

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Settlement Agreement and Release (“Stipulation” or “Settlement Agreement”) is entered into by and between Plaintiff Orlando Camp (“Plaintiff”), individually and on behalf of all others similarly situated, the State of California, and all allegedly aggrieved employees, and Defendant Matson Logistics Warehousing, Inc. (“Defendant”), and is approved by their respective counsel of record, subject to the terms and conditions hereof and the Court’s approval.

A. Definitions

1. “Action” or “Lawsuit” means and refers to the case entitled *Orlando Camp v. Matson Logistics Warehousing, Inc.*, filed in Alameda County Superior Court, Case No. RG21088637.

2. “Aggrieved Employees” include all non-exempt employees who are or were previously employed by Defendant in California from February 9, 2020, through April 2, 2022..

3. “Agreement,” “Settlement Agreement,” “Settlement,” or “Stipulation” shall mean this Joint Stipulation of Class Action and PAGA Settlement Agreement and Release, including any attached exhibits.

4. “Class Claims” will include any and all wage and hour and wage payment claims, obligations, demands, actions, rights, causes of action, and liabilities (including state statutory and common law claims) that accrued or arose during the Class Period that were pled in the operative Complaint, including: (1) failure to pay minimum wages; (2) failure to pay overtime; (3) failure to provide meal periods; (4) failure to provide rest breaks; (5) failure to pay due wages at separation of employment; (6) failure to provide accurate itemized wage statements; and (7) unfair competition.

5. “Class Counsel” refers to Mehrdad Bokhour of Bokhour Law Group, PC and Joshua Falakassa of Falakassa Law, PC.

6. “Class Counsel Fee and Expense Award” means such award of fees and expenses, plus reasonable costs, that the Court may authorize to be paid to Class Counsel for the services they rendered to Plaintiff and the Class in the Action.

7. “Class Data” means a list that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator on one spreadsheet and shall include the Settlement Class Members’ full names; last known addresses; telephone numbers; Social Security Numbers; and dates of employment and/or number of Workweeks Worked as non-exempt employees of Defendant during the Class Period and the PAGA Period for each Settlement Class Member.

8. “Class Period” and “Class Release Period” shall mean February 9, 2017 through April 2, 2022..

9. “Class Representative” or “Plaintiff” means and refers to Orlando Camp.

10. “Complaint” refers to the Complaint filed in the Action entitled *Orlando Camp v. Matson Logistics Warehousing, Inc.*, filed in Alameda County Superior Court, Case No. RG21088637.

11. “Court” means the California Superior Court, County of Alameda or any court of competent jurisdiction.

12. “Defendant” means and refers to Matson Logistics Warehousing, Inc. and its predecessors, successors, subsidiaries, and affiliated and/or related entities.

13. “Defendant’s Counsel” or “Defense Counsel” means and refers to Sarah E. Ross and Dominique N. Thomas of Littler Mendelson, P.C.

14. “Effective Date” means the latest of the following dates: (i) the date the Court enters an order granting Final Approval of the Settlement; or (ii) if a Settlement Class Member objects, intervenes, or files a motion to vacate the Judgment approving the Settlement Agreement, then sixty-one (61) calendar days following the date the Court enters an order granting final approval of the Settlement, assuming no appeal is filed; or (iii) if a timely appeal is filed, the date after the Judgment is affirmed or the appeal is dismissed or denied, and the Judgment is no longer subject to further judicial review, resulting in final judicial approval of

1 the Settlement.

2 15. "Final Approval" refers to the order of the Court granting final approval of this
3 Settlement Agreement and entering a judgment approving this Settlement on substantially the
4 same terms provided herein or as may be modified by subsequent agreement of the Parties or
5 order of the Court.

6 16. "Final Settlement Class" means, collectively, all Participating Class Members
7 and all Aggrieved Employees.

8 17. "Individual Settlement Amount" shall have the meaning ascribed to it in
9 Paragraph 9(d) below.

10 18. "Labor and Workforce Development Agency Payment" means the amount the
11 Parties have agreed to pay to the Labor and Workforce Development Agency ("LWDA") in
12 connection with the claim for civil penalties under PAGA.

13 19. "Net Settlement Amount" shall have the meaning ascribed to it in Paragraph
14 48(c) below.

15 20. "Notice" means the notice of settlement of class action and PAGA Settlement
16 that will be sent to the Settlement Class Members, in substantially the form that is attached
17 hereto as "Exhibit 1."

18 21. "Notice Response Deadline" is 45 calendar days from the date the Notice is
19 mailed to the Settlement Class Members.

20 22. "Objecting Settlement Class Member" means a Settlement Class Member, other
21 than Plaintiff, who submits a valid and timely objection to the terms of this Agreement with
22 respect to the Class Claims pursuant to Paragraph 70(a) below.

23 23. "PAGA" shall refer to the California Labor Code Private Attorneys General Act
24 of 2004, California Labor Code Sections 2698, *et seq.*

25 24. "PAGA Claims" shall include any and all claims for civil penalties pursuant to
26 PAGA asserted in the Action or any other claims that could have been asserted in the Action
27 based on the facts alleged in the PAGA Notice, including but not limited to claims for violations
28 of the California Labor Code governing: (1) failure to pay minimum wages; (2) failure to pay

1 overtime; (3) failure to provide meal periods; (4) failure to provide rest breaks; (5) failure to pay
2 due wages at separation of employment; and (6) failure to provide accurate itemized wage
3 statements.

4 25. "PAGA Notices" shall refer to the notice sent by Plaintiff, by and through
5 counsel, on or about February 8, 2021, to the LWDA and to Defendant, alleging that Defendant
6 engaged in violations of the California Labor Code and California Wage Orders.

7 26. "PAGA Period" and "PAGA Release Period" shall mean February 9, 2020,
8 through April 2, 2022.

9 27. "Participating Class Member" means any and all Settlement Class Members who
10 are deemed to participate and receive an Individual Settlement Amount and who do not opt-out
11 by submitting timely valid requests for exclusion in accordance with the requirements set forth
12 in the Class Notice

13 28. "Parties" or "Settling Parties" means Plaintiff, the Settlement Class Members,
14 the Aggrieved Employees, and Defendant, collectively.

15 29. "Preliminary Approval Date" means the date the Court preliminarily approves
16 the Settlement Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

17 30. "Preliminary Approval Order" means the judicial order to be entered by the
18 Court, in substantially the form that is attached hereto as "Exhibit 2," upon the application or
19 motion of the Plaintiff, preliminarily approving this Settlement and providing for the issuance of
20 the Notice to the Settlement Class Members, an opportunity to opt out of settlement of the
21 Released Claims, an opportunity to submit timely objections to the terms of this Settlement
22 related to the Released Claims, and setting a hearing on the fairness of the terms of Settlement,
23 including approval of attorneys' fees and costs. Defendant will not object to Plaintiff's motion
24 for preliminary approval as long as it comports with the terms of this Agreement and after
25 reasonable review and comment prior to the filing of motion for preliminary approval.

26 31. "QSF" means the Qualified Settlement Fund set up by the Settlement
27 Administrator for the benefit of the Final Settlement Class, and from which the settlement
28

1 payments shall be made, and which is intended to be a fund that qualifies under Internal
2 Revenue Code Section 468.

3 32. “Released Claims” shall mean any and all claims, whether known or unknown,
4 asserted or unasserted, relating to any and all facts and claims asserted in the Action or PAGA
5 Notices or any other claims that could have been asserted in the Action based on the facts
6 alleged, including but not limited to any and all claims for unfair competition under California
7 Business & Professions Code § 17200 and for violations of the California Labor Code
8 governing: meal and rest breaks, unpaid wages, including minimum wages, regular wages, and
9 overtime wages; wage statement violations; failure to maintain accurate records; and all theories
10 for or related to the timing of payments; and all related statutory or civil penalties, including but
11 not limited to PAGA penalties.

12 33. “Released Parties” shall refer to Defendant and any of its past or present
13 affiliated and related entities, and all of its and their past or present divisions, subsidiaries,
14 partnerships, parents, affiliated corporations, trusts, insurers, re-insurers, attorneys, or other
15 related entities, and each of them, as well as its and their past and present directors, officers,
16 shareholders, principals, partners, members, representatives, executors, trustees, heirs,
17 administrators, beneficiaries, assignees, successors, business managers, agents, contractors,
18 insurers, attorneys, and employees (whether acting as agents for any of the Released Parties or
19 in their individual capacities), and any employment benefit plan sponsored by Defendant, and
20 such plans’ administrators, fiduciaries, trustees, insurers, and re-insurers..

21 34. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 70(a)
22 below.

23 35. “Service Payment” or “Service Award” means the amount approved by the Court
24 to be paid to the Class Representative in addition to his Individual Settlement Amount as a
25 Participating Class Member.

26 36. “Settlement Administration Costs” means the costs payable from the Settlement
27 Amount to the Settlement Administrator for administering this Settlement, including, but not
28 limited to, printing, distributing, and tracking documents for this Settlement, translating the

1 class notice into Spanish, tax reporting, due diligence, reporting and remittance obligations,
2 distributing the Settlement Amount, and providing necessary reports and declarations, as
3 requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement
4 Amount.

5 37. "Settlement Administrator" means and refers to Simpluris agreed to by the
6 Parties, that will provide the Notice to the Class Members and distribute the settlement amounts
7 as described in this Agreement.

8 38. "Settlement Amount" or "Gross Settlement Amount" shall have the meaning
9 ascribed to it in Paragraph 48(a) below.

10 39. "Settlement Class Member" or "Class Member" refers to individual members of
11 the Settlement Class.

12 40. "Settlement Class" and "Settlement Class Members" refers to all persons who
13 are or were previously employed by Defendant in California classified as a non-exempt hourly
14 employee during the Class Period.

15 41. "Workweeks Worked" for each Settlement Class Member and Aggrieved
16 Employee means any workweek during the Class Period and/or the PAGA Period, as
17 applicable, in which the Settlement Class Member and/or Aggrieved Employee was employed
18 by Defendant as a non-exempt employee.

19 **B. General Terms**

20 42. On or about February 9, 2021, Plaintiff filed a class and PAGA representative
21 action complaint on behalf of himself and similarly situated persons employed by Defendant for
22 (1) failure to pay minimum wages; (2) failure to pay overtime; (3) failure to provide meal
23 periods; (4) failure to provide rest breaks; (5) failure to pay due wages at termination; (6) failure
24 to provide accurate itemized wage statements; (7) unfair competition; and (8) civil penalties
25 pursuant to PAGA for the underlying Labor Code violations.

26 43. Defendant denies Plaintiff's claims and allegations and contends that the Action
27 is not suitable for class certification and/or representative treatment.

1 44. The Class Representative believes he can proceed with his representative and
2 class claims, that the Action is meritorious, and that class certification is appropriate.

3 45. The Parties have conducted a thorough investigation into the facts of the Action.
4 This includes conducting extensive exchange of informal discovery, including Defendant's
5 written policies and practices and the production of payroll and timekeeping records for
6 Settlement Class Members and Aggrieved Employees. Counsel for the Parties have further
7 investigated the applicable law as applied to the facts discovered regarding Plaintiff's claims,
8 the defenses thereto, and the damages claimed by Plaintiff. Class Counsel is both
9 knowledgeable about and has done extensive research with respect to the applicable law and
10 potential defenses to the claims of the Settlement Class Members and Aggrieved Employees.
11 Class Counsel has diligently pursued an investigation of the Class Members' claims against
12 Defendant. Based on the foregoing data and on their own independent investigation and
13 evaluation, Class Counsel is of the opinion that the settlement with Defendant for the
14 consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and
15 adequate and is in the best interest of the Settlement Class Members and Aggrieved Employees
16 in light of all known facts and circumstances, including the risk of significant delay and
17 uncertainty associated with litigation, various defenses asserted by Defendant, and numerous
18 potential appellate issues.

19 46. On December 9, 2021, the Parties participated in a private mediation with David
20 Phillips, Esq., a highly experienced class action mediator. After a full-day mediation and the
21 issuance of a mediator's proposal, the Parties reached a settlement.

22 47. The Parties agree that neither the Parties' Settlement, this Agreement, nor the
23 acts to be performed or judgments to be entered pursuant to the terms of the Settlement and
24 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of
25 any statute or law or liability on the claims or allegations in the Action.

26 48. Stipulation for Class Certification and Representative Treatment. For settlement
27 purposes only, Defendant will stipulate that the Settlement Class Members described herein
28 who do not Request Exclusion from the Settlement Class may be conditionally certified as a

1 settlement class and that the Aggrieved Employees are appropriate for representative treatment
2 for purposes of settlement. This stipulation to certification and representative treatment is in no
3 way an admission that class action certification and/or representative treatment is proper and
4 shall not be admissible in this or in any other action except for the sole purposes of enforcing
5 this Agreement. Should, for whatever reason, the Settlement not become final, the Parties'
6 stipulation to class certification and representative treatment as part of the Settlement shall
7 become null and void *ab initio* and shall have no bearing on and shall not be admissible in
8 connection with the issue of whether or not class certification and/or representative treatment
9 would be appropriate in a non-settlement context. Defendant expressly reserves its rights and
10 declares that it will continue to oppose class certification, representative treatment, and the
11 substantive merits of the case should this Settlement not become final. Plaintiff expressly
12 reserves his rights and declares that he will continue to pursue class certification and
13 representative treatment and a trial should the Court fail to issue Final Approval.

14 **C. Terms of Settlement**

15 49. The financial terms of the Settlement are as follows:

16 (a) Gross Settlement Amount: The Parties agree to settle this Action for Three
17 Hundred Seventy-Five Thousand Dollars (\$375,000) ("the Gross Settlement Amount"). The
18 Gross Settlement Amount is the maximum amount that will be paid by Defendant, and includes
19 Individual Settlement Amounts, the Class Counsel Fee and Expense Award, the Service
20 Payment to the Class Representative, all Settlement Administration Costs, and the Labor and
21 Workforce Development Agency Payment. Defendant shall be separately responsible for the
22 employer share of payroll taxes on the wage portion of the individual settlement amounts
23 distributed to Class Members.

24 (b) Net Settlement Amount: The "Net Settlement Amount" is defined as the Gross
25 Settlement Amount less the Class Counsel Fee and Expense Award as approved and awarded by
26 the Court, the Service Payment to the Class Representative as approved and awarded by the
27 Court, the Settlement Administration Costs, as approved and awarded by the Court, and the
28 Fifteen Thousand Dollars (\$15,000.00) allocated to payment for PAGA penalties. In the event

1 that the Court reduces the attorneys' fees and litigation costs Service Payment, or Settlement
2 Administration Costs, or either increases or decreases the amount allocated to PAGA penalties,
3 the Net Settlement Sum shall be increased or decreased accordingly.

4 (d) Individual Settlement Amounts for the Settlement Class: The Settlement
5 Administrator will use the Class Data provided by Defendant to calculate each Participating
6 Class Member's and Aggrieved Employee's Individual Settlement Amounts based on the
7 following formula:

8 i. PAGA Amount: \$15,000 of the Gross Settlement Amount has been
9 designated to the PAGA Claims. Twenty-five percent (25%), or \$3,750, shall be paid out to
10 Aggrieved Employees. Each Aggrieved Employee shall receive a portion of the \$3,750
11 proportionate to the number of Workweeks Worked by the Aggrieved Employees during the
12 PAGA Period compared to the total number of Workweeks Worked by all Aggrieved
13 Employees during the PAGA Period. Aggrieved Employees shall have their settlement amount
14 for the Released PAGA Claims paid one hundred percent (100%) as civil penalties for which no
15 taxes will be withheld and for which a Form 1099 will be issued by the Settlement
16 Administrator.

17 ii. Class Amount: The Net Settlement Amount shall be allocated to each
18 Participating Class Member based on his or her proportionate Workweeks Worked during the
19 Class Period. This is determined by multiplying the Net Settlement Amount by a fraction, in
20 which the numerator is the Settlement Class Member's total Workweeks Worked during the
21 Class Period and the denominator is the total number of Workweeks Worked by all Settlement
22 Class Members. Each Settlement Class Member's respective designation and calculation of total
23 pay periods worked and estimated, pre-tax share of the Net Settlement Amount shall be
24 identified in the Notice. If there are any timely submitted Requests for Exclusion, the Settlement
25 Administrator shall proportionately increase the Individual Settlement Amounts for each
26 Participating Class Member so that the amount actually distributed to Participating Class
27 Members equals 100% of the Net Settlement Amount allocated toward Released Class Claims.

28 (e) Allocation of Individual Settlement Amounts: The Individual Settlement

1 Amounts will be allocated for tax purposes based on the allegations in the Action as follows:
2 one third (33.34%) percent will be paid as wages subject to withholding of all applicable local,
3 state, and federal taxes; and two thirds (66.66%) will be paid as interest and as civil penalties
4 from which no taxes will be withheld. The Settlement Administrator will issue to each
5 Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms
6 with respect to the wage allocation and a Form 1099 with respect to the civil penalties and
7 interest allocations.

8 (f) Service Payment to Class Representative: The amount awarded to the Class
9 Representative as a Service Payment will be set by the Court in its discretion, not to exceed
10 \$10,000.. Defendant agrees not to oppose this request. The Service Payment to the Class
11 Representative will be paid out of the Gross Settlement Amount. The Class Representative will
12 be issued IRS Form 1099 in connection with this payment. Plaintiff shall be solely and legally
13 responsible to pay any and all applicable taxes on this payment. The Parties agree that any
14 amount awarded by the Court as the Service Payment to Plaintiff less than the requested amount
15 shall not be a basis for Plaintiff or Class Counsel to void this Stipulation. Should the Court
16 approve a lesser amount for the Service Payment, the difference shall be added to the Net
17 Settlement Amount to be distributed to the Participating Class Members and/or Aggrieved
18 Employees. If the amount of the Service Award is reduced on appeal, , any amount reduced by
19 the appellate court shall be added to the Net Settlement Amount to be distributed to the
20 Participating Class Members and/or Aggrieved Employees after the exhaustion of any such
21 appellate review.

22 (g) Attorneys' Fees and Costs: Defendant agrees to not oppose a request by Class
23 Counsel to the Court for an award of attorneys' fees up to one-third (33.33%) of the Gross
24 Settlement Amount, plus reasonable litigation costs not to exceed \$15,000. For purposes of this
25 Settlement, Defendant agrees not to oppose any contention by Class Counsel that attorneys' fees
26 should be based on the common fund theory. The Class Counsel Fee and Expense Award shall
27 be paid from the Gross Settlement Amount, and except for this award, Defendant shall have no
28 further obligation to pay any attorneys' fees, costs or expenses to Class Counsel. Should the

1 Court approve a lesser amount than what is sought by Class Counsel, the difference shall be
2 added to the Net Settlement Amount to be distributed to the Participating Class Members. Any
3 Court order awarding less than the amount sought by Class Counsel shall not be grounds to
4 rescind the Settlement Agreement or otherwise void the Settlement. In the event of any appeal
5 of the amount of the the Class Counsel Fee and Expense Award (if any) approved by the Court,
6 final funding and administration of the portion of the attorneys' fees and/or costs award in
7 dispute will be segregated and stayed pending the exhaustion of appellate review. If, after the
8 exhaustion of any such appellate review, the Class Counsel Fee and Expense Award is not
9 approved or is reduced by the appellate court, any amount not approved and/or reduced by the
10 appellate court shall be added to the Net Settlement Amount to be distributed to the
11 Participating Class Members and/or Aggrieved Employees. The Settlement Administrator shall
12 issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs
13 awarded by the Court. Class Counsel agrees that any allocation of fees between or among Class
14 Counsel and any other attorney representing or claiming to represent the Class Members shall
15 be the sole responsibility of Class Counsel.

16 (h) Settlement Administration Costs: The fees and other charges of the Settlement
17 Administrator will be paid from the Gross Settlement Amount, not to exceed \$25,000 subject to
18 Court approval, unless approved by all Parties and the Court.

19 (i) PAGA Penalties: The Parties agree that \$15,000 is allocated to PAGA Penalties
20 and is to be paid from the Gross Settlement Amount, subject to Court approval. Of this amount,
21 \$11,250 (75%) shall be paid to the LWDA in satisfaction of Plaintiff's claims for civil penalties
22 under the Private Attorneys General Act of 2004 ("PAGA") and \$3,750 (25%) will be included
23 in the Individual Settlement Amounts, payable to the Aggrieved Employees as set forth in
24 Paragraph 49(d).

25 (j) Tax Liability: Class Counsel, Defendant and Defendant's Counsel make no
26 representations as to the tax treatment or legal effect of Settlement Amounts called for
27 hereunder, and Plaintiff and the Settlement Class Members are not relying on any statement or
28 representation by Class Counsel, Defendant, or Defendant's Counsel in this regard. Plaintiff and

Final Settlement Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective Settlement Amounts described herein. Income tax withholding will also be made pursuant to applicable federal, state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, are changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

(k) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION

1 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
2 ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
3 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF
4 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
5 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

6 50. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under
7 no circumstances will any portion of the Gross Settlement Amount revert to Defendant. Final
8 Settlement Class Members will not have to make a claim in order to receive an Individual
9 Settlement Amount. Distributions, in the form of Individual Settlement Amounts, will be made
10 directly to each Final Settlement Class Member. The Settlement Administrator shall be
11 responsible for accurately and timely reporting any remittance obligations with respect to
12 unclaimed funds as a result of a Final Settlement Class Member not cashing an Individual
13 Settlement Amount by the check cashing deadline, as set forth herein.

14 51. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable, and
15 adequate, and will so represent same to the Court.

16 **D. Release by Plaintiff and the Final Settlement Class**

17 52. Upon the Effective Date of this Settlement, Plaintiff and each Participating Class
18 Member, for themselves and for their respective spouses, domestic partners, marital community,
19 children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors,
20 administrators, trustees, conservators, guardians, assigns, and representatives, will forever
21 completely waive and relinquish the Released Claims. Even if Plaintiff and/or Participating
22 Class Members may hereafter discover facts in addition to or different from those which he or
23 they now know or believe to be true with respect to the subject matter of the Released Claims,
24 Plaintiff and the Participating Class Members, upon the Effective Date, shall be deemed to
25 have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and
26 released any and all of the Released Claims.

27 53. Each Participating Class Member will be deemed to have made the foregoing
28 Release as if by manually signing it.

1 54. Upon the Effective Date of this Settlement, Plaintiff, the LWDA, and each
2 Aggrieved Employee, for themselves and for their respective spouses, domestic partners,
3 marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees,
4 legatees, executors, administrators, trustees, conservators, guardians, assigns, and
5 representatives, will forever completely waive and relinquish all claims for civil penalties under
6 Labor Code sections 2698, *et seq.* with respect to the Released Claims.

7 55. Each Aggrieved Employee and the LWDA will be deemed to have made the
8 foregoing Release as if by manually signing it.

9 56. Plaintiff and Defendant intend that the Settlement described in this Agreement
10 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
11 arbitration, demand, or other action of any kind, by each and all of the Participating Class
12 Members to obtain a recovery based on, arising out of, and/or related to any and all of the
13 Released Claims. The Settlement Class Members shall be so notified in the Notice. This
14 paragraph does not apply to any Settlement Class Member who timely and validly opts out of
15 the Settlement.

16 57. Plaintiff and Defendant intend that the Settlement described in this Agreement
17 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
18 arbitration, demand, or other action of any kind, by each and all of the Aggrieved Employees
19 and the LWDA to obtain a recovery based on, arising out of, and/or related to any and all of the
20 Released Claims. The Aggrieved Employees and the LWDA shall be so notified in the Notice.

21 58. Class Representative, on behalf of himself and the Participating Settlement Class
22 Members, acknowledge and agree that the claims for unpaid wages, meal and rest period
23 violations, untimely payment of wages, inaccurate wage statements, and unfair competition in
24 the Action, are disputed, and that the payments set forth herein constitute payment of all sums
25 allegedly due to them. Class Representative, on behalf of himself and the Participating
26 Settlement Class Members, acknowledges and agrees that California Labor Code Section 206.5
27 is not applicable to the Parties hereto. Section 206.5 provides in pertinent part as follows:
28

1 An employer shall not require the execution of any release of any claim or right
2 on account of wages due, or to become due, or made as an advance on wages to
3 be earned, unless payment of those wages has been made.

4 **E. Release by Class Representative**

5 59. As a material inducement to Defendant to enter into this Settlement Agreement,
6 in addition to the Class Representative's release of the Released Claims, as discussed in
7 Paragraphs 54 and 56 above, Class Representative does hereby, for himself and for his spouses,
8 domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors,
9 beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians,
10 assigns, and representatives, forever completely release and discharge the Released Parties from
11 any and all charges, complaints, claims, liabilities, obligations, promises, agreements, contracts,
12 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts,
13 and expenses (including for back wages, statutory penalties, civil penalties, liquidated damages,
14 exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the
15 beginning of time through the execution of this Joint Stipulation whether known or unknown,
16 suspected or unsuspected, concealed or hidden, including but not limited to all claims arising
17 out of, based upon, or relating to Class Representative's employment with Defendant or the
18 remuneration for or termination of such employment (collectively, the "Class Representative's
19 Claims").

20 60. Unknown Claims means any and all actions, suits, claims, demands, rights,
21 liabilities, and causes of action other than those specified in paragraph 3 above which relate to
22 the Released Claims that the Plaintiff does not know of or suspect to exist in his favor, which, if
23 known by him, might have affected his agreement to the Settlement. This includes any and all
24 claims, rights, demands, liabilities, and causes of action, whether known or unknown, arising
25 from, or related to the Plaintiff's employment with and separation from Defendant, including but
26 not limited to all claims arising from, or related to the same set of operative facts as those set
27 forth in the Complaint. As explained in paragraph 32, Plaintiff's release includes all Unknown
28

1 Claims and as of Final Approval, Plaintiff hereby expressly waives and relinquishes, to the
2 fullest extent permitted by law, insofar as the claims arise from, or are related to, the same facts
3 alleged in Plaintiff's Complaint, the benefits of section 1542 of the California Civil Code (as
4 well as any and all provisions, rights, and benefits of any similar state or federal law). Thus, if
5 the facts relating to this Settlement are found hereafter to be different from the facts now
6 believed to be true, the Release set forth in this Agreement will remain fully effective. If the
7 Court declines to enforce this provision, it will not be grounds to void the Agreement.
8

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10 61. Without limiting the generality of the foregoing, Class Representative also
11 expressly releases all claims or rights against Released Parties arising out of or relating to
12 alleged violations of any contracts, express or implied (including but not limited to any contract
13 of employment); any contract or covenant of good faith and fair dealing (express or implied);
14 any tort, including but not limited to, negligence, fraud, misrepresentation and violation of
15 California Labor Code section 970, negligent infliction of emotional distress, intentional
16 infliction of emotional distress, defamation, "retaliation" claims and claims for violation of
17 public policy, any claim for improper or unauthorized wage deductions, failure to pay the
18 applicable wage, unpaid wages, unpaid vacation benefits, penalties, liquidated damages, other
19 damages, overtime, and alleged "off the clock" work under federal and state law, including, but
20 not limited to, California Labor Code Sections 204 and 558, waiting time penalties pursuant to
21 California Labor Section 203, damages or penalties pursuant to California Labor Code Section
22 226, meal period and rest break payments and penalties pursuant to California Labor Code
23 Sections 226.7 and 512, failure to provide itemized wage statements pursuant to California
24 Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Sections
25 210, failure to indemnify for business expenses pursuant to Labor Code section 2802, failure to
26 provide one day of rest in seven pursuant to California Labor Code Sections 551 and 552, unfair
27 competition and unfair business practices pursuant to Business and Professions Code Section
28 17200 et seq., interest and costs pursuant to California Civil Code Section 3287 and California
Labor Code Section 218.6, statutory or common law rights to attorneys' fees and costs,

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

1 including those pursuant to California Labor Code Section 1194 *et seq.*; claims under the
2 Private Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the alleged
3 violation or breach of any other state or federal statute, rule and or regulation; including all
4 applicable Industrial Welfare Commission Wage Orders, and all similar causes of action,
5 including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs
6 or attorneys' fees in connection with any of the foregoing, negligent infliction of emotional
7 distress, intentional infliction of emotional distress, and defamation; any "wrongful discharge,"
8 "constructive discharge," and "retaliation" claims; any claims relating to any breach of public
9 policy; any legal restrictions on Defendant's right to discharge employees; and any federal,
10 state, or other governmental statute, regulation, or ordinance, including, without limitation: (1)
11 Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin
12 discrimination or harassment, including retaliation for reporting discrimination or harassment);
13 (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) and California
14 Labor Code 1197.5 (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 *et seq.*
15 (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 *et*
16 *seq.* (family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government
17 Code § 12900 *et seq.* (discrimination or harassment in employment and/or housing, including
18 discrimination or harassment based on race, religious creed, color, national origin, ancestry,
19 disability, marital status, sex (including pregnancy), or age, including retaliation for reporting
20 discrimination or harassment); (7) California Family Rights Act, Cal. Government Code §
21 12945.1 *et seq.* (family/medical leave); (8) California Labor Code, including Section 1720 *et*
22 *seq.*, or any Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race,
23 color, religion, sex, and national origin discrimination or harassment); (10) Executive Order
24 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973
25 (handicap discrimination); (12) the Fair Labor Standards Act; (13) Employee Retirement
26 Income Security Act, 29 U.S.C. § 1000 *et seq.* (employee benefits); (14) the California Civil
27 Code; (15) the California Labor Code; (16) the California Constitution; (17) the National Labor
28 Relations Act; and (18) any other federal, state, or local statute or legislation.

62. Class Representative expressly waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of the State of California and do so understanding and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code of the State of California states:

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

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of all parties, Class Representative and Class Counsel expressly acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims that Class Representative knew of, as well as all claims that he does not know or suspect to exist in his favor against the Released Parties, or any of them, for the time period from the beginning of time to the execution of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such Class Representative's claims.

F.

G. Notice Process

63. Appointment of Settlement Administrator. The Parties have agreed to the appointment of the Settlement Administrator to perform the duties of a settlement administrator, including mailing the Notice, using standard devices to obtain forwarding addresses, independently reviewing and verifying documentation associated with any claims or opt-out requests, resolving any disputes regarding the calculation or application of the formula for determining the Individual Settlement Amounts, drafting and mailing the settlement checks to Final Settlement Class Members, issuing W-2 and 1099 Tax Forms, reporting to taxing

1 authorities, due diligence, reporting and remittance obligations, and performing such other tasks
2 as set forth herein or as the Parties mutually agree or that the Court orders.

3 64. Disputes Regarding Settlement Administration. Any and all disputes relating to
4 administration of the Settlement by the Settlement Administrator (except for disputes regarding
5 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
6 over the terms and conditions of this Settlement Agreement, until Plaintiff and Defendant notify
7 the Court that all payments and obligations contemplated by this Settlement Agreement have
8 been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will
9 confer in good faith to resolve the dispute without the necessity of Court intervention. The
10 Settlement Administrator shall also be responsible for issuing to Plaintiff, Final Settlement
11 Class Members, and Class Counsel any W-2, 1099, or other Tax Forms as may be required by
12 law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be
13 responsible for setting up all necessary tax accounts and forwarding all payroll taxes and
14 penalties to the appropriate government authorities.

15 65. Class Data. Within ten (10) days after entry of the Preliminary Approval Order,
16 Defendant shall provide the Class Data to the Settlement Administrator. The Settlement
17 Administrator will run a check of the Class Members' addresses against those on file with the
18 U.S. Postal Service's National Change of Address List. The Class Data provided to the
19 Settlement Administrator will not be provided to Class Counsel and it will remain confidential,
20 it shall be used solely to administer the Settlement, and it will not be used or disclosed to
21 anyone, except as required by applicable tax authorities, pursuant to Defendant's express
22 written consent, or by order of the Court.

23 66. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
24 Administrator to the Settlement Class Members, by first class mail within ten (10) calendar days
25 following the Settlement Administrator's receipt of the Class Data. The Settlement
26 Administrator shall use standard devices, including a skip trace, to obtain forwarding addresses
27 of Settlement Class Members if any envelopes are returned.

67. Returned Notices. The Settlement Administrator will take steps to ensure that the Notice is received by all Settlement Class Members, including utilization of the National Change of Address Database maintained by the United States Postal Service to review the accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any Settlement Class Member for whom an updated address is located within ten (10) calendar days following both the Settlement Administrator learning of the failed mailing and its receipt of the updated address. The Notice shall be identical to the original Notice, except that it shall notify the Settlement Class Member that the exclusion (opt-out) request or objection must be returned by the later of the Notice Response Deadline or fifteen (15) days after the remailing of the Notice.

68. Presumption Regarding Receipt of Notice. It will be conclusively presumed that if an envelope has not been returned within thirty (30) days of the mailing that the Settlement Class Member received the Notice.

69. Disputes Regarding Class Data. Settlement Class Members are deemed to participate in the Settlement, unless they opt-out. The Notice will inform Settlement Class Members of his/her estimated Individual Settlement Amount and the number of Workweeks Worked during the Class Period and during the PAGA Period. Settlement Class Members may dispute their Workweeks Worked if they feel they were employed more workweeks in the Class Period in California than Defendant's records show by timely submitting evidence to the Settlement Administrator. Defendant's records will be presumed determinative absent reliable evidence to rebut Defendant's records, but the Settlement Administrator will evaluate the evidence submitted by the Settlement Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Workweeks Worked and estimated Individual Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to render a final decision. Settlement Class Members will have until the Notice Response Deadline to dispute Workweeks Worked, object or opt out, unless extended by the Court. In the event that the Settlement

1 Administrator increases the number of Workweeks Worked for any Settlement Class Member,
2 then the Settlement Administrator will recalculate the Participating Class Members' Individual
3 Settlement Amounts; accordingly, in no event will Defendant be required to increase the Gross
4 Settlement Amount.

5 70. Declaration of Due Diligence. The Settlement Administrator shall provide
6 counsel for the Parties, at least twenty-five (25) days prior to the final approval hearing, a
7 declaration of due diligence and proof of mailing with regard to the mailing of the Notice.

8 71. Settlement Class Members' Rights. Each Settlement Class Member will be fully
9 advised of the Settlement, the ability to object to the provisions in the Settlement related to the
10 Claims, and the ability to opt-out or request exclusion from the Class Claims provisions of the
11 Settlement. Settlement Class Members will have until the Notice Response Deadline to object
12 or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement
13 Administrator shall disclose jointly to Class Counsel and Defendant's counsel what objections
14 or Requests for Exclusion were timely submitted on a weekly basis, and upon the request of
15 Class Counsel or Defense Counsel. The Notice will inform the Settlement Class Members of the
16 Court-established deadlines for filing objections or requesting exclusion from the Class Claims
17 provisions of the Settlement in accordance with the following guidelines:

18 (a) Requests for Exclusion from Participating Settlement Class. Any
19 Settlement Class Member, other than Plaintiff, may request to be excluded from the
20 Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement
21 Administrator, postmarked on or before the Notice Response Deadline. The Request for
22 Exclusion should state:

23 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS
24 IN THE CAMP V. MATSON LOGISTICS WAREHOUSING, INC.
25 LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE
26 EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT
27 RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE
28 CLASS CLAIMS IN THIS LAWSUIT."

four digits of the social security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address. Any such Request must be made in accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Agreement with respect to the Class Claims, including the right to object, appeal or comment on the Settlement; (ii) will not be entitled to receive any payments under this Agreement with respect to Class Claims; and (iii) will not be bound by this Agreement, or the Judgment with respect to the Class Claims.

(b) Binding Effect on Final Settlement Class Members. Except for those Settlement Class Members who exclude themselves in compliance with the procedures set forth above, all Settlement Class Members will: (i) be deemed to be Final Settlement Class Members for all purposes under this Agreement; (ii) will be bound by the terms and conditions of this Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(c) Objections to Settlement of Class Claims. Any Settlement Class Member, other than Plaintiff, may object to the terms of this Agreement with respect to the Class Claims and may appear at the Final Approval Hearing and object whether or not they have filed a written objection as outlined herein. To object, a Settlement Class Member shall inform the Settlement Administrator, in writing, of his or her objection, which must be postmarked by the Notice Response Deadline at the address set forth in the Notice. Such objection shall include the full name, address, telephone number, last four digits of the social security number or date of birth, and dates of employment with Defendant of the Objecting Settlement Class Member, the case name and number, the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by counsel, the name and address

of his or her counsel. If any Objecting Settlement Class Member wishes to speak at the Final Approval Hearing with respect to the Class Claims, that Objecting Settlement Class Member's written submission should include a request to be heard, and the Court will determine whether Objecting Settlement Class Members will be permitted to speak. The Settlement Administrator shall provide objections, if any, to Class Counsel and Defense Counsel within three (3) days of receipt, and the Settlement Administrator shall attach the same to its declaration of due diligence it files with the Court prior to the Final Approval Hearing. Any Participating Class Member who files an objection remains eligible to receive monetary compensation from the Settlement. Plaintiff and Defendant shall not be responsible for any fees, costs, or expenses incurred by any Class Member and/or his or her counsel related to any objections to the Settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment under Code of Civil Procedure § 663. Settlement Class Members and Aggrieved Employees may not object to or opt-out of the Settlement with respect to the PAGA Claims.

(d) Failure to Object. Any Settlement Class Member who desires to object with respect to the Class Claims but fails to timely submit a written objection or appear in person at the Final Approval Hearing waives any right to object, will be foreclosed from making any objection to this Settlement. Any Settlement Class Member who does not timely and properly become a party of record by intervening or filing a motion to vacate the judgment waives any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure section 473, and extraordinary writs.

(e) Responses to Objections. Counsel for the Parties may file a response to any objections submitted by Objecting Settlement Class Members at least five (5) court days before the date of the Final Approval Hearing.

72. Funding of the Settlement Amount. Defendant shall make a one-time deposit into the QSF of the Settlement Amount, as described in Paragraph 48(a) that is necessary to make all

1 payments required under this Settlement, within thirty (30) business days after the Effective
2 Date.

3 73. Distribution of Funds. No later than ten (10) calendar days after deposit of the
4 payment into the QSF, the Settlement Administrator will mail the payments to the Participating
5 Class Members, the payment for the attorneys' fees and costs to Class Counsel, any Service
6 Payment to the Class Representative, the payment to the LWDA for PAGA penalties, and will
7 pay itself the Settlement Administration Costs.

8 74. Deadline for Cashing Settlement Checks. Final Settlement Class Members shall
9 have 180 calendar days after mailing by the Settlement Administrator to cash their settlement
10 checks. If any Final Settlement Class Member's check is not cashed within that period, the
11 check will be void and a stop-payment will be issued. All unclaimed funds shall be donated to
12 Goodwill Industries International, Inc. pursuant to the terms of Code of Civil Procedure section
13 384(b), and the Settlement Administrator shall issue the unclaimed funds to the *cy pres* within
14 approximately 215 days of the mailing of the settlement checks. The release will be binding
15 upon all Final Settlement Class Members who do not cash their checks within the 180-day
16 period. In the event that any settlement check is returned to the Settlement Administrator within
17 180 days of mailing, the Settlement Administrator will, within five (5) business days of receipt
18 of the returned settlement check, perform a skip trace to locate the individual. If a new address
19 is located by these means, the Administrator will have ten (10) business days to re-issue the
20 check and will notify Defense Counsel and Class Counsel that a re-issued check has been sent.
21 Neither Defendant, Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator
22 will have any liability for lost or stolen settlement checks, forged signatures on settlement
23 checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the
24 event a Final Settlement Class Member notifies the Settlement Administrator that he or she
25 believes that a settlement check has been lost or stolen, the Settlement Administrator shall
26 immediately stop payment on such check. If the check in question has not been negotiated prior
27 to the stop payment order, the Settlement Administrator will issue a replacement check.

75. No person shall have any claim against Defendant (or its designee), Defendant's Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on mailings, distributions, payments or reports made in accordance with or pursuant to this Agreement. This provision does not, however, prevent a Party from seeking enforcement of this Agreement.

76. Without prejudice to any other remedies, the Settlement Administrator shall agree to be responsible for any breach of its obligations (whether committed by the Settlement Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any breach committed by the Settlement Administrator or its agents.

H. Duties of the Parties Prior to the Court's Approval

77. Upon execution of this Agreement, Plaintiff will submit this Settlement Agreement to the Court for Preliminary Approval. Plaintiff's submission will include this Settlement Agreement and any motions, memoranda, and evidence as may be necessary for the Court to determine that this Settlement Agreement is fair, adequate, and reasonable. Plaintiff will move the Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order accomplishing the following:

(a) Scheduling the Final Approval Hearing on the issue of whether this Settlement should be finally approved as fair, reasonable and adequate as to the Class Members and a hearing on fees, costs and the Service Payment;

(b) Approving as to form and content the proposed Notice;

(c) Directing the mailing of the Notice by first class mail to the Settlement Class Members;

(d) Preliminarily approving this Settlement; and

(e) Preliminarily certifying the class for purposes of this Settlement.

78. Reallocation of Settlement Proceeds. In the event the Court fails, on its first hearing, to approve this Agreement because the amount of the PAGA penalties is not adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within

1 this Agreement, in order to try to achieve Final Approval of the Agreement upon any
2 subsequent Court hearings.

3 **I. Duties of the Parties Following Court's Final Approval**

4 79. In connection with the Final Approval Hearing provided for in this Settlement
5 Agreement, Class Counsel shall submit a proposed Final Approval Order:

6 (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
7 adequate, and directing consummation of its terms and provisions;

8 (b) Approving Class Counsel's application for the Class Counsel Fee and Expense
9 Award the Service Payment to the Class Representative, and the payment to the Settlement
10 Administrator for costs of administering the settlement; and

11 (c) Entering judgment approving settlement, thereby permanently barring all
12 Participating Class Members from prosecuting any Released Class Claims against any of the
13 Released Parties and permanently barring all Aggrieved Employees and the LWDA from
14 prosecuting any Released PAGA Claims against any of the Released Parties.

15 **J. Voiding the Agreement**

16 80. If the Court fails or refuses to issue the Final Approval Order or fails to approve
17 any material condition of this Settlement Agreement which effects a fundamental change of the
18 Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to
19 all Parties herein at the option of either Party.

20 81. If ten (10%) or more of the Settlement Class Members timely submit a Request
21 for Exclusion, Defendant shall have the option of terminating or modifying this Agreement
22 without prejudice to its pre-settlement positions and defenses in the Action. If Defendant
23 exercises such option, under this paragraph it shall be relieved of any obligation to pay the
24 Settlement Amount or any other obligations from the Settlement by giving notice to Plaintiff's
25 Counsel and the Settlement Administrator within ten (10) days of the Notice Response
26 Deadline. If Defendant exercises its option under this paragraph, Defendant shall be solely
27 responsible for all Settlement Administration Costs incurred.

82. If the Settlement is voided or fails for any reason, Plaintiff and Defendant will have no further obligations under the Settlement, including any obligation by Defendant to pay the Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

83. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendant and Plaintiff, unless otherwise specified in this Agreement.

K. Other Terms

84. Full and Complete Defense. This Agreement may be pleaded by any Released Party as a full and complete defense to and may be used as the basis for an injunction against, any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted, asserting any Released Claim.

85. Waiver. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

86. No Publicity. Communications regarding this Settlement prior to the Final Approval Date shall be limited to Court-Approved Notices in the Action. After the Final Approval Date, Class Counsel and the Class Representative agree that they will not make any direct or indirect comment or publication of the Settlement or of Defendant in terms of affirmative or responsive media statements/comments, press releases or conferences, website postings or content, social media postings or content, other Internet postings or content, subscribed email messages, newsletters, disseminated updates, mass mailings, or any other comment or publication to the press, media, or public at large. Nothing herein shall be construed to prevent the Parties from the public filing of motions or other case materials in the Action related to seeking and obtaining Court approval of this Settlement and the related awards of attorneys' fees and costs, , or to prevent the Parties or their representatives from communicating with financial or legal advisors regarding the Settlement. In response to any media inquiry,

1 Class Counsel may state only that the Action has been settled on terms mutually agreeable to
2 the Parties.

3 87. Parties' Authority. The signatories hereto represent that they are fully authorized
4 to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions
5 hereof.

6 88. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
7 accomplish the terms of this Settlement Agreement, including but not limited to, execution of
8 such documents and to take such other action as may reasonably be necessary to implement the
9 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their
10 best efforts, including all efforts contemplated by this Settlement Agreement and any other
11 efforts that may become necessary by order of the Court, or otherwise, to effectuate this
12 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of
13 this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
14 Defendant and Defendant's Counsel, take all necessary steps to secure the Court's preliminary
15 and final approval of the settlement, and the final entry of judgment.

16 89. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
17 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
18 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
19 cause of action or rights released and discharged by this Settlement Agreement.

20 90. No Admission. Defendant denies any and all liability to Plaintiff and/or any
21 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
22 that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and
23 compromise the matters at issue in the Complaint to avoid further substantial expense and the
24 inconvenience and distraction of protracted and burdensome litigation. Defendant also has taken
25 into account the uncertainty and risks inherent in litigation, and without conceding any infirmity
26 in the defenses that they have asserted or could assert against Plaintiff, have determined that it is
27 desirable and beneficial that Plaintiff's claims be settled in the manner and upon the terms and
28 conditions set forth in this Agreement.

91. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and it, along with all related documents such as the notices, and motions for preliminary and final approval, shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for class certification as part of this Settlement Agreement is for settlement purposes only and if, for any reason the settlement is not approved, the stipulation will be of no force or effect.

92. Notices. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed:

To the Settlement Class Members and Aggrieved Employees:

Mehrdad Bokhour
mehrdad@bokhourlaw.com
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (310) 975-1493; Fax: (310) 675-0861

Joshua Falakassa
josh@falakassalaw.com
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (818) 456-6168; Fax: (888) 505-0868

To Defendant:

Sarah E. Ross
sross@littler.com

-29-

Dominique Thomas
dnthomas@littler.com
2049 Century Park East, 5th Floor
Los Angeles, California 90067
Tel: (310) 553-0308; Fax: (310) 553-5583

93. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or her or its counsel participated in the drafting of this Settlement Agreement. Plaintiff and Defendant expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

94. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

95. Modification. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

96. Dispute Resolution. Prior to instituting legal action to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide written notice to the other Party and allow an opportunity to cure the alleged deficiencies, and Plaintiff and Defendant agree to seek the help of the mediator identified in this Agreement to resolve any dispute they are unable to resolve informally. During this period, the Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any legal action or other proceeding instituted by any person or entity other than Plaintiff or Defendant.

97. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment

pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure Section 664.6, the Court shall retain exclusive and continuing jurisdiction of this Action over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations of this Agreement.

98. Enforceability. Pursuant to California Evidence Code Section 1123(a) and (b), this Agreement is intended by the Parties to be, and shall be, enforceable, binding, and admissible in a court of law.

99. Choice of Law. This Settlement Agreement shall be governed by and construed, enforced and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

100. Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

101. Binding On Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

102. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Final Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Final Settlement Class Member.

103. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute

one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES:

CLASS REPRESENTATIVE:

3/10/2022
Dated: March __, 2022

DocuSigned by:
Orlando Camp
9AA7CB41CE4E462
Orlando Camp

DEFENDANT:

MATSON LOGISTICS WAREHOUSING, INC.

Dated: March ¹⁴, 2022

By: Mark D. Minor
Title: Vice President



1 **APPROVED AS TO FORM:**

2 **CLASS COUNSEL:**

3 3/10/2022

4 Dated: March __, 2022

FALAKASSA LAW, PC

DocuSigned by:

Joshua Falakassa

15A628B2C5A149C...

Joshua Falakassa

Attorneys for Plaintiff and the Class

3/10/2022

8 Dated: March __, 2022

BOKHOUR LAW GROUP, P.C.

DocuSigned by:

Mehrdad Bokhour

D8D3643F271940F...

Mehrdad Bokhour

Attorneys for Plaintiff and the Class

12 **DEFENDANT'S COUNSEL:**

LITTLER MENDELSON, P.C.

15 Dated: March 15, 2022



Sarah E. Ross

Dominique Thomas

Attorneys for Defendant,

Matson Logistics Warehousing, Inc