

1 **SECOND AMENDED JOINT STIPULATION OF CLASS ACTION AND PAGA**
2 **SETTLEMENT AGREEMENT AND RELEASE**

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

9 **A. Definitions**

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

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

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

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

25 5. “Class Counsel” refers to Mehrdad Bokhour and Anwar D. Burton of Bokhour
26 Law Group, PC, and Joshua Falakassa of Falakassa Law, PC.

27 6. “Class Counsel Fee and Expense Award” means such award of fees and
28 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.

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

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

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

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

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

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

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

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

27
28 15. “Final Approval” refers to the order of the Court granting final approval of this
Settlement Agreement and entering a judgment approving this Settlement on substantially the

1 same terms provided herein or as may be modified by subsequent agreement of the Parties or
2 order of the Court.

3 16. “Final Settlement Class” means, collectively, all Participating Class Members
4 and all Aggrieved Employees.

5 17. “Individual Settlement Amount” shall have the meaning ascribed to it in
6 Paragraph 49(c) below.

7 18. “Labor and Workforce Development Agency Payment” means the amount the
8 Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in
9 connection with the claim for civil penalties under PAGA.

10 19. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph
11 49(b) below.

12 20. “Notice” means the notice of settlement of class action and PAGA Settlement
13 that will be sent to the Settlement Class Members, in substantially the form that is attached
14 hereto as “Exhibit 1.”

15 21. “Notice Response Deadline” is 45 calendar days from the date the Notice is
16 mailed to the Settlement Class Members.

17 22. “Objecting Settlement Class Member” means a Settlement Class Member, other
18 than Plaintiff, who submits a valid and timely objection to the terms of this Agreement with
19 respect to the Class Claims pursuant to Paragraph 71(a) below.

20 23. “PAGA” shall refer to the California Labor Code Private Attorneys General Act
21 of 2004, California Labor Code Sections 2698, *et seq.*

22 24. “PAGA Claims” shall include any and all claims for civil penalties pursuant to
23 PAGA asserted in the Action or any other claims that could have been asserted in the Action
24 based on the facts alleged in the PAGA Notice, including but not limited to claims for violations
25 of the California Labor Code governing: (1) failure to pay minimum wages; (2) failure to pay
26 overtime; (3) failure to provide meal periods; (4) failure to provide rest breaks; (5) failure to pay
27 due wages at separation of employment; and (6) failure to provide accurate itemized wage
28 statements.

25. “PAGA Notices” shall refer to the notice sent by Plaintiff, by and through

counsel, on or about February 8, 2021, to the LWDA and to Defendant, alleging that Defendant engaged in violations of the California Labor Code and California Wage Orders.

26. “PAGA Period” and “PAGA Release Period” shall mean February 9, 2020, through April 2, 2022.

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

28. “Parties” or “Settling Parties” means Plaintiff, the Settlement Class Members, the Aggrieved Employees, and Defendant, collectively.

29. “Preliminary Approval Date” means the date the Court preliminarily approves the Settlement Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

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

31. “QSF” means the Qualified Settlement Fund set up by the Settlement Administrator for the benefit of the Final Settlement Class, and from which the settlement payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue Code Section 468.

32. “Released Claims” by the Participating Class Members upon Final Approval of the Settlement will include all claims which were pled in the operative Complaint or that could have been pled based on the facts alleged therein, including claims for (1) failure to pay straight time/minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal breaks

and/or pay missed meal period premiums, (4) failure to provide rest breaks and/or pay missed rest period premiums, (5) failure to provide accurate itemized wage statements, (6) failure to pay due wages at separation of employment, (7) unfair competition, and (8) PAGA penalties based on the foregoing Labor Code violations..

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

34. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 71(a) below.

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

36. “Settlement Administration Costs” means the costs payable from the Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, translating the class notice into Spanish, tax reporting, due diligence, reporting and remittance obligations, distributing the Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement Amount.

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

38. “Settlement Amount” or “Gross Settlement Amount” shall have the meaning

ascribed to it in Paragraph 49(a) below.

39. “Settlement Class Member” or “Class Member” refers to individual members of the Settlement Class.

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

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

B. General Terms

42. On or about February 9, 2021, Plaintiff filed a class and PAGA representative action complaint on behalf of himself and similarly situated persons employed by Defendant for (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 termination; (6) failure to provide accurate itemized wage statements; (7) unfair competition; and (8) civil penalties pursuant to PAGA for the underlying Labor Code violations.

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

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

45. The Parties have conducted a thorough investigation into the facts of the Action. This includes conducting extensive exchange of informal discovery, including Defendant’s written policies and practices and the production of payroll and timekeeping records for Settlement Class Members and Aggrieved Employees. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff’s claims, the defenses thereto, and the damages claimed by Plaintiff. Class Counsel is both knowledgeable about and has done extensive research with respect to the applicable law and

1 potential defenses to the claims of the Settlement Class Members and Aggrieved Employees.
2 Class Counsel has diligently pursued an investigation of the Class Members' claims against
3 Defendant. Based on the foregoing data and on their own independent investigation and
4 evaluation, Class Counsel is of the opinion that the settlement with Defendant for the
5 consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and
6 adequate and is in the best interest of the Settlement Class Members and Aggrieved Employees
7 in light of all known facts and circumstances, including the risk of significant delay and
8 uncertainty associated with litigation, various defenses asserted by Defendant, and numerous
9 potential appellate issues.

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

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

17 48. Stipulation for Class Certification and Representative Treatment. For settlement
18 purposes only, Defendant will stipulate that the Settlement Class Members described herein
19 who do not Request Exclusion from the Settlement Class may be conditionally certified as a
20 settlement class and that the Aggrieved Employees are appropriate for representative treatment
21 for purposes of settlement. This stipulation to certification and representative treatment is in no
22 way an admission that class action certification and/or representative treatment is proper and
23 shall not be admissible in this or in any other action except for the sole purposes of enforcing
24 this Agreement. Should, for whatever reason, the Settlement not become final, the Parties'
25 stipulation to class certification and representative treatment as part of the Settlement shall
26 become null and void *ab initio* and shall have no bearing on and shall not be admissible in
27 connection with the issue of whether or not class certification and/or representative treatment
28 would be appropriate in a non-settlement context. Defendant expressly reserves its rights and
declares that it will continue to oppose class certification, representative treatment, and the

substantive merits of the case should this Settlement not become final. Plaintiff expressly reserves his rights and declares that he will continue to pursue class certification and representative treatment and a trial should the Court fail to issue Final Approval.

C. Terms of Settlement

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

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

(b) Net Settlement Amount: The “Net Settlement Amount” is defined as the Gross Settlement Amount less the Class Counsel Fee and Expense Award as approved and awarded by the Court, the Service Payment to the Class Representative as approved and awarded by the Court, the Settlement Administration Costs, as approved and awarded by the Court, and the Fifteen Thousand Dollars (\$15,000.00) allocated to payment for PAGA penalties. In the event that the Court reduces the attorneys’ fees and litigation costs Service Payment, or Settlement Administration Costs, or either increases or decreases the amount allocated to PAGA penalties, the Net Settlement Sum shall be increased or decreased accordingly.

(c) Individual Settlement Amounts for the Settlement Class: The Settlement Administrator will use the Class Data provided by Defendant to calculate each Participating Class Member’s and Aggrieved Employee’s Individual Settlement Amounts based on the following formula:

i. PAGA Amount: \$15,000 of the Gross Settlement Amount has been designated to the PAGA Claims. Twenty-five percent (25%), or \$3,750, shall be paid out to Aggrieved Employees. Each Aggrieved Employee shall receive a portion of the \$3,750 proportionate to the number of Workweeks Worked by the Aggrieved Employees during the

PAGA Period compared to the total number of Workweeks Worked by all Aggrieved Employees during the PAGA Period. Aggrieved Employees shall have their settlement amount for the Released PAGA Claims paid one hundred percent (100%) as civil penalties for which no taxes will be withheld and for which a Form 1099 will be issued by the Settlement Administrator.

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

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

(e) Service Payment to Class Representative: The amount awarded to the Class Representative as a Service Payment will be set by the Court in its discretion, not to exceed \$10,000. Defendant agrees not to oppose this request. The Service Payment to the Class Representative will be paid out of the Gross Settlement Amount. The Class Representative will be issued IRS Form 1099 in connection with this payment. Plaintiff shall be solely and legally

1 responsible to pay any and all applicable taxes on this payment. The Parties agree that any
2 amount awarded by the Court as the Service Payment to Plaintiff less than the requested amount
3 shall not be a basis for Plaintiff or Class Counsel to void this Stipulation. Should the Court
4 approve a lesser amount for the Service Payment, the difference shall be added to the Net
5 Settlement Amount to be distributed to the Participating Class Members and/or Aggrieved
6 Employees. If the amount of the Service Award is reduced on appeal, any amount reduced by
7 the appellate court shall be added to the Net Settlement Amount to be distributed to the
8 Participating Class Members and/or Aggrieved Employees after the exhaustion of any such
9 appellate review.

10 (f) Attorneys' Fees and Costs: Defendant agrees to not oppose a request by
11 Class Counsel to the Court for an award of attorneys' fees up to one-third (33.33%) of the Gross
12 Settlement Amount, plus reasonable litigation costs not to exceed \$15,000. For purposes of this
13 Settlement, Defendant agrees not to oppose any contention by Class Counsel that attorneys' fees
14 should be based on the common fund theory. The Class Counsel Fee and Expense Award shall
15 be paid from the Gross Settlement Amount, and except for this award, Defendant shall have no
16 further obligation to pay any attorneys' fees, costs or expenses to Class Counsel. Should the
17 Court approve a lesser amount than what is sought by Class Counsel, the difference shall be
18 added to the Net Settlement Amount to be distributed to the Participating Class Members. Any
19 Court order awarding less than the amount sought by Class Counsel shall not be grounds to
20 rescind the Settlement Agreement or otherwise void the Settlement. In the event of any appeal
21 of the amount of the Class Counsel Fee and Expense Award (if any) approved by the Court,
22 final funding and administration of the portion of the attorneys' fees and/or costs award in
23 dispute will be segregated and stayed pending the exhaustion of appellate review. If, after the
24 exhaustion of any such appellate review, the Class Counsel Fee and Expense Award is not
25 approved or is reduced by the appellate court, any amount not approved and/or reduced by the
26 appellate court shall be added to the Net Settlement Amount to be distributed to the
27 Participating Class Members and/or Aggrieved Employees. The Settlement Administrator shall
28 issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs
awarded by the Court. Class Counsel agrees that any allocation of fees between or among Class

Counsel and any other attorney representing or claiming to represent the Class Members shall be the sole responsibility of Class Counsel.

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

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

(i) Tax Liability: Class Counsel, Defendant and Defendant's Counsel make no representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder, and Plaintiff and the Settlement Class Members are not relying on any statement or 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.

(j) 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

1 DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND
2 OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
3 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
4 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
5 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
6 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
7 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
8 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
9 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY
10 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
11 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
12 ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
13 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
14 ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
15 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
16 ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
17 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF
18 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
19 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

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

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

D. Release by Plaintiff and the Final Settlement Class

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

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

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

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

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

57. Plaintiff and Defendant intend that the Settlement described in this Agreement

1 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
2 arbitration, demand, or other action of any kind, by each and all of the Aggrieved Employees
3 and the LWDA to obtain a recovery based on, arising out of, and/or related to any and all of the
4 Released Claims. The Aggrieved Employees and the LWDA shall be so notified in the Notice.

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

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

15 **E. Release by Class Representative**

16 59. As a material inducement to Defendant to enter into this Settlement Agreement,
17 in addition to the Class Representative's release of the Released Claims, as discussed in
18 Paragraphs 52 and 54 above, Class Representative does hereby, for himself and for his spouses,
19 domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors,
20 beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians,
21 assigns, and representatives, forever completely release and discharge the Released Parties from
22 any and all charges, complaints, claims, liabilities, obligations, promises, agreements, contracts,
23 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts,
24 and expenses (including for back wages, statutory penalties, civil penalties, liquidated damages,
25 exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the
26 beginning of time through the execution of this Joint Stipulation whether known or unknown,
27 suspected or unsuspected, concealed or hidden, including but not limited to all claims arising
28 out of, based upon, or relating to Class Representative's employment with Defendant or the
remuneration for or termination of such employment (collectively, the "Class Representative's

1 Claims”).

2 60. Unknown Claims means any and all actions, suits, claims, demands, rights,
3 liabilities, and causes of action other than those specified in paragraph 4 above which relate to
4 the Released Claims that the Plaintiff does not know of or suspect to exist in his favor, which, if
5 known by him, might have affected his agreement to the Settlement. This includes any and all
6 claims, rights, demands, liabilities, and causes of action, whether known or unknown, arising
7 from, or related to the Plaintiff’s employment with and separation from Defendant, including but
8 not limited to all claims arising from, or related to the same set of operative facts as those set
9 forth in the Complaint. As explained in paragraph 32, Plaintiff’s release includes all Unknown
10 Claims and as of Final Approval, Plaintiff hereby expressly waives and relinquishes, to the
11 fullest extent permitted by law, insofar as the claims arise from, or are related to, the same facts
12 alleged in Plaintiff’s Complaint, the benefits of section 1542 of the California Civil Code (as
13 well as any and all provisions, rights, and benefits of any similar state or federal law). Thus, if
14 the facts relating to this Settlement are found hereafter to be different from the facts now
15 believed to be true, the Release set forth in this Agreement will remain fully effective. If the
16 Court declines to enforce this provision, it will not be grounds to void the Agreement.

17
18 61. Without limiting the generality of the foregoing, Class Representative also
19 expressly releases all claims or rights against Released Parties arising out of or relating to
20 alleged violations of any contracts, express or implied (including but not limited to any contract
21 of employment); any contract or covenant of good faith and fair dealing (express or implied);
22 any tort, including but not limited to, negligence, fraud, misrepresentation and violation of
23 California Labor Code section 970, negligent infliction of emotional distress, intentional
24 infliction of emotional distress, defamation, “retaliation” claims and claims for violation of
25 public policy, any claim for improper or unauthorized wage deductions, failure to pay the
26 applicable wage, unpaid wages, unpaid vacation benefits, penalties, liquidated damages, other
27 damages, overtime, and alleged “off the clock” work under federal and state law, including, but
28

1 not limited to, California Labor Code Sections 204 and 558, waiting time penalties pursuant to
2 California Labor Section 203, damages or penalties pursuant to California Labor Code Section
3 226, meal period and rest break payments and penalties pursuant to California Labor Code
4 Sections 226.7 and 512, failure to provide itemized wage statements pursuant to California
5 Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Sections
6 210, failure to indemnify for business expenses pursuant to Labor Code section 2802, failure to
7 provide one day of rest in seven pursuant to California Labor Code Sections 551 and 552, unfair
8 competition and unfair business practices pursuant to Business and Professions Code Section
9 17200 et seq., interest and costs pursuant to California Civil Code Section 3287 and California
10 Labor Code Section 218.6, statutory or common law rights to attorneys' fees and costs,
11 including those pursuant to California Labor Code Section 1194 *et seq.*; claims under the
12 Private Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the alleged
13 violation or breach of any other state or federal statute, rule and or regulation; including all
14 applicable Industrial Welfare Commission Wage Orders, and all similar causes of action,
15 including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs
16 or attorneys' fees in connection with any of the foregoing, negligent infliction of emotional
17 distress, intentional infliction of emotional distress, and defamation; any "wrongful discharge,"
18 "constructive discharge," and "retaliation" claims; any claims relating to any breach of public
19 policy; any legal restrictions on Defendant's right to discharge employees; and any federal,
20 state, or other governmental statute, regulation, or ordinance, including, without limitation: (1)
21 Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin
22 discrimination or harassment, including retaliation for reporting discrimination or harassment);
23 (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) and California
24 Labor Code 1197.5 (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 et seq.
25 (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 et
26 seq.(family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government
27 Code § 12900 et seq. (discrimination or harassment in employment and/or housing, including
28 discrimination or harassment based on race, religious creed, color, national origin, ancestry,
disability, marital status, sex (including pregnancy), or age, including retaliation for reporting

discrimination or harassment); (7) California Family Rights Act, Cal. Government Code § 12945.1 et seq. (family/medical leave); (8) California Labor Code, including Section 1720 et seq., or any Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race, color, religion, sex, and national origin discrimination or harassment); (10) Executive Order 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973 (handicap discrimination); (12) the Fair Labor Standards Act; (13) Employee Retirement Income Security Act, 29 U.S.C. § 1000 et seq. (employee benefits); (14) the California Civil Code; (15) the California Labor Code; (16) the California Constitution; (17) the National Labor 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. Notice Process

63. Appointment of Settlement Administrator. The Parties have agreed to the

1 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
2 including mailing the Notice, using standard devices to obtain forwarding addresses,
3 independently reviewing and verifying documentation associated with any claims or opt-out
4 requests, resolving any disputes regarding the calculation or application of the formula for
5 determining the Individual Settlement Amounts, drafting and mailing the settlement checks to
6 Final Settlement Class Members, issuing W-2 and 1099 Tax Forms, reporting to taxing
7 authorities, due diligence, reporting and remittance obligations, and performing such other tasks
8 as set forth herein or as the Parties mutually agree or that the Court orders.

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

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

66. Notice. The Notice, as approved by the Court, shall be sent by the Settlement

1 Administrator to the Settlement Class Members, by first class mail within ten (10) calendar days
2 following the Settlement Administrator's receipt of the Class Data. The Settlement
3 Administrator shall use standard devices, including a skip trace, to obtain forwarding addresses
4 of Settlement Class Members if any envelopes are returned. Additionally, the Settlement
5 Administrator will maintain and administer a dedicated informational website with a case
6 specific domain/URL. The website will include links for Class Members to view the Order,
7 Class Notice and Request for Exclusion Form.

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

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

21 69. Disputes Regarding Class Data. Settlement Class Members are deemed to
22 participate in the Settlement, unless they opt-out. The Notice will inform Settlement Class
23 Members of his/her estimated Individual Settlement Amount, , and the number of Workweeks
24 Worked during the Class Period and during the PAGA Period. Settlement Class Members may
25 dispute their Workweeks Worked if they feel they were employed more workweeks in the Class
26 Period in California than Defendant's records show by timely submitting evidence to the
27 Settlement Administrator. Defendant's records will be presumed determinative absent reliable
28 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

1 Class Counsel and Defense Counsel who agree to meet and confer in good faith about the
2 evidence to determine the Class Member's actual number of Workweeks Worked and estimated
3 Individual Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they
4 agree to submit the dispute to the Settlement Administrator to render a final decision.
5 Settlement Class Members will have until the Notice Response Deadline to dispute Workweeks
6 Worked, object or opt out, unless extended by the Court. In the event that the Settlement
7 Administrator increases the number of Workweeks Worked for any Settlement Class Member,
8 then the Settlement Administrator will recalculate the Participating Class Members' Individual
9 Settlement Amounts; accordingly, in no event will Defendant be required to increase the Gross
10 Settlement Amount.

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

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

24 (a) Requests for Exclusion from Participating Settlement Class. Any
25 Settlement Class Member, other than Plaintiff, may request to be excluded from the
26 Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement
27 Administrator, postmarked on or before the Notice Response Deadline. The Request for
28 Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS

-20-

1 IN THE CAMP V. MATSON LOGISTICS WAREHOUSING, INC.
2 LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE
3 EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT
4 RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE
5 CLASS CLAIMS IN THIS LAWSUIT.”

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

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

24 (c) Objections to Settlement of Class Claims. Any Settlement Class Member,
25 other than Plaintiff, may object to the terms of this Agreement with respect to the Class Claims
26 and may appear at the Final Approval Hearing and object whether or not they have filed a
27 written objection as outlined herein. To object, a Settlement Class Member shall inform the
28 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

1 full name, address, telephone number, last four digits of the social security number or date of
2 birth, and dates of employment with Defendant of the Objecting Settlement Class Member, the
3 case name and number, the basis for the objection, including any legal support and each specific
4 reason in support of the objection, as well as any documentation or evidence in support thereof,
5 and, if the Objecting Settlement Class Member is represented by counsel, the name and address
6 of his or her counsel. If any Objecting Settlement Class Member wishes to speak at the Final
7 Approval Hearing with respect to the Class Claims, that Objecting Settlement Class Member's
8 written submission should include a request to be heard, and the Court will determine whether
9 Objecting Settlement Class Members will be permitted to speak. The Settlement Administrator
10 shall provide objections, if any, to Class Counsel and Defense Counsel within three (3) days of
11 receipt, and the Settlement Administrator shall attach the same to its declaration of due
12 diligence it files with the Court prior to the Final Approval Hearing. Any Participating Class
13 Member who files an objection remains eligible to receive monetary compensation from the
14 Settlement. Plaintiff and Defendant shall not be responsible for any fees, costs, or expenses
15 incurred by any Class Member and/or his or her counsel related to any objections to the
16 Settlement. Submitting an objection does not preserve the right to appeal a final judgment.
17 Rather, the right to appeal is preserved by becoming a party of record by timely and properly
18 intervening or filing a motion to vacate the judgment under Code of Civil Procedure § 663.
19 Settlement Class Members and Aggrieved Employees may not object to or opt-out of the
20 Settlement with respect to the PAGA Claims.

21 (d) Failure to Object. Any Settlement Class Member who desires to object
22 with respect to the Class Claims but fails to timely submit a written objection or appear in
23 person at the Final Approval Hearing waives any right to object, will be foreclosed from making
24 any objection to this Settlement. Any Settlement Class Member who does not timely and
25 properly become a party of record by intervening or filing a motion to vacate the judgment
26 waives any and all rights to appeal from the Judgment, including all rights to any post-judgment
27 proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial,
28 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 49(a) that is necessary to make all payments required under this Settlement, within thirty (30) business days after the Effective Date.

73. Distribution of Funds. No later than ten (10) calendar days after deposit of the payment into the QSF, the Settlement Administrator will mail the payments to the Participating Class Members, payment for costs to Class Counsel, payment for 90% of the attorneys' fees (*i.e.*, all but a 10% hold back), any Service Payment to the Class Representative, the payment to the LWDA for PAGA penalties, and will pay itself the Settlement Administration Costs. Within fifteen (15) days after Class Counsel confirms with the Court the distribution process and final accounting, the Settlement Administrator will pay the remaining 10% of the Class Counsel Fees and Litigation Expenses Award hold back.

74. Deadline for Cashing Settlement Checks. Final Settlement Class Members shall have 180 calendar days after mailing by the Settlement Administrator to cash their settlement checks. If one or more Class Members fail to cash the check for their Individual Settlement Amount within 180 days, and if the aggregate funds represented by the uncashed checks total \$15,000 or more, they will be distributed to each remaining Class Member who is participating in the Settlement and who cashed or deposited their check for their Individual Settlement Amount in the same method as used in calculating their respective initial Individual Settlement Amount. (*Id.*) If the aggregate funds represented by the uncashed checks total less than \$15,000, they will be provided to Bet Tzedek Legal Services, the designated *cy pres* recipient and a non-profit organization advancing the rights of low-income individuals in labor and employment disputes. Should there be a distribution to the *cy pres* recipient pursuant to the Settlement, Plaintiff's counsel will submit a post-judgment report of the amount actually paid to the Class and an amendment of the judgment to indicate the amount paid to the *cy pres* recipient pursuant to Code of Civil Procedure section 384. If there is no distribution to the *cy pres* recipient, Class Counsel will submit a report confirming the distribution process and final accounting of the

1 Settlement. However, the Release will be binding upon all Participating Class Members,
2 including those who do not cash their checks within the 180-day period. In the event that any
3 settlement check is returned to the Settlement Administrator within 180 days of mailing, the
4 Settlement Administrator will, within five (5) business days of receipt of the returned settlement
5 check, perform a skip trace to locate the individual. If a new address is located by these means,
6 the Administrator will have ten (10) business days to re-issue the check and will notify Defense
7 Counsel and Class Counsel that a re-issued check has been sent. Neither Defendant, Defense
8 Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator will have any liability for
9 lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized
10 negotiation of settlement checks. Without limiting the foregoing, in the event a Final Settlement
11 Class Member notifies the Settlement Administrator that he or she believes that a settlement
12 check has been lost or stolen, the Settlement Administrator shall immediately stop payment on
13 such check. If the check in question has not been negotiated prior to the stop payment order, the
14 Settlement Administrator will issue a replacement check.

15 75. Class Members Who Appear After Distribution(s). (a) If a Class Member who
16 either did not receive the Class Notice or who did not receive or cash their check after the initial
17 distribution appears before the redistribution, then the Settlement Administrator shall pay out
18 their share before the redistribution, or any *cy pres* payment, occurs. This payment shall be
19 calculated to approximate as best as possible, and as funds permit, what the Class Member
20 should have received. (b) If a Class Member who either did not receive the Class Notice or who
21 did not receive or cash their check after the initial distribution and the redistribution, appears
22 after the redistribution, and funds still remain, then the Settlement Administrator shall pay to the
23 Class Member a share calculated to approximate as best as possible, and as funds permit, what
24 the Class Member should have received. (c) If more than one Class Member appears after the
25 first distribution or redistribution, and funds still remain but are not sufficient to pay the entire
26 Settlement Shares, then the Settlement Administrator shall pay out the remaining funds on a pro
27 rata basis. (d) For any redistribution that takes place, the Parties agree that the amounts shall be
28 allocated as miscellaneous income, not subject to withholding, and will be reported on a Form
1099 as needed.

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

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

11 **G. Duties of the Parties Prior to the Court's Approval**

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

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

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

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

24 (d) Preliminarily approving this Settlement; and

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

26 79. Reallocation of Settlement Proceeds. In the event the Court fails, on its first
27 hearing, to approve this Agreement because the amount of the PAGA penalties is not adequate,
28 then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within
this Agreement, in order to try to achieve Final Approval of the Agreement upon any

subsequent Court hearings.

H. Duties of the Parties Following Court's Final Approval

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

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

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

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

I. Voiding the Agreement

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

82. If ten (10%) or more of the Settlement Class Members timely submit a Request for Exclusion, Defendant shall have the option of terminating or modifying this Agreement without prejudice to its pre-settlement positions and defenses in the Action. If Defendant exercises such option, under this paragraph it shall be relieved of any obligation to pay the Settlement Amount or any other obligations from the Settlement by giving notice to Plaintiff's Counsel and the Settlement Administrator within ten (10) days of the Notice Response Deadline (or 15 days after Notice Response Deadline if remailing of notices was necessary as outlined in Paragraph 67). If Defendant exercises its option under this paragraph, Defendant shall be solely responsible for all Settlement Administration Costs incurred.

83. 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

1 the Settlement Amount, or any amounts that otherwise would have been owed under this
2 Settlement.

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

6 **J. Other Terms**

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

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

13 87. No Publicity. Communications regarding this Settlement prior to the Final
14 Approval Date shall be limited to Court-Approved Notices in the Action. After the Final
15 Approval Date, Class Counsel and the Class Representative agree that they will not make any
16 direct or indirect comment or publication of the Settlement or of Defendant in terms of
17 affirmative or responsive media statements/comments, press releases or conferences, website
18 postings or content, social media postings or content, other Internet postings or content,
19 subscribed email messages, newsletters, disseminated updates, mass mailings, or any other
20 comment or publication to the press, media, or public at large. Nothing herein shall be construed
21 to prevent the Parties from the public filing of motions or other case materials in the Action
22 related to seeking and obtaining Court approval of this Settlement and the related awards of
23 attorneys' fees and costs, or to prevent the Parties or their representatives from communicating
24 with financial or legal advisors regarding the Settlement. In response to any media inquiry,
25 Class Counsel may state only that the Action has been settled on terms mutually agreeable to
26 the Parties.

27 88. Parties' Authority. The signatories hereto represent that they are fully authorized
28 to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions
hereof.

1
2 89. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
3 accomplish the terms of this Settlement Agreement, including but not limited to, execution of
4 such documents and to take such other action as may reasonably be necessary to implement the
5 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their
6 best efforts, including all efforts contemplated by this Settlement Agreement and any other
7 efforts that may become necessary by order of the Court, or otherwise, to effectuate this
8 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of
9 this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
10 Defendant and Defendant's Counsel, take all necessary steps to secure the Court's preliminary
11 and final approval of the settlement, and the final entry of judgment.

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

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

25 92. Inadmissibility of Agreement. Whether or not the Court issues the Final
26 Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement,
27 is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing
28 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.

93. 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
Dominique Thomas
dnthomas@littler.com
2049 Century Park East, 5th Floor
Los Angeles, California 90067
Tel: (310) 553-0308; Fax: (310) 553-5583

94. 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.

95. 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.

96. 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.

97. 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.

98. 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.

99. 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.

100. 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.

101. 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.

102. 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.

103. 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.

104. 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.

[Signatures on the next page]

1 **APPROVAL AND EXECUTION BY PARTIES:**

2 **CLASS REPRESENTATIVE:**

3
4 Dated: August ,2022

5 _____
Orlando Camp

6 **DEFENDANT:**

7
8 MATSON LOGISTICS WAREHOUSING, INC.

9 Dated: August 3, 2022

10 By:  Mark Douglas Minor

11 Title: Vice President and General Counsel

12 **APPROVED AS TO FORM:**

13 **CLASS COUNSEL:**

14 Dated: August __, 2022

15
16 **FALAKASSA LAW, PC**

17 _____
Joshua Falakassa

Attorneys for Plaintiff and the Class

18
19 Dated: August __, 2022

20
21 **BOKHOUR LAW GROUP, P.C.**

22 _____
Mehrddad Bokhour

Anwar D. Burton

Attorneys for Plaintiff and the Class

23 **DEFENDANT'S COUNSEL:**

24
25 **LITTLER MENDELSON, P.C.**

26 Dated: August ⁴ __, 2022

27 _____
Sarah E. Ross

Dominique N. Thomas

Attorneys for Defendant

Matson Logistics Warehousing, Inc