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Attorneys for Plaintiff
MICHAEL JOSEPH METCALF
 and Class Members

SUPERIOR COURT OF THE STATE OF CALIFORNIA

LOS ANGELES COUNTY SUPERIOR COURT

MICHAEL JOSEPH METCALF, an individual
 on behalf of himself and all similarly situated
 employees

Plaintiffs,

v.

YUSEN LOGISTICS (AMERICAS) INC., a
 New Work Corporation, YUSEN LOGISTICS
 CO., LTD, dba YUSEN LOGISTICS GROUP, a
 California Company; and DOES 1 through 100,
 Inclusive,

Defendants.

CASE NO. 21STCV28695

**STIPULATION AND SETTLEMENT OF
 CLASS ACTION AND PAGA CLAIMS**

Case Filed: August 4, 2021

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6 Attorneys for Defendant
YUSEN LOGISTICS (AMERICAS) INC.
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1 This Stipulation and Settlement of Class Action and PAGA Claims (“Agreement”) is made
2 by and between Plaintiff Michael Joseph Metcalf (“Plaintiff”), individually and on behalf of the Class
3 Members and Aggrieved Employees, on the one hand, and Defendant Yusen Logistics (Americas),
4 Inc. (“Defendant”), on the other hand, after Plaintiff and Defendant engaged in informal discovery,
5 participated in a full day of mediation, accepted a mediator’s proposal, and negotiated this Agreement
6 at arms-length. Plaintiff and Defendant are referred to in this Agreement collectively as the “Parties,”
7 or individually as a “Party.” Capitalized terms used herein shall have the meanings set forth in Article
8 I or as defined elsewhere in this Agreement.

9 For the consideration set forth herein, including, but not limited to, a release of claims by the
10 Participating Class Members, a release by Aggrieved Employees, and a general release of claims by
11 Plaintiff, Defendant agrees to pay a settlement amount of Three Million, Seven Hundred Thousand
12 Dollars and Zero Cents (\$3,700,000.00) (the “Settlement Amount”) as set forth herein.

13 Now, therefore, it is stipulated and agreed by and among the undersigned Parties, subject to
14 the approval of the Court pursuant to the California Rules of Court, that the Settlement of the Action
15 shall be effectuated subject to the following terms and conditions.

16 ARTICLE I

17 DEFINITIONS

18 Unless otherwise defined herein, the following terms used in this Agreement shall have the
19 meanings ascribed to them as set forth below:

20 a. “Action” means (1) the putative lawsuit filed by Plaintiff against Defendant on
21 August 4, 2021, in Los Angeles Superior Court, Case No. 21STCV28695, (2) the lawsuit filed by
22 Plaintiff against Defendant on June 1, 2021, in Los Angeles Superior Court, Case No.
23 21STCV20512, and/or (3) any consolidated action encompassing the two actions referenced in this
24 paragraph.

25 b. “Aggrieved Employees” means all current and former hourly-paid or non-exempt
26 employees employed directly by Defendant within the state of California at any time during the
27 PAGA Period.

28 c. “Agreement” means this Stipulation and Settlement of Class Action Claims, including

1 any attached Exhibit(s).

2 d. "Attorneys' Fees and Costs" means reasonable attorneys' fees for Class Counsel's
3 litigation and resolution of this Action (not to exceed one-third of the Maximum Settlement Amount),
4 and Class Counsel's expenses and costs reasonably incurred in connection with this Action, not to
5 exceed One Hundred and Fifty Thousand Dollars and Zero Cents (\$150,000.00).

6 e. "Check-Cashing Period" means the period of 180 days after the date Individual
7 Settlement Payment checks are issued.

8 f. "Claims and Allegations at Issue" means all of the claims and allegations asserted in
9 (i) the Consolidated Complaint filed on June 22, 2023; (ii) the Complaint filed by Plaintiff against
10 Defendant on August 4, 2021; (iii) the letters sent to the LWDA on behalf of Plaintiff date June 1,
11 2021; and (iv) any claims or allegations that could have been asserted under any applicable Industrial
12 Welfare Commission ("IWC") Wage Order.

13 g. "Class" means all current and former hourly-paid or non-exempt employees
14 employed directly by Defendant within the state of California at any time during the Class Period.

15 h. "Class Counsel" means the attorneys for the Class and the Class Members, who are:

16 Shoham J. Solouki, Esq.
17 Grant Joseph Savoy, Esq.
18 **SOLOUKI | SAVOY LLP**
19 316 W. 2nd Street, Suite 1200
20 Los Angeles, CA 90012
21 Telephone: (213) 814-4940
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23 and

24 Gregory Mauro, Esq.
25 James Hawkins, Esq.
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i. "Class List" means a list based on Defendant's business records that identifies each
Class Member's name, last known home or mailing address, Social Security number or, as
applicable, other taxpayer identification number, and the number of Qualifying Workweeks worked

1 during the Class Period and/or Qualifying Pay Periods worked during the PAGA Period.

2 j. “Class Members” means all current and former hourly-paid or non-exempt employees
3 employed directly by Defendant within the state of California during the Class Period.

4 k. “Class Notice” means the Court approved Notice of Class Action Settlement and
5 Hearing Date for Final Court Approval, to be mailed to Class Members in English and Spanish in
6 the form, without material variation, attached as **Exhibit A**.

7 l. “Class Period” means June 1, 2017 through May 31, 2023.

8 m. “Class Representative” means the named Plaintiff in the operative complaint in this
9 Action seeking Court approval to serve as a Class Representative.

10 n. “Court” means the Los Angeles County Superior Court, where the Action is currently
11 pending.

12 o. “Defendant” means Yusen Logistics (Americas) Inc. (Yusen Logistics Co., Ltd. was
13 originally named as a Defendant, but was dismissed by the Court on August 30, 2021.)

14 p. “Defense Counsel” means counsel for Defendant, who are:

15 Daniel B. Chammas
dchammas@fordharrison.com
16 Jennifer S. McGeorge
jmcgeorge@fordharrison.com
17 **FORD & HARRISON LLP**
350 South Grand Avenue, Suite 2300
18 Los Angeles, CA 90071
Telephone: (213) 237-2400
19 Facsimile: (213) 237-2401

20 q. “Effective Date” of this Settlement means the later of the following: (i) if there are
21 no objections to the Settlement, then the day Judgment is entered by the Court; (ii) if there are
22 objections to the Settlement, and if an appeal, review or writ is not sought from the Judgment, the
23 sixty-first (61st) day after service of notice of entry of the Judgment; or (iii) if an appeal, review or
24 writ is sought from the Judgment, the date upon which all appellate and/or other proceedings
25 resulting from the appeal, review or writ have been finally terminated in such a manner as to permit
26 the Judgment to take effect in substantially the form described herein.

27 r. “Final Fairness and Approval Hearing” means the hearing to be conducted by the
28 Court to determine whether to finally approve and implement the Settlement pursuant to the terms

1 of this Agreement.

2 s. "Final Order" means the final order signed by the Court following the Final Fairness
3 and Approval Hearing in accordance with the terms herein, approving this Agreement.

4 t. "Gross Settlement Amount" means the settlement amount of Three Million, Seven
5 Hundred Thousand Dollars and Zero Cents (\$3,700,000.00) which Defendant, shall pay in
6 connection with this Settlement, by way of a common fund, which shall be inclusive of all Individual
7 Settlement Payments, Attorneys' Fees and Costs, the Enhancement Payments, Settlement
8 Administration Costs, and the LWDA Payment. Based on its records, Defendant estimates that there
9 are 139,000 workweeks during the Class period. Should the actual number of workweeks as of the
10 Motion for Preliminary Approval be more than 10% higher than 139,000 workweeks, the Gross
11 Settlement Amount shall automatically increase proportionally for each percentage point over 10%.
12 For example, if the number of workweeks increases by 11% the Gross Settlement Amount will
13 increase by 1%. Likewise, if the number of workweeks increases by 12% the Gross Settlement
14 Amount will increase by 2%.

15 u. "Employer's Share of Payroll Taxes" means Defendant's portion of payroll taxes,
16 including, but not limited to FICA and FUTA, on the portion of the Individual Settlement Payments
17 that constitutes wages. The Employer's Share of Payroll Taxes shall be submitted by Defendant, to
18 the Settlement Administrator in addition to the Gross Settlement Amount.

19 v. "Enhancement Payment" means a monetary award subject to Court approval of up to
20 Twenty Thousand Dollars and Zero Cents (\$20,000.00) that will be paid to Plaintiff pursuant to
21 Section 3.06 (d) of this Agreement.

22 w. "Individual Class Settlement Payment" means each Participating Class Member's pro
23 rata share of the Net Settlement Amount calculated according to the number of Workweeks worked
24 during the Class Period.

25 x. "Individual PAGA Settlement Payment" means each Aggrieved Employee's pro rata
26 share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked
27 during the PAGA Period.

28 y. "LWDA" means the California Labor and Workforce Development Agency.

1 z. “LWDA Payment” means the portion of the PAGA Payment payable to the LWDA.

2 aa. “Motion for Final Approval” means Plaintiff’s submission of a written motion,
3 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
4 the Settlement Agreement as set forth in this Agreement, to conduct a Final Fairness and Approval
5 Hearing, and to enter a Final Order in this Action.

6 bb. “Motion for Preliminary Approval” means Plaintiff’s written motion, including any
7 evidence as may be required for the Court to grant preliminary approval of the Settlement Agreement
8 as required by Rule 3.769 of the California Rules of Court.

9 cc. “Net Settlement Amount” means the Gross Settlement Amount less the amount
10 allocated to Settlement Administration Costs, Attorneys’ Fees and Costs, Enhancement Payments,
11 and the PAGA Payment.

12 dd. “Objection” means the Class Member’s timely submission of a written objection from
13 the Class Settlement, which must explain the reason for the objection and be signed by the Class
14 Member.

15 ee. “Operative Complaint” means the Consolidated Complaint filed on June 22, 2023.

16 ff. “PAGA” means the California Private Attorneys General Act of 2004, which is
17 codified in California Labor Code §§ 2698, *et seq.*

18 gg. “PAGA Payment” means the amount payable from the Maximum Settlement Amount
19 to resolve the PAGA claim alleged in the Action, of which seventy-five percent (75%) shall be paid
20 to the LWDA and twenty-five percent (25%) shall be paid to Aggrieved Employees.

21 hh. “PAGA Period” means the period from June 1, 2020 through May 31, 2023.

22 ii. “Pay Period” means any pay period during which an Aggrieved Party worked at least
23 one day for Defendant as a non-exempt employee in California during the PAGA Period.

24 jj. “Participating Class Member” means a Class Member who does not timely request to
25 be excluded from the Settlement and will therefore receive a share of the Net Settlement Amount.

26 kk. “Preliminary Approval Date” means the date the Court preliminarily approves the
27 Settlement in accordance with the terms of this Agreement.

1 ll. “Preliminary Approval Order” means the order the Court enters approving and
2 authorizing the mailing of the Notice by the Settlement Administrator, setting the date of the Final
3 Fairness and Approval Hearing and granting preliminary approval of the Settlement set forth in this
4 Agreement, among other things.

5 mm. “Released Class Claims” means the claims being released as described in Section
6 4.01, below.

7 nn. “Released PAGA Claims” means the claims being released as described in Section
8 4.02, below.

9 oo. “Released Parties” are defined in Section 4.01, below.

10 pp. “Request for Exclusion ” means the Class Member’s timely submission of a written
11 request to be excluded from the Class Settlement signed by the Class Member.

12 qq. “Settlement” means the final resolution and disposition of the Action pursuant to this
13 Agreement.

14 rr. “Settlement Administration Costs” means all costs and fees (not to exceed
15 \$25,000.00) incurred and charged by the Settlement Administrator in administering the Settlement,
16 including, but not limited to, the following: (i) printing, mailing and re-mailing (if necessary) of
17 Class Notice to Class Members in English and Spanish; (ii) preparing and submitting to Participating
18 Class Members and government entities all appropriate tax filings and forms; (iii) computing the
19 amount of and distributing Individual Settlement Payments, the Enhancement Award, Attorneys’
20 Fees and Costs, and the LWDA Payment; (iv) processing and validating Request for Exclusion
21 Forms and Notices of Objection; (v) establishing a Qualified Settlement Fund ("QSF"), as defined
22 by the Internal Revenue Code; and (vi) calculating and remitting to the appropriate government
23 agencies all employer and employee payroll tax obligations arising from the Settlement and
24 preparing and submitting filings required by law in connection with the payments required by the
25 Settlement.

26 ss. “Settlement Administrator” means APEX Class Action Settlement Administration,
27 which will be responsible for the administration of the Settlement pursuant to the terms of this
28 Agreement.

CONTINGENT NATURE OF THE AGREEMENT

6 The Parties agree that the Action will be stayed until the request for preliminary and final
7 approval of the Settlement is either granted or denied. Because the Parties have stipulated to the
8 certification of the Class with respect to all causes of action alleged in the Operative Complaint for
9 settlement purposes only, this Agreement requires preliminary and final approval by the Court.
0 Defendant does not consent to certification of the Class for any purpose other than to effectuate the
1 Settlement of the Action. Accordingly, the Parties enter into this Agreement on a conditional basis.
2 This Agreement is contingent upon the approval and certification by the Court.

4 The Parties and their respective counsel shall take all steps that may be requested by the Court
5 relating to the approval and implementation of the Settlement in accordance with the terms of this
6 Agreement and shall use their respective best efforts to obtain Court approval and to implement this
7 Agreement. If the Court does not grant the Motion for Preliminary Approval and/or the Motion for
8 Final Approval, the Parties agree to meet and confer to address the Court's concerns. If the Parties
9 are unable to reach a resolution, the Parties agree to submit the dispute to the mediator for resolution.

11 If the Effective Date does not occur, the Parties agree as follows:

- (a) Any conditional certification of the Class will be vacated and Plaintiffs, Defendant, and the Class will be returned to their positions with respect to the Action as if this Agreement had not been entered into. Any Settlement Administration costs incurred to that point will be split by the Parties.
- (b) Any orders of the Court preliminarily or finally approving certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity.

1 (c) The fact that the Parties were willing to stipulate to certification for the
2 purposes of this Agreement shall have no bearing on, nor be admissible in
3 connection with, the issue of certification of the Class with respect to any
4 cause of action alleged in the Action.

5 (d) The fact of the settlement terms reflected in this Agreement and the fact that
6 Defendant did not oppose the certification of a Class under this Agreement or
7 that the Court preliminarily approved the certification of the Class shall not be
8 used or cited thereafter by any person or entity in any manner whatsoever,
9 including without limitation any contested proceeding relating to the
10 certification of any class.

11 (e) This Agreement shall be deemed null and void, shall be of no force or effect
12 whatsoever, and shall not be referred to or used for any purpose whatsoever.

13 ARTICLE III

14 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF SETTLEMENT**

15 The procedure for obtaining Court approval of and implementing this Agreement shall be as
16 follows:

17 **Section 3.01: Preliminary Approval and Conditional Class Certification**

18 Within 60 days of this Stipulation and Settlement of Class Action Claims being executed by
19 all Parties, Plaintiff will submit the Motion for Preliminary Approval along with this Agreement to
20 the Court for preliminary approval pursuant to Rule 3.769 of the California Rules of Court. Plaintiff's
21 Motion for Preliminary Approval will request an order conditionally certifying the Class. The Motion
22 for Preliminary Approval will request a hearing date for the Final Fairness and Approval Hearing to
23 be included in the Preliminary Approval Order. Defendant will not oppose the Motion for
24 Preliminary Approval. 14 days prior to submission of the Motion for Preliminary Approval,
25 Plaintiff's counsel will prepare and deliver to Defense Counsel a draft of the Motion for Preliminary
26 Approval papers, including the draft of the notice, memorandum in support, and any supporting
27 declarations. Plaintiff and Defendant will meet and confer regarding any comments or changes that
28

1 Defendant requests so that both parties agree on the final Motion for Preliminary Approval that will
2 be filed.

3 **Section 3.02: The Settlement Administrator**

4 **a. Settlement Administrator Duties, Generally**

5 The Parties have chosen APEX Class Action Settlement Administration to administer the
6 Settlement pursuant to this Agreement and to act as the Settlement Administrator. The Settlement
7 Administrator shall perform all functions required under this Agreement and take all necessary steps
8 to effectuate the Settlement, including, but not limited to, the following: distributing and responding
9 to inquiries about the Class Notice; determining the validity of any Requests for Exclusion and/or
10 notice of Objection; calculating the Net Settlement Amount and the Individual Settlement Payments;
11 issuing the Individual Settlement Payment checks and distributing them to Participating Class
12 Members and Aggrieved Employees; issuing the PAGA Payment to the LWDA; and issuing payment
13 to Class Counsel for Attorneys' Fees and Costs, to Plaintiff for his Enhancement Award, and to the
14 appropriate taxing authorities for the Employer's Share of Payroll Taxes, which will be paid by
15 Defendant, separately and in addition to the Gross Settlement Amount. The Settlement Administrator
16 shall provide Class Counsel an estimated average of the recovery for the Class Members, and the
17 estimated high and low ranges of possible recoveries. To protect Class Members' privacy rights, the
18 Settlement Administrator shall maintain any and all Class Member identifying information provided
19 to it by Defendant ("Class Data") in confidence, use the Class Data only for purposes of this
20 Settlement and for no other purpose, and restrict access to the Class Data to Administrator's
21 employees who need access to the Class Data to effectuate this Agreement. The Settlement
22 Administrator has a continuing duty to immediately notify Defense Counsel if it discovers the
23 confidentiality of the Class Data has been breached. In addition, the Settlement Administrator shall
24 notify Defense counsel only of any opt-out notices received.

25
26 **Section 3.03: Notice to Class Members**

27 No later than twenty-one (21) days after the Preliminary Approval Date, Defendant will
28 provide the Settlement Administrator the Class List.

1 Within ten (10) business days of receiving the Class List from Defendant, the Settlement
2 Administrator will send Class Members, by first-class mail, at their last known addresses, the Court
3 approved Class Notice. The Class Notice will include a calculation of each Class Member's estimated
4 share of the Net Settlement Amount. Class Members will have forty-five (45) days from the date of
5 mailing of the Notice to postmark objections or requests for exclusion. Prior to the initial mailing,
6 the Settlement Administrator will check all Class Member addresses against the National Change of
7 Address database and shall update any addresses before mailing. Class Members shall not be required
8 to submit claim forms in order to receive a share of the Net Settlement Amount.

9 If a Class Notice is returned with a forwarding address, the Settlement Administrator shall
10 re-mail the Class Notice to the forwarding address. With respect to each Class Member whose Notice
11 is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall
12 promptly attempt to obtain a valid mailing address by performing a skip trace or mass search on
13 LexisNexis databases based on set criteria and, if another address is identified, shall mail the Notice
14 to the newly identified address. It is the intent of the Parties that reasonable means be used to locate
15 Class Members and that the Settlement Administrator be given discretion to take steps in order to
16 facilitate notice of the Settlement and delivery of the Individual Settlement Payments to the
17 Participating Class Members.

18 If a Class Member's Notice is re-mailed, the Class Member shall have ten (10) days from the
19 re-mailing, or forty-five (45) days from the date of the initial mailing, whichever is later, to postmark
20 objections or requests for exclusion. If the Class Notice is re-mailed, the Settlement Administrator
21 will note for its own records and notify Class Counsel and Defense Counsel of the date of each such
22 re-mailing as part of a weekly status report provided to the Parties.

23 In the event a Class Notice remains undeliverable sixty (60) days after its initial mailing, the
24 Settlement Administrator will not mail the Class Member's Individual Settlement Payment. The
25 Settlement Administrator will hold the Class Member's Individual Settlement Payment during the
26 Check-Cashing Period on behalf of the Class Member. If, at the conclusion of the Check-Cashing
27 Period, the Class Member's Notice and Individual Settlement Payment remain undeliverable, the
28 Settlement Administrator will send the funds from those checks to the State of California's State

1 Controller Unclaimed Property Fund with an identification of the amount of unclaimed funds
2 attributable to each such Class Member.

3 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
4 Settlement Administrator shall provide Class Counsel and Defense Counsel with a declaration
5 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
6 for and re-sending of any returned Notices, as well as the number requests for exclusion and
7 objections that the Settlement Administrator received.

8 If the Final Fairness and Approval Hearing is continued for any reason, the Settlement
9 Administrator will mail notice to the Class Members advising them of the new date, time, and
10 location of the Final Fairness and Approval Hearing.

11 **Section 3.04: Responses to Notice**

12 **a. Settlement Terms Bind All Class Members Who Do Not Submit a Timely**
13 **Request for Exclusion**

14 Any Class Member who does not affirmatively opt out of the Settlement by submitting a
15 timely Request for Exclusion will be bound by all of its terms including those pertaining to the
16 Released Class Claims, as well as any Final Order that may be entered by the Court if it grants final
17 approval of the Settlement.

18 **b. Class Member Disputes**

19 If a Class Member disputes the Individual Settlement Payment or any other information on
20 the Notice of Class Action Settlement that s/he receives, the Class Member may produce evidence
21 to the Settlement Administrator for the Class Period. In order for the dispute to be considered, s/he
22 must follow the directions on the Notice of Class Action Settlement.

23 Written notice of the dispute must be received by the Settlement Administrator within 45
24 calendar days of the mailing of the Notice. The date of mailing the Notice by the Settlement
25 Administrator to the Class Member, and the date the notice of dispute was postmarked, shall be
26 conclusively determined according to the records of the Settlement Administrator. Upon the timely
27 receipt of any dispute, the Settlement Administrator will notify Defense Counsel in writing (email
28 constitutes a writing for this purpose) of the dispute. Defendant's records will be presumed

determinative, absent evidence to rebut Defendant's records, but the Settlement Administrator will evaluate the evidence submitted by the Class Member and make the final decision as to the validity of such evidence.

c. Requests for Exclusion from Class Members

By entering into this Agreement, Plaintiff agrees that he will not request exclusion from the Class.

Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator by mail, a Request for Exclusion that must be signed by the Class Member or his or her authorized representative, and must be sent to the Settlement Administrator, postmarked by no later than forty-five (45) days after the date the Settlement Administrator initially mails the Notice to the Class Members (or ten (10) days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later). The Class Notice shall contain instructions on how to validly exclude oneself from the Class and this Settlement. The date of the initial mailing of the Class Notice, and the date the signed Request for Exclusion was postmarked, shall be conclusively determined according to the records of the Settlement Administrator. Any Class Member who timely and validly submits a Request for Exclusion will not be entitled to any Individual Class Settlement Payment from the Net Settlement Amount, will not be bound by the terms and conditions of this Agreement, and will not have any right to object, appeal, or comment thereon. However, even if Class Members validly opt out of the Settlement, they may still be entitled to a portion of the employees' share of the PAGA Payment if the Class Member also is an Aggrieved Employee.

Any Class Member who fails to timely submit a Request for Exclusion shall automatically be deemed a Class Member whose rights and claims with respect to the issues raised in the Action are determined by the Court's Final Order, and by the other rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action and/or released in this Agreement will be extinguished.

Defendant has the unilateral right to void this Agreement in the event more than ten percent (10%) of Class Members opt out of the Settlement. Defendant must notify Class Counsel and the Court whether it is exercising this right to void no later than thirty (30) days after the end of the class

notice period and the Settlement Administrator notifies the Parties of the total number of valid Request for Exclusion Forms it has received. If Defendant exercises this option, it must pay for any costs incurred by the Settlement Administrator.

d. Objections to Settlement

Class Members may object to the Settlement by submitting to the Settlement Administrator his or her notice of Objection or by appearing at the Final Fairness and Approval Hearing to explain their objection(s). In order for a Class Member to object to this Agreement, or any term of it, the Class Member must not submit a Request for Exclusion notice (*i.e.*, must not opt out). A notice of Objection must include the Class Member's full name, a written statement of the grounds of objection, and be signed by the objecting Class Member or his or her attorney, along with all supporting papers. The notice of Objection and supporting papers should be sent to the Settlement Administrator by mail no later than forty-five (45) days after the Class Notice was initially mailed to the Class Members (or ten (10) days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later). The date of the initial mailing of the Class Notice, and the date the signed notice of Objection was postmarked, shall be conclusively determined according to the records of the Settlement Administrator. The Settlement Administrator shall send any notice of Objection it receives to Defense Counsel and Class Counsel within three (3) business days of receipt.

The Court retains final authority with respect to the consideration and admissibility of any Class Member objections.

e. Encouragement of Class Members

The Parties, Class Counsel, and Defense Counsel shall not, directly or indirectly, through any person, encourage or solicit any Class Member to exclude himself or herself from this Settlement (opt out) or to object to the Settlement. However, nothing in this Agreement shall bar or prohibit any Party, Class Counsel, or Defense Counsel from responding to questions from Class Members concerning this Settlement.

Section 3.05: Final Fairness and Approval Hearing

The Final Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement and determine whether the Court should grant final approval pursuant to the Motion

1 for Final Approval, and (2) consider any timely objections made pursuant to Section 3.04(d), above,
2 and any responses from the Parties to such objections. At the Final Fairness and Approval Hearing,
3 the Parties shall ask the Court to grant final approval of this Agreement and shall submit to the Court
4 a proposed Final Order.

5 **Section 3.06: Settlement Payment Procedures**

6 **a. Funding the Settlement Amount**

7 In exchange for the releases set forth in this Agreement and subject to the terms and
8 conditions set forth herein, Defendant agrees to pay the Gross Settlement Amount on a non-
9 reversionary basis. The Gross Settlement Amount includes Individual Settlement Payments to
10 Participating Class Members and Aggrieved Employees, Settlement Administration Costs,
11 Attorneys' Fees and Costs, Enhancement Payments, and the LWDA Payment. The Employer's Share
12 of Payroll Taxes will be paid by Defendant, separate from and in addition to the Gross Settlement
13 Amount.

14 Within thirty (30) calendar days after the Effective Date, Defendant, will issue the Gross
15 Settlement Amount to the Settlement Administrator in one installment, plus the Employer's Share of
16 Payroll Taxes, as set forth herein.

17 **b. Payment of Attorneys' Fees and Costs**

18 Class Counsel shall apply for an award of attorneys' fees of up to one-third (1/3) of the Gross
19 Settlement Amount, which is One Million, Two Hundred and Thirty Three Thousand, Three Hundred
20 and Thirty Three dollars. (\$1,233,333.00). In addition, subject to Court approval, Class Counsel
21 shall be entitled to an award of reasonable costs associated with Class Counsel's prosecution of the
22 Action not to exceed One Hundred and Fifty Thousand dollars. (\$150,000.00). Such application for
23 attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval Hearing.
24 Defendant will not object to or oppose Plaintiff's application for these amounts. Class Counsel shall
25 be paid any Court-awarded attorneys' fees and costs no later than ten (10) days after Defendant,
26 provides the Settlement Administrator with the Gross Settlement Amount. The Court's approval of
27 attorneys' fees and/or costs in an amount less than that requested by Class Counsel shall not
28 invalidate this Agreement.

Any fees and costs awarded by the Court shall be paid from the Gross Settlement Amount and shall not constitute payment to any Class Member(s). The Attorneys' Fees and Costs approved by the Court shall encompass all work performed and all costs and expenses related to the investigation, prosecution, and settlement of the Action incurred through the Effective Date. To the extent that the Court approves less than the amounts of attorneys' fees and/or costs that Class Counsel requests, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

c. Payment of Settlement Administration Costs

The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member. Class Counsel will submit an application for Court approval for an allocation of Settlement Administration Costs no greater than Twenty Five Thousand Dollars and Zero Cents (\$25,000.00). Defendant will not object to or oppose Plaintiff's application for this amount. To the extent there are unused funds of this cost allocation, such funds will be reallocated to the Net Settlement Amount.

d. Payment of Enhancement Payments to Plaintiff

Subject to Court approval, Plaintiff shall receive an Enhancement Payment of up to Twenty Thousand Dollars and Zero Cents (\$20,000.00) for services as class representatives and in exchange for a general release of Plaintiff's claims. Defendant will not oppose this request. The Enhancement Payment will be paid from the Gross Settlement Amount and is not allocated as payment to any Participating Class Member. Plaintiff shall be paid the Court-awarded Enhancement Payment no later than ten (10) days after Defendant provides the Settlement Administrator with the Gross Settlement Amount. To the extent that the Court approves less than the amount of the Enhancement Payment that Plaintiff has requested, the difference between the requested and awarded amount will be reallocated to the Net Settlement Amount.

Because it is the intent of the Parties that the Enhancement Payment represents payment to Plaintiff for services performed on behalf of the Class Members and not to be considered wages, the Settlement Administrator will not withhold any taxes from the Enhancement Payment. The

Enhancement Payment will be reported on an IRS Form 1099, which the Settlement Administrator will provide to the Plaintiff and to the pertinent taxing authorities as required by law.

e. LWDA Payment

In consideration of claims alleged under PAGA, Class Counsel will request that the Court approve allocation of Forty Thousand Dollars and Zero Cents (\$40,000.00) of the Gross Settlement Amount as PAGA penalties. Seventy-five percent (75%), or Thirty Thousand Dollars (\$30,000.00), of this amount will be paid to the LWDA, and twenty-five percent (25%), or Ten Thousand Dollars (\$10,000.00) will be allocated to the Net Settlement Amount for distribution to Aggrieved Employees. Defendant will not oppose this request for allocation and distribution of payments under this Section 3.06(e). The Court's adjustment, if any, of the amount allocated as PAGA penalties will not invalidate this Agreement, as long as the Gross Settlement Amount does not exceed \$3,700,000.00 (subject to Section 3.06(a) above) and final approval of the Settlement is granted.

f. PAGA Payments to Aggrieved Employees

If a Class Member requests exclusion from the Settlement, the Class Member is still entitled to his or her share of the employees' portion of the PAGA Payment, which will be determined on a pro rata basis based upon the number of workweeks that the Aggrieved Employee worked during the PAGA Period.

g. Individual Settlement Payments to Participating Class Members

The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement Payments. The Parties agree that the Net Settlement Amount shall be divided between all Participating Class Members in proportion to the number of Qualifying Workweeks for each Class Member. To calculate the amount each Participating Class Member will receive, the Net Settlement Amount will be divided by the total number of Qualifying Workweeks worked by all Participating Class Members during the Class Period to determine the base dollar amount per Qualifying Workweek. The Settlement Administrator shall then multiply the number of Qualifying Workweeks for each Participating Class Member by the base dollar amount. In addition, all Aggrieved Employees shall receive a pro rata share of the portion of the PAGA Payment allocated to Aggrieved Employees based on their Qualifying Pay Periods during the PAGA Period. The Settlement Administrator shall

1 disperse Individual Settlement Payments to Participating Class Members within fourteen (14) days
2 after Defendant provides the Gross Settlement Amount to the Settlement Administrator.

3 Each Individual Settlement Payment will represent wages, penalties, and interest allocated
4 using the following formula: twenty percent (20%) allocated to wages and eighty percent (80%)
5 allocated to penalties and interest.

6 Based on the information contained in the Class List, the Settlement Administrator shall
7 calculate: (a) the Net Settlement Amount, (b) the Individual Settlement Payment for each
8 Participating Class Member based on the formula specified above, (c) the amount of the Individual
9 Settlement Payments to be allocated to wages and interest and penalties based on the formula
10 specified above, (d) Defendant's share of the payroll taxes applicable to the Net Settlement Amount
11 allocated to wages; and (e) the employee tax withholding amount based on the allocation of each
12 Individual Settlement Payment to wages.

13 Individual Settlement Payments allocated to wages will be reduced by applicable employee
14 withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of the
15 Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 for the interest
16 and penalty portions of the Individual Settlement Payments.

17 Participating Class Members shall have 180 days from the date their Individual Settlement
18 Payment checks are dated to cash their settlement checks.

19 **h. Distribution of the Gross Settlement Amount**

20 The Settlement Administrator will distribute the Individual Settlement Payments to
21 Participating Class Members no later than fourteen (14) days after receipt of the Gross Settlement
22 Amount from Defendant. If Individual Settlement Payments are returned to the Settlement
23 Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid
24 mailing address by performing a skip trace or a mass search on LexisNexis databases based on set
25 criteria and, if another address is identified, shall mail the check to the newly identified address. If
26 the Settlement Administrator is unable to obtain a valid mailing address or if any funds representing
27 Individual Settlement Payments remain uncashed upon the expiration of the Check-Cashing Period,
28 the Settlement Administrator will deliver the monies represented by the check to the State of

California's State Controller Unclaimed Property Fund with an identification of the amount of unclaimed funds attributable to each Class Member.

i. No Credit Toward Benefit Plans

The Individual Settlement Payments made to Participating Class Members under this Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intent that this Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

ARTICLE IV

RELEASES

Section 4.01: Releases by Participating Class Members and Plaintiff

a. Upon the date that Defendant, provides the Settlement Administrator with the Gross Settlement Amount, Plaintiff and Participating Class Members will release the Released Parties (defined in this paragraph below) from all claims under federal, state or local law, arising out of the facts, claims, and theories expressly pleaded in the operative Complaint (such as failure to implement a proper alternative workweek); the facts, claims or theories expressly raised in Plaintiff's notice to the LWDA dated June 1, 2021, regarding Defendant; and/or any facts, claims or theories arising under any applicable IWC Wage Orders, including claims for: (1) failure to provide required meal periods; (2) failure to provide required rest periods, (3) failure to pay all wages, including overtime wages, minimum wage, or any alleged uncompensated wages, (4) failure to pay all wages due to discharged and quitting employees, (5) failure to maintain required records, (6) failure to furnish accurate, itemized wage statements, (7) unfair and unlawful business practices in violation of the Unfair Competition Law, Calif. Bus. & Prof. Code §§17200 *et. seq.* ("UCL") that arose during the Class Period ("Released Claims").

Plaintiff and Participating Class Members will waive and release the Released Claims against Defendant Yusen Logistics (Americas) Inc., together with its subsidiaries, parent corporations,

1 affiliates, related companies, shareholders, officers, and directors (collectively the “Released
2 Parties”).

3 **Section 4.02: Release by Aggrieved Employees and Plaintiff**

4 In addition to the release set forth in Section 4.01 above, upon Defendant, providing the Gross
5 Settlement Amount to the Settlement Administrator, Plaintiff and all Aggrieved Employees shall be
6 deemed to have released the Released Parties of any and all claims and/or causes of action under
7 PAGA which are based upon the facts, claims and theories expressly pleaded in the Consolidated
8 Complaint, and/or any facts, claims, or theories set forth in the LWDA Notice against Defendant
9 dated June 1, 2021; and arising at any time during the PAGA Period.

10 **Section 4.03: General Release by Plaintiff**

11 Upon Defendant, providing the Gross Settlement Amount to the Settlement Administrator,
12 Plaintiff for himself and his heirs, successors, and assigns, waives, releases, acquits, and forever
13 discharges the Released Parties from any and all claims, actions, charges, complaints, grievances,
14 and causes of action, of any nature arising from Plaintiff’s employment with Defendant whether
15 known or unknown, which exist or may exist as of the Parties’ execution of this Agreement.

16 Section 1542 of the California Civil Code provides as follows:

17 *“A general release does not extend to claims that the creditor or releasing party*
18 *does not know or suspect to exist in his or her favor at the time of executing the*
19 *release and that, if known by him or her, would have materially affected his or*
20 *her settlement with the debtor or released party.”*

21 Plaintiff’s general release provided herein is made with an express waiver and relinquishment of any
22 claim, right, or benefit under California Civil Code § 1542. Plaintiff warrants that he has read this
23 Agreement, including this waiver of California Civil Code § 1542, and that Plaintiff has consulted
24 with or had the opportunity to consult with counsel about this Agreement and specifically about the
25 waiver of § 1542, and that Plaintiff understands this Agreement and the § 1542 waiver, and so he
26 freely and knowingly enters into this Agreement. Plaintiff further acknowledges that Plaintiff later
27 may discover facts different from or in addition to those Plaintiff now knows or believes to be true
28 regarding the matters released or described in this Agreement, and even so Plaintiff agrees that the

1 releases and agreements contained in this Agreement shall remain effective in all respects
2 notwithstanding any later discovery of any different or additional facts.

3 **Section 4.03: Plaintiff's Employment**

4 It is understood that by entering into this Agreement, the Parties agree that Plaintiff's
5 employment with Yusen Logistics (Americas) Inc. has ended. The Parties agree that Yusen
6 Logistics (Americas) Inc. had legitimate, non-discriminatory and non-retaliatory reasons for ending
7 the employment relationship.

8 **Section 4.04: No Additional Attorneys' Fees or Costs**

9 Except for the allocation of attorneys' fees and costs from the Gross Settlement Amount set
10 forth herein, the Parties agree to bear their own attorneys' fees and costs related to this Action.

11 **Section 4.05: Inapplicability of California Labor Code 206.5**

12 The Participating Class Members, including Plaintiff, shall be deemed to have acknowledged
13 and agreed that there is a bona fide dispute as to their claim for wages and/or penalties and/or any
14 other recovery in connection with this Action, and that the payments to them set forth in this
15 Agreement constitute payment of all sums allegedly due to them from the claims alleged in the
16 Action. Participating Class Members, including Plaintiffs, shall be deemed to have acknowledged
17 and agreed that Labor Code section 206.5 does not apply to any such payments. That section provides
18 in pertinent part as follows: **"No employer shall require the execution of any release of any claim
19 or right on account of wage due, or to become due, or made as an advance on wages to be
20 earned, unless payment of such wages has been made."** Each Participating Class Member shall
21 be deemed to have made the foregoing Release as if by manually signing it. This section in no way
22 limits the releases set forth in Sections 4.01, 4.02 and 4.03, above.

23 **ARTICLE V**

24 **LIMITATIONS ON USE OF THIS SETTLEMENT**

25 **Section 5.01: No Admission**

26 Defendant disputes the allegations in the Action and contends that, but for this Settlement, a
27 Class should not have been certified in the Action. This Agreement is entered into solely for the
28 purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be

1 construed as an admission of liability or wrongdoing by Defendant. The Parties enter into this
2 Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and
3 risk of continued litigation. In entering into this Agreement, Defendant does not admit—and in fact
4 specifically deny—that they violated any federal, state, or local law; violated any regulations or
5 guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal
6 requirements; breached any contract; violated or breached any duty; engaged in any
7 misrepresentation or deception; or engaged in any other unlawful conduct with respect to any and all
8 employees at Defendant. Neither this Agreement, nor any of its terms or provisions, nor any of the
9 negotiations connected with it, will be construed as an admission or concession by Defendant of any
10 such violations or failures to comply with any applicable law. Except as necessary in a proceeding
11 to enforce the terms of this Agreement, this Agreement and its terms and provisions will not be
12 offered or received as evidence in any action or proceeding to establish any liability or admission on
13 the part of Defendant or the Released Parties or to establish the existence of any condition
14 constituting a violation of, or non-compliance with, federal, state, local, or other applicable law.

15 **Section 5.02: Non-Evidentiary Use**

16 Whether or not the Effective Date occurs, neither this Agreement nor any of its terms nor the
17 Settlement itself will be: (a) construed as, offered, or admitted in evidence as, received as, or deemed
18 to be evidence for any purpose adverse to Defendant or any other of the Released Parties, including
19 but not limited to, evidence of a presumption, concession, indication, or admission by any of the
20 Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or
21 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
22 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
23 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims
24 released through this Agreement.

25 **Section 5.03: Nullification**

26 The Parties have agreed to the certification of the Class encompassing all claims alleged in
27 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason
28 fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this

1 Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order
2 is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the
3 Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this
4 Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all
5 Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had
6 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to
7 stipulate to class certification of all causes of action pled in the Action as part of the Settlement will
8 have no bearing on, and will not be admissible in connection with, the issue of whether the Class
9 should be certified by the Court in a non-settlement context in this Action or any other action, and in
10 any of those events, Defendant expressly reserves the right to oppose certification of the Class.

11 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
12 Gross Settlement Amount shall not be distributed until 30 days after the Effective Date with respect
13 to any appeal. The Effective Date is defined in Article I, Section q of this Stipulation and Settlement
14 of Class Action Claims.

15 **ARTICLE VI**

16 **MISCELLANEOUS PROVISIONS**

17 **Section 6.01: Amendments or Modification**

18 The terms and provisions of this Agreement may be amended or modified only by an express
19 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

20 **Section 6.02: Assignment**

21 None of the rights, commitments, or obligations recognized under this Agreement may be
22 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
23 consent of all other Parties and their respective counsel. The representations, warranties, covenants,
24 and agreements contained in this Agreement are for the sole benefit of the Parties under this
25 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

1 **Section 6.03: Governing Law**

2 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
3 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
4 of laws.

5 **Section 6.04: Entire Agreement**

6 This Agreement, including the Exhibit A (Class Notice) referred to herein, which form an
7 integral part hereof, contains the entire understanding of the Parties with respect to the subject matter
8 contained herein. In case of any conflict between text contained in Articles I through VI of this
9 Agreement and text contained in the Exhibit to this Agreement, the former (*i.e.*, Articles I through
10 VI) shall be controlling, unless the Exhibit is changed by or in response to a Court order. There are
11 no restrictions, promises, representations, warranties, covenants, or undertakings governing the
12 subject matter of this Agreement other than those expressly set forth or referred to herein. This
13 Agreement supersedes all prior agreements and understandings among the Parties with respect to the
14 Settlement of the Action, including correspondence between Class Counsel and Defense Counsel
15 and drafts of prior agreements or proposals.

16 **Section 6.05: Waiver of Compliance**

17 Any failure of any Party, Class Counsel, or Defense Counsel to comply with any obligation,
18 covenant, agreement, or condition set forth in this Agreement may be expressly waived in writing,
19 to the extent permitted under applicable law, by the Party or Parties and their respective counsel
20 entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to
21 insist upon strict compliance with any representation, warranty, covenant, agreement, or condition
22 shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

23 **Section 6.06: Counterparts and Electronic Signatures**

24 This Agreement, and any amendments hereto, may be executed in any number of
25 counterparts, and any Party and/or their respective counsel may execute any such counterpart, each
26 of which when executed and delivered shall be deemed to be an original. All counterparts taken
27 together shall constitute one instrument. A fax, PDF, or electronic signature on this Agreement shall
28 be as valid as an original signature.

Section 6.07: Meet and Confer Regarding Disputes

Should any dispute arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, Class Counsel and Defense Counsel shall meet and confer in an attempt to resolve such disputes prior to submitting such disputes to the Court.

Section 6.08: Agreement Binding on Successors

This Agreement will be binding upon, and inure to the benefit of, the successors in interest of each of the Parties.

Section 6.09: Cooperation in Drafting

The Parties have cooperated in the negotiation and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Agreement.

Section 6.10: Fair and Reasonable Settlement

The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arm's-length negotiation and in the context of adversarial litigation, taking into account all relevant factors, current and potential. The Parties further believe that the Settlement is consistent with public policy, and fully complies with applicable law. The Parties further acknowledge that they are each represented by competent counsel and have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

Section 6.11: Headings

The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement and shall not be considered in interpreting this Agreement.

Section 6.12: Notice

Except as otherwise expressly provided in the Agreement, all notices, demands, and other communications under this Agreement must be in writing and addressed as follows:

To Plaintiffs and the Class:
Shoham J. Solouki

Grant Joseph Savoy
SOLOUKI | SAVOY LLP
316 W. 2nd Street, Suite 1200
Los Angeles, CA 90012

And

To Defendant:
Daniel B. Chammas
Jennifer S. McGeorge
FORD & HARRISON LLP
350 South Grand Avenue, Suite 2300
Los Angeles, CA 90071

Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction

To the extent consistent with class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Agreement.

Section 6.14: Mutual Full Cooperation

The Parties agree fully to cooperate with each other to accomplish the terms of this Agreement, including but not limited to execution of such documents, and taking such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement, to effectuate this Agreement and its terms. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

Section 6.15: Authorization to Act

Class Counsel represent and warrant that they are authorized by Plaintiff, and Defense Counsel warrants that they are authorized by Defendant to take all appropriate action required to effectuate the terms of this Agreement, except for signing documents, including but not limited to

1 this Agreement, that are required to be signed by the Parties. Defendant represents and warrants that
2 the individuals executing this Agreement on their behalf have the full right, power, and authority to
3 enter into this Agreement and to carry out the transactions contemplated herein.

4 **Section 6.16: No Reliance on Representations**

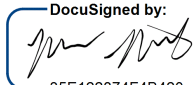
5 The Parties have made such investigation of the facts and the law pertaining to the matters
6 described herein and to this Agreement as they deem necessary, and have not relied, and do not
7 rely, on any statement, promise, or representation of fact or law, made by any of the other Parties,
8 or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or
9 asserted rights, or with regard to the advisability of making and executing this Agreement, or with
10 respect to any other matters. No representations, warranties, or inducements, except as expressly
11 set forth herein, have been made to any party concerning this Agreement.

12
13
14
15
16 **EXECUTION BY PARTIES AND COUNSEL**

17 The Parties hereby execute this Agreement.

18
19 Dated: 9/24/2023
20 _____, 2023

MICHAEL JOSEPH METCALF

21 
22 By: _____
35E122874F4B420...

23 Dated: 9.15, 2023
24 _____

YUSEN LOGISTICS (AMERICAS) INC.

25 
26 By: _____
Lisa A. Ronga, SVP & General Counsel

1 Approved as to form:

2 Dated: September 15, 2023

SOLOUKI | SAVOY LLP

3
4 By: *Shoham Solouki*
5 Shoham J. Solouki
6 Grant Joseph Savoy
7 Attorneys for Plaintiff Michael Joseph
8 Metcalf

9 Dated: September 15, 2023

FORD & HARRISON LLP

10 By: *Daniel B. Chammas*
11 Daniel B. Chammas
12 Jennifer S. McGeorge
13 Attorneys for Defendant
14 Yusen Logistics (Americas), Inc.

Exhibit “A”

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING
DATE FOR FINAL COURT APPROVAL**

Michael Joseph Metcalf v. Yusen Logistics (Americas), Inc., et. al.
Los Angeles County Superior Court, Case No. 21STCV28695

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Yusen Logistics (Americas) Inc. (collectively, "Defendant" or "Yusen") for alleged wage and hour violations. The Action was filed by a former employee of Yusen, Michael Joseph Metcalf ("Plaintiff") and seeks (1) damages and penalties for a class of hourly, non-exempt employees ("Class Members") who worked for Yusen directly during the Class Period (June 1, 2017 through May 31, 2023); and (2) penalties under the California Private Attorney General Act ("PAGA") for all hourly employees who worked for Yusen, during the PAGA Period (June 1, 2020 through May 31, 2023) ("Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Yusen to fund Individual Class Payments, and (2) a PAGA Settlement requiring Yusen to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Yusen's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$ _____ (less withholding) and your Individual PAGA Payment is estimated to be \$ _____**. The actual amount you may receive may be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Yusen's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Yusen's records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ pay periods** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Yusen during the Class Period (June 1, 2017 through May 31, 2023) and/or the PAGA Period (June 1, 2020 through May 31, 2023), you have the following options under the Settlement:

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement.
You Can Opt-out of the Class Settlement but not the PAGA Settlement	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. You cannot opt-out of the PAGA portion of the proposed Settlement. Yusen, must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement	All Class Members who do not opt-out ("Participating Class Members") can object to the proposed Settlement by writing to the Settlement Administrator.
You Can Appear at the Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on []. You don't have to attend but you do have the right to appear in person, by telephone or by using the Court's virtual appearance platform.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Yusen. The Action accuses Defendant of violating California labor laws by failing to pay overtime wages, minimum wages, wages on a timely basis, wages due upon termination, failing to implement proper alternative workweeks, failing to properly calculate the regular rate of pay, failing to pay the full wages of employees because of an illegal rounding scheme, failure to reimburse for business expenses, and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for unlawful business practices under California's Unfair Competition Law, Calif. Business and Prof. Code §§ 17200 et. seq.) and for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action ("Class Counsel"):

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiff are correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Although Defendant denies any and all wrongdoing, Defendant has made a business decision to settle this case in order to resolve all issues raised in the litigation. Defendant will pay \$3,700,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement within 30 days after the Judgment by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$1,233,333 (one-third of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$150,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$20,000 to Plaintiff as an Enhancement Award for filing the Action, working with Class Counsel and representing the Class. An Enhancement Award will be the only monies Plaintiff will receive from this matter other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.

- C. Up to \$25,000 to the Administrator for services administering the Settlement.
- D. Up to \$40,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

- 3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
- 4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to interest and penalties (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

- 5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

- 6. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
- 7. Administrator. The Court has appointed APEX Class Action Settlement Administration (the “Administrator”) to send this Notice, calculate and make payments, and process

Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

8. Participating Class Members' Release. After the Judgment is final and Defendant Yusen, has fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement against Defendant Yusen, together with its subsidiaries, parent corporations, affiliates, related companies, shareholders, officers, and directors ("Released Parties"). This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against the Released Parties for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims under federal, state or local law, arising out of the facts, claims, and theories expressly pleaded in the operative Complaint (such as failure to implement a proper alternative workweek); the facts, claims or theories expressly raised in Plaintiff's notice to the LWDA dated June 1, 2021, regarding Defendant; and/or any facts, claims or theories arising under any applicable IWC Wage Orders, including claims for: (1) failure to provide required meal periods; (2) failure to provide required rest periods, (3) failure to pay all wages, including overtime wages, minimum wage, or any alleged uncompensated wages, (4) failure to pay all wages due to discharged and quitting employees, (5) failure to maintain required records, (6) failure to furnish accurate, itemized wage statements, (7) unfair and unlawful business practices in violation of the Unfair Competition Law, Calif. Bus. & Prof. Code §§17200 et. seq. ("UCL") that arose during the Class Period.

9. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendant Yusen, has paid the Gross Settlement, all Aggrieved Employees will be barred from asserting PAGA claims against the Released Parties, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant based on the PAGA Period facts alleged in the Action and resolved by this Settlement. The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties, from all claims under federal, state or

local law, arising out of the facts, claims, and theories expressly pleaded in the operative Complaint (such as failure to implement a proper alternative workweek); the facts, claims or theories expressly raised in Plaintiff's notice to the LWDA dated June 1, 2021, regarding Defendant; and/or any facts, claims or theories arising under any applicable IWC Wage Orders, including claims for: (1) failure to provide required meal periods; (2) failure to provide required rest periods, (3) failure to pay all wages, including overtime wages, minimum wage, or any alleged uncompensated wages, (4) failure to pay all wages due to discharged and quitting employees, (5) failure to maintain required records, (6) failure to furnish accurate, itemized wage statements, (7) unfair and unlawful business practices in violation of the Unfair Competition Law, Calif. Bus. & Prof. Code §§17200 et. seq. ("UCL") that arose during the Class Period.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$10,000 by the total number of PAGA Workweeks worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Workweeks worked by each individual Aggrieved Employee.

5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Note. All individuals who qualify as Aggrieved Employees will receive a check, whether or not they are a Participating Class Member.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as ***Metcalf v. Yusen, et. al.***, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [insert date], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

You cannot opt-out of the PAGA portion of the proposed Settlement. Yusen, must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least 16 court days before the [insert date] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Court's website: <http://www.lacourt.org/casesummary/ui/index.aspx>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Enhancement Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [insert date]**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as ***Metcalf v. Yusen, et. al*** and include your name, current address, telephone number, and approximate dates of employment for Yusen, and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object by attending the Final Approval Hearing. You should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [insert date] in Department SS11 of the Los Angeles County Superior Court, located at 312 N. Spring St., Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend either personally or virtually. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should contact the Administrator beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV28695.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT

Settlement Administrator APEX Class Action Settlement Administration Email Address Mailing Address Telephone Fax Number	Class Counsel Shoham J. Solouki, Esq. Grant Joseph Savoy, Esq. SOLOUKI SAVOY LLP 316 W. 2nd Street, Suite 1200 Los Angeles, CA 90012 Telephone: (213) 814-4940 Email: info@soloukisavoy.com Gregory Mauro, Esq. James Hawkins, Esq. JAMES HAWKINS, APLC 9880 Research Drive, Suite 200 Irvine, CA. 92618 Telephone: (949) 387-7200 Email: greg@jameshawkinsaplc.com ; james@jameshawkinsaplc.com
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