

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into on April 25, 2017 by and between: (1) the Class Representatives, for themselves and on behalf of the Settlement Class; and (2) LVT, Inc., doing business as Sterling Escrow (“Sterling Escrow”) (collectively “the Parties”).

### RECITALS

The Recitals in this section are based on the contentions of the Class Representatives, unless otherwise referenced below as the Parties’ contentions or the contentions of Sterling Escrow.

1. On July 5, 2013, Plaintiffs filed a proposed class action in the United States District Court of Nevada, *Shige Takiguchi, et al. v. MRI International, Inc., et al.*, Case No. 2:13-cv-01183-HDM-VCF (“Action”). The complaint alleges that MRI International, Inc., Edwin Fujinaga, and others violated U.S. securities laws and defrauded Plaintiffs and the Class by orchestrating a Ponzi scheme.

2. On September 11, 2013, the U.S. Securities and Exchange Commission filed a parallel action against MRI and its principal, Edwin Fujinaga, *Securities and Exchange Commission v. Edwin Yoshihiro Fujinaga, et al.*, Case No. 2:13-cv-1658-JCM-CWH. On January 27, 2015, the SEC obtained a judgment against MRI and Fujinaga in the amount of \$564,359,364.08. Additionally, on July 8, 2015, the U.S. Department of Justice indicted Mr. Fujinaga as well as Junzo and Paul Suzuki in separate criminal proceedings, *United States v. Edwin Fujinaga, Junzo Suzuki, and Paul Suzuki*, Case No. 2:15-cr-198-LDG.

3. On March 21, 2016, the Court granted Plaintiffs’ motion for class certification. (Dkt. 404.) The Court also appointed Law Offices of Robert W. Cohen, and Manning & Kass,

Ellrod, Ramirez, Trester, LLP, as Class Counsel. On May 5, 2016, the parties stipulated to modify the Class Certification Order to make the class definition consistent with the operative complaint. (Dkt. 425) On May 6, 2016, the Court granted the amendment and modified the class definition (Dkt. 426) to read as follows:

**Class:**

The MRI Investor Class consisting of: all persons who were MRI investors and who were injured as a result of the defendants' alleged illegal Ponzi scheme and actions from July 5, 2008 through July 5, 2013. Excluded from the class are the defendants, their employees, their family members and their affiliates, and the following 26 individuals who are plaintiffs in the pending litigation against the defendants in Japan: (1) Tomoyasu Kojima; (2) Keiko Amaya; (3) Masakazu Sekihara; (4) Chiri Satou; (5) Meiko Murakami; (6) Masayoshi Tsutsumi; (7) Yumiko Ishiguro; (8) Reiko Suzuki; (9) Hiroji Sumita; (10) Eiko Uchiyama; (11) Hideyo Uchiyama; (12) Youzou Shiki; (13) Naoki Nagasawa; (14) Noboru Yokoyama; (15) Masami Segawa; (16) Fumiko Takagi; (17) Kumiko Kaita; (18) Fumi Kobayashi; (19) Ikuko Miyazaki; (20) Hina Nagase; (21) Akio Iwama; (22) Kouji Kishida; (23) Eri Kishida; (24) Nomai Nii; (25) Youko Miyahara; and (26) Tsukiko Kurano.

4. On June 17, 2016, after the Court granted approval of the Class Notice (Dkt. 404), 8,759 Class Notices were mailed to the Class Members. Of these 8,759 notices, 662 were returned as undeliverable. An address search was performed for the returned notices, and 290 new addresses were identified. Accordingly, 290 notices were re-mailed to those new addresses. There are a total of 372 Class Members for whom no new address can be found. There were 33 exclusion requests.

5. Plaintiffs claim that they are creditors of Sterling Escrow. Specifically, Plaintiffs claim that Sterling Escrow aided and abetted MRI and Fujinaga in perpetrating a Ponzi scheme, and breached its fiduciary duty as an escrow agent. Sterling Escrow denies the allegations of the Complaint, and denies that Plaintiffs and the Class have been harmed by anything that Sterling Escrow did or failed to do.

6. Plaintiffs contend that they have engaged in extensive discovery throughout the course of this litigation and are fully informed of sufficient facts to permit them to evaluate the claims and potential defenses, as well as the financial condition of Sterling Escrow, to enable them to meaningfully conduct informed settlement discussions. From July 5, 2013 to the present, Plaintiffs served multiple sets of discovery on the defendants in this case and served over 20 third-party subpoenas, resulting in the production of nearly one million pages of documents. In addition to the written discovery, numerous depositions took place. Eight of the nine representative plaintiffs were deposed. Plaintiffs also took nine depositions, including the deposition of Peter Munoz, the president of Sterling Escrow on two separate occasions.

7. Because the complaint raises complex and disputed legal and factual issues that would be costly to resolve at trial, the Parties have engaged in arms-length settlement negotiations to resolve the Settlement Class' claims.

8. Both Class Counsel and the Plaintiffs, on behalf of themselves and the Class, agree that the settlement is fair, reasonable, adequate, and in the best interests of the Class based on the contested legal issues involved, as well as the risks, uncertainty and cost of further litigation.

The Parties now desire to resolve all claims between them arising out of or related to the respective claims in the action and they therefore agree as follows:

**1. DEFINITIONS**

1.1 "Action" means the class action in the United States District Court of Nevada, *Shige Takiguchi, et al. v. MRI International, Inc., et al.*, Case No. 2:13-cv-01183-HDM-VCF ("Action").

1.1 “Attorney’s Fees” means the amount of attorneys’ fees the Court awards to Class Counsel from the Settlement Fund for investigating the facts and law in the Action, litigating the Action, negotiating the proposed Settlement with Sterling Escrow, advancing the costs of the Action, and undertaking the risks and uncertainty in litigation.

1.2 “Claim” means a Settlement Class Member’s request, through submission of an electronic or paper Final Claim Form, for a Settlement Payment.

1.3 “Claimant” means any Settlement Class Member who submits a Final Claim Form in such form and manner, and within such time, as the Court shall prescribe.

1.4 “Claims Administrator” means Heffler Claims Group or such other settlement administrator mutually agreeable to the Parties and approved by the Court.

1.5 “Class Counsel” means the Law Offices of Robert W. Cohen, and Manning & Kass, Ellrod, Ramirez, Trester, LLP.

1.6 “Class Period” means July 5, 2008 through July 5, 2013.

1.7 “Effective Date” means the latest of the following: (1) the date of final affirmance of the Final Approval Order following any and all appeals of such Order; (2) the date of final dismissal with prejudice of any and all appeals from the Final Approval Order; or (3) if no appeal is filed, the expiration date of the time for filing or noticing any valid appeal from the Final Approval Order. No payments to Class Counsel or Claimants as described hereunder shall be made unless and until the Effective Date is reached. Nor shall any of the releases described hereunder be deemed effective unless and until the Effective Date is reached.

1.8 “Final Approval Order” means the Court’s judgment and order(s) granting final approval of the settlement and awarding attorneys’ fees and Litigation Expenses.

1.9 “Final Claim Form” is defined below in 1.10.

1.10 “Initial Claim Form” means a form, substantially in the form of Exhibit 1 hereto and approved by the Court. Because Class Counsel expect there to be multiple settlements with various defendants in this case, the Claimants may initially submit an Initial Claim Form, consistent with Exhibit 1, that simply requests each Claimant’s name, address, and email information. Thereafter, at the time of final settlement and prior to distributions to Claimants, each Claimant must submit a full claim form (the “Final Claim Form”) with information regarding their particular holdings, claimed losses, and attaching supporting documentation for the Claimant’s Claim.

1.11 “Litigation Expenses” means costs and expenses incurred by Plaintiffs’ Counsel in connection with commencing, prosecuting, and resolving the Action for which Class Counsel intends to apply to the Court for reimbursement and which are to be paid from the Settlement Fund, and not by any of the Released Parties.

1.12 “Mailed Notice” means the notice substantially in the form of Exhibit 2 and approved by the Court.

1.13 “Net Settlement Fund” means the Settlement Fund less: (a) any Court approved Attorneys’ Fees and Litigation Expenses to Plaintiffs’ Counsel; (b) Notice and Administration Expenses; (c) any required Taxes; and (d) any other fees or expenses that are allowed under this Agreement and approved by the Court incurred in connection with the administration of the Settlement.

1.14 “Non-Settling Defendants” means all defendants named in the Action other than Sterling Escrow.

1.15 “Notice Administrator” means the Japanese MRI Victim’s Attorney Group (“MRI Bengodan”).

1.16 “Notice and Administration Expenses” means all costs, fees, and expenses incurred by the Notice Administrator in connection with the preparation, printing, and mailing of the Notice, publishing the Notice; and the fees and costs of the Claims Administrator.

1.17 “Person” means any individual, proprietorship, corporation, partnership, association, trustee, unincorporated association, or any other type of legal entity.

1.18 “Preliminary Approval Order” means the Court’s order granting preliminary approval of this Agreement and directing notice thereof to the Settlement Class.

1.19 “Request for Exclusion” means a written request by a Settlement Class Member as prescribed in sections 7.1 and 7.2 below.

1.20 “Released Claims” shall include all claims arising out of, due to, resulting from, or relating in any way, directly or indirectly, to the Action or the allegations set forth in the Fifth Amended Complaint on file in the Action, including any and all actions, claims, costs, expenses, taxes, rents, fees, profit, shares, liens, remedies, debts, demands, liabilities, obligations, penalties, or promises of any kind or nature whatsoever, in both law or in equity, past or present, whether known or unknown, including claims for future injuries, damages or losses not currently known, but which may later develop, provided they arise out of, are due to, result from, or relate in any way to, directly or indirectly, in whole or in part, the allegations in the Action or the Fifth Amended Complaint, whether possessed or asserted directly, indirectly, derivatively, representatively or in any other capacity, and whether or not such claims were or could have been raised or asserted before the Court, and regardless of whether pursuant to statutory law, codal law, adjudication, quasi-adjudication, regulation, or ordinance, including common law, maritime or admiralty, statutory and nonstatutory attorneys’ fees, breach of contract, breach of any covenant of good faith and/or fair dealing, fraud, misrepresentation, fraudulent concealment,

deception, consumer fraud, antitrust, defamation, tortious interference with contract or business expectations, loss of business expectations or opportunities, loss of employment or earning capacity, diminution of property value, violation of the federal Racketeer Influenced and Corrupt Organizations Act or any similar state law, violation of the federal Employee Retirement Security Act or any similar state law, violations of any consumer protection act, punitive damages, exemplary damages, multiple damages, non-compensatory damages, compensatory damages, pain and suffering, interest, injunctive relief, declaratory judgment, costs, deceptive practices, unfair business practices, regulation, strict liability, negligence, gross negligence, willful misconduct, nuisance, trespass, fraudulent concealment, statutory violations, statutory claims, unfair business practices, breach of fiduciary duty, and all other theories, whether existing now or arising in the future, arising out of, due to, resulting from, or relating in any way to, directly or indirectly, the allegations in the Action or the Fifth Amended Complaint.

1.21 “Released Parties” means Sterling Escrow, and its insurer, Admiral Insurance Company.

1.22 “Releasing Parties” means the Settlement Class and its members, and each member’s respective successors in interest, predecessors, representatives, trustees, counsel, executors, affiliates, subsidiaries, immediate family, administrators, agents, heirs, estates, assigns or transferees, immediate and remote, in their capacities as such, and any other Person who has the right, ability, standing or capacity to assert, prosecute or maintain on behalf of any Settlement Class Member. A Person is a “Releasing Party” regardless of whether or not that Person: (a) actually submits an Initial Claim Form or Final Claim Form; (b) seeks or obtains a distribution from the Net Settlement Fund; (c) is entitled to receive such a distribution or payment under the Plan of Allocation; and/or (d) has objected to the Settlement, the Plan of Allocation, or the

application for an award of attorneys' fees and reimbursement of Litigation Expenses to Class Counsel.

1.23 "Settlement Class" means all persons who were MRI investors and who were injured as a result of the defendants' alleged Ponzi scheme and actions from July 5, 2008 through July 5, 2013. Excluded from the class are the defendants, their employees, their family members and their affiliates, and the following 26 individuals who are plaintiffs in the pending litigation against the defendants in Japan: (1) Tomoyasu Kojima; (2) Keiko Amaya; (3) Masakazu Sekihara; (4) Chiri Satou; (5) Meiko Murakami; (6) Masayoshi Tsutsumi; (7) Yumiko Ishiguro; (8) Reiko Suzuki; (9) Hiroji Sumita; (10) Eiko Uchiyama; (11) Hideyo Uchiyama; (12) Youzou Shiki; (13) Naoki Nagasawa; (14) Noboru Yokoyama; (15) Masami Segawa; (16) Fumiko Takagi; (17) Kumiko Kaita; (18) Fumi Kobayashi; (19) Ikuko Miyazaki; (20) Hina Nagase; (21) Akio Iwama; (22) Kouji Kishida; (23) Eri Kishida; (24) Nomai Nii; (25) Youko Miyahara; and (26) Tsukiko Kurano. Additionally, the following individuals excluded themselves from the class at the time of certification: (1) Makiko Kato; (2) Kazuya Fujimura; (3) Kabushikikaisha EKC; (4) Reiko Endo; (5) Naoko Suo; (6) Kikuko Yasui; (7) Kazuto Noguchi; (8) Sumiyo Uchida; (9) Naomi Ukei; (10) Keiichirou Kuriyama; (11) Katsuko Kuriyama; (12) Kazuo Okayasu; (13) Takashi Yamamoto; (14) Mitsuo Kimura; (15) Masanori Asano; (16) Mari Obora; (17) Chiyoko Obora; (18) Kazuo Shimamura; (19) Yoshinari Nishi; (20) Rumi Nishi; (21) Yumi Nishiguchi; (22) Yousuke Masuda; (23) Kuniko Masuda; (24) Michiko Mukai; (25) Masaru Mukai; (26) Mitsurou Takezoe; (27) Yoriko Keida; (28) Yuuki Makino; (29) Teruo Takamoto; (30) Masanobu Shimura; (31) Atsuko Shimonari; (32) Syouichi Takayama; and (33) Machiko Takayama.



1.24 “Settlement Class Representatives” means Shige Takiguchi, Fumi Nonaka, Mitsuaki Takita, Tatsuro Sakai, Shizuko Ishimori, Yuko Nakamura, Masaaki Moriya, Hastune Hatano, and Hidenao Takama.

1.25 “Settling Defendant” means Sterling Escrow.

1.26 “Short Form Notice” means the notice substantially in the form of Exhibit 3 and approved by the Court.

## **2. CONSIDERATION**

2.1 Within fifteen (15) days after the Effective Date, Sterling Escrow shall deliver a check in the amount of Eight Hundred Thousand Dollars (\$800,000.00) (“Settlement Fund”) written out to “Robert W. Cohen Client Trust Account.” The Net Settlement Fund will then promptly be transferred to the Claims Administrator. The Settlement Fund will not be reduced by any other settlement between Sterling Escrow and a Settlement Class Member nor by any request for exclusion from the Settlement Class.

2.2 As additional consideration for the settlement, Sterling Escrow and its principal, Peter Munoz, agree to accept a subpoena to appear at trial through their counsel Robert Goldstein, Esq., and shall not challenge the validity of the service of that subpoena on Mr. Goldstein. Sterling Escrow and Mr. Munoz further agree to appear at trial and provide trial testimony as ordered by the subpoena.

2.3 Nothing in this Settlement Agreement is intended to limit, reduce or affect the rights Plaintiffs or Settlement Class Members may have to seek damages or other relief in the Action or elsewhere from any person or entity other than the Released Parties, to the fullest extent allowed by law. This Agreement does not settle or compromise any claim by the

Plaintiffs or Settlement Class Members asserted in the Action against any Non-Settling Defendant.

**3. CLAIMS ADMINISTRATOR**

3.1 The Claims Administrator shall be Heffler Claims Group (HCG) or such other claims administrator mutually agreeable to the parties and approved by the Court. All costs and fees of the Claims Administrator shall be paid exclusively from the Settlement Fund and the Released Parties are not responsible for any additional payments other than the Settlement Fund.

3.2 All funds held by the Claims Administrator shall remain subject to the jurisdiction of the Court, until the funds are distributed pursuant to this Agreement or further Court order.

3.3 The Parties agree to treat the Settlement Fund as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1. In addition, the Claims Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this paragraph including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Claims Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

3.4 For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Claims Administrator. The Claims Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)(1)).

3.5 All taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, including any taxes or tax detriments shall be paid out of the Settlement Fund.

3.6 Neither the Parties nor their respective counsel shall have any liability or responsibility for Taxes or Tax Expenses. Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration and shall be timely paid by the Claims Administrator out of the Settlement Fund without prior order from the Court and the Claims Administrator shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any Claimants any funds necessary to pay such amounts including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that maybe required to be withheld under Treas. Reg. § 1.468B-2(1)(2)). Released Parties are not responsible for nor shall the Released Parties have any liability for Taxes or Tax Expenses. The Parties agree to cooperate with the Claims Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary.

#### **4. DISTRIBUTION OF SETTLEMENT FUND**

4.1 Settlement Class Members who submit a valid and timely Final Claim Form and who do not opt out shall be deemed eligible for an award from the Settlement Fund.

4.2 Class Counsel believe that it is in the best interest of the Settlement Class to defer the distribution of the Net Settlement Fund until the resolution of the entire Action. Class Counsel anticipate that additional funds may be added to the Settlement Fund in the future from recoveries from other Defendants. Class Counsel represent that, because all Settlement Class Members are residents of Japan, piecemeal distribution of the proceeds of multiple settlements and/or a judgment in this Action would require numerous, costly international wire transfers.

The Parties therefore agree that the Net Settlement Fund will remain held by the Claims Administrator until final resolution of the entire Action. Class Counsel represent that this will substantially reduce the costs and fees associated with the Claims Administrator and initiating international wire transfers.

4.3 Class Counsel shall, however, have the option to petition the Court to seek an order for approval of a plan of allocation and distribution of the Net Settlement Fund prior to final resolution of the Action, if Class Counsel believe it will be in the best interest of the Settlement Class.

4.4 Upon the final resolution of the entire Action or upon other Court order, Settlement Class Members who have not opted out shall be entitled to submit a Final Claim Form to the Claims Administrator. Class Counsel will submit a proposed plan of allocation for Court approval in connection with the final resolution of the Action. Such plan of allocation shall request that the Court order the allocation of the Net Settlement Fund to Class Members who have not opted out of the Settlement Class and who submit validly executed Final Claim Forms in proportion to their out-of-pocket losses or as otherwise ordered allocated by the Court.

4.5 If no other defendants make payment to the Settlement Fund other than Sterling Escrow, Class Counsel shall propose a plan of allocation for Court approval, such that the Net Settlement Fund (i.e., the Settlement Fund less approved expenses and fees) is distributed to Class Members who have not opted out of the Settlement Class and who submit validly executed a Claim Form in proportion to their alleged losses.

5. **ATTORNEYS' FEES AND COSTS**

5.1 Class Counsel will seek an award of Attorneys' Fees and Costs of up to \$200,000 (which is 25% of the Settlement Fund). Sterling Escrow will not oppose the request. The

amounts approved by the Court shall be paid exclusively from the Settlement Fund, and Released Parties are not responsible for any additional payments other than the Settlement Fund.

5.2 Named Plaintiffs will not seek any service award and shall only be paid under the Plan of Allocation.

**6. PRELIMINARY APPROVAL PROCEDURE AND CLASS NOTICE**

6.1 After execution of this Settlement Agreement, Class Counsel shall promptly move the Court to enter an order granting preliminary approval of this Settlement Agreement and approval of the form and manner of the proposed class notice.

6.2 The Sterling Escrow shall cooperate in applying for said approval.

6.3 Within 20 days after the entry of the Preliminary Approval Order, the Notice Administrator shall send, by regular Japanese mail, the Mailed Notice and Initial Claim Form to each Settlement Class Member at the address on file for the Class Member. The Mailed Notice and Initial Claim Form shall be sent to each Settlement Class Member in both English and Japanese. The Notice Administrator shall also cause the Short Form Notice to be posted on the National Consumer Affairs Center of Japan's website at [www.kokusen.go.jp](http://www.kokusen.go.jp).

6.4 Plaintiffs shall establish a website for providing information to investors.

6.5 All costs associated with the notices contemplated by this Settlement Agreement shall be paid exclusively out of the Settlement Fund.

**7. EXCLUSION**

7.1 All Settlement Class Members who submit a valid and timely written request for exclusion ("Request for Exclusion") shall be excluded from the Settlement Class and shall have no rights under the Settlement Agreement. A Request for Exclusion shall be deemed timely if it

is postmarked by the Postal Service no later than forty-five (45) days after the Notice Administrator's mailing of the Mailed Notice.

7.2 To be effective, a Request for Exclusion must: (a) be in writing; (b) state the Class Member's full legal name and address; (c) state all of the investments made during the Class Period; (d) state the amount of out-of-pocket loss; (e) contain the following statement: "I hereby request that I be excluded from the proposed settlement in the *Takiguchi v. MRI International, Inc.* litigation, case number 2:13-cv-01183-HDM (VCF)" (or a substantially similar statement in Japanese) and (f) be mailed to the Notice Administrator at the address provided in the Mailed Notice and postmarked by the Postal Service within forty-five (45) days from the commencement of the notice program regardless of the address to which that notice originally was mailed.

7.3 A Request for Exclusion that does not include all of the foregoing information, that is sent to someone other than Class Counsel, or that is not sent within the time specified shall be invalid, and the person(s) sending such a Request for Exclusion shall be bound as a Settlement Class Member, provided that the Settlement Agreement achieves Final Approval. For purposes of determining the date of mailing, the date of the postmark by the Japanese Postal Service will be controlling. If no such date can be discerned, any request for exclusion received by the Notice Administrator more than fifty-two (52) days from the commencement of the notice program will be deemed untimely.

7.4 Any person who timely and properly submits a Request for Exclusion shall not be entitled to any monetary award under this Settlement Agreement and shall not be bound by any orders or judgment entered in the Action nor by the Release contained herein.

8. **FINAL APPROVAL**

8.1 Prior to the Final Approval Hearing set by the Court, Class Counsel shall submit a motion for final approval of the Settlement Agreement.

8.2 At least fourteen (14) days before the Final Approval Hearing, Class Counsel shall file with the Court a list identifying all persons who have made a timely and valid Request for Exclusion. The list shall be filed under seal.

8.3 If the Court grants final approval to the Settlement Agreement, any and all Settlement Class Members who have not submitted a timely, written Request for Exclusion will be bound by any Orders entered by the Court and the Release set forth herein.

8.4 If the Court does not approve and/or does not honor this Settlement Agreement and/or denies a motion to enter any or all of the settlement terms in a form agreeable to the Parties, or if any court declares unenforceable, reverses, or vacates the settlement or settlement approval on appeal, then either Party shall have the right to terminate this Settlement Agreement. Any Party who elects to terminate this Settlement Agreement pursuant to this Section or any other provision of this Agreement may do so by giving written notice to the other Party's counsel and to the Notice Administrator. The termination of this Settlement Agreement shall void all of the rights, obligations, and releases under the Settlement Agreement.

9. **RELEASE**

9.1 Except for the obligations and rights created by this Settlement Agreement, the Releasing Parties hereby release and absolutely discharge the Released Parties from any and all Released Claims. The Final Approval Order shall include this release.

9.2 To the fullest extent permitted by law, the Releasing Parties waive and relinquish any and all rights or benefits they have or may have, if any, under California Civil Code Section

1542, or any comparable provision of state or federal law, with regard to the Released Claims.

California Civil Code Section 1542 provides:

“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.”

The Releasing Parties acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those now known or believed to be true with respect to the subject matter of this Settlement Agreement and/or the Released Claims. The Releasing Parties acknowledge that they intend to and will fully, finally, and forever settle and release any and all Released Claims described herein, whether known or unknown, suspected or unsuspected, which now exist, hereinafter may exist, or heretofore may have existed. In furtherance of this intention, the releases contained in this Settlement Agreement shall be and remain in effect as full and complete releases of the Released Claims by the Releasing Parties without regard to the subsequent discovery or existence of such different or additional claims or facts.

9.3 Nothing in this Settlement Agreement: (a) is intended to release any claims asserted by Settlement Class Members against any of the Non-Settling Defendants in the Action or (b) shall prohibit an eligible Settlement Class Member from seeking to obtain a recovery through the Fair Fund established in connection with the separate but parallel proceeding by the SEC captioned *SEC v. Edwin Fujinaga, et. al.*, USDC Nevada Case No. 13-cv-01658.

## 10. **MISCELLANEOUS PROVISIONS**

10.1 This Agreement does not settle or compromise any claim by Settlement Class Members asserted in the complaint against any of the other defendants.



10.2 The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Settlement Agreement. Class Counsel and Sterling Escrow's Counsel agree to cooperate with one another in seeking Court approval of the Settlement Agreement and the entry of 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 Agreement.

10.3 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Released Parties and the Settlement Class on the one hand, against the Released Parties on the other hand.

10.4 This Agreement is contingent upon the settlement being found by the Court and/or Court-appointed settlement judge having jurisdiction over the Action to have been made in good faith pursuant to provisions of N.R.S. § 17.245, and the entry by the Court of an Order dismissing and barring all present and future claims based upon equitable indemnity, implied indemnity, contribution or apportionment. Any such motion shall be brought by Sterling Escrow within 20 days from Plaintiffs' filing of the motion for preliminary approval.

10.5 Moreover, the Parties intend this Settlement Agreement to bar any and all claims for contribution or indemnity brought against the Released Parties arising from this Action and/or the allegations set forth in the Fifth Amended Complaint. To that end, all claims for contribution or indemnity against the Released Parties by any Person, including, but not limited to any party to this litigation, following the Effective Date of this Settlement Agreement, however denominated and regardless of the facts, laws, theories, or principles on which they are

based, which arise out of or are in any way related to this Action or the subject matter of the Action, or arise out of or are in any way related to the Fifth Amended Complaint, shall be extinguished, discharged, satisfied, void, and/or otherwise unenforceable.

10.6 The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the Released Claims. The Parties have read and understand fully the above and foregoing agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

10.7 Whether or not the Settlement Agreement becomes final or the Settlement Agreement is terminated, neither this Agreement nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Settlement Agreement or the settlement is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by the Plaintiffs or the Settlement Class, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the reasonableness of the settlement amount or the fee award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them; is, may be deemed, or shall be used, offered or received against the Released Parties as an admission, concession or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them; is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, negligence, fault or wrongdoing as against any Released Parties, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the settlement, this Agreement,

and any acts performed and/or documents executed in furtherance of or pursuant to this Settlement Agreement and/or the settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Settlement Agreement. However, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Settlement Agreement and/or the Final Approval Order in any action that may be brought against such Party or Parties in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim; is, may be deemed, or shall be construed against Plaintiffs, the Settlement Class Members or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiffs, the Settlement Class Members, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

10.8 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.9 The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

10.10 All of the Exhibits to this Settlement Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

10.11 This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.12 Except as otherwise provided herein, each Party shall bear its own costs and fees.

10.13 Plaintiffs and the Settlement Class represent and warrant that they have not assigned any claim or right or interest therein as against the Released Parties to any other Person or Party and that they are fully entitled to release the same.

10.14 Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto hereby warrants and represents that such Person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms.

10.15 This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Settlement Agreement all exchange original signed

counterparts. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

10.16 This Agreement shall be binding and inure to the benefit of the Parties hereto, their predecessors, parents, subsidiary and affiliated business entities, all officers, directors, shareholders, members, managers, agents, employees, attorneys, assigns, successors, heirs, executors, administrators, and legal representatives of whatsoever kind or character in privity therewith. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement Agreement.

10.17 This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Nevada.

10.18 This Settlement Agreement shall be deemed to have been prepared by counsel for all 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.

10.19 Where this Settlement Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: i) for Plaintiffs: James E. Gibbons, Esq., Manning & Kass, Ellrod, Ramirez, Trester, and Robert W. Cohen, Esq., and Mariko Taenaka, Esq., of the Law Offices of Robert W. Cohen; ii) for Sterling Escrow: Robert Goldstein.

**AGREED TO AND ACCEPTED.**

SHIGE TAKIGUCHI

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

By: \_\_\_\_\_  
Settlement Class Representative

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10.19 Where this Settlement Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: i) for Plaintiffs: James E. Gibbons, Esq., Manning & Kass, Ellrod, Ramirez, Trester, and Robert W. Cohen, Esq., and Mariko Taenaka, Esq., of the Law Offices of Robert W. Cohen; ii) for Sterling Escrow: Robert Goldstein.

**AGREED TO AND ACCEPTED.**

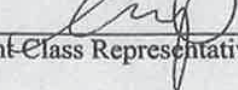
Dated: 23/05/2017

SHIGE TAKIGUCHI

By: 清口 氏  
Settlement Class Representative

Dated: 23 May 2017

FUMI NONAKA

By:   
Settlement Class Representative

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

MITSUAKI TAKITA

By: \_\_\_\_\_  
Settlement Class Representative

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

TATSURO SAKAI

By: \_\_\_\_\_  
Settlement Class Representative

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

SHIZUKO ISHIMORI

By: \_\_\_\_\_  
Settlement Class Representative

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

YUKO NAKAMURA

By: \_\_\_\_\_  
Settlement Class Representative

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

MASAAKI MORIYA

By: \_\_\_\_\_  
Settlement Class Representative

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

HASTUNE HATANO

By: \_\_\_\_\_  
Settlement Class Representative

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

HIDENAO TAKAMA

By: \_\_\_\_\_  
Settlement Class Representative

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

LVT, INC., dba STERLING ESCROW

FUMI NONAKA

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

By: \_\_\_\_\_  
Settlement Class Representative

MITSUAKI TAKITA

Dated: 2017年5月23日

By: 滝田光明  
Settlement Class Representative

TATSURO SAKAI

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

By: \_\_\_\_\_  
Settlement Class Representative

SHIZUKO ISHIMORI

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

By: \_\_\_\_\_  
Settlement Class Representative

YUKO NAKAMURA

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

By: \_\_\_\_\_  
Settlement Class Representative

MASAAKI MORIYA

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

By: \_\_\_\_\_  
Settlement Class Representative

HASTUNE HATANO

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

By: \_\_\_\_\_  
Settlement Class Representative

HIDENAO TAKAMA

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

By: \_\_\_\_\_  
Settlement Class Representative

LVT, INC., dba STERLING ESCROW

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



Dated: \_\_\_\_\_ FUMI NONAKA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: 2017/05/23 MITSUAKI TAKITA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: 2017/05/23 TATSURO SAKAI  
By: Tsakai \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ SHIZUKO ISHIMORI  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ YUKO NAKAMURA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ MASA AKI MORIYA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ HASTUNE HATANO  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ HIDENAO TAKAMA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ LVT, INC., dba STERLING ESCROW

Dated: \_\_\_\_\_ FUMI NONAKA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ MITSUAKI TAKITA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ TATSURO SAKAI  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: 2017/5/23 SHIZUKO ISHIMORI  
By: 石森 志津子  
Settlement Class Representative

Dated: \_\_\_\_\_ YUKO NAKAMURA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ MASA AKI MORIYA  
By: \_\_\_\_\_  
Settlement Class Representative

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By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ HIDENAO TAKAMA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ LVT, INC., dba STERLING ESCROW

Dated: \_\_\_\_\_ FUMI NONAKA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ MITSUAKI TAKITA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ TATSURO SAKAI  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ SHIZUKO ISHIMORI  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: 2017年5月23日 YUKO NAKAMURA  
By: 中村 祐子  
Settlement Class Representative

Dated: \_\_\_\_\_ MASA AKI MORIYA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ HASTUNE HATANO  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ HIDENAO TAKAMA  
By: \_\_\_\_\_  
Settlement Class Representative

Dated: \_\_\_\_\_ LVT, INC., dba STERLING ESCROW

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

FUMI NONAKA

By: \_\_\_\_\_  
Settlement Class Representative

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

MITSUAKI TAKITA

By: \_\_\_\_\_  
Settlement Class Representative

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

TATSURO SAKAI

By: \_\_\_\_\_  
Settlement Class Representative

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

SHIZUKO ISHIMORI

By: \_\_\_\_\_  
Settlement Class Representative

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

YUKO NAKAMURA

By: \_\_\_\_\_  
Settlement Class Representative

Dated: 2017年5月23日

MASAAKI MORIYA

By: Masaaki Moriya  
Settlement Class Representative

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

HASTUNE HATANO

By: \_\_\_\_\_  
Settlement Class Representative

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

HIDENAO TAKAMA

By: \_\_\_\_\_  
Settlement Class Representative

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

LVT, INC., dba STERLING ESCROW

発信元:小夕ノ

2017. 5.23 21:55 P. 1



2017 05/23 TUE 21:19 FAX 03 3355 0445 東京共同法律事務所

Dated: \_\_\_\_\_  
By: \_\_\_\_\_  
Settlement Class Representative

FUMINONAKA

Dated: \_\_\_\_\_  
By: \_\_\_\_\_  
Settlement Class Representative

MITSUAKI TAKITA

Dated: \_\_\_\_\_  
By: \_\_\_\_\_  
Settlement Class Representative

TATSURO SAKAI

Dated: \_\_\_\_\_  
By: \_\_\_\_\_  
Settlement Class Representative

SHIZUKO ISHIMORI

Dated: \_\_\_\_\_  
By: \_\_\_\_\_  
Settlement Class Representative

YUKO NAKAMURA

Dated: \_\_\_\_\_  
By: \_\_\_\_\_  
Settlement Class Representative

MASAÁKI MORIYA

Dated: 2017年5月23日  
By: 秦野初音  
Settlement Class Representative

HASTUNE HATANO

Dated: \_\_\_\_\_  
By: \_\_\_\_\_  
Settlement Class Representative

HIDENAO TAKAMA

Dated: \_\_\_\_\_  
LVT, INC., dba STERLING ESCROW

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
FUMI NONAKA  
Settlement Class Representative

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
MITSUAKI TAKITA  
Settlement Class Representative

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
TATSURO SAKAI  
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YUKO NAKAMURA  
Settlement Class Representative

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MASAAKI MORIYA  
Settlement Class Representative

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
HASTI NEHA FAND  
Settlement Class Representative

Dated: 2017, 5月23日 By: 高間 秀直  
Settlement Class Representative

Dated: \_\_\_\_\_ LVI, INC. dba STERLING ESCROW

FUMI NONAKA

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

By: \_\_\_\_\_  
Settlement Class Representative

MITSUAKI TAKITA

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

By: \_\_\_\_\_  
Settlement Class Representative

TATSURO SAKAI

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

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

By: \_\_\_\_\_  
Settlement Class Representative

HIDENAO TAKAMA

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

By: \_\_\_\_\_  
Settlement Class Representative

Dated: May 8, 2017

LVT, INC., dba STERLING ESCROW

By: Peter C. Munoz  
PETER MUNOZ, President

APPROVED AS TO FORM AND CONTENT.

DATED: April \_\_, 2017

**MANNING & KASS  
ELLROD, RAMIREZ, TRESTER LLP**

By: \_\_\_\_\_  
James E. Gibbons  
Attorneys for Plaintiffs

DATED: April \_\_, 2017

**LAW OFFICES OF ROBERT W. COHEN**

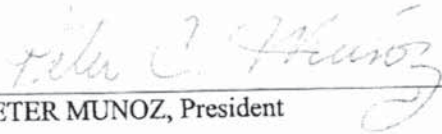
By: \_\_\_\_\_  
ROBERT W. COHEN  
MARIKO TAENAKA  
Attorneys for Plaintiffs

DATED: <sup>May</sup> ~~April~~ 10, 2017

**ROBERT A. GOLDSTEIN**

By: Robert A. Goldstein  
Robert A. Goldstein  
Attorney for Defendant LVT, Inc., dba Sterling  
Escrow

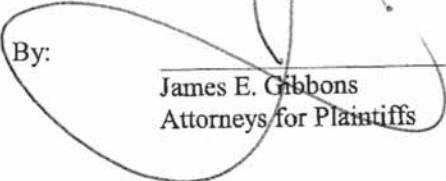


By:   
PETER MUNOZ, President

APPROVED AS TO FORM AND CONTENT.

DATED: <sup>May 10</sup> April \_\_, 2017

**MANNING & KASS  
ELLROD, RAMIREZ, TRESTER LLP**

By:   
James E. Gibbons  
Attorneys for Plaintiffs

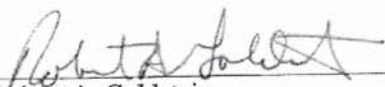
DATED: April \_\_, 2017

**LAW OFFICES OF ROBERT W. COHEN**

By:   
ROBERT W. COHEN  
MARIKO TAENAKA  
Attorneys for Plaintiffs

DATED: <sup>May</sup> April 10, 2017

**ROBERT A. GOLDSTEIN**

By:   
Robert A. Goldstein  
Attorney for Defendant LVT, Inc., dba Sterling  
Escrow