

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARK PINTER, individually and on behalf of :
all others similarly situated, :

Plaintiff, : Case No. 1:22-cv-00185-WFK-MMH

v. :

LAND AIR SEA SYSTEMS, INC., :

Defendant. :

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CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (the “**Settlement Agreement**”) is made and entered into by and between MARK PINTER (“**Plaintiff**”), on behalf of himself and each member of the Settlement Class (as defined herein), and Defendant LAND AIR SEA SYSTEMS, INC. (“**Defendant**”) (together with Plaintiff, the “**Parties**”).

I. RECITALS

1. On January 12, 2022, Plaintiff filed the complaint (“**Complaint**”) in this action in the U.S. District Court for the Eastern District of New York, seeking redress for himself and a putative class of similarly situated customers of Defendant. The Complaint alleges that Defendant sold products that were falsely represented to have been “Made in the USA” or “Manufactured in the USA.” It alleged claims for relief under the New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law § 349; the New York False Advertising Law, N.Y. Gen. Bus. Law § 350, *et seq.*; the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*; the California False Advertising Law, Cal. Bus. & Prof. Code § 17500, *et seq.*; the California Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*; the California Made in the USA Statute, Cal. Bus.

& Prof. Code § 17533.7; the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. § 501.201, *et seq.*; the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. Stat. § 505/1, *et seq.*; the Massachusetts Regulation of Business Practices for Consumers' Protection Act, Mass. Gen. Laws Ann. ch. 93A, § 1, *et seq.*; the Michigan Consumer Protection Act, Mich. Comp. Laws § 445.901, *et seq.*; the New Jersey Consumer Fraud Act, N.J. Stat. Ann. § 56:8-1, *et seq.*; the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1(a); the Ohio Consumers Sales Practice Act, Ohio Revised Code § 1345, *et seq.*; and the Washington Consumer Protection Act, Wash. Rev. Code § 19.86.010, *et seq.*. The Complaint also alleged claims for relief for breach of express warranty under the Uniform Commercial Code and unjust enrichment. On November 13, 2023, the Court dismissed Plaintiff's unjust enrichment claim because "Plaintiff did not sufficiently distinguish his unjust enrichment claim from his other claims[.]" ECF No. 25 at 17.

2. Defendant denies any liability, wrongdoing, or legal violations of any kind related to the claims and contentions asserted in this Action (as defined herein). By entering into this Settlement Agreement, Defendant does not admit any liability or wrongdoing and expressly denies the same.

3. Class Counsel (as defined herein) has conducted an investigation into the facts and the law regarding the Action, including significant pre-trial discovery, and has concluded that a settlement according to the terms set forth herein is fair, reasonable, and adequate, and is beneficial to and in the best interests of Plaintiff and the Settlement Class. Class Counsel recognizes and has considered: (a) the existence of contested issues of law and fact; (b) the risks inherent in litigation; (c) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; and (d) the magnitude of the benefits derived from the

contemplated Settlement Agreement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever. Based on this, Class Counsel has determined that the Settlement Agreement is fair, reasonable, adequate, and will substantially benefit the Class Members.

4. Considering the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in their respective best interests.

5. The Parties agree to cooperate and take all reasonable steps necessary and appropriate to obtain preliminary and final approval of the Settlement Agreement, to effectuate all aspects of the Settlement Agreement, and to dismiss this action with prejudice on behalf of the Settlement Class upon entry of Final Order Approving Settlement.

6. In consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned agree that, upon the following terms and conditions and subject to the approval of the Court, the Action be settled and compromised on the following terms and conditions.

II. SETTLEMENT TERMS

A. DEFINITIONS

The following terms, as used in this Settlement Agreement, have the following meanings, and any terms used as part of the definitions given in this Definitions section shall have the meanings set out in this Definitions section:

7. “**Action**” means this class action lawsuit pending in the United States District Court for the Eastern District of New York, captioned *Pinter v. Land Air Sea Systems, Inc.*, Case No.

1:22-cv-00185-WFK-MMH.

8. “**Administrative Fees**” means the fees charged by the Claims Administrator arising from its administration of the Settlement Agreement.

9. “**Claims Administrator**” means “Angeion Group.” The Claims Administrator shall administer all notice and payments required under this Settlement Agreement.

10. “**Class Counsel**” refers to Todd S. Garber and Bradley F. Silverman of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP, One North Broadway, Suite 900, White Plains, New York 10601 and Paul M. Sod, 337R Central Avenue, Lawrence, New York 11559.

11. “**Class Member**” means each member of the Settlement Class, as defined herein, who does not timely elect to be excluded from the Settlement Class, including, but not limited to, Plaintiff.

12. “**Class Representative**” refer to Plaintiff Mark Pinter.

13. “**Court**” means the United States District Court for the Eastern District of New York, with the Honorable William F. Kuntz presiding, or any judge sitting in his stead.

14. “**Defendant’s Counsel**” means León Cosgrove Jiménez, LLP, One World Trade Center, 85th Floor, Suite 12, New York, New York 10007.

15. “**Effective Date**” means the first business day after the date on which Final Order Approving Settlement becomes final. For purposes of this definition, the Final Order Approving Settlement becomes “final” when the Final Approval Order has been entered on the docket, or (if a timely objection has been submitted) on the latest of the following dates: (a) the date that the time to appeal from the Final Approval Order has expired and no appeal has been timely filed; (b) if such an appeal has been filed, the date on which it has been finally resolved and has resulted in an affirmation of the Final Approval Order; or (c) the date on which the Court, following resolution

of the appeal, enters a further order or orders approving the Settlement Agreement on the material terms set forth herein, and either no further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s). In the event that the Court does not approve the Settlement Agreement and/or does not enter a Final Order Approving Settlement, or in the event that entry of the Final Order Approving Settlement is reversed on appeal, then there shall be no Effective Date and this Settlement Agreement shall become null and void.

16. “**Exclusion Deadline**” means the date (within forty-five (45) days following the initial mailing of the Notice, or such other date as ordered by the Court) by which a request for exclusion is submitted by a member of the Settlement Class to the Claims Administrator.

17. “**Fee Petition**” means the motion to be filed by Class Counsel in which they seek approval of an award of attorneys’ fees, costs, and expenses.

18. “**Fee Award**” means the amount of attorneys’ fees and reimbursement of costs and expenses awarded by the Court to Class Counsel.

19. “**Final Fairness Hearing**” means the hearing to be held by the Court to determine whether the settlement set forth in this Agreement shall receive final approval pursuant to Federal Rule of Civil Procedure 23.

20. “**Final Approval Order**” means the Court’s order granting final approval of the terms of this Settlement Agreement and dismissing with prejudice the claims of the Class Representative and the Settlement Class. Plaintiff shall submit the proposed Final Approval Order attached hereto as Exhibit 1 for execution and entry by the Court at the time of the Final Fairness Hearing or at such other time as the Court deems appropriate.

21. “**Final Order Approving Settlement and Order of Dismissal**” means the order of the Court providing final approval of the settlement set forth in this Settlement Agreement and

dismissing with prejudice the claims of the Class Representative and the Settlement Class.

22. “**Service Award**” means the amount to be paid to Plaintiff, subject to the approval of the Court, as payment for their efforts for the benefit of the Settlement Class, including assisting Class Counsel with the prosecution of the Action.

23. “**Postcard Notice**” means the notice attached hereto as Exhibit 2 of class action settlement to be directed to Class Members.

24. “**Email Notice**” means the notice attached hereto as Exhibit 3 of class action settlement to be directed to Class Members.

25. “**Long Form Notice**” means the notice that will be posted on the Settlement Website established by the Claims Administrator. A draft of which is attached hereto as Exhibit 4.

26. “**Reminder Notice**” means the notice attached hereto as Exhibit 5 of this class action settlement to be directed to Class Members who do not initially file claims.

27. “**Claim Form**” means the claim form attached hereto as Exhibit 6 of this class action settlement to be used by Class Members to make a claim.

28. “**Objection Deadline**” means the date by which a written objection to this Settlement Agreement by a member of the Settlement Class must be sent via U.S. Mail or other delivery service to Class Counsel postmarked by and within forty-five (45) days following the initial mailing of the Notice, or such other date as ordered by the Court.

29. “**Preliminary Approval Order**” or “**Preliminary Approval**” refers to the Court’s order preliminarily approving the terms of the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing Notice of the Settlement to the Settlement Class. Plaintiff shall submit the proposed Preliminary Approval Order attached hereto as Exhibit 7 with their motion for preliminary approval.

30. **“Released Claims”** or **“Release”** means any and all actual, potential, filed, unfiled, known or unknown claims, suits, actions, controversies, demands, and/or causes of action arising out of or related to the allegations set forth in the Complaint in this Action, including but not limited to any alleged violations of state consumer protection statutes, breaches of warranty, unjust enrichment, or any other claims, suits, actions, controversies, demands and/or causes of action, whether for damages, injunctive relief, or any other relief or remedies, that were brought or could have been brought in the Action.

31. **“Released Party”** or **“Released Parties”** refers to Defendant Land Air Sea Systems, Inc. and each of its past, present, and future, direct or indirect, owners, parents, subsidiaries, divisions, affiliates, officers, directors, shareholders, members, board members, partners, agents, employees, attorneys, insurers, reinsurers, predecessors, successors, and assigns.

32. **“Releasor(s)”** refers to Plaintiff, the Class Members, and to each of their predecessors, successors, beneficiaries, heirs, executors, conservators, administrators, assigns, officers, directors, representatives, owners, and anyone claiming to be acting by, through, or on behalf of them.

33. **“Settlement Amount”** means the \$1.3 million (\$1,300,000.00) contributed by Defendants to the Settlement Fund (defined below). The Settlement Amount is Defendant’s maximum monetary obligation under the Settlement Agreement, and Defendant will not be required to pay more than the Settlement Amount under the Settlement Agreement. Zero dollars of the Settlement Amount will be returned to Defendant.

34. **“Settlement Class”** means any person in the United States of America who purchased any of Defendant’s products either from Defendant’s website or from Amazon between January 12, 2018 and January 12, 2022.

35. **“Settlement Fund”** means the amount paid into an escrow account by Defendant (defined above as the Settlement Amount) plus any income or accrued interest earned on those monies. In no event shall the Defendant be required to contribute more than the Settlement Amount to the Settlement Fund. The Settlement Fund will be the sole source of money for (1) paying the Class Members’ claims; (2) any Service Award to Plaintiff approved by the Court; (3) Attorney Fee Awards to Class Counsel as approved by the Court, which amount includes Class Counsel’s fees and all out-of-pocket costs; (4) all Administrative Fees; and (5) any other payments, costs or expenses that could arise in connection with this Settlement. The Settlement Fund at all times will be deemed a “qualified settlement fund” within the meaning of United States Treasury Reg. § 1.468B-1. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Settlement Fund or otherwise, including any taxes or tax detriments that may be imposed upon Defendant or Defendant’s Counsel with respect to income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a **“qualified settlement fund”** for the purpose of federal or state income taxes or otherwise (collectively **“Taxes”**), will be paid out of the Settlement Fund. The Escrow Agent shall timely make such elections as necessary or advisable to fulfill the requirements of such Treasury Regulation, including the “relation-back election” under U.S. Treasury Regulation §1.468B-1(j)(2) to the earliest permitted date. Such election shall be made in compliance with the procedures and requirements contained in the Treasury Regulations. Defendant, Defendant’s Counsel, Plaintiff, or Class Counsel will have no liability or responsibility for any of the Taxes. The Settlement Fund will indemnify and hold Defendant and Defendant’s Counsel, and Plaintiff and Class Counsel, harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification).

B. SETTLEMENT CLASS CERTIFICATION

36. Solely for the purposes of this Settlement Agreement, the Parties stipulate and agree that (a) the Class can be certified under Rule 23 of the Federal Rules of Civil Procedure in accordance with the definition set out below; (b) Plaintiff shall represent the Class for settlement purposes and shall be the Class Representative; and (c) Plaintiff's counsel shall be appointed as Class Counsel.

37. Defendant expressly reserves its right to oppose class certification and oppose the merits of the Action should the terms of this Settlement Agreement not become final.

38. Subject to Court approval, the following Settlement Class shall be certified for settlement purposes:

All persons within the United States who purchased one or more of Defendant's products either from Defendant's website or from Amazon between January 12, 2018 and January 12, 2022.

Excluded from the Settlement Class are: (1) the Court, Court employees, and members of their respective families; and (2) persons who properly execute a timely request for exclusion from the Class; and (3) owners, officers, directors, or employees of Defendant or any related entities.

C. SETTLEMENT APPROVAL REQUIREMENTS

39. The Settlement is conditioned, and will only become effective, upon preliminary approval and final approval of the Settlement Agreement by the Court.

40. The Settlement Agreement requires the occurrence of all of the following events: (a) execution of the Settlement Agreement by the Parties; (b) submission of the Settlement Agreement by the Parties to the Court for preliminary approval; (c) entry of the Preliminary Approval Order by the Court granting preliminary approval of the Settlement Agreement and certification of a class action for purposes of this Settlement Agreement only; and (d) Court

approval of the method of distribution and the form and content of the Notice.

41. The Settlement Agreement will become final and effective only upon the occurrence of the following events: (a) the Court enters the Final Approval Order; (b) the Effective Date occurs; and (c) any challenge to the Settlement, whether by objection or appeal, is resolved in favor of enforcement of the Settlement.

D. MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT

42. Plaintiff, through Class Counsel, will file with the Court an Unopposed Motion for Preliminary Approval of Settlement (the “**Preliminary Approval Motion**”) to be prepared by Plaintiff and shared with Defendant’s Counsel prior to filing.

43. The filing of the Preliminary Approval Motion with the Court will include this Settlement Agreement and shall request that the Court enter the Preliminary Approval Order: (a) granting preliminary approval of the terms of the Settlement Agreement described herein; (b) conditionally certifying the Class for settlement purposes only; (c) approving the Notices and the proposed plan of settlement administration described herein; and (d) scheduling a tentative date for a Final Fairness Hearing approximately ninety (90) days after entry of the Preliminary Approval Order.

44. Should the Court decline to enter the Preliminary Approval Order or otherwise decline to preliminarily approve any aspect of the Settlement Agreement, the Parties will attempt to renegotiate those aspects of the Settlement Agreement in good faith, with the mutual goal of attempting to reach an agreement as close to this Settlement Agreement as possible and submitting the renegotiated settlement agreement to the Court for preliminary approval.

E. ESTABLISHMENT AND ALLOCATION OF THE SETTLEMENT FUND

45. Defendant agrees to pay amounts to the Claims Administrator necessary to create

the Settlement Fund as follows:

- a. Within fourteen (14) calendar days of the Final Fairness Hearing, Defendant shall pay the Settlement Amount into the Settlement Fund in the amount of \$1,300,000.00. The Settlement Fund will be used to satisfy all claims for Class Members.
 - b. The Settlement Fund shall be used to pay: (i) Class Members' claims, paid *pro rata*—not to exceed \$45.00 for each of the Defendant's products purchased by each Class Member during the relevant time period; (ii) a Service Award to the Class Representative in the amount approved by the Court; (iii) total Fee Awards to Class Counsel, including attorney's fees plus Class Counsel's reasonable expenses and costs, to the extent approved by the Court; (iv) all Administrative Fees, including Class Notice and settlement administration costs; (v) any other payments, costs or expenses that arise directly in connection with this Settlement; and (vi) to the extent there are any residual funds remaining in the Settlement Fund, to the organization referenced in Paragraph 51, *infra*.
 - c. The Court may require changes to the method of allocation to Class Members, the amount of Service Awards, and Class Counsel's Fee Award without invalidating this Settlement Agreement, provided, however, that the other material terms of the Settlement Agreement are not altered, including but not limited to, the Settlement Class, and the Settlement Fund.
46. Each Class Member, including the Class Representative, shall be entitled to a payment of an equal *pro rata* share of the Settlement Fund—which may not exceed \$45.00 for each of Defendant's products that a Class Member purchased—after Court-approved

Administrative Fees paid to the Claims Administrator, a Fee Award to Class Counsel, and a Service Award to the Class Representative is deducted. Each Class Member shall be solely responsible for the reporting and payment of their payment of any federal, state, and/or local income or other taxes on payments received pursuant to this Settlement Agreement.

47. Class Members must submit a claim form in order to receive a payment from the Settlement Class. Checks sent to Class Members may be cashed anytime within sixty (60) days of their issuance dates, after which time they will become void (the “Check Void Date”).

48. The Settlement Fund will be maintained as a Court-approved qualified settlement fund in an account created and controlled by the Claims Administrator.

49. The Claims Administrator shall be responsible for making all reporting and filings with respect to amounts payable to Class Members required pursuant to any federal, state, or local tax law or regulation hereunder under the EIN of the escrow account. The Claims Administrator shall also be responsible for filing and sending Form 1099s, if necessary, to any applicable recipient of a payment from the Settlement Fund.

50. The Claims Administrator shall be responsible for such things as providing required notice under the Class Action Fairness Act (“CAFA”), the establishment of the escrow account for the Settlement Fund, setting up and managing a settlement website (whose URL will be agreed upon by the Parties), providing Notice to Class Members, verifying addresses, skip tracing as necessary, communicating with Class Members, disbursing payments to Class Members who do not exclude themselves from the Settlement, tax reporting, and other administrative activities contemplated in this Settlement Agreement. All costs and fees of the Claims Administrator shall be payable solely from the Settlement Fund.

51. If the aggregate amount paid to Class Members, plus the Service Award to the Class

Representative, plus the total Fee Awards to Class Counsel, plus any Administrative Fees, costs, and expenses, is less than the Settlement Amount, remaining in the Settlement Fund, the remainder of the funds, including any uncashed checks after the Check Void Date, shall be distributed to an organization to be mutually agreed upon by the parties and approved by the Court under the cy pres doctrine (the “Cy Pres Designee”) whose work provides an indirect benefit to Class Members. If the Court disapproves of the Cy Pres Designee, the Parties shall jointly propose an alternate designee as recipient for any residual funds.

F. PLAN OF SETTLEMENT ADMINISTRATION

52. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the Settlement Agreement.

53. At no time, shall any of the Parties or their counsel: (a) discourage any Class Member from participating in the Settlement; or (b) encourage any Class Member to object to the Settlement Agreement or opt out of the Settlement Agreement.

54. The Parties agree to work cooperatively to identify and collect the Class Members’ information which the Claims Administrator can use to equitably distribute the Class Members’ recovery.

55. As soon as practical, after entry of the Preliminary Approval Order, Defendant will provide a data file to the Claims Administrator containing names, telephone numbers, if available, email addresses, if available, and last-known U.S. mailing addresses, if available for the known Class Members. The information produced by Defendant to the Claims Administrator (**“Confidential Information”**) shall be maintained by the Claims Administrator as confidential. The Confidential Information shall only be used by the Claims Administrator as necessary to

administer the Parties' settlement and not for any other business or other purpose whatsoever. The Confidential Information shall not be disclosed to any third party, nor made available to the Parties or to their counsel, for any purpose whatsoever.

56. The Confidential Information shall only be used by the Claims Administrator as necessary to administer the Parties' settlement and not for any other business or other purpose, matter, or representation whatsoever. The Claims Administrator shall not disclose or permit the disclosure of the Confidential Information, or any information in the Confidential Information, to any third party or entity. The Claims Administrator agrees to destroy the Confidential Information and all copies within sixty (60) days after the check cashing period expires and certify to counsel for Defendant that it has done so.

57. Within twenty-one (21) calendar days after the Claims Administrator receives the Class Members' necessary data as described herein, the Claims Administrator shall send the Notice to the Class Members *via* email or First-Class U.S. Mail, postage prepaid, to their mailing addresses as updated using the U.S.P.S. database of verifiable mailing addresses and the National Change-of-Address database. If any such mailing is returned as undeliverable with an indication of a more current address, the Claims Administrator will mail the Notice to the new address. If any such mailing is returned as undeliverable without any indication of a more current address, the Claims Administrator will perform a reverse look up or skip trace to find an updated address, and if one is so identified, will mail the Notice to the new address. For any Notice sent to members of the Settlement Class that are returned as undeliverable, the Class Member will have the longer of the remaining period or fourteen (14) calendar days from the date of any re-mailing to seek exclusion or object.

58. Twenty-one (21) calendar days after the initial mailing the Claims Administrator

shall send a Reminder Notice to Class Members that have not yet submitted claims.

59. Twenty-one (21) calendar days after the initial Reminder Notice the Claims Administrator shall send a second Reminder Notice to the remaining Class Members that have not yet submitted claims, in the event that the claims rate (as calculated by the Claims Administrator) is less than 5% of the Settlement Class. Any Reminder Notice will be paid out of the Settlement Fund. If, after thirty (30) days from the Check Void Date, there are still funds remaining in the Settlement Fund, the Claims Administrator shall distribute these excess funds, including any uncashed checks, to the Cy Pres Designee.

60. The Claims Administrator will provide counsel for the Parties with bi-weekly reports regarding the status of administration of this Settlement. Defendant's Counsel and Class Counsel have the right to make inquiries and receive any information from the Claims Administrator as is necessary for the administration of the Settlement.

61. **Exclusions.**

a. Class Members must submit a claim in order to receive a payment from the Settlement Fund.

b. Class Members who do not want to participate in the Settlement will have up to and including seventy-five (75) calendar days following the initial mailing of the Notice to exclude themselves from the Settlement.

c. In order to exercise the right to be excluded, a Class Member must, within the time set out in subsection b. of this paragraph, timely send a written request for exclusion to the Claims Administrator providing their name and address; the name and number of this case; a statement that they wish to be excluded from the Settlement Class; and a signature. A request to be excluded that is sent to an address other than that designated in the Notice, or that is not

postmarked on or before the Exclusion Deadline, shall be invalid, and the person serving such a request shall be considered a member of the Settlement Class and shall be bound by the Settlement Agreement, if approved.

d. The request for exclusion must be personally signed by the Class Member requesting exclusion. “Mass” or “class” exclusion requests shall not be permitted.

e. Any Class Member who elects to be excluded shall not: (i) be bound by any order or the Final Order Approving Settlement; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement. A Class Member who requests to be excluded from the Settlement Class cannot also object to the Settlement Agreement.

f. If the Settlement Agreement receives final Court approval, all Class Members who have not opted out by the Exclusion Deadline will be bound by the Settlement Agreement and will be deemed a Releasor as defined herein, and the relief provided by the Settlement will be their sole and exclusive remedy for the claims alleged in the Action.

62. **Objections.**

a. Class Members may object to the Settlement Agreement by following the instructions on the Notice. To object to the Settlement Agreement or any terms of it, the person or entity making the objection must be a member of the Settlement Class, must not have requested to be excluded from the Settlement, and must timely mail a copy of that objection with the requisite postmark to Class Counsel and Defendant’s Counsel no later than the Objection Deadline. The notice of objection must state: the case name and number; the basis for and an explanation of the objection; the name, address, telephone number, and email address of the Class Member making the objection; and a statement of whether the Class Member intends to appear at the Final Fairness

Hearing with or without counsel. In addition, any objection must be personally signed by the Class Member.

b. Class Members who fail to file and serve timely and proper written objections shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement. The Parties may file a response to any objections no later than seven (7) calendar days before the Final Fairness Hearing.

63. Within three (3) business days after the Exclusion Deadlines, the Claims Administrator shall provide Class Counsel and Defendant's Counsel a written list reflecting all timely and valid exclusions from the Settlement Class.

G. MOTION FOR FINAL APPROVAL OF SETTLEMENT AND FEE PETITION

64. No later than seven (7) calendar days before the Final Fairness Hearing, or by some other date as directed by the Court, Plaintiff will move for final approval of the Settlement Agreement, including a Fee Petition seeking approval of the Fee Award of attorneys' fees and litigation costs relating to their representation of the Settlement Class.

65. Class Counsel's Fee Petition shall seek: (a) an award of attorneys' fees of not more than 30% of Settlement Fund, plus reasonable litigation costs and expenses incurred in their representation of Plaintiff and the Class Members; (b) an award for Administrative Fees in an amount to be determined; and (c) a Service Award to Plaintiff in the amount of \$5,000 as payment for their efforts on behalf of the Class. Defendant reserves the right to oppose Class Counsel's application for attorneys' fees should Defendant conclude after review of Class Counsel's application that it is not fair, adequate, or reasonable. The amounts approved by the Court will be deducted from the gross Settlement Fund, and the remaining net Settlement Fund amount shall be

distributed to the Settlement Class in accordance with this Settlement Agreement.

66. At the Final Fairness Hearing, the Parties will ask the Court to: (a) grant final approval of the Settlement Agreement as fair, reasonable and adequate, and entered into in good faith and without collusion; (b) grant final certification of the Settlement Class; (c) consider any properly-submitted objections; and (d) approve the amounts allocated for the Fee Award, the Administrative Fees, and the Service Awards to Plaintiff. Plaintiff shall present the Court with the proposed Final Approval Order with the motion for final approval.

67. If the Court raises concerns regarding the terms of the Settlement Agreement or does not approve any material condition of this Settlement Agreement that effects a fundamental change to the terms of the Settlement hereunder, the Parties will work together in good faith to renegotiate and agree upon terms as close to this Settlement Agreement as possible and to resolve any concerns raised by the Court. Only after the Parties agree that they have fully exhausted such efforts will this Settlement Agreement become null and void. The Parties will then return to their positions immediately prior to the execution of this Settlement Agreement.

H. SETTLEMENT PAYMENTS

68. No later than fourteen (14) calendar days after the Effective Date, the Claims Administrator shall disburse the Settlement Fund as follows:

a. Payments to Class Members. Each Class Member who does not timely and validly opt out shall be entitled to a *pro rata* share of the Settlement Fund—which may not exceed forty-five dollars (\$45.00) per product purchased by a Class Member—less Administrative Fees paid to the Claims Administrator, the Service Award to the Class Representative, and the Fee Award to Class Counsel, as provided above.

b. Payment of the Service Award to Plaintiff. The Service Award approved by

the Court shall be paid to Plaintiff by the Claims Administrator. Plaintiff is responsible for all federal, state, and local tax liabilities that may result from the payment of such an award and Defendant shall bear no responsibility for such tax liabilities.

c. Payment of the Fee Award to Class Counsel. Attorneys' fees and litigation costs approved by the Court shall be paid to Class Counsel by the Claims Administrator. Class Counsel is responsible for all federal, state, and local tax liabilities that may result from the payment of such attorneys' fees and Defendant shall bear no responsibility for such tax liabilities.

I. MISCELLANEOUS REPRESENTATIONS

69. The Parties agree that the Settlement Agreement provides fair, equitable, and just compensation for any given Class Member related to the Released Claims.

70. Defendant represents and warrants: (1) that it has the requisite corporate power and authority to execute, deliver, and perform the Settlement Agreement and to consummate the transactions contemplated herein; (2) that the execution, delivery, and performance of the Settlement Agreement and the consummation by it of the actions contemplated herein have been duly authorized by necessary corporate action on the part of Defendant; and (3) that the Settlement Agreement has been duly and validly executed and delivered by Defendant and constitutes its legal, valid, and binding obligation.

71. Plaintiff represents and warrants that he is entering into the Settlement Agreement on behalf of himself, individually, and as a proposed Class Representative, of his own free will and without the receipt of any consideration other than what is provided in the Agreement or disclosed to, and authorized by, the Court. Plaintiff represents and warrants that he has reviewed the terms of the Settlement Agreement in consultation with Class Counsel and believes them to be fair and reasonable. Class Counsel represent and warrant that they are fully authorized to execute

the Settlement Agreement on behalf of Plaintiff.

72. The Settlement Agreement shall constitute the entire Agreement among the Parties with regard to the Settlement Agreement and shall supersede any previous agreements, representations, communications, and understandings among the Parties with respect to the subject matter of the Settlement Agreement. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or undertaking concerning any part or all of the subject matter of this Agreement has been made or relied upon except as set forth expressly herein.

73. The Settlement Agreement may not be changed, modified, or amended except in a writing signed by one of Class Counsel and one of Defendant's Counsel and, if required, approved by the Court. The Parties contemplate that the Exhibits to the Agreement may be modified by subsequent agreement of Defendant and Class Counsel, or by the Court. The Parties may make non-material changes to the Exhibits to the extent deemed necessary, as agreed to in writing by all Parties.

74. The Parties: (a) acknowledge that it is their intent to consummate this Settlement Agreement, and (b) agree, subject to their respective legal obligations, to cooperate in good faith to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement and to exercise their reasonable best efforts to accomplish the terms and conditions of this Settlement Agreement. Class Counsel and Defendant's Counsel agree to cooperate with each other in seeking Court approval of the Preliminary Approval Order, the Settlement Agreement, and the Final Approval Order, and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Settlement Agreement.

75. The waiver by one Party of any provision or breach of the Agreement shall not be deemed a waiver of any other provision or breach of the Agreement.

76. This Settlement Agreement may not be amended, modified, altered, or otherwise changed in any material manner except by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest, or as ordered by the Court.

77. The Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Settlement Agreement.

78. The Parties represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any claims, causes of actions, demands, rights, and liabilities of every nature and description released under this Settlement Agreement.

79. Execution in Counterparts: The Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile signatures or signatures scanned to PDF and sent by e-mail shall be treated as original signatures and shall be binding.

80. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard for any choice of law rules. To the extent permitted by the Court, the Court shall retain jurisdiction over the interpretation, implementation, and enforcement of this Settlement Agreement, as well as any and all matters arising out of, or related to, the interpretation or implementation of this Settlement Agreement and of the settlement contemplated thereby. Any dispute or controversies arising with respect to the interpretation, enforcement, or implementation of the Settlement Agreement, if they cannot be resolved by the Parties in the first instance, shall be presented by motion to the Court.

81. This Settlement Agreement is deemed to have been prepared by counsel for the Parties as a result of arms-length negotiations among the Parties. Whereas all Parties have contributed substantially and materially to the preparation of this Settlement Agreement, it shall not be construed more strictly against one Party than another.

82. Unless otherwise specifically provided, all notices, demands, or other communications in connection with this Settlement Agreement shall be in writing and shall be sent by electronic mail or hand delivery, postage prepaid, as follows:

To Class Counsel:

Todd S. Garber
Bradley F. Silverman
Finkelstein, Blankinship, Frei-Pearson & Garber, LLP
1 North Broadway, Suite 900
White Plains, New York 10601
tgarber@fbfglaw.com
bsilverman@fbfglaw.com

Paul M. Sod
337R Central Avenue
Lawrence, New York 11559
paulmsod@gmail.com

To Defendant's Counsel:

Diego Pérez Ara
Kathryn M. Decker
León Cosgrove Jiménez, LLP
One World Trade Center
85th Floor, Suite 12
New York, New York 10007
dperez@leoncosgrove.com
kdecker@leoncosgrove.com

83. This Settlement Agreement shall be deemed executed as of the date that the last party signatory signs the Settlement Agreement.

84. The Settlement Agreement and every stipulation and term contained in it is conditioned upon final approval of the Court and is made for settlement purposes only, pursuant to Federal Rule of Evidence 408. Whether or not consummated, this Settlement Agreement shall not be: (a) construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, or an admission by Plaintiff, Defendant, any Class Member or Releasing or Released Party, of the truth of any fact alleged or the validity of any claim or defense that has been, could have been, or in the future might be asserted in any litigation or the deficiency of any claim or defense that has been, could have been, or in the future might be asserted in any litigation, or of any liability, fault, wrongdoing, or otherwise of such Party; or (b) construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, or an admission of any liability, fault, or wrongdoing, or in any way referred to for any other reason, by Plaintiff, Defendant, any Class Member, any Releasing Party or Released Party in the Action or in any other civil, criminal, or administrative action or proceeding other than such proceedings as may be necessary to effectuate the provisions of the Agreement.

IN WITNESS WHEREOF, the undersigned duly executed this Settlement Agreement as of the date indicated below:

Dated: _____

By: Todd S. Garber / BFS

Todd S. Garber
Bradley F. Silverman
Finkestein, Blankinship,
Frei-Pearson & Garber, LLP

Attorneys for Plaintiff and for the Class Members

Dated: _____

By: _____

Diego Pérez Ara
Kathryn M. Decker
León Cosgrove Jiménez, LLP

Attorneys for Defendant

Dated: _____

By: _____

Plaintiff Mark Pinter

Dated: _____

By: _____

Defendant Land Air Sea Systems, Inc.

IN WITNESS WHEREOF, the undersigned duly executed this Settlement Agreement as of the date indicated below:

Dated: _____

By: _____

Todd S. Garber
Bradley F. Silverman
Finkstein, Blankinship,
Frei-Pearson & Garber, LLP

Attorneys for Plaintiff and for the Class Members


Dated: _____

By: _____

Diego Pérez Ara
Kathryn M. Decker
León Cosgrove Jiménez, LLP

Attorneys for Defendant

Dated: _____

By:  _____

Plaintiff Mark Pinter

Dated: _____

By: _____

Defendant Land Air Sea Systems, Inc.

IN WITNESS WHEREOF, the undersigned duly executed this Settlement Agreement as of the date indicated below:

Dated: _____

By: _____

Todd S. Garber
Bradley F. Silverman
Finkestein, Blankinship,
Frei-Pearson & Garber, LLP

Attorneys for Plaintiff and for the Class Members

Dated: 03/24/25

By: 

Diego Pérez Ara
Kathryn M. Decker
León Cosgrove Jiménez, LLP

Attorneys for Defendant

Dated: _____

By: _____

Plaintiff Mark Pinter

Dated: 3/24/25

By: 

Defendant Land Air Sea Systems, Inc.