined to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability
7 of the remaining provisions contained in this Agreement will not in any way be affected or impaired
8 thereby.

9 **21. COUNTERPARTS AND FACSIMILE SIGNATURES.** This Agreement may be
10 executed and delivered in separate counterparts, each of which, when so executed and delivered, shall be
11 an original, but such counterparts together shall constitute but one and the same instrument and agreement.
12 Facsimile and pdf signature pages shall have the same force and effect as original signatures.

13 **22. NOTIFICATION.** Any notice to be given to Class Counsel and/or Named Plaintiff shall
14 be sent by email as follows:

15 Heather F. Auyang
16 LTL Attorneys LLP
17 300 South Grand Ave., 14th Floor
18 Los Angeles, California 90071
19 Phone: (213) 612-8900
20 Fax: (213) 612-3773
21 Email: heather.auyang@ltlattorneys.com

22 – And –

23 Rana S. Ziaee
24 Ziaee Law
25 620 Newport Center Drive, Suite 1100
26 Newport Beach, CA 92660
27 Phone: (949) 544-1260
28 Email: rsz@zlplc.com

Any notice to be given to Defendants under the terms of this Agreement shall be sent by email as follows:

Janlynn R. Fleener
Meghan M. Baker
Downey Brand LLP
621 Capitol Mall, 18th Floor
Sacramento, CA 95814-4731
Phone: 916.444.1000
Fax: 916.444.2100
Email: jfleener@downeybrand.com
Email: mbaker@downeybrand.com

with copies to:
mtaylor@downeybrand.com and cpiazza@downeybrand.com


Any notice to the Claims Administrator shall be sent by email as follows:

Jeff Houdek
Dahl Administration
P.O. Box 3614
Minneapolis, MN 55403-0614
Phone: 952.516.6507
Email: jhoudek@dahladministration.com

IN WITNESS WHEREOF, the parties have entered this Agreement as of the date set forth below.


ORBIT BABY, INC.,
a Delaware corporation

Dated: December 18, 2017

By: 
Michael Sanders,
Its Authorized Representative

THE ERGO BABY CARRIER, INC.
a Hawaii corporation

Dated: December 18, 2017

By: 
Michael Sanders,
Its Authorized Representative

JORDANA LEE KOPIN, individually and on
behalf of all others similarly situated

Dated: _____, 2017

By: _____
Jordana Lee Kopin

Any notice to be given to Defendants under the terms of this Agreement shall be sent by email as follows:

Janlynn R. Fleener
Meghan M. Baker
Downey Brand LLP
621 Capitol Mall, 18th Floor
Sacramento, CA 95814-4731
Phone: 916.444.1000
Fax: 916.444.2100
Email: jfleener@downeybrand.com
Email: mbaker@downeybrand.com

with copies to:
mtaylor@downeybrand.com and cpiazza@downeybrand.com

Any notice to the Claims Administrator shall be sent by email as follows:

Jeff Houdek
Dahl Administration
P.O. Box 3614
Minneapolis, MN 55403-0614
Phone: 952.516.6507
Email: jhoudek@dahladministration.com

IN WITNESS WHEREOF, the parties have entered this Agreement as of the date set forth below.

ORBIT BABY, INC.,
a Delaware corporation

Dated: _____, 2017

By: _____
Michael Sanders,
Its Authorized Representative

THE ERGO BABY CARRIER, INC.
a Hawaii corporation

Dated: _____, 2017

By: _____
Michael Sanders,
Its Authorized Representative

JORDANA LEE KOPIN, individually and on
behalf of all others similarly situated

Dated: 12/19, 2017

By: Jordana Lee Kopin
Jordana Lee Kopin

1 **APPROVED AS TO FORM:**

2 DOWNEY BRAND LLP

3
4 Dated: December 15, 2017

By: Janlynn R. Fleener

5 Janlynn R. Fleener
6 Attorneys for Defendants ORBIT
7 BABY INC., and THE ERGO BABY
8 CARRIER, INC.

9 LTL ATTORNEYS LLP

10 Dated: _____, 2017

By: _____

11 Heather F. Auyang
12 Attorneys for JORDANA LEE KOPIN,
13 individually and on behalf of all others
14 similarly situated

15 ZIAEE LAW

16 Dated: _____, 2017

By: _____

17 Rana S. Ziaee
18 Attorneys for JORDANA LEE KOPIN,
19 individually and on behalf of all others
20 similarly situated

APPROVED AS TO FORM:

DOWNEY BRAND LLP

Dated: _____, 2017

By: _____

Janlynn R. Fleener
Attorneys for Defendants ORBIT
BABY INC., and THE ERGO BABY
CARRIER, INC.

LTL ATTORNEYS LLP

Dated: December 20, 2017

By:  _____

Heather F. Auyang
Attorneys for JORDANA LEE KOPIN,
individually and on behalf of all others
similarly situated

ZIAEE LAW

Dated: December 20, 2017

By:  _____

Rana S. Ziaee
Attorneys for JORDANA LEE KOPIN,
individually and on behalf of all others
similarly situated