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12 Attorneys for Plaintiff RENE G. NAVARRO LOVERA,
13 individually and on behalf of all others similarly situated

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

16 RENE G. NAVARRO LOVERA, individually
17 and on behalf of all others similarly situated,

18 Plaintiff,

19 v.

20 FORWARD AIR SERVICES, LLC, a
21 Delaware Limited Liability Company;
22 FORWARD AIR, INC., a Tennessee
23 Corporation; and DOES 1-50, inclusive,

24 Defendants.

Case No. 21STCV39280
ASSIGNED FOR ALL PURPOSES TO:
JUDGE: Hon. Holly J. Fujie
DEPT: 56

**DECLARATION OF JAMES HAWKINS
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT; MEMORANDUM
OF POINTS AND AUTHORITIES**

Date: February 21, 2023
Time: 8:30 a.m.
Dept.: 56

Reservation No.:
161852485722

DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff RENE G. NAVARRO LOVERA (hereinafter referred to as "Plaintiff" or "Class Representative"), who commenced this class and PAGA action on behalf of the Class Members and Aggrieved Employees. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the executed Settlement Agreement which the Parties ask the Court to approve. Attached as **Exhibit A** to the Settlement Agreement is a true and correct copy of the Notice Class Action Settlement ("Class Notice").

3. On October 25, 2021 Plaintiff files A Private Attorneys General Act ("PAGA") representative action complaint entitled *RENE G. NAVARRO LOVERA v. FORWARD AIR SERVICES LLC, et al.*, Los Angeles County Superior Court No. 21STCV39280 seeking damages for Defendant's alleged failure to: (1) failure to pay wages including minimum and overtime wages, (2) failure to provide meal periods, (3) failure to provide rest periods, (4) failure to timely pay wages upon termination pursuant to Labor Code § 203, (5) failure to timely pay wages during employment as pursuant to Labor Code § 204; (6) failure to provide accurate itemized wage statements; (7) failure to reimburse business expenses, and (8) failure to keep requisite payroll records.

4. On June 16, 2022, the Parties engaged in private mediation with a well-respected wage and hour class action mediator, Kelly Knight. Prior to mediation, Plaintiff requested and Defendant produced extensive documentation including time and pay data records for approximately 90% of the class, policy documents applicable to the class during the Class Period, class size information, information on the number of pay periods and workweeks, and information

1 regarding the hourly rates and workweek. In short, Defendant provided discovery sufficient to
2 enable the Plaintiff and Class Counsel to rigorously evaluate the strengths and risks of the case
3 and perform an analysis of the potential damages arising from the claims made in this case. As a
4 result of settlement efforts, the Parties agreed to settle this matter for the Gross Settlement Amount
5 of \$1,250,000.00 for approximately 732 class members and the terms of which are fully
6 memorialized in the Settlement Agreement.

7 5. As a result of the investigation, and subsequent settlement discussions and the
8 resultant settlement and scope of claims, on or about August 2, 2022, Plaintiff sent amended
9 notice to the LWDA along with a proposed amended complaint. On or about January 26, 2023,
10 Plaintiff filed the First Amended Complaint which added a correctly named Defendant,
11 FORWARD AIR CORPORATION, related labor code causes of action and class allegations, and
12 including a claim under the FCRA.

13 6. The “Class Members” are defined as all current and former non-exempt
14 employees of Defendants who worked in California at any time from June 14, 2017, through the
15 date the Court grants preliminary approval. Defendant represents there are approximately 732
16 Class Members as of July 12, 2022. The FCRA Class is defined all prospective employees in the
17 California for whom Defendant procured a background check during the FCRA Class Period (the
18 “FCRA Class”). In order to protect the integrity of the settlement, an escalator clause was
19 negotiated. Defendants represent that, for the period of June 14, 2017, to July 15, 2022, there
20 were approximately 49,000 Workweeks. If it is determined that the total number of Workweeks
21 increases by more than twelve percent (12%) during the period from June 14, 2017, to July 15,
22 2022 (*i.e.*, more than 5,880), then the Gross Settlement Amount will be increased in proportion to
23 the workweek value of the settlement at the time of mediation unless Defendants elect to
24 rescind/void the Settlement Agreement pursuant to Paragraph 58 of the settlement.

25 7. Plaintiff’s Counsel conducted a thorough investigation into the factual and legal
26 issues implicated by Plaintiff’s claims and was able to objectively assess the settlement’s
27 reasonableness. For example, prior to filing the action, Plaintiff contacted Plaintiff’s Counsel to
28 discuss the factual bases for pursuing their actions against Defendant for Labor Code violations.

1 Plaintiff was intimately familiar with Defendant's labor policies and practices, and over the course
2 of multiple interviews, knowledgeably summarized those policies and practices to Plaintiff's
3 Counsel. During those conversations, Plaintiff's Counsel explained how the policies and practices
4 were instituted and provided valuable insight into how they gave rise to the alleged Labor Code
5 violations. Further, formal business records for Mr. Lovera were requested and received and
6 reviewed. Based on these interviews with Plaintiff, and review of records, Plaintiff's Counsel
7 determined that there were legally sufficient grounds for pursuing the Actions against Defendant
8 and in preparation for drafting the complaints, Plaintiff's Counsel conducted their own independent
9 preliminary investigations into the factual bases for Plaintiff's claims, which entailed, *inter alia*, a
10 careful examination of Plaintiffs' personnel files and associated records.

11 8. In summary, Plaintiff's Counsel performed a thorough investigation into the claims at
12 issue, which included: (1) determining Plaintiff's suitability as private attorneys general and
13 subsequent class representative through interviews, background investigations, and analyses of their
14 employment files and related records; (2) evaluating all of Plaintiff's potential representative claims;
15 (3) researching similar wage and hour class actions as to the claims brought, the nature of the
16 positions, and the type of employer; (4) analyzing employees' time and wage records and driver
17 manifest; (5) reviewing Defendant's employment policies and practices; (6) researching settlements
18 in similar cases and the prior settlement in this case; (7) evaluating Plaintiff's claims and estimating
19 Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9)
20 participating in the mediation.

21 9. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
22 Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in
23 the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class
24 Members in light of all known facts and circumstances, including the risk of significant delay and
25 uncertainty associated with litigation, and various defenses asserted by Defendant.

26 10. Defendant denies any wrongdoing and deny liability with respect to the matters
27 alleged in the Complaint and believe that they have valid defenses to all of Plaintiff's claims.
28 Defendant further contends that they complied with all wage and hour laws applicable to the

1 employment of Plaintiff and other Class Members. To date, no class has been certified and no
2 court has made any findings that Defendant engaged in any wrongdoing or in any wrongful
3 conduct, or otherwise acted improperly or in violation of any law, rule or regulation with respect
4 to any of the issues presented in this action.

5 11. Since the filing of the complaint, the Parties have exchanged extensive
6 informal discovery and engaged in numerous discussions regarding the factual and legal issues
7 surrounding this case. Throughout the litigation, Defendant produced thousands of pages of
8 information and thousands of lines of data in both electronic and pdf formats, including policies,
9 handbooks, relevant policies, and payroll and time records. Defendants also provided Plaintiff's
10 personnel file, and information regarding the number of employees holding these positions during
11 the relevant time period. Defendant also provided substantial information concerning the total
12 number of potential class members, the payroll data at issue, and the applicable hourly rates,
13 workweeks and pay periods, FCRA issues, and other summary data related to the alleged class.
14 The Parties have conducted themselves in informed, good faith arms-length negotiations after
15 conducting discovery and exchanging extensive evidence and information about the claims and
16 defenses of this lawsuit through informal discovery, and engaging in pre-mediation discussions,
17 telephone conferences, and correspondence all aimed at settling their dispute.

18 12. In preparation for the mediation, Plaintiff reviewed the entire discovery and
19 information produced. The information had to be extrapolated and processed to figure out the
20 amount of compensation Plaintiff contends are due to the Classes. The evidence and information
21 gathered and reviewed by counsel provided a factual framework for a comprehensible and reliable
22 damage model pertaining to all Settlement Class Members. The mediation included discussions
23 and examination of the proposed Classes and the Parties' respective positions on the legal and
24 factual issues raised in the Complaint.

25 13. As a result of the mediation, the Parties agreed to settle this matter for a Gross
26 Settlement Amount ("GSA") of \$1,250,000.00. Plaintiff's counsel balanced the terms of the
27 proposed Settlement against the risk of litigation and probable outcome at the class certification
28 stage, and if any Class were certified, at trial. Based on their own respective independent

1 investigations and evaluations, and after taking into account the sharply disputed factual and legal
2 issues involved in this matter, the risks attending further prosecution of the case, and the monetary
3 benefits received under the Settlement despite the questionable nature of the claims, Plaintiff's
4 counsel is of the opinion that Settlement for the consideration and on the terms set forth in the
5 Settlement Agreement is fair, reasonable and adequate and is in the best interests of Plaintiff and
6 the Class. Counsel for the Parties investigated the applicable law as applied to the facts
7 discovered regarding the claims of Plaintiff, Defendant's defenses thereto and the damages
8 claimed by Plaintiffs on behalf of the Settlement Class.

9 14. I believe that the consideration and terms set forth in the Settlement Agreement are
10 fair, reasonable, and adequate and are in the best interests of the Settlement Classes in light of all
11 known facts and circumstances, including the various defenses asserted by Defendant, and
12 numerous potential appellate issues. In addition, the prospect of a potential adverse summary
13 judgment ruling, as well as the uncertainty of class certification, the difficulties of complex
14 litigation, the lengthy process of establishing specific damages and various possible delays and
15 appeals, were also carefully considered in agreeing to the proposed Settlement.

16 15. The GSA includes, without limitation, (1) attorneys' fees in the amount of
17 \$437,500.00 and reimbursement of reasonable litigation costs and expenses in the amount of up to
18 \$20,000.00¹ to Class Counsel ("Attorneys' Fees and Costs"); (2) incentive award to Plaintiff in
19 the amount of up to \$15,000.00 ("Incentive Award"); (3) fees and expenses of administration of
20 the Settlement to the Settlement Administrator in an amount not to exceed \$17,330.00
21 ("Settlement Administration Costs"); (4) \$180,000.00 to PAGA with twenty-five percent (25%)
22 share of the PAGA Penalties to be a part of the Net Settlement Sum that will be distributed to
23 Class Members in the PAGA Group in the amount of \$45,000.00; and (5) the seventy-five percent
24 (75%) share of PAGA Penalties ("LWDA Payment") in the amount of \$135,000.00 to the
25 California Labor and Workforce Development Agency ("LWDA"). **The Entire Total Settlement**
26 **Amount will be paid to all Class Members who do not opt out of the Settlement Class, and**
27

28 ¹ Class Counsel's costs to date are approximately \$12,000.00 so the Net Settlement
Amount will likely be increased by approximately \$13,000.00.

1 **without the need to submit claims for payment.** After deductions, the Net Settlement Amount
2 (“NSA”) is estimated to be approximately **\$625,170.00** with \$100,000.00 of the NSA allocated to
3 the FCRA class. The Class Members are to be paid based from the NSA on a pro rata basis based
4 upon the weeks each class member worked in comparison to the total work weeks worked by all
5 Class Members. The Settlement Share for each Settlement Class Member in the FCRA Class will
6 be calculated by dividing the FCRA Settlement Amount of \$100,000.00 on an equal per capita
7 basis to each Participating Class Member in the FCRA Class.

8 16. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiff
9 involved both in not prevailing on one or more of the causes of action or theories alleged in the
10 operative Complaints and in non-certification, and if successful, Defendant disputes the ability of
11 Plaintiff to certify a class in this case. Defendant also argued it maintained lawful written policies
12 that were provided to the class members and enforced those policies. Yet, despite the defenses
13 proffered by Defendant, the proposed Settlement commits Defendant to pay each Class Member a
14 portion of the NSA. The amount to be paid to the Classes is fair, adequate and reasonable given
15 the significant risk to Plaintiff and the Class in continuing with the litigation and not prevailing on
16 their claims at class certification or at trial or not being paid anything even if trial was successful.

17 17. The predominant claims in this action arise from alleged violations of California
18 law with respect to Defendant’s failure to pay all wages due and owing due rounding practices,
19 failure to provide meal periods failing to pay all wages earned, wage statement violations and
20 FCRA violations. Plaintiff alleges that these practices resulted directly from the implementation
21 and enforcement of Defendant’s own policies and practices.

22 18. Defendant’s time keeping records, payroll records, and review other relevant data
23 points, were analyzed to come up with a damage model to determine Defendant’s exposure for the
24 classes.

25 19. The rounding claims coupled with the meal break, wage statement claims and
26 FCRA claims arguably provided the more stronger claims. The resultant Labor Code section 203
27 and 266 claims were uncertain given the defenses asserted for the underlying claims and the
28 underlying apparent compliant policies, which provided for an argument against the “willfulness”

1 prong necessary for a Labor Code §203 claim. Class Counsel recognized the risks of an adverse
2 finding on certification as to all these claims.

3 20. Further, many employees were subject to arbitration agreements which if
4 successfully challenged would provide for risks at certification. The wage claims for off the clock
5 work and rounding were also in question as Defendant argued its employees were not working
6 and free from Defendant's control during the rounded time and employees were free to do what
7 they wanted during the alleged rounded time. Defendant also argued it did not require employees
8 to clock in early. Plaintiff maintained the rounding policy was unlawful.

9 21. With regards to meal breaks, Defendant argued class members took their meal and
10 rest breaks as evidenced by high compliance rates, and that class members did not work any hours
11 for which they were not paid. These arguments, coupled with the time and pay records, along with
12 the written policies, potentially created issues for certification and ultimately damages for these
13 claims and the related statutory penalties.

14 22. The Labor Code 2802 claims lacked sufficient merit as Defendant maintained
15 employees were not required to use their cell phones for work purposes and also cell phones were
16 prohibited from use during work hours. As a result, class certification seemed difficult to prove as
17 cell phones were not integral part of the job.

18 23. As for record keeping violations, Defendant produced time and pay records
19 demonstrating its compliance with record keeping requirements although arguably not necessarily
20 accurate.

21 24. Based on these defenses, Defendant argued the wage statement claim and PAGA
22 claims also lacked merit. Defendant also argued that as Plaintiff did not suffer any injury as to any
23 Labor Code violations, he lacked Article III standing to pursue PAGA claims on behalf of other
24 employees. In *Magadia v. Wal-Mart Assocs.*, 999 F.3d 668, 674-78 (9th Cir. 2021), the Ninth
25 Circuit held that the plaintiff lacked Article III standing to bring a PAGA claim for Walmart's
26 meal-break violations since he himself did not suffer injury.

27 25. Although Plaintiffs' Counsel believe the class claims are strong, Plaintiffs' Counsel
28

1 also recognize that if the litigation had continued, they may well have encountered significant legal
2 and factual hurdles that could have prevented the Class from obtaining any recovery. To be sure, a
3 number of cases have found wage and hours actions to be especially amenable to class resolution.
4 However, some courts have gone the other way, finding that some of the very claims at issue here-
5 especially meal period and rest period violations-were not suitable for class adjudication because
6 they raised too many individualized issues. *See Duran v. US. Bank National Association*, 59 Cal.
7 4th 1 , 31 (2014) (reversing a verdict from a class trial); *Ali v. US.A. Cab Ltd.*, 176 Cal. App. 4th
8 1333, 1341 (2009) (affirming denial of certification because employees' declarations attesting to
9 having taken meal and rest periods demonstrated that individualized inquiries were required to show
10 harm); *Campbell v. Best Buy Stores, L.P.* , 2013 U.S. Dist. LEXIS 137792, at *30- 41 (C.D. Cal.
11 Sept. 20, 2013) (following *Brinker* and denying certification of proposed off-the-clock and rest and
12 meal break classes due to lack of uniform policy); *Jimenez v. Allstate Ins. Co.*, 2012 U.S. Dist.
13 LEXIS 65328 (C.D. Cal. Apr. 18, 2012) (denying motion to certify meal and rest period classes
14 based on employer's practice of understaffing and overworking employees); *Gonzalez v. Officemax*
15 *NA.*, 2012 U.S. Dist. LEXIS 163853 (C.D. Cal. Nov. 5, 2012) (same); *Brown v. Fed. Express Corp.*,
16 249 F.R.D.580, 587-88 (C.D. Cal. 2008) (denying certification of driver meal and rest period claims
17 based on the predominance of individual issues); *Kenny v. Supercuts, Inc.*, 252 F.R.D. 64 I, 645
18 (N.D. Cal. 2008) (denying certification on meal periods claim); *Blackwell v. Skywest Airlines, Inc.*
19 , 245 F.R.D. 453, 467- 68 (S.D. Cal. 2007) (declining to certify class action because individual
20 issues predominated when different employee stations provided different practices with respect to
21 meal periods).

22 26. Some courts have denied certification even when an employer's policies are unlawful
23 on their face. For instance, in *Ordonez v. Radio Shack, Inc.*, 2013 U.S. Dist. LEXIS 7868, *35-41
24 (C.D. Cal. Jan. 17, 2013), the court denied certification even though the plaintiff submitted evidence
25 of a facially unlawful policy regarding rest breaks. The *Ordonez* court concluded that the
26 predominance and superiority elements were not met based on the employer's presentation of
27 anecdotal evidence of lawful compliance notwithstanding the unlawful policy. *Id.* at *38-40. And it
28 should be underscored that that claims which are amendable to certification can be disposed of by

1 motion for summary judgment. *See Loudy. Eden Med. Ctr.*, 2013 U.S. Dist. LEXIS 122873, **36-
2 53 (N.D. Cal. Aug. 28, 2013) (granting summary judgment on wage statement claim because
3 plaintiff could not show injury due to defects and that incorrect wage information is not willful).

4 27. As the above examples illustrate, the prospect of certifying a wage and hour action
5 is always uncertain, and the risk of being denied class certification militates in favor of settlement.
6 A denial of class certification effectively forecloses continued litigation, as neither the individual
7 nor his or her attorney will have any incentive to proceed with an individual case when such small
8 claims are at stake. *See In re Baycol Cases I & II*, 51 Cal. 4th 751, 758 (2011) (explaining that a
9 dismissal of class claims is effectively the "death knell" of the case, despite survival of individual
10 claims). In other words, for cases where individual damages are relatively small, denial of class
11 certification results in a near-complete loss for Plaintiffs as well as no recovery for the employees,
12 who are shut out of the action. Thus, if the putative Class had not been certified, the value of
13 Plaintiffs' case would have been reduced to a fraction of the value of this Settlement; indeed,
14 Defendant would likely have offered no money to settle the class-wide claims if certification had
15 been denied.

16 28. Finally, early resolutions save time and money that would otherwise go to litigation.
17 Parties' resources, as well as the Court's, will be further taxed by continued litigation. And if this
18 action had settled following additional litigation, the settlement amount would likely have taken into
19 account the additional costs incurred, and there may have been less available for Class Members.
20 Cost savings is one reason why California policy strongly favors early settlement. *See Nemy v.*
21 *Regents of University of California*, 3 Cal. 4th 273, 277 (1992) (explaining the high value placed on
22 settlements and observing that "[s]ettlement is perhaps most efficient the earlier the settlement
23 comes in the litigation continuum."). This concern also supports settlement.

24 29. Further, beyond the risk of an adverse ruling on the merits or certification, Class
25 Counsel considered the fact that continued litigation would likely take years and would be
26 extremely expensive given the breadth and complexity of the claims. In this case, post-trial and
27 appellate proceedings are likely to occur, which will surely drag the case far into the future even
28 with a positive trial result. When facing a distant and unsure resolution of the allegations in this

1 action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such costly
2 litigation in favor of more immediate benefits to the Class was a consideration favoring settlement.
3 Given these realities, it is highly likely that the future expense of this litigation, and its likely
4 duration if the settlement is not approved, would be significant and weigh heavily in favor of
5 approval of this settlement.

6 30. The GSA is well within the acceptable range of reasonableness for the claims
7 of the Settlement Class Members. After analysis and review of Defendant's time and pay record
8 production and other payroll data, Class counsel estimates the overall value of the claims at
9 approximately **\$5,288,432** should Plaintiff prevail at the class certification stage and at trial and
10 survive any appeals and win on all claims and be awarded maximum damages for call class
11 members and certain assumptions and extrapolations were confirmed with further discovery. This
12 amount was reduced by a reasonable 50% to **\$2,644,216** to account for the risks of continued
13 litigation and not prevailing on one or more claims and the Court not awarding penalties based
14 upon Defendant's good faith arguments. Indeed, Defendant's apparent compliant policies could
15 potentially support Defendant's good faith and lack of willfulness arguments, where for example
16 LC 203 and 226 claims could be reduced to zero, which accounts for approximately 50% of the
17 alleged penalties and damages disused herein.

18 31. There are an estimated 49,000 workweeks during the class period and
19 approximately 18,000 pay periods during the PAGA Period. The value of the failure to pay wages
20 was valued at approximately **\$517,587.00** calculated as follows: 0.35 hours per workweek x
21 \$30.18 weighted average OT rate x 49,000 workweeks. Approximately 87.9% of qualifying shifts
22 and 96.6% of 12 or more hour shifts had recorded meal breaks. Approximately 80,000 of these
23 shifts recorded late meal break however Defendant paid approximately 49,283 meal break
24 premiums. As a result, , the records revealed a meal period violation premiums owed to class
25 members in the amount of **\$618,026.00 for meal periods** (\$20.12 avg. regular rate x 30,717 work
26 shifts with meal break violations and no meal period premiums paid). The sick pay claim was
27 valued at **\$16,224.00**. The wage statement claim was valued at approximately **\$836,000.00** by
28 taking the full value of \$1,672,000.00 but discounted by approximately 50% based upon the high

1 meal period compliance and meal period premium compliance rates and the defenses to the off the
2 clock and rounding claims and the requirements for injury in some instances. Defendant also
3 potentially owes to class members **\$2,031,095 in waiting time penalties** (for a total of 389 termed
4 employees). Defendant also potentially owes to class members **\$900,000 in PAGA penalties**
5 (18,000 pay periods x reasonable \$50 penalty).

6 32. The reimbursement claim was analyzed and provided little to no value as the
7 employees were not systematically required to use their cell phones for work purposes and also
8 Defendant had a reimbursement policy in place and did reimburse employees when requested.
9 Based on the high compliance rate for meal periods, although certain percentages were recorded
10 late, along with the apparent compliant policies in place, Plaintiff provided little to no value to
11 the rest period claim. Similarly, the unreimbursed expenses claim was given little to no value
12 based upon class counsel's investigation.,

13 33. Lastly, the FCRA claims provides for actual damages, plus statutory damages
14 between a range of \$100 to \$1000, plus punitive damages. Investigation revealed that such
15 punitive damages were unlikely. However, Plaintiff did assess a modest reasonable recovery
16 value of approximately between \$0 to \$800,000 and based upon counsel's evaluation, opines that
17 approximately **\$369,500.00** was a fair assessed value.

18 34. As a result, the GSA of \$1,250,000.00 represents a reasonable recovery and
19 Approximately 23-47% of the overall potential value. This recovery could easily be much higher
20 if at trial PAGA penalties were reduced or damages for certain pay periods or workweeks could
21 not be proven for certain individuals. The proposed GSA is within the "ballpark of
22 reasonableness" and should be approved. Counsel for Plaintiffs believe that this is a fair and
23 reasonable Settlement in light of the complexities of the case, the state of the law and uncertainties
24 of class certification and litigation, the policies and practices Defendant has had in place or
25 implemented during the purported liability period, and the benefit to be recovered for the Class.
26 Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable and is in the
27 best interests of the Settlement Class, and should be preliminarily approved.

28 35. Based on the estimated Net Settlement Amount of \$525,170.00 and an additional

1 \$100,000 allocated to the FCRA class, provides on average each Settlement Class Member with
2 approximately **\$700** per Class Member. The highest amount a Settlement Class Member will
3 receive is approximately **\$3,000** based upon \$10.71 per workweek multiplied by approximately
4 280 maximum workweeks in the during the Class Period. The lowest payment is estimated to be
5 approximately **\$10.71** for someone who worked only one workweek. To the extent any amount
6 for Attorneys' Fees, Costs, Claims Administration Costs or Incentives are not awarded, the
7 difference in those amounts will be added to the NSA. This is a guaranteed amount of money paid
8 to Settlement Class Members now, rather than the continued risk of further litigation and receiving
9 no money sometime in the far future and after trial and appeals.

10 36. The FCRA class allocation is \$100,000.00. The FCRA Class will be paid a
11 per capita amount. This is a fair allocation given the relatively high risk for recovery given the
12 defenses raised in conjunction with the low end of statutory damages provided. As such, it is
13 expected each FCRA class member will receive approximately \$200 each.

14 37. The PAGA members who worked during the PAGA period will be paid a PAGA
15 Payment based upon a pro rata share of the number of pay periods each PAGA member worked
16 compared to the total pay periods worked by all PAGA group members during the PAGA period
17 of June 14, 2020 through the preliminary approval. As a result, there are approximately 418
18 PAGA members who will each receive approximately \$107 per PAGA member.

19 38. The Class Representative has provided extensive supporting documents and
20 assisted Class Counsel in developing information necessary to litigate and settle this case.
21 Plaintiff also conducted record review and consultation with counsel in preparation for mediation,
22 and to assist in evaluating and proving the claims. The settlement provides for a Payment to be
23 paid to the Class Representative in the amount of \$15,000.00 subject to Court approval. The
24 purpose is to compensate the Class Representatives an additional incentive payment, taking into
25 consideration the risks, time, effort and expenses incurred in coming forward to provide invaluable
26 information and negotiate and litigate this matter on behalf of all Settlement Class Members who
27 otherwise, would probably not file their own individual claims to recover what may be relatively
28 low damages. Further, the Payment of \$15,000.00 as an Incentive Award to the Class

1 Representative is a very fair and justified as part of the Settlement based on the risks Plaintiff has
2 taken and benefits conferred upon the Settlement Class.

3 39. Class certification, as requested by the Parties for the purposes of the settlement
4 only, should be granted because Plaintiff allege that the proposed Settlement Class Members'
5 claims all stem from the same alleged conduct, i.e., that Defendant violated California law because
6 they: (1) failed to pay wages including minimum and overtime wages, (2) failure to provide meal
7 periods, (3) failed to provide rest periods, (4) failed to timely pay wages upon termination
8 pursuant to Labor Code § 203, (5) failed to timely pay wages during employment as pursuant to
9 Labor Code § 204; (6) failed to provide accurate itemized wage statements; (7) failed to reimburse
10 business expenses, (8) failed to keep requisite payroll records, (9) violation of the UCL, and (10)
11 violation of the Fair Credit and Reporting Act. In addition to compensatory damages, Plaintiff and
12 the Settlement Class seek attorneys' fees, costs, and interest. Under these specific circumstances,
13 the commonality requirement for class certification is satisfied. The typicality requirement for
14 certification is also met as it is alleged that the Class Representatives and the proposed Settlement
15 Class were subjected to similar violations based upon similar conduct, policies and practices of the
16 Defendant regardless of their duties.

17 40. The adequacy requirement for certification is also met. The Class Representative
18 and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class. The
19 Class Representative will receive a reasonable award for the time and effort spent assisting Class
20 counsel with factual issues surrounding the case. Other than this specific payment to the Class
21 Representative, all of the Settlement Class Members will receive a proportionate share of the
22 NSA, as detailed above provided they do not exclude themselves. Further, all PAGA Members
23 during the PAGA Period will receive their pro rata share of PAGA Penalties. As a result, there is
24 no conflict of interest between the Class Representative and the Settlement Class Members.
25 Further, the NSA will be fairly distributed among Participating Class Members, and no
26 "settlement allocation" questions will be raised.

27 41. Common questions of law and fact predominate over individual questions and
28 class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the

1 proposed Settlement Classes in this case are sufficiently cohesive, since all Settlement Class
2 Members share a common nucleus of facts and potential legal remedies, and since all of the
3 Settlement Class Members and the Class Representative seek compensation for unpaid wages and
4 other civil and statutory penalties from Defendant for the allegations described in the Complaints.
5 Common questions about compensation or lack thereof for work performed by Settlement Class
6 Members and the Settlement Class Members' potential legal remedies are identical. The
7 alternative method of resolution is individual claims for relatively small amounts of damages, but
8 individual cases would be uneconomical for potential plaintiffs because the cost of litigation
9 dwarfs potential recovery. Therefore, a class action is the preferred method of resolution.

10 42. The class notice plan here calls for the Settlement ILYM Group, Inc., to mail a
11 Notice of Class Action settlement to all known and reasonably ascertainable Settlement Class
12 Members based on Defendant's records. Further, the Settlement Administrator will conduct a
13 skip-trace and use all reasonable efforts to locate Settlement Class Members and will re-mail all
14 returned envelopes with forwarding addresses. The notice is consistent with the class certification
15 notices approved by numerous state and federal courts, and is the best notice practicable under
16 circumstances of this case. The proposed Settlement Class Members are ascertainable because all
17 of the Settlement Class Members have worked for Defendant during the Class Periods and can be
18 identified through Defendant's records.

19 43. The Notice also fulfills the neutrality requirement. It summarizes the proceedings
20 to date and the terms and conditions of the Settlement in an informative and coherent manner, and
21 is accurate, objective, and understandable to Settlement Class Members, as is required under
22 prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of
23 liability by Defendant and recognizes the Court has not ruled on the merits. It also states the final
24 settlement approval decision has yet to be made. The Notice also clearly instructs the Settlement
25 Class Members on how to object or exclude themselves from the Settlement. Therefore,
26 Settlement Class Members will have the option to participate or exclude themselves simply by
27 mailing a request to exclude themselves. The Settlement Class consists of non-exempt employees
28 who speak English. Thus, the Notice of Class Action is drafted in a manner that is likely to be

1 readily understood by the Settlement Class. Accordingly, the Notice complies with the standards
2 of fairness, completeness and neutrality required of a Notice of Class Action Settlement. The
3 Notice therefore is neutral, objective and understandable.

4 44. I have a great deal of experience in wage and hour class action litigation. I have
5 obtained certification of several classes, I have been approved as class counsel in many other
6 wage/hour class actions, and I am currently litigating numerous others. Although not an all
7 inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-
8 lead counsel, all of which implicated similar law and facts to those associated with this action:

9 a. *Aguilar v. 7-Eleven, Inc., et. al.*, Orange County Superior Court- Case No.: 30-
10 2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium
11 wages for meal period and rest periods and resultant penalties. Class Notice pending.

12 b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT- Case
13 No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-
14 classification of insurance claims adjusters employed by Gallagher Bassett, a third
15 party administrator (TPA) in the State of California. Certification granted. Plaintiffs'
16 counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds
17 fully distributed.

18 c. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-
19 04554. Wage and Hour Class Action case seeking past wages for "off the clock",
20 overtime and meal and rest break violations for production workers in the State of
21 California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final
22 Approval granted, no objections and funds fully distributed.

23 d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
24 Wage and Hour Class Action case seeking past wages for meal and rest period
25 violations for retail employees in the State of California. Plaintiffs' counsel appointed
26 co-lead counsel. Case settled, Final Approval granted, no objections and funds fully
27 distributed.

28 e. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No.

1 SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and
2 rest period violations for retail employees in the State of California. Plaintiffs'
3 Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no
4 objections and funds fully distributed.

5 f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County
6 Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past
7 wages for overtime, meal and rest break violations for driver employees in the State of
8 California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class.
9 Arbitration Award confirmed. Plaintiffs' counsel, lead trial counsel and class counsel.

10 g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior
11 Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for
12 overtime, meal and rest breaks violations for production employees in the State of
13 California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval
14 granted, no objections and funds fully distributed.

15 h. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County
16 Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past
17 wages for overtime, meal and rest break violations for production employees in the
18 State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled,
19 Final Approval granted, no objections and funds fully distributed.

20 i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293.
21 Wage and Hour Class Action seeking past wages for unlawful deductions, meal and
22 rest break violations for restaurant employees in the State of California. Plaintiffs'
23 counsel appointed as lead counsel. Case settled, Final Approval granted and funds
24 fully distributed.

25 j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case
26 No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal
27 and rest break violations for security officers in the State of California. Plaintiffs'
28 counsel appointed as co-lead counsel. Case settled, Final Approval granted, no

1 objections and funds fully distributed.

2 k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court,
3 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action
4 seeking past wages for meal and rest break violations for security officers employed by
5 defendant in the State of California. Plaintiffs' counsel and co-counsel. Case settled,
6 Final Approval granted and funds fully distributed.

7 l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court,
8 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime,
9 meal and rest break violations for housekeepers employed by defendant in the State of
10 California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval
11 granted, no objections and funds fully distributed.

12 m. *Ruiz, et al. v. Unisource Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
13 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and
14 rest period violations for non-exempt employees employed by defendant in the state of
15 California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has
16 petitioned the Court for Lead Counsel.

17 n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
18 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages
19 for field and branch employees of defendant in the State of California. Plaintiffs'
20 counsel appointed as lead counsel. Case settled and awaiting Final Approval.

21 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
22 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
23 employees of defendant in the State of California. Plaintiffs' counsel appointed as lead
24 counsel. Case settled, Final Approval granted, no objections and funds fully
25 distributed.

26 p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.
27 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest
28 break violations for security guards employed by defendant in the State of California.

1 Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no
2 objections and funds fully distributed.

3 q. *Rios v. Sandberg Furniture Manufacturing Co., Inc*, et al., Los Angeles Superior
4 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and
5 rest break violations for production employees employed by defendant in the State of
6 California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval
7 granted, no objections and funds fully distributed.

8 r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case
9 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest
10 break violations for restaurant employees employed by defendant in the State of
11 California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final
12 Approval granted, no objections and funds fully distributed.

13 s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No. BC
14 330145. Wage and Hour Class Action seeking past wages of overtime for mis-
15 classification of managers employed by Defendant, DBA Carl's Jrs. in the State of
16 California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final
17 Approval granted, no objections and funds fully distributed.

18 t. *Burns v. Gymboree Operations, Inc.*, et al., San Francisco Superior Court, Case No.
19 CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest
20 break violations for retail employees employed by defendant in the State of California.
21 Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no
22 objections and funds fully distributed.

23 u. *Willems v. Diedrich Coffee, Inc.*, et al., Orange County Superior Court, Case No.
24 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-
25 classification of managers employed by Defendant in the State of California.
26 Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no
27 objections and funds fully distributed.

28 v. *Davila, et al. v. Beckman Coulter, Inc.*, et al., Orange County Superior Court, Case

1 No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal
2 and rest break violations for production workers employed by defendant in the State of
3 California. Plaintiffs' counsel appointed lead counsel. Cased settled; final approval
4 granted; no objections and funds fully distributed.

5 w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
6 Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime,
7 meal and rest period violations for production employees employed by defendant in the
8 State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final
9 Approval granted, no objections and funds fully distributed.

10 45. Here, the Parties' agreement to pay Class Counsel Fees of 35% of the GSA is
11 reasonable. My firm and I have been the only counsel to represent Plaintiff and the Settlement
12 Class in this matter, and we have borne the entire risk and cost of this litigation on a pure
13 contingency fee basis. The legal issues raised drew significantly upon my experience and the
14 extensive review and analysis of documents and information by me and others at my firm and our
15 co counsel. In a complex action such as this, the proposed attorneys' fees are, at the very least, on
16 the low side of the market rate for contingency fees.

17 46. At this juncture, with the addition of more hours due to the administration of the
18 the Settlement by Class Counsel, administration of the Settlement, and preparation for final
19 approval, counsel for plaintiff will provide a detailed analysis of its time in advance of the final
20 approval hearing. Plaintiff's counsel will file a motion for attorneys' fees and costs to be heard
21 concurrently with the motion for final approval in accordance with the terms of the settlement
22 agreement.

23 47. Despite the complexity of the case, Class Counsel has, through the investment of
24 substantial effort and the resources of my law firm been able to secure an outstanding settlement
25 on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual
26 obstacles in demonstrating that class certification was appropriate. Plaintiff would also have been
27 required to establish a significant amount of witness testimony, pattern and practice evidence,
28 statistical evidence, sampling evidence, expert testimony, and other evidence in order to present

1 their case both at the class certification stage and trial. Defendant vigorously contested liability,
2 the amount of claimed damages, and the propriety of class certification, and would have continued
3 to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and adequate
4 and in the best interests of the Settlement Class. The fairness and adequacy of the Settlement is
5 confirmed by all known facts and circumstances, including the risk of significant delay and
6 uncertainty associated with litigation, the various defenses asserted by Defendant, and numerous
7 potential appellate issues.

8 I declare under penalty of perjury that the foregoing is true and correct. Executed on
9 January 27, 2023 at Irvine, California.

10 
11 James R. Hawkins
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EXHIBIT 1

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Attorneys for Defendants
FORWARD AIR SERVICES, LLC and FORWARD
AIR, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

RENE G. NAVARRO LOVERA, individually
and on behalf of himself and all others similarly
situated,

Plaintiff,

v.

FORWARD AIR SERVICES, LLC, a Delaware
Limited Liability Company; FORWARD AIR,
INC., a Tennessee Corporation; and DOES 1-50,
inclusive,

Defendants.

Case No. 21STCV39280

**PLAINTIFF RENE G. NAVARRO
LOVERA AND DEFENDANTS
FORWARD AIR, INC. AND FORWARD
AIR SERVICES, LLC'S JOINT
STIPULATION AND SETTLEMENT
AGREEMENT OF CLASS ACTION AND
PAGA CLAIMS**

ASSIGNED FOR ALL PURPOSES TO
JUDGE HOLLY J. FUJIE, DEPT. 56

Complaint Filed: October 25, 2021

This Joint Stipulation and Settlement Agreement of Class Action and PAGA Claims (“Stipulation of Settlement” or “Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Rene G. Navarro Lovera (hereinafter referred to as “Class Representative” or “Plaintiff”) and on behalf of the Class and Aggrieved Employees (as defined below), and Defendants Forward Air Corporation, Forward Air Services, LLC, and Forward Air, Inc. (“Defendants”) (Plaintiff and Defendants hereinafter collectively referred to as the “Parties”).

THE PARTIES STIPULATE AND AGREE as follows:

DEFINITIONS

1. “**Action**” shall mean the action entitled *Rene G. Navarro Lovera v. Forward Air Services, LLC, et al.*, pending in Superior Court of the State of California, Los Angeles County, Case No. 21CV39280.

2. “**Amended PAGA Letter**” shall mean the amended PAGA letter Plaintiff will send to the State of California Labor and Workforce Development Agency (“LWDA”) to include all claims alleged in the Operative Complaint.

3. “**Class Counsel**” shall mean James R. Hawkins, Gregory Mauro, Michael Calvo, and Jeanne Sarmiento of James Hawkins APLC.

4. “**Class Members**” shall mean the Class and the FCRA Class. The Class is defined as all current and former non-exempt employees of Defendants who worked in California at any time from June 14, 2017, through the date the Court grants preliminary approval. Defendant represents there are approximately 732 Class Members as of July 12, 2022. The FCRA Class is defined all prospective employees in the California for whom Defendant procured a background check during the FCRA Class Period (the “FCRA Class”).

5. “**Class Period**” or “Settlement Class Period” shall mean June 14, 2017, through the earlier date of either the date the Court grants preliminary approval of this Settlement.

6. “**Class Released Claims**” shall have the meaning ascribed to it in Paragraph 63(a)-(b) below.

7. “**Class Representative**” or “**Plaintiff**” shall mean Plaintiff Rene G. Navarro Lovera.

8. “**Court**” shall mean the Superior Court of the State of California for the County of Los

1 Angeles.

2 9. **“Court’s Final Order and Judgment”** means the Final Order Approving Class Action
3 and PAGA Settlement and Judgment in a form to be agreed upon by the Parties and approved by the
4 Court.

5 10. **“Defendants’ Counsel”** shall mean Christopher Dengler, and Jyoti Mittal of Littler
6 Mendelson, P.C.

7 11. **“Effective Date”** shall have the meaning ascribed to it in Paragraph 40, below.

8 12. **“FCRA Class Period”** shall mean the Period of June 14, 2019, through the date the
9 Court grants preliminary approval.

10 13. **“FCRA Settlement Amount”** shall have the meaning ascribed to it in Paragraph 43,
11 below.

12 14. **“Final Approval Hearing”** shall mean the hearing whereat the Court shall consider,
13 without limitations, any timely objections to the Settlement from Settlement Class Members,
14 testimony from the Parties or their counsel, declarations regarding the claims process from the
15 Settlement Administrator, and otherwise make a final determination regarding the fairness of the
16 Settlement as set forth herein.

17 15. **“Gross Settlement Amount”** shall refer to One Million Two Hundred and Fifty
18 Thousand Dollars and Zero Cents (\$1,250,000.00), which is the maximum amount that Defendants
19 will pay pursuant to this Settlement, excluding Defendants’ share of payroll taxes, which shall be paid
20 by Defendants separately and in addition to the Gross Settlement Amount.

21 16. **“Incentive Award”** shall mean the payment made to Plaintiff in his capacity as a Class
22 Representative, which sum is over and above his Individual Settlement Payment and shall come out
23 of the Gross Settlement Amount.

24 17. **“Individual Settlement Payment”** will be the portion of the Net Settlement Amount
25 payable to a Settlement Class Member.

26 18. **“Net Settlement Amount”** shall have the meaning ascribed to it in Paragraph 43,
27 below.

28 19. **“Notice of Proposed Settlement”** or **“Notice”** means the Notice of Pendency of Class

1 Action in substantially the form attached hereto as Exhibit A, and as approved by the Court.

2 20. **“Operative Complaint” or “Amended Complaint”** shall mean the First Amended
3 Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act,
4 California Labor Code § 2698, et seq. for the following claims and/or statutes against Defendants
5 Forward Air Corporation, Forward Air Services, LLC and Forward Air, Inc.: (1) Failure to Pay Wages
6 Including Minimum Wage and Overtime as Required by Labor Code §§ 510, 1194, 1197, 1197.1; (2)
7 Failure to Provide Meal Periods as Required by Labor Code §§ 226.7, 512 and related corresponding
8 IWC Wage Orders sections; (3) Failure to Provide Rest Periods as Required by Labor Code §§ 226.7
9 and 512; (4) Failure to Pay Timely Wages Upon Termination Required by Labor Code § 203; (5)
10 Failure to Timely Pay Wages During Employment Required by Labor Code § 204; (6) Failure to
11 Provide Accurate Itemized Wage Statements as Required by Labor Code § 226; (7) Failure to
12 Indemnify Necessary Business Expenses as Required by Labor Code §§ 2800 and 2802; (8) Failure to
13 Keep Requisite Payroll Records Required by Labor Code § 1174(d); (9) Violation of Business &
14 Professions Code § 17200, et seq, (10) Violation of 15 U.S.C. § 1681b (Fair Credit Reporting Act) (as
15 to only Class Members who worked in California as non-exempt employees, with a limitations period
16 of June 14, 2019, through the end of the Class Period), and (11) Private Attorney’s General Act of
17 2004 (“PAGA”) for the claims asserted in the Action which is fully incorporated in the Amended
18 PAGA Letter.

19 21. **“PAGA”** shall mean the California Labor Code Private Attorneys General Act, Labor
20 Code §§ 2698, et seq.

21 22. **“PAGA Employee”** or “Aggrieved Employee” shall mean all persons who are Class
22 Members who were employed at any time during the PAGA Period.

23 23. **“PAGA Employee Payments”** means the payment issued to each PAGA Employee
24 for his/her/their share of the PAGA Payment.

25 24. **“PAGA Payment”** means the payment to the LWDA and the PAGA Employees in
26 settlement of all claims for PAGA penalties. Subject to the Court’s Approval, up to a maximum of
27 One Hundred Eighty Thousand Dollars and Zero Cents (\$180,000.00) shall be allocated as the PAGA
28 Payment. One Hundred Thirty-Five Thousand Dollars and Zero Cents (\$135,000.00), representing

75% of the PAGA Payment, shall be paid to the LWDA. Forty-Five Thousand Dollars and Zero Cents (\$45,000.00), representing 25% of the penalties paid pursuant to PAGA, shall be distributed to the PAGA Employees as PAGA Employee Payments.

25. “**PAGA Period**” shall mean June 14, 2020, through the date the Court grants preliminary approval of this Settlement.

26. “**PAGA Released Claims**” shall mean any and all claims for violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698, et seq.), on the facts and/or claims alleged in the Action and/or any PAGA letter sent to the LWDA by Plaintiff or in any way premised in whole or in part on any of the Class Released Claims that arose at any time during the PAGA Period, as described in Paragraph 64.

27. “**Parties**” shall refer to the Plaintiff and Defendants, each of whom is a “Party.”

28. “**Released Parties**” collectively shall encompass Forward Air Corporation, Forward Air Services, LLC and Forward Air, Inc., and any of their past, present and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as well as each of its past, present and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants.

29. “**Settlement Administrator**” shall mean ILYM Group, Inc..

30. “**Settlement Class Members**” shall mean the individual Class Members who did not opt-out of the Settlement by submitting a valid request for exclusion as described in Paragraphs 56 through 58.

RECITALS

31. In the Action’s Operative Complaint, Plaintiff alleged causes of action for (1) Failure to Pay Wages Including Minimum Wage and Overtime as Required by Labor Code §§ 510, 1194, 1197, 1197.1; (2) Failure to Provide Meal Periods as Required by Labor Code §§ 226.7, 512 and IWC Wage Orders; (3) Failure to Provide Rest Periods as Required by Labor Code §§ 226.7 and 512; (4) Failure to Pay Timely Wages Upon Termination Required by Labor Code § 203; (5) Failure to Timely Pay Wages During Employment Required by Labor Code § 204; (6) Failure to Provide Accurate Itemized Wage Statements as Required by Labor Code § 226; (7) Failure to Indemnify Necessary

1 Business Expenses as Required by Labor Code §§2800 and 2802; (8) Failure to Keep Requisite Payroll
2 Records Required by Labor Code § 1174(d); (9) Violation of Business & Professions Code § 17200,
3 et seq, (10) Violation of 15 U.S.C. § 1681b, (as to California non-exempt employees, with a limitations
4 period of June 14, 2019, forward) (Fair Credit Reporting Act), and (11) Private Attorney's General
5 Act of 2004 ("PAGA").

6 32. Following exchange and extensive review of relevant documents and class data, on
7 July 15, 2022, the Parties engaged in a full-day mediation with experienced wage and hour class action
8 mediator Kelly Knight, Esq., which resulted in a settlement.

9 33. Defendants deny any liability or wrongdoing of any kind whatsoever associated with
10 the claims in the Action, and further deny that, for any purpose other than settling this Action, this
11 Action is appropriate for class action or representative treatment.

12 34. It is the Parties' desire to fully, finally and forever settle, compromise and discharge all
13 disputes and claims arising from or related to the allegations of this Action, as to each other.

14 35. It is the Parties' intention that this Stipulation of Settlement shall constitute a full and
15 complete settlement and release of all Class Released Claims and all PAGA Released Claims (as
16 defined in Paragraphs 63 and 64 below) against all Released Parties.

17 36. Class Counsel have conducted a thorough investigation into the facts of this Action,
18 including an extensive review and analysis of relevant documents and data, and have diligently
19 pursued an investigation of the Class Members' claims against Defendants. Based on their own
20 independent investigation and evaluation, Class Counsel are of the opinion that the Settlement with
21 Defendants is fair, reasonable and adequate and is in the best interest of the Class Members in light of
22 all known facts and circumstances, including the risks of significant delay, the class not being certified,
23 and the defenses asserted by Defendants. Defendants and Defendants' Counsel also agree that the
24 Settlement is in the best interests of the Class Members. Counsel for the Parties further agree that the
25 Settlement is fair, reasonable and adequate with respect to civil penalties sought pursuant to PAGA.

26 37. The Parties agree to cooperate and take all steps necessary and appropriate to
27 consummate this settlement in accordance with the terms of this Stipulation of Settlement.
28

TERMS OF SETTLEMENT

38. In consideration of the mutual covenants, promises and agreements set forth herein, the Parties agree, subject to the Court's approval, to the terms herein.

39. It is agreed by and between Plaintiff and Defendants that this Action and any claims, demands, liabilities, penalties, damages or causes of action of any kind whatsoever against Defendants claimed by Plaintiff on behalf of himself, the Class Members, and/or the PAGA Employees arising out of the disputes which are the subject of this Action, be settled and compromised, subject to the terms and conditions set forth in this Stipulation of Settlement and the Court's approval.

40. Effective Date: The Settlement embodied in this Stipulation of Settlement shall become effective when all of the following events have occurred ("Effective Date"): (i) this Stipulation of Settlement has been executed by Plaintiff, Defendants, Class Counsel and Defendants' Counsel; (ii) the Court has given preliminary approval to the Settlement; (iii) the Notice has been sent to the Class Members, providing them the opportunity to object to the Settlement, and the opportunity to opt out of the Settlement; (iv) the Notice has been sent to the LWDA; (v) the Court has held a formal fairness hearing and entered the Court's Final Order and Judgment; and (vi) the later of the following events: (A) when the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or (B) if a Class Member files an objection to the Settlement, the Effective Date shall be the later of the following events: (i) five (5) business days after the period for filing any appeal, writ, or other appellate proceeding opposing Final Approval has elapsed without any appeal, writ, or other appellate proceeding having been filed; or (ii) if any appeal, writ, or other appellate proceeding opposing Final Approval has been filed, five (5) business days after any appeal, writ, or other appellate proceedings opposing the Settlement has finally and conclusively dismissed with no right to pursue further remedies or relief and the Settlement has been upheld with no right to pursue further remedies or relief. If the Court declines to approve the Settlement, the entire Stipulation of Settlement is deemed void and unenforceable as if no settlement of any claim was ever reached. All negotiations, statements and proceedings and data relating thereto shall be protected by California Evidence Code §1152 and shall be without prejudice to the rights of any of the Parties.

41. Gross Settlement Amount: To implement the terms of this Settlement, Defendants agree to pay a maximum total payment of One Million Two Hundred and Fifty Thousand Dollars and Zero Cents (\$1,250,000.00), which includes payments to Settlement Class Members (excluding any appropriate and lawfully required employer-side payroll taxes owed by Defendants on such payments attributable to wages, which Defendants shall be separately responsible for apart from the Gross Settlement Amount), Incentive Award to the Class Representative, the PAGA Payment, the Settlement Administrator's fees and costs, approved attorneys' fees and litigation costs, and any other payments provided by this Settlement. Except as otherwise specified herein, Defendants shall not be required to pay any additional monies beyond the amount of the Gross Settlement Amount plus the employer-side payroll taxes. Further, no portion of the Gross Settlement Amount shall revert to Defendants.

42. Funding of Settlement Amount: Within fifteen (15) business days after the Effective Date, Defendants shall transfer to the Settlement Administrator an amount equal to the Gross Settlement Amount, plus the employer's share of payroll taxes. The delivery of the Gross Settlement Amount and the employer's share of payroll taxes to the Settlement Administrator shall constitute full and complete discharge of the entire obligation of Defendants under this Settlement. Once Defendants have made such payments, they will be deemed to have satisfied all terms and conditions under this Settlement, shall be entitled to all protections afforded to Defendants under this Settlement, and shall have no further obligations under the terms of the Settlement regardless of what occurs with respect to those sums.

43. Allocation of the Gross Settlement Amount: Subject to Court approval and the conditions specified in this Agreement, and in consideration of the mutual covenants and promises set forth herein, the Parties agree the Gross Settlement Amount shall encompass the following: (1) Class Counsel's fees and expenses; (2) the Plaintiff's Incentive Award; (3) the Settlement Administrator's costs; (4) the PAGA Payment (including both the PAGA payment to the LWDA and the PAGA Settlement Checks); and (5) the Net Settlement Amount.

The Gross Settlement Amount less proposed Class Counsel's fees and costs, Plaintiff's Incentive Award, PAGA Payment, and Settlement Administrator's costs shall constitute the "Net Settlement Amount."

1 The Net Settlement Amount shall be allocated One Thousand Dollars and Zero Cents
2 (\$100,000.00) to the FCRA amount Class ("FCRA Settlement Amount") and the remainder to of the
3 Net Settlement Amount to the Settlement Class Members. The Parties agree that thirty percent (30%)
4 of the Net Settlement Amount distributed to each Settlement Class Member will be considered wages,
5 and will be reported as such to each Settlement Class Member on an IRS Form W-2. The Parties agree
6 that seventy percent (70%) of the Net Settlement Amount distributed to each Settlement Class Member
7 will be considered penalties, and will be reported as such to each Settlement Class Member on an IRS
8 Form 1099 misc., if applicable. The foregoing tax allocation shall not apply to the Incentive Award
9 paid to Plaintiff as Plaintiff will receive a 1099 for the total sum of the Incentive Payment. The Parties
10 further agree that the PAGA payment distributed to each PAGA Member will be treated entirely as
11 civil penalties, and will be reported as such to each PAGA Member on an IRS Form 1099 misc., if
12 applicable.

13 a. From the FCRA Settlement Amount, the Settlement Share for each Settlement Class
14 Member in the FCRA Class will be calculated by dividing the FCRA Settlement
15 Amount on an equal per capita basis to each Participating Class Member in the FCRA
16 Class.

17 b. The Net Settlement Amount shall be divided among the Settlement Class Members on
18 a pro-rata basis, based upon the following:

19 i. Each Settlement Class Member's workweek count, which shall be the sum of
20 the total number of workweeks the Settlement Class Member worked during
21 the Class Period;

22 ii. Divided by the combined sum of all Settlement Class Members' workweek
23 count; and,

24 iii. Multiplied by the value of the Net Settlement Amount.

25 c. The Parties agree that if any Settlement Class Member disputes the basis for
26 determining their share of the Settlement, Defendants' records shall presumptively
27 control unless the Settlement Class Member can produce documentation evidence of
28 other shifts worked during the relevant time period. The Parties further agree that any

1 dispute that cannot be resolved by Class Counsel and Defendants' counsel may be
2 brought before the Court before final approval of the Class Settlement.

3 d. To the extent that amounts in Paragraphs 44, 46, 47 and 48 below are not approved by
4 the Court, such amounts will be reallocated to the Net Settlement Amount unless
5 allocated otherwise by agreement of the Parties, with approval of the Court.

6 e. Within ten (10) calendar days of the transfer of the Gross Settlement Amount to the
7 Settlement Administrator, and only upon the Effective Date being met, the Settlement
8 Administrator shall issue to each Settlement Class Member his/her/their Individual
9 Settlement Payment.

10 f. A Class Member must cash his/her/their Individual Settlement Payment check within
11 one hundred eighty (180) calendar days after it is mailed to him/her/they. If a check is
12 returned to the Settlement Administrator, the Settlement Administrator will make all
13 reasonable efforts to re-mail it to the Class Member at his/her/their correct address. If
14 any Class Member's Individual Settlement Payment check is not cashed within 120
15 days of its initial issuance to the Class Member, the Settlement Administrator will send
16 the Class Member a letter, dated 120 days from the initial mailing, informing
17 him/her/they that, unless the check is cashed within 60 days of the date of this letter, it
18 will expire and become non-negotiable, and offer to replace the check if it was lost or
19 misplaced but not cashed. If the check remains uncashed by the expiration of the 60-
20 day period after this interim notice, the Settlement Administrator will keep an
21 accounting of such funds, including the identification of the Class Member. The
22 Settlement Administrator will then disburse said funds to the State of California State
23 Controller's Office, in the Class Member's name to be held as unclaimed property for
24 the Class Member. In such event, the Class Member will nevertheless remain bound
25 by the Settlement and the releases contained herein.

26 44. PAGA Payment: Subject to the Court's Approval, up to a maximum of One Hundred
27 Eighty Thousand Dollars and Zero Cents (\$180,000.00) shall be allocated as the PAGA Payment. One
28 Hundred Thirty-Five Thousand Dollars and Zero Cents (\$135,000.00), representing 75% of the PAGA

1 Payment, shall be paid to the LWDA. Forty-Five Thousand Dollars and Zero Cents (\$45,000.00),
2 representing 25% of the penalties paid pursuant to PAGA, shall be distributed to the PAGA Employees
3 as PAGA Employee Payments. The PAGA Employees shall release their PAGA Released Claims in
4 their entirety and may not opt out of or object to the PAGA release. To arrive at the PAGA Employee
5 Payments, the portion of the PAGA Payment allocated to the PAGA Employees – \$45,000.00 – shall
6 be divided among the PAGA Employees on a pro-rata basis, based upon the following:

- 7 a. Each PAGA Employee's pay period count, which shall be the sum of the total number
8 of workweeks the PAGA Employee worked during the PAGA Period;
- 9 b. Divided by the combined sum of all PAGA Employees' workweek counts; and
- 10 c. Multiplied by the value of the portion of the PAGA Payment allocated to the PAGA
11 Employees.

12 The Parties agree that if any PAGA Employee disputes the basis for determining their share of the
13 PAGA Payment, Defendants' records shall presumptively control unless the PAGA Employee can
14 produce documentation evidence of other shifts worked during the relevant time period. The Parties
15 further agree that any dispute that cannot be resolved by Class Counsel and Defendants' counsel may
16 be brought before the Court before final approval of the Class Settlement.

17 45. Individual Settlement Payments Do Not Trigger Additional Benefits: All Individual
18 Settlement Payments, PAGA Employee Payments, and the Incentive Award shall not be utilized to
19 calculate any additional benefits under any benefit plans to which any Plaintiff, Settlement Class
20 Members and/or PAGA Employee may be eligible including, but not limited to: retirement plans,
21 profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, paid time off,
22 sick leave plans, PTO plans, pension plans, or any other benefit plan. It is the Parties' intention that
23 this Agreement will not affect any rights, contributions, or amounts to which Plaintiff, Settlement
24 Class Members and PAGA Employees may be entitled under any benefit plans.

25 46. Settlement Administrator: The Settlement Administrator shall be ILYM Group, Inc. .
26 (the "Settlement Administrator"). The Settlement Administrator will maintain acceptable electronic
27 and physical security protocols to adequately protect and safeguard the private employee information
28 it will have access to as a result of the claims process. The fees and expenses of the Settlement

1 Administrator, which is currently estimated at approximately Seventeen Thousand Three Hundred
2 Thirty Dollars and Zero Cents (\$17,330.00), shall be paid through the Gross Settlement Amount.

3 47. Attorneys' Fees and Attorneys' Costs: Subject to the Court's approval, Class Counsel
4 may seek attorneys' fees not to exceed Four Hundred Thirty-Seven Thousand and Five Hundred
5 Dollars and Zero Cents (\$437,500.00), or not more than –thirty-five percent (35%) of the Gross
6 Settlement Amount, and reimbursement of actual costs and expenses associated with Class Counsel's
7 litigation and settlement of the Action, in an amount not to exceed Twenty-Thousand Dollars and
8 Zero Cents (\$20,000.00), subject to approval by the Court. Defendants will not object to Class
9 Counsel's application for attorneys' fees and costs in these amounts. The amount set forth above will
10 cover all work performed and all fees and costs incurred to date, and all work to be performed and all
11 fees and costs to be incurred in the future in connection with the approval by the Court of this
12 Stipulation of Settlement, and the administration of the Settlement. Should Class Counsel collectively
13 request a lesser amount, or should the Court approve a lesser amount of attorneys' fees and/or
14 attorneys' costs, the difference between the lesser amount and the maximum amount set forth above
15 shall be added to the Net Settlement Amount. No Class Counsel shall be entitled to further fees or
16 costs from Defendants if they elect to appeal any reduction in the requested fee or cost award. Any
17 reduction by the Court of Class Counsel's claimed attorneys' fees and/or reasonable costs/expenses
18 shall not be sufficient grounds to void the Settlement. Plaintiff and Defendants shall bear their own
19 attorney's fees and costs, except as provided herein.

20 48. Class Representative's Incentive Award: Subject to the Court's approval, the Class
21 Representative will be paid an Incentive Award in an amount up to a maximum of Fifteen Thousand
22 Dollars and Zero Cents (\$15,000.00) in recognition for his service as a Class Representative, which
23 shall be paid from the Gross Settlement Amount. Defendants will not object to Class Counsel's
24 application for Court approval of an Incentive Award to the Class Representative in the amount of
25 Fifteen Thousand Dollars and Zero Cents (\$15,000.00). It is understood that the Incentive Award is
26 in addition to any claimed Individual Settlement Payment or PAGA Employee Payment to which
27 Plaintiff is entitled. The Incentive Award shall not be deemed wages and will be reported on an IRS
28 Form 1099-MISC, if applicable.

1 49. Tax Forms: The Settlement Administrator shall be responsible for issuing the payments
2 and withholding all required state and federal taxes in accordance with this Stipulation of Settlement,
3 including issuance of IRS Forms W-2. The Settlement Administrator will issue IRS Forms 1099 with
4 respect to the amounts paid as interest and penalties to the Settlement Class Members and PAGA
5 Employees. The Settlement Administrator will also issue IRS Forms 1099 to: (1) Plaintiff for the
6 Incentive Award; and (2) Class Counsel for the amount paid for approved fees and costs. The
7 Settlement Administrator will be responsible for preparing these forms correctly. The Settlement
8 Administrator shall also be responsible for submitting Defendants' share of payroll taxes to the
9 appropriate government agencies on behalf of Defendants. Plaintiff and Class Counsel will be
10 responsible for correctly characterizing this compensation for tax purposes and for paying any taxes
11 on the amounts received.

12 50. Indemnification: Plaintiff and Class Counsel acknowledge and agree that they are and
13 will be responsible for the payment of any and all Federal, State, and Local taxes or penalties
14 associated with their respective allocated portions of the payments described herein, and agree to
15 indemnify, defend, and hold the Released Parties harmless from any and all claims by any Federal,
16 State, or Local taxing authority that Plaintiff or Class Counsel failed to pay or underpaid their or her
17 or his share of taxes associated with the payments set forth in this Settlement. The Parties acknowledge
18 and agree that Class Counsel are not responsible for the payment of any Federal, State, and Local taxes
19 or penalties associated with payments to Plaintiff and Class Members.

20 **NOTICE TO THE SETTLEMENT CLASSES**

21 51. Within thirty (30) calendar days of preliminary approval of this Settlement by the
22 Court, Defendants shall provide to the Settlement Administrator a database containing the following
23 information ("Class Member List"):

- 24 a. The full name, and last known address and full social security number of all Class
25 Members; and
- 26 b. The information necessary to determine the estimated settlement allocation to each
27 Class Member, including: (i) The total number of workweeks worked by each Class
28 Member within the Class Period; and (ii) The total number of workweeks worked by

1 each PAGA Employee within the PAGA Period.

2 52. The Settlement Administrator (along with any of its agents) shall represent and warrant
3 that it will: (1) provide reasonable and appropriate administrative, physical and technical safeguards,
4 including a reasonable security protocol, for any personally identifiable information (“PII”), which it
5 receives from Defendants’ Counsel and/or Class Counsel; (2) not disclose the PII to third parties,
6 including agents or subcontractors, without Defendants’ consent; (3) not disclose or otherwise use the
7 PII other than to carry out its duties as set forth herein; and (4) promptly provide Defendants with
8 notice if PII is subject to unauthorized access, use, disclosure, modification, or destruction. The
9 Settlement Administrator may provide notice to both Parties if the PII is subject to unauthorized
10 access, use, disclosure, modification or destruction; however, all additional communications from the
11 Settlement Administrator regarding the scope, circumstances, and substance shall be communicated
12 solely to Defendants.

13 53. The Settlement Administrator shall send a Notice to each Class Member by first class
14 mail within fourteen (14) calendar days of receipt of the Class Member List. Prior to mailing the
15 Notice, the Settlement Administrator shall update the addresses of the Class Members by reference to
16 the National Change of Address Database maintained by the United States Postal Service. If a Notice
17 is returned as non-deliverable but with a forwarding address, the Settlement Administrator shall resend
18 the Notice to the forwarding address. If a Notice is returned as non-deliverable with no forwarding
19 address, the Settlement Administrator shall conduct an advanced skip trace to locate the most current
20 address of the person to whom the Notice was addressed, and shall resend the Notice to any updated
21 address within five (5) calendar days. Upon completion of these steps, the Parties shall be deemed to
22 have satisfied their obligations to provide the Notice to the affected Class Members.

23 54. The Settlement Administrator shall provide to the Court, concurrently with Plaintiff’s
24 Motion for Final Approval, a declaration of due diligence and proof of mailing with regard to the
25 mailing of the Notices.

26 55. The Settlement Administrator shall also be responsible for:

- 27 a. Mailing the Notice as directed by the Court;
- 28 b. Consulting with counsel for the Parties concerning any relevant issue, including

(without limitation) the estimated amounts of approximate Individual Settlement Payments, PAGA Employee Payments, and the acceptance of any late or deficient disputes;

- c. Keeping track of timely and proper requests for exclusion;
- d. Calculation of the Individual Settlement Payments, PAGA Employee Payments, and the PAGA Payment to the LWDA;
- e. Providing weekly status reports to counsel for the Parties, including: (a) the number of Notices mailed (including information regarding undeliverable and/or emailed Notices); (b) the number of disputes received (and sending copies of said disputes); (c) the number of objections received; and (d) the number of requests for exclusion received;
- f. Notifying counsel for Defendants of the wiring instructions to fund the Settlement Amount as approved by the Court;
- g. Preparing the checks containing the Individual Settlement Payments and including a legend on each settlement check stating “By cashing this check, I am opting into the settlement *Rene G. Navarro Lovera v. Forward Air Services, LLC, et al*, pending in Superior Court of the State of California, Los Angeles County, Case No. 21CV39280, under the federal Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), and releasing the Released Claims described in the Settlement Agreement.”;
- h. Distributing and paying the Incentive Award, Individual Settlement Payments, PAGA Employee Payments, the PAGA Payment to the LWDA, and fees and costs awarded to Class Counsel;
- i. Issuing tax forms and addressing employer and employee-side payroll taxes; and
- j. Such other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform, including responding to questions from Class Members.

REQUESTS FOR EXCLUSION

56. Each Class Member shall have forty-five (45) calendar days from the mailing of the Notice within which to complete and postmark a written request for exclusion, for return to the

1 Settlement Administrator. The request need not be in any particular form and will be considered a
2 valid request for exclusion so long as it communicates a clear desire by the Settlement Class Member
3 not to be included in the Settlement and/or Settlement Class, and identifies his/her/their full name and
4 date of birth, and current address along with his/her/their signature. No requests for exclusion shall
5 be accepted if postmarked after the forty-five (45) calendar day period for the filing of exclusions.
6 Class Members are responsible to maintain a photocopy of their request for exclusion, reflecting that
7 it was submitted in a timely manner. Any disputes regarding the timeliness of a request for exclusion
8 or whether a written communication constitutes a valid request that cannot be resolved between the
9 Parties shall be determined by the Court, whose determination shall be final.

10 57. Any Class Member who validly excludes himself/herself/themselves from this
11 Settlement shall not be bound by the Class Released Claims and shall not be entitled to any portion of
12 the Net Settlement Amount.

13 58. If twelve percent (12%) or more of the Class Members opt out of the Settlement by
14 submitting valid and timely requests for exclusion, Defendants shall have the sole and absolute
15 discretion to rescind/void the Settlement Agreement within twenty (20) days after receiving from the
16 Settlement Administrator the final list of requests for exclusion. Defendants agree to meet and confer
17 in good faith with Class Counsel before rescinding or voiding the Settlement Agreement. In the event
18 that Defendants elect to rescind/void the Settlement Agreement, Defendants shall provide written
19 notice of such rescission to Class Counsel. Such rescission shall have the same effect as a termination
20 of the Settlement Agreement for failure to satisfy a condition of settlement, and the Settlement
21 Agreement shall become null and void and have no further force or effect. The Parties specifically
22 agree not to solicit opt-outs, directly or indirectly, through any means. If Defendant rescinds the
23 Settlement Agreement and Plaintiff fully performed or was prepared to, Defendant shall be solely
24 responsible for the fees and costs of the Administrator.

25 **OBJECTIONS TO THE SETTLEMENT**

26 59. Each Class Member shall have forty-five (45) calendar days from the mailing of the
27 Notice, or such number of days as the Court shall specify, within which to postmark an objection, for
28 return to the Settlement Administrator. Any Class Member, who does not affirmatively opt-out of the

1 Settlement by submitting a valid and timely request for exclusion, may object to the approval of class
2 action settlement (“Objecting Class Member”). Any Class Member who makes a timely request for
3 exclusion has waived their right to object. The Objecting Class Member shall inform the Court and
4 the Parties in the objection of (1) full name and current address of the Objecting Class Member; and
5 (2) the specific reason(s) for the objection; and (3) shall also provide any and all evidence and
6 supporting papers (including, without limitation, all briefs, written evidence, and declarations) to be
7 considered by the Court. Any Objecting Class Member who wishes to appear at the Final Approval
8 Hearing and be heard orally in support of, or in opposition to the class action settlement, must state so
9 in the objection. Class Members shall have no right to object to the PAGA release or PAGA Payment.

10 60. Any Class Member who fails to timely submit an objection shall be foreclosed from
11 making any objection to this Settlement or from filing an appeal of the Court’s Final Order and
12 Judgment unless otherwise ordered by the Court.

13 61. Counsel for the Parties shall file any response to the objections submitted by Objecting
14 Class Members, if any, at least seven (7) calendar days before the date of the Final Approval Hearing.

15 62. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage
16 Class Members to submit written objections to the Settlement or to appeal from the Court’s Final
17 Order and Judgment. Class Counsel shall not represent any Class Members with respect to any such
18 objections to this Settlement.

19 **RELEASE OF CLAIMS BY CLASS REPRESENTATIVE, SETTLEMENT CLASS**

20 **MEMBERS, AND PAGA EMPLOYEES**

21 63. The “Class Released Claims”. Upon the funding of Gross Settlement Amount in
22 accordance with Paragraph 42, Plaintiff and the Class Members hereby do and shall be deemed to have
23 fully, finally, and forever released, settled, compromised, relinquished and discharged all claims pled
24 in the Amended Complaint in the Action and any PAGA letter sent to the LWDA by Plaintiff in or
25 prior to the Lawsuit, and which could have been alleged under the same or similar facts, allegations
26 and/or claims pleaded in the Lawsuit, against the Released Parties (as defined below), for work
27 performed during the Settlement Class Period, including the following:
28

1 a. The Claims set forth in the Amended Complaint, including, but not limited to, (1)
2 Failure to pay wages including overtime and minimum wage; (2) Failure to provide
3 meal periods; (3) Failure to provide rest periods; (4) Failure to pay meal and rest break
4 premiums; (5) Failure to pay wages at termination; (6) Failure to timely pay wages
5 during employment; (7) Failure to provide accurate itemized wage statements; (8)
6 Failure to maintain accurate payroll records; (9) Failure to reimburse business
7 expenses; (10) Violation of the Fair Credit Reporting Act (as to California non-exempt
8 employees, with a limitations period of June 14, 2019, forward); (11) Unfair
9 competition under Cal. Bus. & Prof. Code §§17200, et seq., and (12) Violation of the
10 California Private Attorneys General Act of 2004 (Labor Code § 2698, et seq.)
11 predicated on the same or similar facts and/or claims alleged in the Lawsuit and/or any
12 PAGA letter sent to the LWDA by Plaintiff in or prior to the Lawsuit, as well as any
13 claims that could have been pled which arise from the same or similar facts concerning
14 the Named Plaintiff or the putative class, and claims for interest, penalties (including
15 but not limited to waiting time penalties), as well as any claims under the California
16 Labor Code and California Industrial Welfare Commission Wage Orders that were
17 alleged (specifically for violations of Labor Code sections 200-203, 204, 510, 512, 558,
18 226, 226.3, 226.7, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2800, 2802, 2698 *et*
19 *seq.*, and related Wage Order 1-2001), or which could have been alleged under the
20 same or similar facts, allegations and/or claims pleaded in the Lawsuit;

21 b. Any claims for injunctive relief, declaratory relief, restitution, fraudulent business
22 practices or punitive damages alleged or which could have been alleged under the facts,
23 allegations and/or claims pleaded in the complaints filed as part of the Action.

24 64. Release of PAGA Claims. Upon the funding of Gross Settlement Amount in
25 accordance with Paragraph 42, Plaintiff and the PAGA Employees hereby do and shall be deemed to
26 have fully, finally, and forever released, settled, compromised, relinquished and discharged any and
27 all of the Released Parties of and from any and all allegations for violation of the California Private
28 Attorneys General Act of 2004 (Labor Code § 2698, et seq.) predicated on the facts, allegations and/or

claims alleged in the Action and/or any PAGA letter sent to the LWDA by Plaintiff or in any way premised in whole or in part on any of the Class Released Claims that arose at any time during the PAGA Period. The PAGA Employees will be issued a check for their share of the PAGA Payment and will not have the opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA Released Claims set forth in this Paragraph. The PAGA Employees are bound by the release of the PAGA Released Claims regardless of whether they cash or deposit their PAGA Employee Payment or opt out of being a Settlement Class Member in accordance with Paragraph 56.

65. Release of Claims by Class Representative. Upon the funding of Gross Settlement Amount in accordance with Paragraph 42, and as a condition of receiving any portion of his Incentive Award, the Class Representative, for himself only, agrees to the additional following General Release: in consideration of Defendants' promises and agreements as set forth herein, the Class Representative hereby fully releases the Released Parties from any and all Class Released Claims and also generally release and discharge the Released Parties from any and all any claims for wages, bonuses, severance pay, vacation pay, penalties, employment benefits, stock options, violation of any personnel policy, any and all claims arising from his employment or as a result of his termination from employment including claims based on discrimination, harassment, unlawful retaliation, violation of public policy, or damages of any kind whatsoever, arising out of any common law torts, contracts, express or implied, any covenant of good faith and fair dealing, any theory of wrongful discharge, any theory of negligence, any theory of retaliation, any legal restriction on any Defendants' right to terminate the employment relationship, or any federal, state, or other governmental statute, executive order, regulation or ordinance, or common law, or any other basis whatsoever, to the fullest extent provided by law. Class Representative shall be deemed to have, and by operation of the Judgment shall have, expressly waived and relinquished to the fullest extent permitted by law the provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law that purports to limit the scope of a general release. Class Representative, for himself, has read Section 1542 of the Civil Code of the State of California, which provides as follows:

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.

The Class Representative understands that Section 1542 gives the right not to release existing claims of which he is not now aware, unless the Class Representative voluntarily chooses to waive this right. Having been so apprised, the Class Representative nevertheless voluntarily waives the rights described in Section 1542, and elect to assume all risks for claims that now exist in his favor, known or unknown. The release of the claims of the Class Representative as set forth in this Paragraph is a condition precedent to enforcement of this Stipulation of Settlement.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL/CLASS CERTIFICATION

66. The Parties have agreed that Plaintiff will seek leave to file the Operative Complaint, which the Parties have stipulated to file in advance or as a condition of this Settlement.

67. The Parties have agreed that Plaintiff will file the Amended PAGA Letter.

68. For settlement purposes only, the Parties agree that the Class Members as defined in Paragraph 4 herein, and which will run through the date Class Period, may be certified in the Action. The Parties are not certifying any PAGA Released Claims. In support of this Agreement, Plaintiff will request that the Court certify – for settlement purposes only – the Class as to all non-PAGA claims that have been asserted, which Defendants shall not oppose or object to.

69. For settlement purposes only, the Parties agree that the PAGA Period shall run from the period defined in Paragraph 25 herein.

70. Class Counsel shall promptly submit this Stipulation of Settlement to the Court in support of Plaintiff's Motion for Preliminary Approval and for determination by the Court as to whether the proposed Settlement is within the range of possible judicial approval. Promptly upon execution of this Stipulation of Settlement, Class Counsel shall apply to the Court for the entry of an order substantially in the following form:

- a. Scheduling of the Final Approval Hearing on the question of whether the proposed Settlement, including payment of attorneys' fees and costs and the Incentive Award should be finally approved as fair, reasonable and adequate as to the Settlement Class

- 1 Members and for approval of the PAGA Settlement;
- 2 b. Certifying the Settlement Class;
- 3 c. Approving the Class Notice attached hereto as **Exhibit A**;
- 4 d. Directing the mailing of the Notice by first class mail to the Class Members and PAGA
- 5 Employees; and
- 6 e. Preliminarily approving the Settlement subject only to the objections of the Class
- 7 Members and final review by the Court.

8 71. The Parties will work cooperatively to mutually agree upon the form and content of the

9 Notice, as well as the Proposed Order Granting Preliminary Approval.

10 72. The Class Representative and Class Counsel will not make any public disclosure of the

11 Settlement until after the filing of the motion for preliminary approval of the Settlement. The Class

12 Representative and each Class Counsel represent that they have not made any such disclosure. The

13 Class Representative and Class Counsel shall not encourage any Class Members to opt-out. Class

14 Counsel will take all steps necessary to ensure that the Class Representative is aware of, and will

15 encourage him to adhere to, the restriction against any public disclosure of the Settlement until after

16 the Settlement is preliminarily approved by the Court. Thereafter, Class Counsel and the Class

17 Representative agree not to publicize the terms of this Settlement with the media, including but not

18 limited to, any newspaper, journal, magazine, website and/or online reporter of settlements, or

19 publicize the fact or the terms of this Settlement on any website.

20 **DUTIES OF THE PARTIES FOLLOWING FINAL APPROVAL**

21 73. Following final approval by the Court of the Settlement provided for in this Stipulation

22 of Settlement, Class Counsel shall submit a proposed Final Order and Judgment in approximately the

23 following form and with input from Defendants' Counsel: Approving the Settlement, adjudging the

24 terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and

25 provisions including the approval of Class Counsel's application for an award of attorneys' fees and

26 costs and the Incentive Award to the Class Representative. The Parties will work cooperatively to

27 mutually agree upon the form and content of the Proposed Order Granting Final Approval of the Class

28 Settlement and Approval of the PAGA Settlement and Judgment.

ESCALATOR CLAUSE

74. Defendants represent that, for the period of June 14, 2017, to July 15, 2022, there were approximately 49,000 Workweeks. If it is determined that the total number of Workweeks increases by more than twelve percent (12%) during the period from June 14, 2017, to July 15, 2022 (i.e., more than 5,880), then the Gross Settlement Amount will be increased in proportion to the workweek value of the settlement at the time of mediation unless Defendants elect to rescind/void the Settlement Agreement pursuant to Paragraph 58 herein.

VOIDING OF AGREEMENT IF SETTLEMENT NOT FINALIZED

75. Subject to the obligations of mutual full cooperation set forth herein, either Plaintiff or Defendants may terminate this Settlement if after submitting the settlement for approval to the Court, the Court declines to enter the preliminary approval order, the final approval order, or judgment in substantially the form submitted by the Parties, or if the Stipulation of Settlement as agreed does not become final because of appellate court action. The terminating Party shall give to the other Party (through counsel) written notice of its decision to terminate no later than fourteen (14) calendar days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:

- (a) The Stipulation of Settlement and the Parties' Memorandum of Understanding ("MOU") executed on July 19, 2022, shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms.
- (b) In the event the Settlement Agreement is terminated, Defendants shall have no obligation to make any payments to any party, Settlement Class Member, PAGA Employee or Class Counsel.
- (c) The preliminary approval order, final approval order and judgment shall be vacated.
- (d) The Stipulation of Settlement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions prior to the Settlement.
- (e) Except as otherwise discoverable, neither this Stipulation of Settlement nor any ancillary documents, actions, statements or filings in furtherance of settlement

(including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

(f) The terminating Party shall be responsible for all Administration Costs assuming the other Party fully performed or was prepared to.

PARTIES' AUTHORITY

76. The signatories hereto hereby represent that they are fully authorized to enter into this Stipulation of Settlement and bind the Parties hereto to the terms and conditions thereof.

MUTUAL FULL COOPERATION

77. The Parties agree to fully cooperate with each other to accomplish the terms of this Stipulation of Settlement, including, but not limited to, execution of such documents and taking of such action as reasonably may be necessary to implement the terms of this Stipulation of Settlement. The Parties to this Stipulation of Settlement shall use their best efforts, including all efforts contemplated by this Stipulation of Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the terms set forth herein. As soon as practicable after execution of this Stipulation of Settlement, Class Counsel shall take all necessary steps to secure the Court's final approval of this Stipulation of Settlement.

78. The Parties and their respective counsel agree that they will not attempt to encourage or discourage Class Members from filing requests for exclusion.

NO PRIOR ASSIGNMENTS

79. The Parties and their respective counsel represent, covenant and warrant that they have not, directly or indirectly, assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged except as set forth herein.

NO ADMISSION

80. Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the part of Defendants. Each of the Parties hereto has entered into this Stipulation of Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

BREACH AND ENFORCEMENT ACTIONS

81. The Parties will jointly request that the Court retain jurisdiction pursuant to California Code of Civil Procedure § 664.6 to oversee and enforce the terms of this Settlement. In the event of a breach of this Settlement, the non-breaching Party shall provide notice to the breaching party and request that the breaching party cure any alleged breach. If the breach is not cured within thirty (30) days of said notice, the non-breaching party may pursue legal action or other proceeding against any other breaching party or parties to enforce the provisions of this Stipulation of Settlement or to declare rights or obligations under this Stipulation of Settlement. In the event of such enforcement actions, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions. All such disputes shall be resolved by the Court.

NOTICES

82. 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 both electronically and by United States registered or certified mail, return receipt requested, and addressed as follows:

To Plaintiff, the Settlement Class and Class Counsel:

James R. Hawkins
Gregory Mauro
Michael Calvo
Jeanne Sarmiento
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel: (949) 387-7200
Email: james@jameshawkinsaplc.com

To Defendants and Defendants' Counsel:

Christopher Dengler
Jyoti Mittal
LITTLER MENDELSON, P.C.
633 West 5th Street, 63rd Floor
Los Angeles, CA 90071
Telephone: 213.443.4300
E-mail: cdengler@littler.com; jmittal@littler.com; lschneider@littler.com

CONSTRUCTION

83. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, and this Stipulation of Settlement shall not be construed in favor of or against any party by reason of the extent to which any Party or their counsel participated in the drafting of this Stipulation of Settlement.

CAPTIONS AND INTERPRETATIONS

84. 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 Stipulation of Settlement or any provision of it. Each term of this Stipulation of Settlement is contractual and not merely a recital.

MODIFICATION

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

INTEGRATION CLAUSE

86. This Stipulation of Settlement, and the Exhibits attached hereto and incorporated herein by reference, contain 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.

BINDING ON ASSIGNS

87. This Stipulation of Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

CLASS MEMBER SIGNATORIES

88. It is agreed that because the Class Members are so numerous, it is impossible or impractical to have each member execute this Stipulation of Settlement. The Class Notice, Exhibit "A" hereto, will advise the Class Members of the binding nature of the release, and the release shall

1 have the same force and effect as if this Stipulation of Settlement were executed by each member.

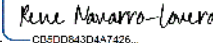
2 **COUNTERPARTS**

3 89. This Stipulation of Settlement may be executed in counterparts and by facsimile
4 signatures, and when each party has signed and delivered at least one such counterpart, each
5 counterpart shall be deemed an original and, when taken together with other signed counterparts, shall
6 constitute one Stipulation of Settlement binding upon and effective as to all Parties.

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IN WITNESS HEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Settlement and Release between Plaintiff and Defendants as of the date(s) set forth below:

Dated: 1/3/2023

DocuSigned by:

CO5DD0643D4A7426...
Rene G. Navarro Lovera
Plaintiff and Class Representative

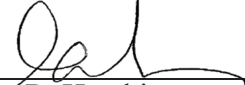
Dated: _____, 2022

Michael Hance, Chief Legal Officer and Secretary
Forward Air Services, LLC and Forward Air, Inc.

APPROVED AS TO FORM AND CONTENT:

Dated: January 3, 2023

JAMES HAWKINS APLC


James R. Hawkins
Gregory Mauro
Michael Calvo
Jeanne Sarmiento
Attorneys for Plaintiff
RENE G. NAVARRO LOVERA

Dated: _____, 2023

LITTLER MENDELSON, P.C.

Christopher Dengler
Jyoti Mittal
Attorneys for Defendants
FORWARD AIR SERVICES, LLC. AND
FORWARD AIR, INC.

4883-0573-3699.2 / 047759-1034

1 IN WITNESS HEREOF, the Parties hereto knowingly and voluntarily executed this Joint
2 Stipulation of Settlement and Release between Plaintiff and Defendants as of the date(s) set forth
3 below:

4
5 Dated: _____, 2022

Rene G. Navarro Lovera
Plaintiff and Class Representative

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7 Dated: December 20, 2022

Michael Hance
Michael Hance, Chief Legal Officer and Secretary
Forward Air Services, LLC and Forward Air, Inc.

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10 **APPROVED AS TO FORM AND CONTENT:**

11 Dated: _____, 2022

JAMES HAWKINS APLC

12
13
14 _____
James R. Hawkins
Gregory Mauro
Michael Calvo
Jeanne Sarmiento
Attorneys for Plaintiff
RENE G. NAVARRO LOVERA

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19 Dated: December 20, 2022

LITTLER MENDELSON, P.C.

20
21 _____
Christopher Dengler
Jyoti Mittal
Attorneys for Defendants
FORWARD AIR SERVICES, LLC. AND
FORWARD AIR, INC.

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EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

NOTICE OF CLASS ACTION SETTLEMENT

PLEASE READ CAREFULLY AS
THIS NOTICE MAY AFFECT YOUR RIGHTS

RENE G. NAVARRO LOVERA, individually and on behalf of all others similarly situated, Plaintiff, v. FORWARD AIR SERVICES, LLC, a Delaware Limited Liability Company; FORWARD AIR, INC., a Tennessee Corporation; FORWARD AIR CORPORATION; a business form unknown, and DOES 1-50, inclusive, Defendants.	Case No. 21STCV39280 NOTICE OF CLASS ACTION SETTLEMENT JUDGE:HOLLY J. FUJIE DEPT: 56
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I. WHY DID I GET THIS NOTICE?

This notice explains that a settlement has been reached in the following case entitled: (1) *Rene G. Navarro Lovera v. Forward Air Services LLC et al* Case No. 21STCV39280 (herein referred as “The Lawsuit”). You are receiving this notice because the records of Forward Air Services, LLC, Forward Air Inc., and Forward Air Corporation (collectively “Forward Air” or “Defendants”) indicate that you are a current or former non-exempt employee that falls within the following proposed “Classes”, which are defined as:

All current and former non-exempt employees of Defendants who worked in California at any time from June 14, 2017, through the date the Court grants preliminary approval (the “Class”).

All prospective employees in California for whom Defendants procured a background check at any time from June 14, 2017, through the date the Court grants preliminary approval (the “FCRA Class”).

This is **not** a notice of a lawsuit against you. **You are not being sued.** The Lawsuits were brought on behalf of all persons who are members of the Class (“Class Members”), for their

benefit. Your participation, or non-participation, in the Settlement will not affect your employment with Forward Air in any way whatsoever.

The Court has ordered that this notice be sent to you because Forward Air's records indicate that you are a Class Member. The purpose of this notice is to inform you of the proposed Settlement of the Lawsuits. The notice is also intended (i) to describe the Settlement, including how the Net Settlement Amount will be allocated and how the Settlement may affect you, and (ii) to advise you of your rights and options with respect to the Settlement.

II. WHAT IS THIS CLASS ACTION LAWSUIT ABOUT?

This Class and Representative Action Settlement Agreement and Release ("Settlement" or "Agreement") encompasses the action entitled *Rene G. Navarro Lovera v. Forward Air Services LLC et al* Case No. 21STCV39280 ("The Lawsuit").

The Lawsuit alleged various wage and hour causes of action premised on alleged violations of the California Labor Code and alleges violations premised on the Fair Credit Reporting Act ("FCRA"), including failure to: pay minimum wages, overtime wages, failure to provide meal periods, failure to provide rest periods, failure to timely pay wages, failure to pay wages during employment, failure to provide accurate wage statements, failure to reimburse business expenses incurred, failure to keep requisite payroll records, unfair competition, for violation of the FCRA, and for civil penalties pursuant to the Private Attorney's General Act.

Forward Air contends that it has complied with all applicable state and federal laws. Forward Air denies any liability or wrongdoing of any kind associated with the claims asserted in the Lawsuits.

For the purpose of avoiding the time and expense of further litigation, the ultimate outcome of which is uncertain, and to provide a fair and reasonable resolution of this legal dispute, Plaintiff and Forward Air have negotiated a settlement whereby Forward Air has agreed to pay One Million Two Hundred-Fifty Thousand Dollars (\$1,250,000.00) ("Gross Settlement Amount") to resolve the Lawsuits, and Class Members will be eligible to receive a portion of this amount. This Settlement is **not** an admission by Forward Air of any liability.

III. WHAT DOES THE PROPOSED SETTLEMENT OFFER?

Under the terms of the parties' Settlement, the following will occur if the Settlement is given final approval by the Court:

A. Forward Air will pay One Million Two Hundred-Fifty Thousand Dollars (\$1,250,000.00) to settle the claims of all Class Members who do not timely opt-out.

B. A Settlement Administrator has been appointed by the Court to administer the Settlement. The Settlement Administrator will pay from the One Million Two Hundred-Fifty Thousand Dollars (\$1,250,000.00): (1) Plaintiffs counsel's attorneys' fees of the litigation, up to the amount of \$437,500.00; (2) Plaintiffs counsel's litigation costs, up to the amount of \$20,000.00; (3) The expenses of administering the Settlement, estimated at approximately \$17,330.00; (4) A service fee award of up to \$15,000.00 to Plaintiff; and (5) \$135,000.00 to the

California Labor & Workforce Development Agency (LWDA), representing 75% of the \$180,000.00 allocated to the settlement of Plaintiff's claim for penalties under PAGA. The remainder of the \$1,250,000.00, currently estimated to be at least \$580,170.00, will be available to be distributed to all Class Members; this amount is called the "Net Settlement Amount". Of the \$580,170.00 Net Settlement Amount, \$100,000.00 will be allocated to the FCRA Class ("FCRA Settlement Amount").

C. The Net Settlement Amount to be distributed to the Class Members will be divided as follows: Individual Settlement Payments will be paid from the Net Settlement Amount pursuant to the settlement formula. The Net Settlement Amount shall be divided among the Settlement Class Members on a pro-rata basis based on the following: (i) using the Class Information, the Settlement Administrator will compute the total number of workweeks of all Class Members collectively during the Class Period; this sum shall be known as the "Workweek Total"; (ii) the Settlement Administrator will divide the Net Settlement Amount by the Workweek Total to determine the settlement value for each workweek (the "Workweek Value"); and (iii) the Settlement Administrator will multiply the number of workweeks of a Class Member during the Class Period by the Workweek Value to determine that Class Member's Individual Settlement Payment.

Each Class Member's workweeks shall be calculated by Forward Air from its records. Settlement payments will be allocated 30% for unpaid wages, 70% for as penalties, liquidated damages, and interest. Each recipient of any monies paid in accordance with this Settlement Agreement is responsible for any taxes associated with the monies received by each recipient.

From the FCRA Settlement Amount, the Settlement Share for each Settlement Class Member in the FCRA Class will be calculated by dividing the FCRA Settlement Amount on an equal per capita basis to each Participating Class Member in the FCRA Class.

D. If the Court grants final approval of the Settlement and you do not opt-out of the Settlement, then you will release Forward Air and any of its former, present and/or future, direct and/or indirect, parents, companies, subsidiaries, affiliates, divisions, officers, directors, managers, owners, members, heirs, employees, partners, shareholders, attorneys, agents, fiduciaries, insurers, investors, predecessors, successors, assigns, executors, administrators, beneficiaries, legal representatives, or trustees (collectively, the "Released Parties"), of and from the following:

"Class Released Claims": The Claims set forth in the Amended Complaint, including, but not limited to, (1) Failure to pay wages including overtime and minimum wage; (2) Failure to provide meal periods; (3) Failure to provide rest periods; (4) Failure to pay meal and rest break premiums; (5) Failure to pay wages at termination; (6) Failure to timely pay wages during employment; (7) Failure to provide accurate itemized wage statements; (8) Failure to maintain accurate payroll records; (9) Failure to reimburse business expenses; (10) Violation of the Fair Credit Reporting Act (as to California non-exempt employees, with a limitations period of June 14, 2019, forward); (11) Unfair competition under Cal. Bus. & Prof. Code §§17200, et seq., and (12) Violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698, et seq.) predicated on the same or similar facts and/or claims alleged in the Lawsuit and/or any PAGA letter sent to the LWDA by Plaintiff in or prior to the Lawsuit, as well as any claims that could have been pled which arise from the same or similar facts concerning the Named Plaintiff or the putative class, and claims for interest, penalties (including but not limited to waiting time penalties), as well as any claims under the California Labor Code and

California Industrial Welfare Commission Wage Orders that were alleged (specifically for violations of Labor Code sections 200-203, 204, 510, 512, 558, 226, 226.3, 226.7, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2800, 2802, 2698 *et seq.*, and related Wage Order 1-2001), or which could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Lawsuit; and

Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or punitive damages alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the complaints filed as part of the Action.

California's Release and PAGA Employees' Release of PAGA Claims Against Released Parties. If the Effective Date occurs and Defendants remit the Gross Settlement Amount in full to the Settlement Administrator, then the State of California, by and through Plaintiff, its deputized PAGA representative and all PAGA Employees, shall be deemed to have fully, finally, and forever released the Released Parties of the PAGA Claims as alleged in the Amended Complaint.

The "PAGA Claims" means all allegations against any and all of the Released Parties for violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698, *et seq.*) predicated on the facts, allegations and/or claims alleged in the Action and/or any PAGA letter sent to the LWDA by Plaintiff or in any way premised in whole or in part on any of the Class Released Claims that arose at any time during the PAGA Period. The PAGA Employees will be issued a check for their share of the PAGA Payment and will not have the opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA Released Claims set forth in this Paragraph. The PAGA Employees are bound by the release of the PAGA Released Claims regardless of whether they cash or deposit their PAGA Employee Payment or opt out of being a Settlement Class Member.

IV. WHAT ARE MY OPTIONS?

A. *You may accept your share of the \$1,250,000.00 settlement and be bound by the release of all claims described above and all other terms of the Settlement Agreement as approved by the Court. In order to receive your Individual Settlement Payment, you do not need to do anything.*

Based on Forward Air's internal records, which will be presumed to be correct unless evidence to the contrary is timely submitted to the Settlement Administrator, as set forth in Section V.C.:

Forward Air's records reflect that you worked for Forward Air in California for <<WorkWeeks>> weeks during the Class Period, and your estimated gross Individual Settlement Share is <<estAmount>>. This is an estimated number and may change based on the Settlement Administrator's final calculation of the Net Settlement Amount.

The Individual Settlement Payments will be paid by check after the Settlement is given final approval by the Court. Your check will be mailed to you by the Settlement Administrator. Your check will remain valid and negotiable for 180 days from the date on which it is mailed. If any Class Member's Individual Settlement Payment check is not cashed within 180 days after it is mailed, or an envelope mailed to a Class Member is returned and no forwarding address can be located, then any such amounts shall be transmitted to the State of California Unclaimed Property division.

B. You may opt out of the Settlement, and thus not participate in it, in which case you will not receive your Individual Settlement Payment and you will not be bound by the terms of the Settlement. In order to opt out, you must send a written request for exclusion by United States mail to the Settlement Administrator, ILYM Group, 14751 Plaza Dr., Suite J, Tustin, CA 92780, by no later than [date] (45 calendar days after mailing of this notice, the “Response Deadline”). In order to be considered valid, your request for exclusion **must** be in writing and: (1) contain the name and address of the Class Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. If you elect to Opt- Out you will not be able to participate in the settlement, and will not receive a share of the settlement proceeds.

C. You may dispute the Calculations of Your Individual Settlement Payment. In order to dispute the amount of your Individual Settlement Payment, and the number of workweeks used to calculate the Individual Settlement Payment, you must send a written dispute by United States mail to the Settlement Administrator, ILYM Group, 14751 Plaza Dr., Suite J, Tustin, CA 92780, by no later than [date] (45 calendar days after mailing of this notice). In order to be considered, your dispute **must** be (1) timely; and (2) accompanied by records or documentation supporting your position such as wage statements, W2 forms, time records, calendars, memoranda, emails, or any other type of documentation. In response to any timely dispute, the Settlement Administrator will use Forward Air’s records and any information you provide to resolve any dispute about your workweek data.

D. You may object to the Settlement. The procedures for objecting to the settlement are described below in Section VIII of this form.

VI. WHAT ARE THE PROCEDURES FOR PAYMENT?

A. The Settlement Administrator will calculate your Individual Settlement Payment based on your number of credited workweeks and will issue and mail you a check. For members of the FCRA Class, the individual payments will be calculated by dividing the FCRA Settlement Amount on an equal per capita basis to each Participating Class Member in the FCRA Class.

B. It is important for the Settlement Administrator and the parties to the Lawsuits to have your current address in order to be able to send you other mailings regarding the Lawsuits. You should contact the Settlement Administrator to report any change of your address after you receive this notice. Failure to report a change of address may result in you not receiving your Individual Settlement Amount.

VII. HEARING ON PROPOSED SETTLEMENT

A Final Fairness Hearing, at which the Court will decide whether or not the proposed settlement is fair, reasonable, and adequate, will be held on _____, at _____ a.m., in Department 56 of the Los Angeles Superior Court, 312 N Spring Street, Los Angeles, CA 90012. The Court may adjourn or continue the hearing without further notice to you.

You are not required to attend the hearing. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense.

VIII. PROCEDURES FOR OBJECTING TO SETTLEMENT

A. You may object to the proposed Settlement as unfair, unreasonable, and/or inadequate or believe the Settlement should not be finally approved for any reason. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement.

B. Any objection to the Settlement must be in writing. All written objections and supporting papers must include the following: (i) the full name and signature of the objecting Class Member; (ii) be submitted to the Settlement Administrator; (iii) set forth, in clear and concise terms, a statement of the reasons why the objector believes that the Court should find that the proposed Settlement is not in the best interest of the Class and the reasons why the Settlement should not be approved, including the legal and factual arguments supporting the objection; (v) state whether the objecting Class Member is represented by counsel, and identify any such counsel; (vi) be filed or postmarked on or before [insert Objection Deadline] (45 days after mailing of this Notice). If you do decide to file your written objections and supporting papers in person, please visit the Court's website at <https://www.lacourt.org>, for the most current information about in-person access to the Court.

The Court retains final authority with respect to the consideration and admissibility of any objections. Counsel for the Parties shall file any response to any objections at least ten (10) court days before the date of the Final Fairness and Approval Hearing.

However, if you do not opt out of the Settlement you may appear at the final approval hearing and voice an objection, whether or not you submit a prior written objection.

C. If you do not object in this manner as described, you will have given up your right to object to the Settlement. If you file an objection, you do not have to come to the Court to talk about it. As long as you submit your written objection on time, the Court will consider it. You may also pay your own lawyer to appear in Court on your behalf.

D. If you do not make your objection in the manner provided for in this notice, you will be deemed to have waived such objection and shall forever be barred from making any objection to or appealing the fairness, reasonableness, or adequacy of the Settlement.

IX. EXAMINATION OF COURT PAPERS AND QUESTIONS

This notice summarizes the Settlement. For more detailed information you may review Plaintiff's Motion for Preliminary Approval of Class Action Settlement, and all other settlement related documents and motions, which are posted for your review at www.xxxx.com. Additionally, all papers filed in the Lawsuits, including Plaintiff's Motion for Preliminary Approval of Class Action Settlement and all settlement related documents and motions may be examined by accessing the Court docket, Case Number 21STCV39280, in this case through the Court's online services system, at <https://www.lacourt.org>. There may be a fee required to review the materials via the online court system. Additionally, all papers filed in the Lawsuits, including Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and all settlement related documents and motions are on file with the Clerk of the Court, Case Number 21STCV39280, which is located in the office of the Clerk of the Los Angeles Superior Court, Spring Street Courthouse, 312 N Spring Street, Los Angeles, CA 90012 and is available for viewing during regular office hours (Mon.–Fri., 8:30 a.m.-12:30p.m., excluding holidays). However, please visit the Court's website at <https://www.lacourt.org> for the most current information about in-person access to the Court.

If you have any questions, you can call the Settlement Administrator at 1-xxx-xxx-xxxx or any of the attorneys representing the Class (see below for Class Counsel's phone number).

ATTORNEYS REPRESENTING THE CLASS

James Hawkins APLC
James R. Hawkins
Gregory Mauro
9880 Research Drive, Suite 200
Irvine, California 92618
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james@jameshawkinsaplc.com
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ATTORNEYS REPRESENTING FORWARD AIR

Christopher Dengler
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Jyoti Mittal
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LITTLER MENDELSON P.C.
633 West 5th Street, 63rd Floor
Los Angeles, California 90071
Telephone: 213.443.4300
Fax No.: 800.715.1330

**PLEASE DO NOT CALL OR OTHERWISE ATTEMPT TO CONTACT THE
COURT OR THE CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT**
